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## Policy SA001: Time, Place, and Manner Policy

Recommended for Approval by:

*Susanne Fenske*

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Susanne K. Fenske, Ph.D., Vice President for Institutional Effectiveness, Student Affairs and University Police

Approved by:

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Dr. Dale-Elizabeth Pehrsson, President

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### A. Intent

The primary function of Pennsylvania Western University (PennWest) is to provide transformative, lifelong learning opportunities through innovative, nationally recognized programs delivered in inclusive, student-centered environments. To fulfill its educational mission, PennWest must respect and uphold the full panoply of, sometimes conflicting, rights of students, staff, and faculty granted by the First Amendment of the United States Constitution (the "First Amendment") and Article I, Section 7 of the Constitution of Pennsylvania.

In light of the foregoing, PennWest supports the rights of students, staff, and faculty to individually and collectively engage in Expressive Activity. Such rights are equally extended to other University Community Members including individuals, Registered Student Organizations, University Departments, Invited Guests, and community members.

This policy establishes guidelines to assure that Expressive Activities do not unreasonably interfere with University Operations, undermine the protected speech of others, or present a threat of imminent harm to others or University Property. This policy defines areas of campus as Designated University Forums or Designated Public Forums and explains how speech protections apply to Speakers in those areas. Importantly, through this policy, PennWest regulates the time, place, and manner of speech in a content-neutral manner as a legitimate way to fulfill its educational mission.

*Commercial Speech:* means advertisement, solicitations, or testimonials for goods or services, including distribution of commercial leaflets, fliers, handbills, or similar messaging.

### B. Definitions

*Designated Public Forum:* means any area of any PennWest campus that has been specifically dedicated to the Expressive Activities of both University Community Members and the General Public

*Designated University Forum:* means any area of campus that has been either specifically dedicated or long held out as open to the speech of University Community Members

*Disruptive Conduct:* means substantial disruption of University operations including obstruction of teaching, research, administration, other activities, and/or non-University related activities which occur on or off campus.

*Employee:* means an individual who is employed by PennWest. This definition does not include independent contractors.

*Expressive Activity:* includes constitutionally Protected Speech and assembly, including but not limited to oral presentations, demonstrations, marches, picketing, leafleting, Expressive Conduct, protesting, and similar non-Commercial Speech.

*Expressive Conduct:* includes constitutionally protected symbolic speech which communicates a particular message without the use of verbal communication.

*General Public:* means any person, group, club, organization, or entity that does not fall within the definition of "University Community Member" or "Invited Guest."

*Invited Guest:* means a person, group, club, or other organization invited by a University Community Member to participate in Expressive Activity as defined in this policy on University property.

*Harassment:* means targeted speech that is intended to harass, annoy, or alarm another by communications that are threatening, lewd, or obscene and is not constitutionally protected.

*Material and Substantial or Materially and Substantially:* refers to actions or activities that have an actual impact as opposed to a predicted one. It includes actions that materially infringe on the rights of others to engage in, or listen to, Expressive Activity.

*Misuse of Property:* means unauthorized access to, entry into, or use of University Property, including fixtures or other forms of personal property.

*Non-Public-on-Campus Area:* means any area of campus that is not specifically identified and is considered non-public and reserved for other activities consistent with the mission of PennWest or University Operations.

*Protected Speech:* means all speech other than certain limited exceptions such as obscenity, incitement of imminent violence, and defamation.

*Recognized Student Organization (RSO):* meaning as defined through the recognition processes via Student Senate's "New RSO Policy".

*Responsible University Official (or Office):* means the position or office responsible for oversight and enforcement of this policy.

*Speaker:* means any person engaging in Expressive Activity including both University Community Members and the General Public.

*Spontaneous Expressive Activity:* includes Expressive Activity by a Speaker in a Designated University Forum or Designated Public Forum where notice is not provided.

*Student:* means anyone who is registered and currently enrolled in one or more for credit

courses offered by PennWest, including internships and clinical placements located on or off campus. This definition does not include high school students taking dual enrollment courses at PennWest through any grant-funded or other program or contractual agreement with a local school district.

*University Community Member:* means a University Unit or member thereof, Employee, or Student.

*University Department:* means any academic office or department, student affairs office, or similar university entity.

*University Operations:* means all operations necessary to carry out PennWest's academic, health, safety, and administrative functions.

*University Property:* includes any building, land, or space, including, but not limited to, grassy areas, entrances and exits to campus, parking lots, sidewalks, paths, stairways, or platforms that are owned, leased, or otherwise controlled by PennWest.

