

Free Speech and Solicitation Policy

Source: NDSCS President

Applies to: All NDSCS Students, Employees, and Visitors

1. Introduction

- 1.1. NDSCS recognizes the fundamental right of its students to free speech and expression under the First Amendment to the United States Constitution and the North Dakota Constitution. NDSCS is committed to ensuring that students and employees have the freedom to speak, write, listen, challenge, learn, and discuss any issue, subject to reasonable and constitutionally-recognized limitations. As part of this commitment, NDSCS is dedicated to promoting free speech and expression while providing a safe and non-discriminatory College community that supports diversity of thought and people. The goal of this Policy is to articulate the spaces available for exercising the rights of Free Speech and Expression, to communicate the parameters of any such expressive activity, to ensure the safety of the College community, and to minimize disruption to NDSCS's educational mission.

2. Definitions

- 2.1. Amplified sound – means sound whose volume is increased by any electric, electronic, mechanical, or motor-powered means. Shouting, group chanting, and acoustic musical instruments are exempt from this definition and are not subject to the special rules on amplified sound, but are subject to general rules on disruption.
- 2.2. Commercial Speech – The promotion, sale, or distribution of a product or service. For the purposes of this section, commercial speech does not include the incidental promotion, sale, or distribution of a product as part of the exercise of non-commercial speech.
- 2.3. Constitutional Time, Place, and Manner Restrictions – Restrictions on free speech which are content-neutral, narrowly tailored to serve a significant interest, and leave open alternative methods of communicating the message in question.
- 2.4. Disruptive Conduct – Any act that: unreasonably interferes with the rights of others to peaceably assemble or to exercise the right of free speech or expression; impedes the flow of pedestrian and/or vehicular traffic; disrupts the normal functioning of the College; damages property; or endangers health or safety.
- 2.5. Employee - means any person acting on behalf of NDSCS in an official capacity, temporarily or permanently, with or without compensation. The term does not include an independent contractor.

- 2.6. Free Speech or Free Expression – The rights to speech, expression, and assembly protected by the First Amendment to the United States Constitution or the Constitution of North Dakota. Such rights include, but are not limited to, all forms of peaceful assembly, protests, demonstrations, rallies, vigils, marches, public speaking, distribution of printed materials, the display of signs or banners, or the circulation of petitions. For the purposes of this policy, “free speech” or “free expression” is not intended to include Commercial Speech.
- 2.7. Protected Conduct – Free Speech or Free Expression protected by the First Amendment to the United States Constitution or the Constitution of North Dakota, subject to reasonable Time, Place, and Manner restrictions; reservation requirements under institutional policies or procedures; and the reasonable safety and security needs of NDSCS.
- 2.8. Student – an individual enrolled in one or more courses at NDSCS, or has been enrolled at the NDSCS in a prior semester or summer session and is eligible to continue enrollment in the semester or summer session that immediately follows.
- 2.9. Student Organization – An officially recognized organization, or an organization seeking recognition by the College, comprised of students, whether or not that organization seeks or receives institutional funds.

3. General Provisions

- 3.1. NDSCS will not engage in viewpoint or content-based discrimination or suppression of speech, and will, to the greatest extent possible, permit and facilitate the open discussion and debate of ideas and issues, regardless of the content of those issues.
- 3.2. NDSCS will not use the concept of civility or mutual respect as a basis to suppress or limit the discussion of ideas, regardless of content, except as reasonably necessary to an educational activity. NDSCS does, however, encourage that all such discussions take place in an atmosphere of mutual respect, free from racism, sexism, and other forms of bias.
- 3.3. NDSCS and its employees shall generally not seek to shield individuals from the Free Speech or Free Expression of others. However, it shall not be considered shielding when employees provide information about upcoming events to the campus community.
- 3.4. No speech, expression, or assembly may be conducted in a way that disrupts or interferes with any teaching, research, administration, or other authorized activities on the campus. Nor may such speech, expression, or assembly be conducted in a way that interferes with the rights of others to Free Speech and Free Expression. Due to the contextual nature of Disruptive Conduct, NDSCS is reliant on the judgment and fairness of College employees and authorities in determining what constitutes Disruptive Conduct. Such judgment must be content neutral and focused on the disruptive nature of the conduct and not the message of the disruption. Disruptive Conduct is prohibited.

4. Free Speech Areas

- 4.1. Open Public Forums - The generally accessible, open, outdoor areas of NDSCS’s campus are considered open forums for free speech, subject to reasonable and constitutional time, place, and manner restrictions. If a group desires to utilize amplified

sound or have exclusive use of an Open Public Forum, NDSCS requires the group to obtain a reservation (See Section 6).

