

Policy 1121
Public Expression on Campus

Date of Current Revision: January 2025

Primary Responsible Officer: Chief of Police

Secondary Responsible Officers: Associate Vice President of Student Affairs, Student Life and Involvement

1. PURPOSE

The university encourages civic engagement, including vigorous and civil discourse and debate on topics of public interest, both on and off campus. Civil discourse is an important life skill and part of engaged learning, community engagement, and civic engagement. The university's mission to be the national model of the engaged university is fundamentally supported by these activities. Nothing is more central to the concept of engagement in the higher education setting than free expression and civil discourse.

As public citizens, all members of the campus community have rights guaranteed them under the United States Constitution, including the rights of freedom of speech and freedom of assembly. Closely related to freedom of speech, the university, its faculty and students have academic freedom rights. The academic freedom rights of faculty members are set forth in the [Faculty Handbook, section III.A.2.a](#). Students' rights to academic freedom are set forth in [Academic Affairs Policy 12](#).

The primary mission of the university is to create an environment for learning, educational activities, and intellectual pursuits of its students and faculty. Many parts of university property are open to the public, but the institution's physical grounds and facilities exist to serve this educational mission for the campus community, and the mission must remain paramount.

This policy is designed to set out the university's obligations to protect the rights of public exercise of freedom of expression and freedom of assembly on campus, as well as the constitutionally defined parameters of those rights.

2. AUTHORITY

The Board of Visitors has been authorized by the Commonwealth of Virginia to govern James Madison University. See Code of Virginia § 23.1-1600; § 23.1-1301. The Board has delegated the authority to manage the university to the president.

STATE OR FEDERAL STATUTE AND/OR REGULATION

The First Amendment of the United States Constitution prohibits the government and its representatives from abridging the freedom of expression and assembly of any individual. The Virginia General Assembly has defined all outdoor areas on campus as protected places for the civil exchange of ideas by students. See Code of Virginia 23.1-401. It has also prohibited the institution from abridging the constitutional freedom of expression of the university's enrolled students, faculty and other employees, and invited guests. See Code of Virginia 23.1-401.1. 3. Code of Virginia § 18.2-56 regarding hazing.

3. DEFINITIONS

Academic Freedom

The liberty to pursue, discuss, study, research, discover, question, critique, and teach relevant knowledge, ideas and theory, in accordance with the standards of the academic profession and academic disciplines.

Affiliated Persons

An individual who has a formal affiliation with the university and receives some services from the university but is not a student or employee of the university and receives no remuneration from the university.

Campus

All property owned or controlled by the university.

Civil Discourse

Robust, honest, frank, and constructive dialogue and deliberation that seeks to advance the public interest.

Commercial Speech

Expression or activity which does no more than propose a commercial transaction and is related solely to the economic interests of the speaker or actor and their audience.

Controlled Spaces

For the purposes of this policy, controlled spaces are defined as any buildings or indoor areas owned or controlled by the university, including residence halls, and any outdoor areas owned or controlled by the university that have limitations on use or access (e.g., practice fields, stadiums, farm, tennis courts, gated lots, etc.). The Quad is a controlled space regulated by sections 5.8 and 6.2. Physical areas of campus open to the public (i.e., streets, lawns, green spaces, walkways, public parking lots) with no limitations on access are not controlled spaces under this policy.

Discrimination and Harassment

Conduct that constitutes discrimination or harassment pursuant to Policies 1324, 1340, and 1346.

Defamation

Any intentionally false communication, either written or spoken, that tends to harm the reputation of another to lower them in the estimation of the community or to deter third persons from associating or dealing with them.

Expression

In this policy, "expression" includes "speech," and generally the words are used interchangeably. Nonverbal gestures, actions and visual depictions meant to communicate a message are also expressions.

Fraud

A false representation of a present, material fact, made intentionally and knowingly with intent to mislead, with reasonable reliance by the party misled, resulting in damage to that party.