*University Unit:* means Council of Trustees, all university divisions, departments, offices, Recognized Student Organizations, athletic teams, and any other organization that is wholly sanctioned, supervised, and governed by PennWest or a division or department of PennWest.

### **C. Policy**

It is the policy of PennWest to encourage the sharing of knowledge, the holistic development of the student, and the right of free expression and inquiry. All member of PennWest community are challenged to think critically, engage discussion, and actively seek out opportunities to learn and express differing and similar viewpoints.

This policy does not condone or permit unlawful behavior or activity, or activity that materially disrupts the operations and mission of PennWest.

### **D. Procedure(s)**

#### **A. Scope:**

- i. This policy applies to Expressive Activities of University Community Members and the General Public on University Property. Expressive Activity, as defined by this policy, is not permitted in Non-Public-on-Campus Areas except in accordance with University policies and procedures. This policy does not regulate public sidewalks not owned or controlled by PennWest.
- ii. The following areas are Designated University Forums and are available for the Expressive Activities of University Community Members:
  - A. The Primary venue(s) to be used for expressions of free speech are identified in the appendices A, B, and C. It should be noted that all groups are encouraged to register outside space as it is first come first serve through Conference and Events Services.
  - B. Other common or public areas of campus (all other lawn spaces and outside areas) with advance approval by Conference and Events Services. This process will consider space availability, conflicting events that may already be scheduled, and other factors that may conflict with the proposed event or orderly operation of PennWest.

- C. Students additionally have the ability to use areas noted in Appendices A, B, and C.
- iii. The following areas are Designated Public Forums and are available for the Expressive Activities of all Speakers—which includes the General Public:
  - 1. The Primary venue(s) to be used for expressions of free speech are noted in appendices A, B, and C. It should be noted that all groups are encouraged to register outside space as it is first come first serve through Conference and Events Services.
  - 2. Other common or public areas of campus (all other lawn spaces and outside areas) with advance approval by Conference and Events Services. This process will consider space availability, conflicting events that may already be scheduled, and other factors that may conflict with the proposed event or orderly operation of PennWest.
- iv. No expressive activity as defined in this policy will be prohibited on the basis of content. Any University decisions concerning the prioritization of competing requests for space will be made based on a content-neutral determination of the availability of a space at the time it is requested.
- v. This policy does not create any rights beyond those provided by the First Amendment and Article I of the Constitution of Pennsylvania.

## B. Guidelines

- i. Designated University Forums
  - 1. Designated University Forums are available to University Community Members for Expressive Activity on a first-come basis. The preferred locations are identified in Appendices A, B, and C.
    - A. To reserve one of these spaces, contact Conferences and Events Services. Requests should include the time, date, and duration of the proposed event along with the reasonably expected number of attendees or participants. If the requested space is already reserved, PennWest will arrange for an alternative date, time, or location.
    - B. Requestors should make a written request to Conferences and Events Services three business days prior to the anticipated Expressive Activity.
- ii. Designated Public Forums
  - A. Designated Public Forums are available to both University Community Members and the General Public for Expressive Activity on a first-come basis. The preferred locations are identified in Appendices A, B, and C.
    - a. To reserve one of these spaces the Speakers should contact Conferences and Events Services. Requests should include the time, date, and duration of the proposed event along with the reasonably expected number of attendees or participants.
    - b. Requestors should make a written request to Conferences and Events Services three business days prior to the anticipated Expressive Activity.

iii. Exceptions to the General Rules and Procedures

1. Small Group Exception

- a. PennWest encourages University Community Members to use the aforementioned procedure for reserving a space on campus regardless of size. However, Expressive Activities involving ten or fewer University Community Members or Invited Guests, collectively, may occur in both Designated University Forums or Designated Public Forums without advance notice, provided that such activities do not result in violations of this policy or other laws or campus policies, including, but not limited to, interference with functions that occupy a given space with prior approval.