- 4.2. Designated Public Forums – NDSCS has identified the following areas as restricted or designated forums (Utilization of these areas for free speech or expressive activity requires a reservation - see Section 6):
 - 4.2.1. Areas inside buildings which have been identified as areas which may be rented or reserved.
 - 4.2.2. Areas surrounding residential buildings during evening and overnight hours (between 9 p.m. and 8 a.m.);
 - 4.2.3. Areas surrounding academic buildings during times when classes are held in that building;
 - 4.2.4. Areas which must be restricted due to reasonable safety and security concerns, as designated by Executive Director of Student and Residential Life or designee;
 - 4.2.5. Areas which must be restricted to enable the flow of pedestrian or vehicle traffic, as determined by appropriate College official(s).
- 4.3. Closed Forums – Unless otherwise identified in this Policy, all other areas of campus are considered Closed Forums. Closed Forums are those areas which are not designed for the exercise of free speech or expression or which have traditionally not been open to the exercise of free speech or expressive activity.

5. Public Assemblies and Guest Speakers

- 5.1. Any public assembly or guest speaker taking place in an Open Public Forum with an expected attendance of more than 25 participants, including counter-demonstrators, requires a reservation (See Section 6).
- 5.2. Any public assembly or guest speaker taking place in an Open Public Forum utilizing Amplified Sound requires a reservation (See Section 6).
- 5.3. When organizing a public assembly taking place in an Open Public Forum with an expected attendance less than 25 participants, including counter-demonstrators, or without the use of Amplified Sound, organizers are encouraged to consult the Executive Director of Student and Residential Life or designee. The Executive Director of Student and Residential Life or designee will help ensure that the event is effective, safe, and does not disrupt the normal functioning of the College.
- 5.4. Reservations for public assemblies and Guest Speakers are not required for academic or administrative units.

6. Reservation of Space and Fees

- 6.1. To request a reservation of space, NDSCS requires organizers to complete and submit a reservation form to the Customer Service Desk at NDSCS Wahpeton and Front Desk at NDSCS Fargo. The application must be submitted 14 days in advance of the event. The reservation of indoor space may also require the submission of a Facility Use Agreement.

For protests, demonstrations, or other instances in which a 14 day notice may not be possible, a request must be submitted, preferably 48 hours before the start of the event to

the Customer Service Desk at NDSCS Wahpeton and Front Desk at NDSCS Fargo in consultation with the Executive Director of Student and Residential Life or designee, who will determine whether an event can be executed as requested and in accordance with this policy. With appropriate advance notice, the appropriate administration representative (e.g., student group advisor, NDSCS Police Department) will engage with participants during the event to help ensure that the event is effective and safe, and to assist organizers in seeing that the demonstration does not disrupt the normal operation of the College.

- 6.2. If multiple requests are made for the same space during the same time, reservation requests from recognized student, faculty, and staff organizations or academic or administrative units shall receive precedence over requests from individual persons, unrecognized organizations, or any off-campus persons or organizations.
- 6.3. A space reservation affords the group the right to the reserved space for the time covered by the reservation. Any person or organization using or occupying the reserved space without a reservation must yield control of the reserved space in time to allow for the reservation and any time that may be needed to setup the space for the reservation.
- 6.4. Fees - The Customer Service Desk at NDSCS Wahpeton and Front Desk at NDSCS Fargo may prescribe a fee schedule for reserving specified College spaces. The schedule shall be made available at these locations on request, and shall be based on the actual expenses incurred by the College in making the space available. The advertising fee schedule is set annually by the Executive Director of Student and Residential or their designee and is available at the Customer Service Desk at NDSCS Wahpeton.
 - 6.4.1. The space fee schedule and advertising fee schedule must not be wholly or partially based on viewpoint- or content-based criteria, but may include security and logistic fees based on the venue, the anticipated attendance, historical protest activity at events of similar attendance, and other content-neutral factors. The criteria used to establish the fee schedule shall be made publicly available.
 - 6.4.2. The Executive Director of Student and Residential Life or their designee may waive any applicable fee for an assembly contributing to the educational mission of the College.
 - 6.4.3. Academic and administrative units are not typically subject to the space fee schedule.

7. Prohibited Items at Assemblies

- 7.1. Dangerous weapons, as defined by N.D.C.C. § 62.1-01-01(1).
- 7.2. Firearms, except as permitted by law. See N.D.C.C. § 62.1-02-05.
- 7.3. Body-armor or makeshift body-armor, helmets and other garments, such as sporting protective gear, that alone or in combination could be reasonably construed as weapons or body-armor, without written permission from Executive Director of Student and Residential Life or designee.
- 7.4. Open flame, unless approved in advance by Executive Director of Student and Residential Life or designee.