Hazing

Recklessly or intentionally endangering the health or safety of a student or students, or to inflict bodily injury on a student or students in connection with, or for the purpose of, initiation, admission into or affiliation, with or as a condition for, continued membership in a club, organization, association, fraternity, sorority, or student body, regardless of whether the student or students so endangered or injured participated voluntarily in the relevant activity. Hazing is identified through [Code of Virginia §18.2-56](#).

Intellectual Property Rights Infringement

The improper use of a patent, copyrighted, or trademarked material without permission, without notice, and without contracting with the owner for payment of a royalty.

Obscenity

Words, actions or images which an average person, applying contemporary community standards, would find, taken as a whole, appeal to the prurient interest, and depict or describe, in a patently offensive way, sexual conduct, and which, taken as a whole, lack serious literary, artistic, political, or scientific value.

Privacy Rights Infringement

Actions that impede the right of an individual to lead his or her life in a manner that is reasonably secluded from public scrutiny.

Protected Speech

For the purposes of this policy, speech and other forms of expression that are protected under federal and state law. As defined by constitutional law, protected speech does include mere insults, vulgarity, and hateful or offensive expression under the law and under this policy, even if it irritates, annoys, outrages or angers those who hear or perceive it. Protected speech includes nonverbal expressive activity but does not include destruction of property or behavior that disrupts the safe and orderly operation of the university. Unauthorized commercial speech or activity is not protected speech under the terms of this policy. Protected speech does not include threats, discrimination or harassment, obscenity, pornography, defamation, fraud, or infringement of the intellectual property or privacy rights of others. Protected speech does not include hazing or providing false or misleading information to university officials.

The Quad

The ground space and front porches between Wilson Hall and South Main Street and the buildings on Northeast and Southwest perimeter of this area. (Music, Spotswood, Sheldon, Alumnae, Keezell, Wilson, Gabbin, Darcus Johnson, Harrison, Harper Allen-Lee, Wampler)

Speech

In this policy, the words “speech” and “expression” are used interchangeably.

Student Organization

A student group organized around a common cause, theme, or interest that meets all the criteria set forth by the university required for official recognition. More information can be found on the [JMU Student Organizations web page](#), the [JMU Sport Clubs web page](#), and the [Student Handbook](#).

Threat

An expression of the intent to commit an act of unlawful violence against another person or group of people made directly to that person or group, or a threat which is identified within [Code of Virginia §18.2-60](#).

Unaffiliated Persons

Any person or party who is not an affiliated person (e.g., businesses, non-profit organizations, independent contractors).

University-Sponsored Event

An event or meeting is university-sponsored if a budgeted office, department, or division of the university is responsible for organizing the event, inviting attendees, and paying expenses related to the event, except that such an event is considered to be university-sponsored even if an outside entity pays for the food and beverages at the event.

4. APPLICABILITY

This policy applies to all employees of the university including instructional faculty, administrative and professional faculty, wage and classified staff; to all students; to all affiliates, alumni, volunteers, business representatives, contractors and others having legitimate business on university property; and to all visitors and invited guests to the university. It applies to all areas of the campus and all real property owned or controlled by the university.

5. POLICY

The safety and security of the campus environment is the responsibility of the university. The university reserves the right to respond appropriately to any behavior by any individual that interferes with its primary mission or interferes with the safety and security of the campus environment or the campus community. As a public institution of higher education, the university will encourage and protect the free and open exchange of ideas in a manner consistent with the requirements of the U.S. Constitution.

The university's encouragement of civil discourse is not an invitation to disrupt the safe and orderly operation of the campus, threaten members of the university community, or incite violence, and the university reserves the right to sanction those who fail or refuse to abide by the institution's reasonable and content-neutral time, place, and manner regulations. To protect free expression of others on campus, the university has the authority and obligation to enforce rules that restrict and sanction those who seek to significantly interrupt, shut down, or interfere with the expression of others. Additionally, the university reserves the right to respond appropriately to behavior that is not protected speech as defined under law and this policy.

