

"Race + Class

comes before
civil war"

1/12/13
Jutierrez

The City University of New York Policy on Expressive Activity

1. General Principles

1.1 The City University of New York ("CUNY" or "the University") is committed to the free exchange of ideas and expression of all points of view for members of the University community, including students, faculty, and staff. Freedom of expression and assembly, however, are subject to the need to maintain safety and order. The University retains the right to ensure the safety of individuals, the protection of property, and the continuity of its educational process and business operations.

1.2 CUNY has the right to establish reasonable time, place and manner restrictions on expressive activities. These restrictions must be applied in a non-discriminatory manner and without regard to the content of the speech at issue. In addition to the time, place, and manner restrictions in this policy, individual colleges and units of CUNY have the discretion to establish other time, place and manner restrictions that are consistent with this policy and that ensure both their community members' ability to express their First Amendment rights and their own responsibility to deliver educational and other services to their students.

2. Guidelines for Conducting Demonstrations

2.1 Members of the University community may not demonstrate in a manner that impedes University operations, interferes with the rights of others, takes place on premises where members of the University community are not authorized to be, or takes place at times when members of the University community are not authorized to be present. In addition, employees, including both faculty and staff, may not participate in demonstrations at times when they are scheduled to perform instructional or other assigned work responsibilities. Throughout the University, demonstrations may be limited to areas designated by the University or its colleges or units for that use by members of the University community; those areas are limited public fora. Those areas do not include, among other locations, the interior of University owned or operated buildings or other facilities. Further, overnight camping on University property is prohibited.

2.2 Students and/or employees of CUNY, including officially-recognized student and/or employee organizations, as well as persons invited and sponsored by such student and/or employee organizations, may have access to the areas designated by colleges or units of CUNY for demonstrations. Sponsors of a planned demonstration must give notice to the College's Director of Public Safety or designee at least 24 hours in advance of the demonstration if the demonstration is expected to draw at least 25 participants, if they are requesting sound amplification, and/or if the demonstration will be located fewer than 25 feet from any entrance to a campus building. The notice must include the demonstration's

location, date and time, and a best estimate of the anticipated number of participants. At CUNY Central office locations, such notice shall be given to the CUNY Director of Public Safety or designee. Reasonable time, place and manner restrictions may be applied to the particular demonstration, which may include changing the location and/or date and time of the demonstration in appropriate circumstances. Examples of such circumstances include (i) another demonstration has already been scheduled for that location at that time; (ii) the demonstration is planned during final exam period; (iii) the demonstration is too close to a classroom building; or (iv) adequate security is not available during the date and time chosen.

3. Prohibited Conduct

3.1 Any conduct that violates the Rules and Regulations for the Maintenance of Public Order pursuant to Article 129-A of the Education Law, also known as the Henderson Rules, also violates this policy. Prohibited conduct generally includes any behavior that affects or directly threatens to affect the health and safety of persons or property or disrupts or seriously threatens to disrupt University functions or operations.

3.2 Examples of prohibited conduct that affects or directly threatens the health or safety of persons or property include:

- causing actual physical harm to a person
- directly threatening a person such that the person has reasonable fear for his/her safety
- engaging in threatening or harassing behavior toward a person that is so persistent, pervasive or severe that it denies a person's ability to participate in the University community
- interfering with the freedom of movement of any person, including such person's free entry to or exit from University property or facilities
- threatening to destroy or destroying University property or other public or private property located on University property

3.3 Examples of prohibited conduct that disrupts University functions or operations include:

- preventing the performance of educational or other institutional duties by any member of the University community

- occupying or remaining on any property or facility owned or operated by the University after receiving due notice to depart
- shouting, using amplified sound without prior notice, or otherwise making loud noise that interferes or seriously threatens to interfere with classes, meetings, or other scheduled or routine University functions or activities

3.4 Students who engage in prohibited conduct are subject to discipline under Article XV of the CUNY Bylaws. Employees who engage in prohibited conduct are also subject to disciplinary action as prescribed under the governing collective bargaining agreement and/or University policy. In addition, in cases in which the conduct at issue may violate criminal law, the University may refer the matter to external law enforcement authorities.

4. Procedure for Handling Disruptive Demonstrations

4.1 At each college or unit of CUNY, the President or his or her designee, in consultation with the Director of Public Safety or designee, will determine the point at which a demonstration becomes disruptive based upon the criteria set forth in Section 3 of this Policy. At CUNY Central offices, the Chancellor or his or her designee will have this responsibility and will consult with the CUNY Director of Public Safety or designee.

4.2 If the circumstances permit, the College or CUNY Director of Public Safety (or designee of each) will direct the demonstrators to discontinue their disruptive activities, explain which activities violate the Policy, and inform them how to continue their demonstration in a manner that is not disruptive. If the disruption continues, the College or CUNY Director of Public Safety (or designee) may direct that the demonstration end and may seek the immediate intervention of public safety officers or external law enforcement authorities.

4.3 If the conduct presents an immediate threat to persons or property, the College or CUNY Director of Public Safety (or designee) may direct an end to the demonstration and may seek the immediate intervention of public safety officers or external law enforcement authorities.

5. Leafleting, Tabling and Posting

5.1 Individual colleges and units of CUNY must designate areas in which members of the University community may distribute materials on campus. Such areas must be sufficient for students and employees to communicate their message while not interfering with the college or unit's educational mission or business operations. It is within the discretion of the

individual colleges and units whether to permit individuals who are not members of the University community to distribute materials.

5.2 Individual colleges and units of CUNY must designate areas where members of the University community will be permitted to set up tables. Requests for tabling must be granted on a first come, first serve basis based on the availability of space.

5.3 Each college and unit of CUNY must provide bulletin boards for use by members of the University community. College or unit personnel may remove notices from such bulletin boards on a regularly-scheduled basis, and also may remove outdated notices.

6. Publication of this Policy

This Policy must be posted on the CUNY website and on the websites of all individual colleges and units of CUNY. In addition, each college and unit must post on its website any additional time, place and manner restrictions on expressive activities implemented at such college or unit.