8. Advertising & Solicitation General Provisions

- 8.1. Advertising and mediums for sales and solicitation are subject to approval.
- 8.2. Advertising associated with sales and solicitation is only permitted through the methods listed below; fees may be charged for these mediums, see section 6 of this policy for further information about the advertising fee schedule:
 - 8.2.1. Student Life controlled social media.
 - 8.2.2. Student Life controlled text messaging.
 - 8.2.3. Vendor tables.
 - 8.2.4. Video advertisements developed or adopted by the NDSCS Media Squad.
 - 8.2.5. Advertising related to athletic events.
 - 8.2.6. Auxiliary Services promotion.
- 8.3. Any person or group of persons wishing to advertise, distribute literature or solicit on NDSCS College properly may do so within the procedures outlined within this policy. No promotion of any kind will be permitted for alcohol, tobacco, and other drugs, gambling, or sexually explicit material. Sales, solicitation, distribution of literature and non-NDSCS sponsored advertising are not permitted within residential facilities.
- 8.4. Use of the NDSCS website events calendar is restricted to events supported by student fees, important dates and deadlines for the College community and information about major events at NDSCS. Non-NDSCS events, announcements, or advertising is not permitted on the events calendar.
- 8.5. The NDSCS e-mail system is intended to enable College communications among faculty, students and staff for academic purposes and to communicate important information. Acceptable use of email and electronic resources is governed by relevant policies, including SBHE Policy 1202.1, and applicable laws, including N.D.C.C. 16.1-10-02.
- 8.6. Sales representatives or vendors dealing in supplies, equipment, or services under NDSCS contracts may conduct business in accordance with those contracts and applicable NDSCS policies.
- 8.7. Non-employees may not solicit employees on NDSCS premises at any time, unless they are following the procedures associated with this policy. In addition, non-employees may not utilize the college's phone system, e-mail or other communication means that are established and governed by the College. Employees may not solicit other employees during work times, except in connection with NDSCS approved or sponsored event or organization.
 - 8.7.1. All individuals or organizations advertising, soliciting or distributing literature at the College must be identified on the literature and/or medium of distribution.
 - 8.7.2. All individuals or organizations will be held responsible for cleaning up all litter resulting from advertising, solicitation, and/or literature distribution.
 - 8.7.3. Distributing literature, advertising, or soliciting by pursuing, accosting and hawking is prohibited as is any interference with normal College functions or interruption of free flow traffic inside or outside a building.

- 8.8. Sidewalk Chalking - Chalking of sidewalks on College property is limited to NDSCS student event promotions only and requires permission. Seek approval for chalking at the Customer Service Desk at NDSCS Wahpeton and Front Desk at NDSCS Fargo.
- 8.9. Mail Services - Commercial literature may be distributed by student organizations into the student mailboxes provided approval has been granted by the NDSCS Student Senate. The College retains the right to investigate any and all requests for using the mail system. Advisor supervision is required to maintain mailroom security. There are no mailboxes at NDSCS Fargo
- 8.9.1. An individual candidate, or groups sponsoring an individual for public office, may not utilize the mailroom or mailboxes to distribute political information.
- 8.9.2. This policy does not impact any U.S. Postal service mail that is received by the NDSCS mailroom through its regular operation.
- 8.9.3. The NDSCS mail system is not a U.S. Post office and is not governed by postal regulations.
- 8.9.4. Employees may not stuff mailboxes for personal gain.
- 8.10. Bulletin boards: Public bulletin boards are available in a variety of locations throughout the College, contact the Customer Service Desk for locations in Wahpeton or the Front Desk for board locations in Fargo.
- 8.10.1. Advertisements and other materials relevant to the mission of the College may be posted, unless statements, imagery, other messaging on the posting violates NDSCS Policy.
- 8.10.2. All posted materials must either have the official NDSCS logo on the poster for an NDSCS recognized student event or activity or be date stamped with the official NDSCS-approved posting stamp. All materials not stamped or carrying the NDSCS logo or that are not promoting an NDSCS student event or activity will be removed. All postings will be removed after 2 weeks unless otherwise approved.
- 8.10.3. Posting of materials or advertising in NDSCS Buildings or facilities or elsewhere on College property is prohibited; including bulletin boards, white boards, or other spaces as these are not designated as public.

Where to obtain additional information:

Students: Contact the Student Life Department at 701-671-2404 or the Vice President for Student Affairs at 701-671-2627

Employees: Contact your supervisor and/or call the Human Resources office at 701-671-2903 (e-mail: ndscs.hr@ndscs.edu)

Approved by:



John Richman, Ph.D.



Date