5.1 In classes and instructional activities, students and faculty are encouraged to engage in free speech and exercise their first amendment rights through civil discourse concerning the subject matter covered by the course.

5.2 In outdoor areas on campus other than controlled spaces, university community members and members of the public are encouraged to exercise their constitutionally protected rights of free expression and freedom of assembly, subject only to reasonable, content-neutral time, place, and manner regulations.

- 5.3 Faculty members and employees are public citizens and have constitutionally protected rights of expression. The university supports the academic freedom of its faculty as set out in the [Faculty Handbook](#).
- 5.4 Students are public citizens and have rights of constitutionally protected expression. The university supports the academic freedom of its students. Students are bound by policies and rules of the institution, including those set forth by the [Student Handbook Standards of Conduct and Policies](#). The institution is responsible for evaluating and addressing student academic performance and conduct.
- 5.5 Speakers invited to make presentations on campus by the institution are public citizens, and while they are on campus, they are guests and are bound by the terms of university policy and agreements concerning their invitations to speak. To reserve facilities for lectures, institutes, workshops, conferences, guest speakers, and other programs, members of the university community must make arrangements in advance by contacting the appropriate university scheduling authority and adhering to [event management policies](#). The university will not use the content or viewpoint of an invited speaker's presentation to withhold or withdraw an invitation to make a presentation on campus. All events must have an institution-affiliated sponsor. The sponsor must have a contact person identified and onsite or immediately available by phone throughout the event.
- 5.6 The university will enforce appropriate, reasonable, and narrowly tailored time, place and manner regulations on expression and assembly as set out in this policy and other university policies without reference to the content of the speech or the participants in the assembly. These regulations serve the university's responsibility to maintain the safety and orderly operation of its property, people, and mission. Specifically:
- a. Buildings and controlled spaces on campus are reserved for the mission and operation of the institution. Certain locations are altogether prohibited from usage for events, including residence halls, administrative buildings, and academic buildings during class time.
 - b. Blocking access to and egress from any university facility, building, and controlled space is prohibited.
 - c. Blocking, obstructing, or impeding vehicular or foot traffic on roadways and walkways is prohibited.
 - d. Noise levels that interfere with university functions, business operations, educational activities and the quiet enjoyment of residence halls are prohibited, as are the use of loudspeakers, bullhorns, and other amplification devices at all times without specific permission granted by the institution. At no time may the decibel level inside any academic building or library be in excess of 70 dBA for a prolonged period of time, without permission from building coordinators. University Police shall be notified to evaluate any questionable or prolonged noise inside these buildings.
 - e. No postings, writings, markings, banners, images, symbols or signs of any kind shall be placed on or hung as follows:
 - inside windows so as to be visible to the exterior;
 - affixed to the exterior of buildings, exterior doors, exterior windows, stairwells posts, utility poles trees, plants, trash or recycling containers, newsstands, university vehicles;
 - or any other campus physical features.

Exceptions may be made for the display of JMU-related banners by seeking written approval from the Vice President for Administration and Finance according to procedure 6.4. Interior doors remain subject to the provisions within Policy [3104](#), section 6.4.

Postings on university bulletin boards are subject to Policy 3104 - Bulletin Board Use & Posting Public Notices.

