

# POLICIES & PROCEDURES

## Offices of Academic Affairs and Student Affairs

### Student Expression Policy

#### BACKGROUND

The ability and opportunity to freely express ideas and viewpoints are vital to Woodbury University, higher education as whole, and to a thriving democracy. Also vital to a robust and well-rounded educational journey is the necessity of being exposed to ideas and viewpoints that are different, and perhaps challenging, to one's previously held ideas and viewpoints. Indeed, one of Woodbury University's core values is to "build a culture that values diversity and inclusion, open communication, collaboration, and engagement." This value contemplates and celebrates that there will be variety within our community, which includes, among other factors, a diversity of ideas and viewpoints

Together, we can build bridges across difference by fostering a community where students are empowered to engage in meaningful intellectual curiosity; discern their sense of purpose, identity, and values; and build skills through the exploration of complex societal problems, diverse viewpoints, and multidisciplinary innovative solutions that are foundational living cornerstones of our mission. One way that we *welcome* our diverse community of learners is to give each one of us the opportunity to speak and to hear the views and ideas of others.

As an academic and professional environment that respects the dignity of all individuals in our community, the opportunity and right to express viewpoints comes with responsibilities. Woodbury University expects that its students will engage in the free exchange of ideas and debate while showing respect to all other members of our community, including others with whom they disagree. The University expects students to be guided by our values of excellence, ethics, aspiration, and community aspiring to become ethical thinkers and creative problem solvers deeply committed to sustainability and social justice—especially as we debate contentious and controversial issues.

Woodbury University is a private University and a private property owner. The civil rights and liberties set forth in the First Amendment to the United States Constitution apply *directly* only to public entities. California statutory law, however, prevents private universities in the state from censoring or punishing students for speech that would be protected by the First Amendment at a public institution. This Policy is intended to permit free expression consistent with these and other legal requirements, including Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, and related University policies and procedures.

With these principles in mind, this Policy is intended to clarify the breadth and limits of students' right of expression on the Woodbury University campus. The Freedom of Expression compendium and frequently asked questions attached to this document is designed to make available support, student skill development tools and resources (e.g. sustained dialogue across difference, restorative justice), and planning resources (e.g. debate planning, counterprotest, demonstration logistics) for all students, regardless of where they may be in their free expression continuum, identity or value exploration.

## **POLICY**

The University supports the rights of students to freely express ideas and viewpoints and to engage in campus demonstrations in responsible ways.

A **demonstration** is intended to cover activities including rallies, assemblies, protests, and other gatherings of students joined together to express views on a particular issue. Participating with the group's activities is sufficient to qualify as participation in a demonstration, even if a student does not hold the same beliefs as the group.

Student Free Expression and demonstrations are "responsible" at the Woodbury University campus and property when:

- they are nonviolent and do not advocate for or incite violence against others or damages to real or personal property;
- they do not violate the University's Student Code of Conduct or other applicable behavioral codes, and the University's Social Media Community Standards;
- they do not **substantially disrupt** University operations, including academic activities, ceremonies, University business, University-invited speakers, or approved University or external events and programs; and
- they do not infringe on the legal rights of other members of the University community, or their rights and privileges.

Except as provided herein, the University does not censor or punish student speech based on its content or viewpoint or based merely on the fact that others find the speech or demonstration offensive or hateful. The University will impose reasonable time, place, and manner restrictions on permissible speech.

### **1. Prohibited Speech**

The University prohibits students' free expression that constitutes **true threats** or **unlawful harassment**, or that destroys property or disrupts campus activities.

A prohibited **true threat** is any speech that causes someone to reasonably fear for their safety and/or the safety of the community.

**Unlawful harassment** is defined extensively in the University Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, and Retaliation. Generally, harassment is any speech in any medium (written, verbal, cyber) that is directed against another individual on the basis of a protected characteristics (*e.g.*, race, disability, sex, gender, sexual orientation, religion, age) and which has the intent or effect of unreasonably interfering with that person's access to University resources, programs or activities or creating a hostile learning, living or working environment.

