

Freedom of Speech and Expression University Standard

Summary

This Standard is intended to provide guidance, structure, and procedural safeguards for the University in accordance with the Freedom of Speech and Expression University Policy. This Standard applies to all students, staff, and faculty of the University, as well as to all campus visitors wishing to engage in expressive conduct on campus.

Body

Title

The University of North Carolina at Chapel Hill Freedom of Speech and Expression Standard

Introduction

Purpose

This Standard is intended to provide guidance, structure, and procedural safeguards for the University in accordance with the Freedom of Speech and Expression University Policy.

Scope

This Standard applies to all students, staff, and faculty of the University, as well as to all campus visitors wishing to engage in expressive conduct on campus.

Standard

Material and Substantial Disruptions on Campus

Students, staff, and faculty may assemble and engage in spontaneous expressive activity as long as such activity is lawful and does not materially and substantially disrupt the functioning of the University. A material and substantial disruption includes but is not limited to, any or all of the following:

- A. Any action that qualifies as disorderly conduct under N.C.G.S. § 14-288.4;
- B. Any action that qualifies as a disruption under N.C.G.S. § ~~143-318.17~~;
- C. Any action in violation of a Chancellor's designation of a curfew period pursuant to N.C.G.S. § 116-212;
- D. Any action that results in the individual receiving a trespass notice from law enforcement.

Speech and Expression Not Protected by Policy

The University may restrict speech and expression or activity not protected by the First Amendment under State or federal law, including but not limited to, all of the following:

- A. Expression that a court has deemed defamation.

- B. Unlawful harassment.
- C. True threats, which are defined as statements meant by the speaker to communicate a serious expression of intent to commit an act of unlawful violence to a particular individual or group of individuals.
- D. An unjustifiable invasion of privacy or confidentiality not involving a matter of public concern.
- E. An action that materially and substantially disrupts the functioning of the University, or that substantially interferes with the protected free expression rights of others.
- F. Reasonable time, place, and manner restrictions on expressive activities, consistent with N.C.G.S. § 116-300(4).
- G. Speech that interferes with the treatment of patients.

Distributing Institutional Policy Information

Students

The University of North Carolina at Chapel Hill will inform students annually about this Standard, its related policy, and Article 36 of Chapter 116 of the North Carolina General Statutes. Any information provided will include the name and contact information of the institutional officer, office, or department with responsibility for ensuring compliance with this policy and for answering any related questions or concerns.

Faculty and Staff

The University of North Carolina at Chapel Hill will periodically provide to faculty and staff information describing the University's institutional policies regarding free speech and free expression consistent with this Standard, its related policy, and with Article 36 of Chapter 116 of the North Carolina General Statutes. Any information provided will include the name and contact information of the institutional officer, office or department with responsibility for ensuring compliance with this policy and for answering any related questions or concerns.

Outside Parties

The University of North Carolina at Chapel Hill make available to outside parties information describing institutional policies regarding free speech and free expression consistent with this policy and with Article 36 of Chapter 116 of the North Carolina General Statutes. Any information provided will also include the name and contact information of the institutional officer, office, or department with responsibility for ensuring compliance with this policy and for answering any related questions or concerns.

Consequences for Violation of Policy

The University will ensure it safeguards students, faculty members and staff by developing alternative approaches to minimize the possibility of disruptions and support the right to dissent.

- A. ***Disciplinary Sanctions.*** The University of North Carolina at Chapel Hill shall implement and enforce a range of disciplinary sanctions, up to and including dismissal or expulsion, for anyone under the jurisdiction of The University of North Carolina at Chapel Hill who materially and substantially disrupts The University of North Carolina at Chapel Hill, or any other entity or unit of the University, or substantially interferes with the protected free expression rights of others.
- B. Any student, faculty member, or staff employee who is found to have materially and substantially disrupted the functioning of the University or any other unit or entity of the University, or who substantially interfered with the protected free expression rights of others shall be subject to a full range of disciplinary sanctions according to the appropriate disciplinary procedures for misconduct, including suspension, or, as appropriate, expulsion or dismissal. Any second finding of a material and substantial disruption or substantial interference shall presumptively result in at least a suspension as provided by the appropriate disciplinary procedures; however, the University may impose a different sanction if warranted. Any third finding of a material and substantial disruption or substantial interference shall presumptively result in an expulsion of the student or dismissal from employment of the faculty member or staff employee; however, the University may impose a different sanction if warranted.