2. Spontaneous Expression

a. University Community

- i. Without prior notice, University Community Members and Invited Guests may assemble and engage in Spontaneous Expressive Activity in Designated Public Forums. Except for the notice provision, all other aspects of this policy apply to spontaneous expression.
- ii. Exceptions to Restrictions in This Policy: Events that are spontaneous in nature shall not make use of any sound amplification devices, nor occur between the hours of 10:00p.m. and 8:00a.m.
- iii. To the extent feasible, PennWest encourages University Community Members to provide advance notice to Conferences and Events Services, so they may provide guidance in scheduling and planning to ensure a safe and successful event. Conferences and Events Services can also assist the Speaker(s) in identifying alternative locations if the desired location is already reserved in a manner consistent with this policy.

b. General Public

- iv. Without prior notice, the General Public may assemble and engage in Spontaneous Expressive Activity in Designated Public Forums. Except for the notice provision, all other aspects of this policy apply to spontaneous expression
- v. Exceptions to Restrictions in This Policy: Events that are spontaneous in nature shall not make use of any sound amplification devices, nor occur between the hours of 10:00p.m. and 8:00 a.m.
- vi. To the extent feasible, PennWest encourages University Community Members to provide advance notice to Conferences and Events Services, so they may provide

guidance in scheduling and planning to ensure a safe and successful event. Conferences and Events Services can also assist the Speaker in identifying alternative locations if the desired location is already reserved in a manner consistent with this policy.

iv. Signs

1. Items that are carried, such as signs, banners, or flags should be made of soft material, such as cloth or cardboard, and not attached to rigid materials, e.g., metal or wooden poles. PennWest reserves the right to limit the use of items made of potentially dangerous materials or material that can be used as a weapon.
2. Signs should also not display any lewd, lascivious, or depictions that possession of such depictions would be criminal in nature. PennWest is an open environment where the possibility exists that persons under the age of 18 may be present. Sign construction should be mindful that exposing persons under the age of 18 to certain depictions or obscenities may be a criminal offense.

v. Invited Guests: Spaces for Invited Guests to engage in Expressive Activity must be reserved by the Recognized Student Organization or University Department in a manner consistent with this policy. The reserving RSO or University Department will be accountable for any policy violations by the Invited Guest.

vi. Request for Use of a Designated University Forum or Designated Public Forum Denial

1. Requests may be denied for the following reasons:
  - A. Violation of the conditions of use in Section [C].
  - B. Unavailability because of a preexisting reservation.
    - a. If the denial is due to a preexisting reservation or similar conflict, then PennWest will reasonably accommodate the Speaker's request with an alternative date, time, or location.
  - C. Scheduled construction, maintenance, or repair of the property.
  - D. Violation of this policy.
    - a. If the denial is for failure to abide by this policy, then PennWest will provide the requestor a reasonable opportunity to correct the violation.
2. PennWest will provide notice of denial within two business days.

vii. Denial Appeals

1. If a request is denied, then the requestor may appeal the decision to The Office of the Assistant Vice President for Student Affairs for student or RSO appeals, Human Resources office for employee appeals, and Conference and Events Services for appeals from outside groups] within three days. Office/Responsible University Official, or their designee will respond within three business days after the appeal. The appeal decision shall be final.

C. Conditions of Use

- i. All Expressive Activities must comply with applicable federal, state, and local laws, including all laws, regulations, and ordinances—e.g. traffic, fire prevention and safety, sound, etc. Additionally, all Speakers engaging in Expressive Activities must abide by all applicable policies of PennWest and the Pennsylvania State System of Higher Education.
- ii. Specific Prohibitions
  1. The following are prohibited:
    - A. Disrupting University Operations.
    - B. Obstructing entrances or exits of University building or parking lots or otherwise interfering with the free flow of vehicular and/or pedestrian traffic within PennWest’s campus or into or out of campus.
    - C. Construction of permanent or temporary structures without prior approval.
    - D. Without prior approval, camping, lodging, or sleeping as an Expressive Activity (except in authorized facilities or locations);
    - E. Conduct that constitutes harassment, disturbance of the peace, or unlawful assembly.
    - F. Any theft, damage, misuse, or destruction of University Property.
    - G. Misuse of Property as defined in this policy; or
    - H. Sound amplification resulting in a disruption to University Operations which may include but are not limited to classes, labs, and the like and/or violate any Borough noise ordinance.
- iii. Dissenters, Counter-Speakers, and Protesters: Dissenters, counter-speakers, and protesters have the same speech rights as those who are conducting or attending a planned meeting or Expressive Activity. This provision should not be construed to establish a “hecklers’ veto.” If University Community Members, Invited Guests, or members of the General Public Materially and Substantially disrupt the Expressive Activities of others, then they are subject to the sanctions referenced in this policy.
- iv. Enforcement
  1. University Community Members
    - A. Sanctions
      - a. Any violation of this policy may result in the modification or cancellation of an event. Violation of this policy by a University Community Member constitutes misconduct subject to disciplinary action, up to and including discharge or termination, in accordance with any applicable collective bargaining agreement provisions or State System or university policies. Alleged violations by students may be referred by PennWest for review in accordance with the code of conduct.
    - B. Process and Procedural Safeguards
      - a. Student Policies may be found at:

- i. California Campus - [Office of Student Conduct | PennWest California \(calu.edu\)](#)
- ii. Clarion Campus - [Student Code of Conduct \(clarion.edu\)](#)
- iii. Edinboro Campus - [Dean of Students Office | PennWest Edinboro](#)

## 2. Invited Guests and General Public

- A. Sanctions: Any violation of this policy may result in the modification or cancellation of an event. Additionally, violators may be removed from campus and/or precluded from engaging in Expressive Activities on University Property in the future.
- v. Security: PennWest reserves the right but is not required to provide security in an effort to protect both Speakers and University Community Members. Security provide by PennWest will only be provided if available and may be at the cost of the requestor.
- vi. Distribution of Literature: Speakers may distribute petitions, leaflets, newsletters, and other non-commercial printed materials.
- vii. Restoration of Property: Speakers, or the inviting Registered Student Organization or University Department, are responsible for any non-routine clean-up following an event, including litter from printed materials, excessive signage, approved structures, etc.

### **E. Related policies**

Pennsylvania State Law  
DE003 – Harassment, Intimidation and Bullying Policy and Procedures  
SA021 - Student Code of Conduct

### **F. Contact Information**

PennWest offices including: Student Conduct, Campus Police, Student Affairs, Safety and Risk Management

### **G. Policy Review Schedule**

Contact Student Affairs for dates

### **H. Appendices**



**Appendix A: PennWest California Campus**

<b>DESIGNATED UNIVERSITY FORUMS</b>			
<b>Name of Space or Building</b>	<b>Location and Description</b>	<b>Boundaries of the Forum</b>	<b>Special Restrictions</b>
Natali Student Center	The outside kiosk located at the end of sidewalk near 3 <sup>rd</sup> Street and bordered by Parking Lot #16	The area is bordered by 3 <sup>rd</sup> Street and Lot #16	No sound amplification is permitted for spontaneous events.
Emeriti Fountain Area near Noss Hall	3 <sup>rd</sup> Street near Hickory,	3 <sup>rd</sup> Street and lawn area of Quad.	No sound amplification is permitted for spontaneous events.
Natali Performance Center	This area is located in Natali and is on the Second Floor	N/A	Use of space other than designated above may be requested through Conference & Events Services 3 or more days in advance of an event and will be reviewed.
Natali Vulcan Theatre	Located in Natali Student Center on 1 <sup>st</sup> Floor.	NA	Use of space other than designated above may be requested through Conference & Events Services 3 or more days in advance of an event and will be reviewed.
Convocation Center	The Convocation Center may be used as a Designated University Forum for use by students in assigned areas. The Convocation Center is not considered a Public Forum.	NA	Use of space may not infringe on normal operations, including use of space which was requested for use. Use of interior room areas requires reservation made

			through Conference & Events Services.

<b>DESIGNATED PUBLIC FORUMS</b>			
<b>Name of Space or Building</b>	<b>Location and Description</b>	<b>Boundaries of the Forum</b>	<b>Special Restrictions</b>
Natali Student Center	The outside kiosk located at the end of sidewalk near 3 <sup>rd</sup> Street and Bordered by Parking Lot #16	The area is bordered by 3 <sup>rd</sup> Street and Lot #16	No sound amplification is permitted for spontaneous events
Emeriti Fountain Area near Noss Hall	3 <sup>rd</sup> Street near Hickory,	3 <sup>rd</sup> Street and lawn area of Quad.	No sound amplification is permitted for spontaneous events.
Additional outside lawn space	Area is located at front of campus and is limited to lawns	That area is bordered by 3 <sup>rd</sup> Street, East Street and Porcupine Alley and Monroe Way.	No sound amplification is permitted for spontaneous events.
Additional outside lawn space	Area is located in front of Dixson and Old Main and is limited to lawn and sidewalk.	Area is bordered by University Drive and Dixson Hall.	No sound amplification is permitted for spontaneous events.