The **destruction of property** to communicate a message is prohibited. This includes posting flyers or other material (*e.g.* coverings, sheets, objects, newspapers, posters, cardboard, zip ties, rope/string or any kind, aluminum foil) in undesignated areas, campus facilities, structures, statues, or campus trees, lawns or flowerbeds, and applying ink, paint, or another substance in such a way that it takes employee time and effort to remove or results in permanent damage. Scaling or repelling from any facility is also prohibited.

**Substantial disruption of campus activities** occurs when speech blocks, impedes, prevents or disrupts right to access and the effective carrying out of a University function or approved activity, including programs and activities, living-learning and working environment, lectures (by faculty or guest speakers), meetings, interviews, ceremonies, the conduct of University business in a University office, facilities, public events, or the legitimate movement of any person or vehicle about the campus buildings or outside property areas.

Substantial disruption of campus activities includes coercive activities. No one may attempt to coerce any other person into viewing, listening to, or accepting a copy of any communication. No person may persist in requesting or demanding the attention of any other person after that other person has attempted to move away or has clearly refused to engage. For instance, if a person has repeatedly refused to take a pamphlet, throwing the pamphlet at the person or interfering with their access to a university facility, event or activity, would interfere with his or her rights. The imposition of opinions and concerns upon those who in turn dissent from them via means of harassment, retaliation (*e.g.* exclusion or isolation from student organization club or activity) or bullying, including online, is not to be condoned and is inconsistent with a university's process and function.

## **2. Offensive Speech that is not Prohibited Speech**

While the law prevents the University from censoring or punishing hate speech, the University is opposed to hate speech and will speak out in condemnation of egregious speech. Community members, likewise, can and should make their own assessment of such speech and may speak out against it.

## **TIME, PLACE, AND MANNER RESTRICTIONS**

### **1. Free Expression Zones**

To facilitate student free expression, while also attempting to protect the living, learning, and working environment, the University has established two campus locations as student “free expression zones.” These zones were selected because of their high degree of visibility and likelihood to promote effective communication while not being disruptive of university operations, including academic activities, ceremonies or approved events.

Permissible student expression or demonstrations (that is, student expression that does not constitute prohibited speech as defined above) that take place in the free expression zones require no advance arrangement or notification. The two free expression zones include:

- 1. The south section of the Alumni Quad opposite Hensel Hall, on the grass only, remaining within the boundaries of the sidewalk on all four sides.**
- 2. The larger middle section of the Quad opposite Miller Hall, on the grass only, remaining within the boundaries of the sidewalk on all four sides.**

The sidewalk itself is not considered part the free expression zones and should not be occupied under any circumstance during demonstrations. Areas where the protections for free expression under this policy do not extend include parking lots, inside university buildings, and within 20 feet of any location in which instruction, education and/or official business activities are being conducted.

### **2. Free Expression in Other Campus Areas**

Student expression and demonstrations in the areas identified above, as previously stated, require no advance notice. That does not mean that free speech is *only* available at those locations. If individual students or student groups believe that access to other parts of campus, other than prohibited areas which include parking lots, inside university buildings, and within 20 feet of any location in which instruction, education, and/or official business activities are being conducted, is important to the effective communication of viewpoints or effective protest, individual students or student leaders should contact the Office of Student Affairs, who will explore how access to other parts of campus can be accomplished consistent with reasonable time, place and manner restrictions outlined in this policy. Student Affairs can help secure logistical support for the event (*e.g.*, security) and prevent unanticipated conflicts with existing events.

#### **a. Protests at or in Close Proximity to Approved Campus Events**

Students who disagree with another person’s protected speech have options to their own expression protected by this Policy. They may peaceably protest at the time and place of the other person’s speech. They may host their own event where they share their own views (and others may

peaceably protest that event). They may set up debates on the topic. Organizing student leader or student organization/club leadership should contact the Office of Student Affairs for logistical support as well as debate planning.