- f. Buildings shall be illuminated or backlit consistent with the University Identity System and Brand Guide which calls for the use of purple, gold, and white lights only. No external requests for illumination of university buildings will be accepted.
- g. Leaving leaflets or papers on cars, in outdoor locations on campus, or in buildings, is prohibited (Policy 3104).
- h. Chalking of walkways and streets is prohibited, except with permission granted by the Office of Student Life, on a content-neutral basis, according to the provisions of Policy 3104. Writing or marking on walkways, streets, buildings or any other university property with paint or any other substance but chalk is prohibited.
- i. No person may obstruct, disrupt, or attempt by physical force to cancel or discontinue speech by any speaker, or the observation of speech by any person intending to see or hear a speaker. This includes persistent heckling, shouting down, or blocking views that prohibit another person's speech or expression from being heard or observed by others. It also includes removing or defacing other individuals' or groups' approved postings. Whether the interruption or interference is significant enough to warrant criminal charges is determined by the university police.
- j. All individuals participating in or observing a demonstration or peaceful assembly must comply with requests of University Police and other law enforcement officers who will enforce all federal, state, and local laws, regulations, orders and ordinances. This specifically includes an order to disperse or to cease attempts to interfere with the speech or peaceable assembly of others.
- k. The university may prohibit or shut down an assembly, demonstration, or speaker in circumstances where it determines that the safe and orderly operation of the university will be disrupted by the event, based on the facts known to the institution at the time. If an event is prohibited or shut down by the institution for safety or operational reasons, the university will attempt to provide an opportunity for the speaker or group to reschedule, or to provide alternative space for the event, if possible. The university will not censor or punish any public, constitutionally protected expression simply because a person or group finds it offensive. The university may prohibit, stop, or impose sanctions for conduct that is not protected under this policy or the law, whether or not such conduct disrupts the safe and orderly operation of the institution.
- l. Constructing, occupying, or sleeping in tents or camping on university-owned or operated properties is prohibited unless approved in advance by the university. Tents shall include any structure, enclosure, or shelter with or without sidewalls or drops that is constructed of canvas or pliable material supported in any manner except by the contents it protects. Camping shall include:
 - The use of any item to create a shelter; or
 - the outdoor use of heating devices, generators, or the use of portable toilets; or
 - sleeping outdoors with or without a tent between the hours of 12:00 a.m. and 6:00 a.m.

5.7 Affiliated persons and student organizations may utilize outdoor non-controlled university property for public speaking or distribution of literature, so long as they do not disrupt or obstruct the normal living and work environments of other members of the university community or the functions or activities of the university (as well as activities conducted on the university's property with its permission). Examples include: blocking entrances, corridors or exits; interfering with ongoing educational activities, cultural events, or recreational, extracurricular or athletic programs; unauthorized presence in a building after normal closing hours or after notice that the building is being closed; interfering with vehicular or pedestrian traffic; creating unsanitary conditions; and interfering with any other effort to protect the health and safety of members of the university community or larger public.

5.8 Unaffiliated persons wishing to engage in public speaking or distribution of literature on outdoor university property may do so in non-controlled spaces. The Quad is not a designated location that unaffiliated persons may use for public speaking or distribution of literature, except through advanced approval, (See 6.2). Unaffiliated persons wishing to utilize the controlled spaces designated for public speaking or distribution of literature may do so by contacting Student Life in advance of the desired speaking date. Reservations are allocated on a space-available basis with priority given to student organizations and affiliated persons.

a. In addition to the opportunities for speech by unaffiliated persons outlined in this subsection, events that are held in indoor university facilities and are open to the public, or to select unaffiliated persons, create a right to peaceful demonstration and protest at the venue in a manner which remains consistent with peaceful assembly. Persons can peacefully assemble, in support or in protest, on university property in specific relation to such events in a manner that:

1. does not impede normal operations of the university or obstruct pedestrian or vehicular traffic
2. is consistent with university policies, and
3. complies with any event-specific security requirements. The group originally requesting the controlled space must contact JMU Police Department at least 14 days prior to their event to obtain a security review as part of the event authorization process. The chief of police must approve security reviews when less than 14 days prior notice is given.

5.9 University employees have professional and job-related responsibilities and are bound by university policy when operating within the context of their employment. This includes the responsibility to abide by all rules concerning an employee's expression on behalf of the institution, and to identify when the employee is speaking as a private citizen, rather than on behalf of the institution (Policy [1508](#)).

