



Use of Facilities by Third Parties for Free Speech

2014

Introduction:

The following constitutes SUNY Delhi's "time, place and manner" policy on the use of SUNY Delhi ("the College") owned facilities by third parties (non-College or sponsored by recognized student organizations) for free speech purposes as approved by the College Council pursuant to a delegation of authority by the SUNY Board of Trustees. (See SUNY Policy #5603 "Use of Facilities by Non-Commercial Organizations")

Rationale for the Policy:

As an institution of higher education, the College respects and fully supports the rights granted to individuals under the First Amendment to the United States Constitution regarding free speech. The College has adopted free speech policies with respect to its students, faculty, and staff. Such policies do not apply to third parties who want to use the Campus for free speech purposes.

As a public entity, partially funded by New York State tax dollars, the College will provide a designated public forum to third parties for their exercise of free speech rights. To comply with existing law, the College recognizes that it will be dedicating its scarce resources to the third parties, including staff time for the management of the designated public forum, the cost associated/loss of revenue with the use of space itself, and the possible utilization of University Police and other administrative offices to provide for the public safety of participants.

In drafting and adopting this policy, the College weighed its competing obligations and responsibilities: to meet its legal obligations as a public entity to provide a designated public forum for free speech by third parties, to meet its audit and control obligations in managing New York State property under its jurisdiction, and to meet its obligations for the orderly and safe operation of its campus, while responsibly managing and allocating its scarce resources in pursuit of its educational mission for its students.

Policy Application:

This policy shall apply to all third parties that are not sponsored by the College and/or a student group, who want to use the College's designated public forum for free speech purposes. This policy does not apply to students or speakers officially sponsored by recognized student groups, faculty or staff as other reservation and use policies apply to members of the campus community.

Definitions:

Black-out days: The College has “black-out” certain days on its calendar wherein the use of the campus and its facilities, including outdoor spaces are reserved exclusively for Campus related activities that are at the very core of its primary educational mission. During these black-out periods, no third party shall be allowed to use the designated public forum for free speech purposes. The College defines the black-out periods to include the following:

- a. During Opening Weekend for the commencement of fall and spring semesters;
- b. During reading periods and examination periods as set forth on the current academic calendar;
- c. During graduation related activities and events, including winter and spring commencements;
- d. During major campus-wide celebrations, such as Accepted Student Days, 100th Anniversary events, concerts, Family Day, Open House, UDE Fest, Alumni Weekend;
- e. During Accepted Student Days; and
- f. During the conservation shut down of educational buildings and administrative offices as defined on its calendar when the temperature of the offices shall be below 60 degrees Fahrenheit (typically between the end of the examination period when students leave campus for the winter holiday break and a few business days after the first of the New Year). This time frame is included in the black-out period because the offices are typically closed for the receipt of applications and the Campus is virtually vacant to conserve energy and to save money to meet state budget reductions.

Designated Public Forum: The College designates the outdoor area between Evenden Tower and Sanford Hall as its designated public forum space. It is a highly trafficked pedestrian area for students, faculty, staff and visitors. It is also easily visible by vehicular traffic traversing the campus via Delhi Drive. The use of this space is unlikely to interfere with classroom instruction or dormitory residences.

The President shall have the authority to change, either permanently or temporarily, the identity of the designated public forum to another area on campus to address concerns for the health, safety and welfare of the campus community.

Third Party: a person(s) who wants to use the designated public forum for free speech purposes and the person(s) is not a student, faculty or staff member at the College, and the person(s) is not officially sponsored by either the College and/or a recognized student group to speak at the College.

Policy:

- A. The College is providing a designated public forum for use by third parties for their free speech purposes.