If a demonstration or expression interferes with an unrelated approved campus event, the demonstration or expression must be moved to a completely different area. If the demonstration or expression is related to the approved campus event, the demonstration or expression will be accommodated so that it can be delivered and so that the campus event can move forward without substantial disruption. For example, a demonstration related to a speech about climate change in Ahmanson (Architecture Complex) will be situated so that people attending the event in the Ahmanson can freely enter and hear the speech and so that protesters can effectively deliver their message prior to or after the event. Coordination with the Office of Student Affairs to support time, place, and manner in advance by organizing demonstration (or protest) student leader or club/organization leadership is required to ensure logistical support for safety and well-being of all.

To be clear, the University follows well-established principles in the First Amendment and state law by disallowing the so-called “heckler’s veto.” That is, we do not permit protest or counter-speech that substantially impairs the effective conduct of another person’s speech protected under this Policy. Students who substantially impair the effective conduct of another person’s protected speech will be asked to leave the premises and could be lawfully subjected to discipline under applicable University codes of conduct or arrest if their conduct amounts to criminal conduct.

#### **b. Speech in the Classroom, Studios, or Other Curricular Settings**

Student expression in classrooms, studios, and other curricular settings is subject to restrictions that are consistent with expectations in a professional educational environment, where students expect to be assessed based on the content and quality of their scholarship, both in written papers and examinations and in oral presentations and critiques, as well as to allow others in the classroom to receive their education.

#### **c. Speech in the Living Areas on Campus**

This Policy generally applies to student expression in living areas on campus. Special consideration is given to the need to provide students with quiet enjoyment in their place of residence on campus and a supportive living-learning environment where they can study and find rest. Therefore, speech or demonstrations that might otherwise be permissible in open spaces on campus may be prohibited in living areas, consistent with Residence Life and Housing rules and regulations and with students’ housing licenses.

### **3. Guest Speakers and Members of the Public**

The protections in this policy apply to students only. Consistent with Student Affairs policies and procedures, students must notify Student Affairs in advance of guest speakers they wish to invite to

campus, as well as for logistical planning support. The process for planning and management of events involving speakers and other related activities has many purposes: to assist students in hosting successful events; to encourage timely publicity and promotion of events; to coordinate scheduling so that events do not have an adverse effect on other university-sponsored programs or place an undue burden on institutional resources to provide the necessary support; to ensure that invited visitors (i.e., speakers, presenters, and the event's attendees from the campus community and the public) have a positive experience; and to consider measures necessary for the safety of all participants at events. Once a request has been received, Student Affairs will assess the event's potential for disruption by researching the speaker's prior engagements.

Normally, the following types of speakers and performers will not require review or approval: guest speakers in a classroom setting and individuals invited to speak at a meeting of a recognized club or organization. However, if the speaker or entertainer has a history of disrupting day-to-day university operations, or if additional university resources (including security) are needed to support an event, the event organizer should contact Student Affairs for guidance.

Requests must be submitted with as much advance notice as possible, ideally at least one month prior to the anticipated event date. Exceptions to the advance notice timeline must be approved by the Vice President for Student Affairs. Requests should provide confirmation of the availability of the venue and a detailed budget (e.g., speaker's fee, costs associated with travel, hospitality (housing and food), security services, and staging (lighting and sound)). Most major speaker events will also require a binding contract between the speaker and the University. No student organization is authorized to sign a contract or commit university-controlled funds or the use of university-owned or controlled facilities without approval from Student Affairs.

After initial review by Student Affairs, events with guest speakers invited by students must be entered into 25Live for approval under the Political Events and Activities Policy.

If necessary to protect the health and welfare of the members of our community, to ensure protection of property and conservation of University resources, to ensure legal compliance (e.g., with the University's tax-exempt status) or to ensure the purposes of this Policy are not undermined, the University reserves the right to modify or cancel events or demonstrations that are otherwise permitted by this policy, if members of the public who are not current University students, faculty or staff are in attendance, even if they have been invited by students. Furthermore, if necessary, the University also reserves the right to limit events or activities to university students, staff and faculty participants only.