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**Appendix B: PennWest Clarion Campus**

<b>DESIGNATED UNIVERSITY FORUMS</b>			
<b>Name of Space or Building</b>	<b>Location and Description</b>	<b>Boundaries of the Forum</b>	<b>Special Restrictions<sup>i</sup></b>
Gemmell Performance Area	The outside brick platform near the primary entry to the Gemmell Student Center with adjacent lawn space	The area is bordered by Page Street, the Student Recreation Center, and hill next to Ralston and Campus View Suites.	no sound amplification is permitted for spontaneous events.
Outside venue between the Carlson Library and Becht Hall	This area includes The Bell Tower space and lawn space by Carlson Library	The area is bordered by Carlson Library, Becht Hall, Egbert Hall, and Wood Street.	no sound amplification is permitted for spontaneous events.
Additional outside lawn space	Areas including but not limited to lawns by the campus water tower, Still Hall, and area of The Apple	NA	Use of space other than designated above may be requested through Conference & Events Services 3 or more days in advance of an event and will be reviewed.
Gemmell Student Complex	The Gemmell Student Complex may be utilized as a Designated University Forum for use by students in open areas. The Gemmell Student Complex is not considered a Public Forum.	NA	Use of space may not infringe on normal operations including use of space which was requested for use. Use of interior room areas requires us of the 25 Live Room Reservation process to secure space.
<b>DESIGNATED PUBLIC FORUMS</b>			
<b>Name of Space or Building</b>	<b>Location and Description</b>	<b>Boundaries of the Forum</b>	<b>Special Restrictions<sup>ii</sup></b>
Gemmell Performance Area	The outside brick platform near the primary entry to the Gemmell Student Center with adjacent lawn space	The area is bordered by Page Street, the Student Recreation Center, and hill next to Ralston and Campus View Suites.	no sound amplification is permitted for spontaneous events.

<p>Outside venue between the Carlson Library and Becht Hall</p>	<p>This area includes The Bell Tower space and lawn space by Carlson Library</p>	<p>The area is bordered by Carlson Library, Becht Hall, Egbert Hall, and Wood Street.</p>	<p>no sound amplification is permitted for spontaneous events.</p>
<p>Additional outside lawn space</p>	<p>Areas including but not limited to lawns by the campus water tower, Still Hall, and area of The Apple</p>	<p>NA</p>	<p>Use of space other than designated above may be requested through Conference &amp; Events Services 3 or more days in advance of an event and will be reviewed.</p>

**Appendix C: PennWest Edinboro Campus:**

<b>DESIGNATED UNIVERSITY FORUMS</b>			
<b>Name of Space or Building</b>	<b>Location and Description</b>	<b>Boundaries of the Forum</b>	<b>Special Restrictions</b>
Pogue Student Center	Front lawn area in front of building (east side)	The area is bordered by Scotland Road and the Pogue Student Center	No sound amplification is permitted for spontaneous events.
Pogue Student Center	Back lawn area behind the building (west side)	The area is bordered by Mallory Lake and the Pogue Student Center	No sound amplification is permitted for spontaneous events.
Fighting Scot Statue Plaza	Brick plaza area with large Fighting Scot statue	The area is bordered by Scotland Road and grassy area out to Mallory Lake	No sound amplification is permitted for spontaneous events.
Pogue Scot Cinema	Theatre located in Pogue Student Center on 1 <sup>st</sup> Floor	NA	Use of space other than designated above may be requested through Event Services 3 days in advance of an event and will be reviewed.
Pogue Multipurpose Room	Large conference space located in Pogue Student Center on 1 <sup>st</sup> Floor	NA	Use of space other than designated above may be requested through Event Services 3 days in advance of an event and will be reviewed.
Cole Auditorium	Auditorium located in Memorial Hall	N/A	Use of space other than designated above may be requested through Event Services 3 days in advance of an event and will be reviewed.

<b>DESIGNATED PUBLIC FORUMS</b>			
<b>Name of Space or</b>	<b>Location and</b>	<b>Boundaries of the</b>	<b>Special Restrictions</b>

Building	Description	Forum	
Pogue Student Center	Front lawn area in front of building (east side)	The area is bordered by Scotland Road and the Pogue Student Center	No sound amplification is permitted for spontaneous events.
Pogue Student Center	Back lawn area behind the building (west side)	The area is bordered by Mallory Lake and the Pogue Student Center	No sound amplification is permitted for spontaneous events.
Fighting Scot Statue Plaza	Brick plaza area with large fighting scot statue	The area is bordered by Scotland Road and grassy area out to Mallory Lake	No sound amplification is permitted for spontaneous events.

1E.g. Certain areas of campus that are open to speech may be in close proximity to academic buildings where sound amplification would unnecessarily interrupt academic activities. Thus, in some areas, speech may be limited as to time (not during academic hours) or manner (without amplification).

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<sup>ii</sup> E.g. Certain areas of campus that are open to speech may be in close proximity to academic buildings where sound amplification would unnecessarily interrupt academic activities. Thus, in some areas, speech may be limited as to time (not during academic hours) or manner (without amplification).