B. Reservation and Recordkeeping of the Use of Space:

- i. Third parties who seek to use the designated public forum must:
 1. Complete a designated public forum application (attached); and
 2. File the application with the Office of Training and Business Recruitment three (3) business days before the date the applicant wants to use the designated public forum (applications received after 3 p.m. on a given business day shall be considered as having been received on the morning of the next business day). The applicant assumes responsibility for proper delivery to the Office of Training and Business Recruitment in a timely manner. Normal business hours are 8 a.m. to 4 p.m., Monday through Friday, for deliveries, except for holidays and certain College black-out days as noted below.
- ii. The College shall review the application and respond to the applicant no later than the close of business on the third business day prior to the date the applicant wants to use the designated public forum:
 1. if the application is completed fully and signed by the applicant and the date and time is available for use, the College shall inform the applicant of its approval to use the designated forum on the date and time so requested.
 2. if the application is not complete and/or it is not signed, the College shall return the application to the applicant for completion. The three (3) business days' time period will begin running again once the completed and signed application is received by the Office of Training and Business Recruitment.
 3. if the space is already reserved to its capacity for the date and time requested, or if the date and time requested is during a "black-out period" as defined below, the College shall inform the applicant of the same and offer the applicant the next available date and time for the use of the space.

C. The College shall not:

- a. Inquire as to the nature or content of the free speech;
- b. Charge the applicant an application fee to reserve the designated public forum;
- c. Charge the applicant/third party for the use of the space;
- d. Impose insurance requirements on the applicant/third party; or
- e. Charge the applicant for any additional costs to the College that the College may incur due to the use of the space by the applicant/third party, such as security.

D. The applicant/third party shall:

- a. Be responsible for picking up from the designated public forum any brochures, pamphlets, leaflets or other handouts or goods that the third party speaker brought with him/her to disseminate during his/her speech, and properly disposing of the same in public garbage receptacles or taking them with him/her. The College has a regulation against littering on the Campus that applies to all students, faculty, staff and visitors. Failure to comply with this provision may result in future denial of use of the designated public forum; and
- b. Not use megaphone or similar equipment for the amplification of the speech; however, upon written request at the time of application, and on the application, by the applicant, and weather permitting to protect the College's equipment, the College may provide a microphone and sound system for the speaker.

- E. The College reserves the right to terminate any use of the designated public forum in the event either the speaker or a member(s) of an audience engages in conduct that violates the SUNY Rules for the Maintenance of Public Order, adopted in accordance with Education Law Section 6430 and 8 NYCRR 535, in order to secure the orderly operation of the Campus for the safety of the entire Campus Community.

Completed applications to use the designated public forum should be sent to or hand delivered to:

Career and Business Development

Attn: Barbara Scherer

SUNY Delhi

454 Delhi Drive – 226 Bush Hall

Delhi, New York 13753

Please call Barb Scherer at 607.746.4545 or email her at communityservices@delhi.edu with any questions about the application process. All applications must be reviewed and approved by the Director of Career and Business Development.

Implemented as an Interim Policy by the Administration: DATE

Approved and Adopted by the College Council: DATE



Application for Use of the Designated Public Forum

This application is intended for use by third parties who want to exercise their rights of free speech by using the College's designated public forum.

Name of Applicant: _____

Address: _____

Telephone Number: _____ Fax Number: _____

Email: _____

Name of Speaker: _____

Address: _____

Telephone Number: _____ Fax Number: _____

Email: _____

Date requested: _____

Time requested: from _____ until _____

Applicant requests a microphone/sound system: yes _____ no _____

I, the applicant, have read the foregoing policy and agree to comply with the terms of use of the designated public forum as set forth in the Policy.

I, the applicant, acknowledge that I am applying to use the designated public forum for free speech purposes, that I will use the designated public forum for free speech purposes, and that I will not use the forum for any other noncommercial uses that require a revocable permit in accordance with the SUNY Policy of noncommercial use of College facilities by third parties and/or commercial purposes that are not allowed on/in College facilities.

Signature: _____

Print Name: _____

Dated: _____

For SUNY Delhi Internal Office Use:

Date received: _____ Time received: _____

Manner received: _____

Received by: _____

Returned: (cross out if not applicable)

Date: _____

Reason: _____

Follow up:

Form and Response Distributed To:

- ☐ President
- ☐ Provost
- ☐ Vice President for Student Life
- ☐ Vice President for College Relations
- ☐ Chief of University Police

Approved:

Dated: _____

Director, Career and Business Development or designee