The University may withhold or withdraw approval for any events or activities on university property under this Policy if they are deemed to be inconsistent with:

- Federal, state, or local laws
- Existing University policies
- Preservation of public or University safety

- Maintenance and protection of university property
- Free flow of pedestrians and vehicular traffic
- University Emergency Operations Management

#### **4. Sound Amplification and Use of Noise-Making Devices Prohibited**

The use of artificial sound amplification and/or noise-making devices are prohibited. “Amplified sound” is any sound enhanced through any device however powered that magnifies sound, including but not limited to microphones, mobile phones, bull horns, megaphones, and stereo equipment. A “noise-making device” is any device used to make noise including but not limited to drums, whistles, rattles, buckets, houseware items, and horns.

#### **5. Time of Day**

As a living and learning community, where students reside, expression protected under this Policy, including demonstrations, is not permitted from 11:00 p.m. to 7:00 a.m.

#### **6. Bills and Protest Signage**

Expression through written means that is not affixed to anything (handheld signs, posters, leaflets, etc.) or otherwise in a prohibited format that would damage University or others’ property is welcome in the free expression zones without prior approval as long as the written material constitutes otherwise permitted speech and complies with the University’s posting policy managed by of the Office of Student Affairs. Expression through written means that is affixed to something (signs planted in the ground, posters taped to walls/stairs, chalking, etc.), and expression through written means that is not affixed to anything but which is displayed in locations outside the free expression zones, must be approved in advance by Student Affairs and will be subject to reasonable time, place, and manner restrictions. Use of signs that could be weaponized against others or used as blockades to access, including wooden signposts, are prohibited.

#### **7. Prohibition of Encampments, Fencing, Wall Installations, Barricades, Exhibits, Digital Projections, and Other Similar Structures or Fixtures**

Encampments, including tents, temporary shelters, fencing, barricades, wall installations, exhibits, digital projections, or any similar structures, are not permitted on campus at any time. Individuals or groups wishing to protest must do so without establishing encampments.

### **IDENTIFICATION REQUIREMENT**

Because the free expression rights under the policy are afforded to enrolled students only, identification upon request may be reasonable and necessary to allow for full free expression under

this policy. All people participating in protests and demonstrations are expected to provide a form of University issued or government issued identification upon request from a University official or campus security. This includes complying with directives of a university official, public safety officers, or law enforcement to provide proof of identification and/or to lower any item covering any portion of a face to allow for a match between the person and the identification.

### **ACCOUNTABILITY**

Actions that take place in violation of this policy expose participants to possible disciplinary and/or law enforcement action and participants also will be charged with costs experienced by the University (e.g., cleaning graffiti off university property).

While intended to be educational in nature, students or student organizations found to have violated these guidelines or other University policies bearing on freedom of expression through the student conduct process, will be subject to a range of student conduct sanctions consistent with the University's Code of Community Standards.

If the violation persists or is repeated, or if the assembly poses an imminent danger to public safety, those assembled may be required to disperse immediately. Continued violation may result in arrest and subsequent legal action by the university. If the violation occurs at a scheduled event, the permission for the event may be summarily revoked, and future requests by those students or student groups in violation may be canceled or denied.

### **RESOURCES AND RELATED UNIVERSITY POLICIES**

U.S. Const. amend. I

Title VI of the Civil Rights Act of 1964, 42 U.S.C. section 2000d et seq.

Title IX of the Education Amendments of 1972, 29 U.S.C. section 1681 et seq.

Cal. Ed. Code section 94367 (Leonard Law)

Chemerinsky, Erwin, and Howard Gillman. *Free Speech on Campus*. New Haven, CT: Yale University Press 2017.

University Mission, Vision, and Core Values Statements

Faculty Policies on Academic Freedom, Professional Ethics, Standards, and Non-Discrimination (Faculty Handbook section B.)

University Policies Prohibiting Discrimination, Harassment, Sexual Misconduct, and Retaliation

University Posting Policy