Procedural Safeguards

Students

Students involved in expressive speech or conduct disciplinary cases where disciplinary action is proposed for materially and substantially disrupting the functioning of the University, or substantially interfering with the protected free expression rights of others, are entitled to a disciplinary hearing under published procedures and UNC Policy Manual, Section 700.4.1, including, at a minimum:

- A. The right to receive advance written notice of the charges;
- B. The right to review the evidence in support of the charges;
- C. The right to confront witnesses against them;
- D. The right to present a defense;
- E. The right to call witnesses;
- F. A decision by an impartial arbiter or panel;
- G. The right of appeal; and
- H. The right to active assistance of counsel, consistent with N.C. G.S. § 116-40.11.

Faculty

Faculty members involved in expressive speech or conduct disciplinary cases where a demotion, suspension, or dismissal is proposed for materially and substantially disrupting the functioning of the University, or substantially interfering with the protected free expression rights of others, are entitled to the procedural protections provided by Sections 603, 604, and 609 of The Code.

EHRA Non-Faculty Employees

EHRA non-faculty employees involved in expressive speech or conduct disciplinary cases where a demotion, suspension, or dismissal is proposed for disrupting the functioning of the University, or substantially interfering with the protected free expression rights of others, are entitled to the procedural protections provided by Sections 300.1.1, 300.2.1 of the UNC Policy Manual and any additional protections established by the UNC System Office or the University's relevant disciplinary and grievance policies.

SHRA Employees

SHRA employees facing a demotion, suspension or dismissal for materially and substantially disrupting the functioning of the UNC System Office, the University, or any other entity or unit of the University, or substantially interfering with the protected free expression rights of others, are entitled to the procedural protections provided by the SHRA Employee Grievance Policy and any State or University disciplinary policies

Related Requirements

External Regulations and Consequences

Standard supplements and does not supplant or modify state laws governing the activities of public officials. Standard shall be implemented in accordance with regulations and guidelines adopted by the President of the UNC System:

- UNC System Office Policy Manual - 1300.8 - Free Speech and Free Expression within the University of North Carolina

University Policies, Standards, and Procedures

- Freedom of Speech and Expression University Policy
- The Instrument of Student Judicial Governance
- Trustee Policies and Regulations Governing Academic Tenure in the University of North Carolina at Chapel Hill
- SHRA Disciplinary Action Policy
- SHRA Employee Grievance Policy
- SHRA Dispute Resolution and Grievances
- Employment Policies for EHRA Non-Faculty Instructional, Research and Public Service Staff, and Tier II Senior Academic and Administrative Officers
- Employment Policies for EHRA Non-Faculty Tier I Senior Academic & Administrative Officer Employees
- EHRA Non-Faculty Employee Dispute Resolution and Grievances

Contact Information

Policy Contact

The Chancellor has delegated authority to implement this Standard and to assure compliance with the UNC Policy Manual 1300.8. The Associate Vice Chancellor for Student Affairs has been designated as the primary policy contact.

Jonathan Sauls
Associate Vice Chancellor, Student Affairs
102 Carr Building
Chapel Hill, NC 27599
[919-966-4045](tel:919-966-4045)

Other Contacts

Jean Morton Elia
Associate Provost for Strategy and Special Projects
104D South Building
Chapel Hill, NC 27599
[919-962-2624](tel:919-962-2624)

Kim Strom-Gottfried
Director, Office of Ethics Education and Policy Management
134 1/2 East Franklin St. Ste. 110
Chapel Hill, NC 27599
[919-445-8362](tel:919-445-8362)

Becci Menghini
Senior Associate Vice Chancellor, Equal Opportunity and Compliance Office
214 W. Cameron Ave.
Chapel Hill, NC 27599
[919-843-0594](tel:919-843-0594)