5.10 Consistent with Virginia Code 18.2-422, any individual present on university property or attending a university event who is wearing a mask, hood, or other device whereby a substantial portion of the face is hidden or covered so as to conceal the identity of the wearer must present an identification document when requested by a uniformed officer or otherwise establish their identity to the satisfaction of the uniformed officer.

6. PROCEDURES

- 6.1 Certain non-controlled outdoor spaces may be reserved for exclusive use, as indicated in [Student Life](#) and [UREC](#) procedures. Advance notice is required to reserve these non-controlled outdoor spaces for the exclusive use of an individual or group, and members of the public or non-university groups must make such reservations through the sponsorship of a university office or recognized student organization.
- 6.2 Due to its historic, academic, and residential nature, the Quad may be reserved only for university-sponsored events, which include QuadFest, Halftime on the Quad, and the placement of the official flag of the United States on the Quad in recognition of Veterans Day. No permanent or temporary structure is permitted on the Quad except those deemed necessary for the university-sponsored event with the approval of the Vice President of Student Affairs, in conjunction with the Vice President of Administration and Finance.

Individuals using the Quad shall not disrupt the general use or quiet enjoyment of the Quad.

- 6.3 Individual students, non-university-related individuals, and organizations may rent space for a speaker to make a presentation on campus, as provided in the [university rules for rental of university space](#).
- 6.4 To request permission to display a JMU-related banner or JMU-related sign affixed to a building or other outdoor structure on university property, email AdminFinance@jmu.edu a minimum of seven (7) business days in advance. Requests must include the following information:
- Desired location where the banner or sign will be displayed
 - Dates requested for displaying the banner or sign
 - Sponsoring university office or department
 - Account code for any FM charges incurred to hang and remove the banner or sign
 - Detailed description of the contents of the banner or sign
 - A photo, drawing or mock-up of the banner or sign must be attached to the request

If approved, the sponsoring office or department must provide a copy of the approval notice upon request for the posting period. Facilities Management will not hang JMU-related banners or signs without a copy of the approval notice.

- 6.5 Any individual or group whose constitutionally protected speech on campus has been disrupted under the terms of section 5.6.i. may file a report of such an incident with the office of the appropriate vice president overseeing the activity, event, or venue. The university may sanction any person who is found to have disrupted the expression of an individual or group under the terms of this policy.
- 6.6 Annually by December 1, the Office of University Counsel will report to the Governor and General Assembly any lawsuits initiated against the institution or an employee of the institution, based on an alleged violation of the First Amendment to the United States Constitution, and such report will be updated within 30 days of any new complaint.

7. RESPONSIBILITIES

The JMU Police Department will determine appropriate responses to activity on campus concerning the appropriate time, place and manner regulations developed under this policy for expression and assembly on campus.

Offices who control the reservation of specific non-controlled outdoor spaces, such as UREC and Student Life, will enforce the procedures for such reservations.

The vice presidents are responsible for receiving reports of disruption of the speech of any individual or group on campus for those activities, events, and venues they oversee.

The Office of University Counsel is responsible for making the annual report and any updates as set out in 6.5 herein to the Governor and the General Assembly.

Visitors to campus are responsible for compliance with this policy while on campus.

All departments, offices, and employees that generate, receive or maintain public records under the terms of this policy are also responsible for compliance with Policy [1109](#) (Records Management).

8. SANCTIONS

Sanctions for violation of this policy will be commensurate with the severity and/or frequency of the offense and may include termination of employment, dismissal of a student, removal of affiliate or volunteer status, and/or banning an individual from university property. Criminal behavior on university property will result in arrest and prosecution, and the enforcement of the criminal laws of the Commonwealth of Virginia and this policy are within the discretion of the JMU Police Department. Students will also face administrative actions from the university through the Office of Student Accountability and Restorative Practices (OSARP).

9. EXCLUSIONS

None.

10. INTERPRETATION

The authority to interpret this policy rests with the president and is generally delegated to the chief of police.

Previous version: May 2019

Approved by the president: January 2025