



## UTAH VALLEY UNIVERSITY Policies and Procedures

<b>Proposed Policy Number and Title:</b> 161 Freedom of Speech		
Existing Policy Number and Title: 161 Freedom of Speech		
<b>Approval Process*</b>		
<input checked="" type="checkbox"/> Regular	<input type="checkbox"/> Temporary Emergency	<input type="checkbox"/> Expedited
<input type="checkbox"/> New	<input type="checkbox"/> New	<input type="checkbox"/> New
<input checked="" type="checkbox"/> Revision–LIMITED SCOPE	<input type="checkbox"/> Revision	<input type="checkbox"/> Revision
<input type="checkbox"/> Deletion	<input type="checkbox"/> Suspension	
	Anticipated Expiration Date:	
*See UVU Policy 101 <i>Policy Governing Policies</i> for process details.		

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<b>President’s Council Sponsor:</b> <u>Kyle Reyes</u> Ext. _____
<b>Policy Steward:</b> <u>Alexis Palmer, Ashley Larsen</u> Ext. _____

POLICY APPROVAL PROCESS DATES	
<p><b>Policy Drafting and Revision</b> Entrance Date: <u>12/10/2020</u></p> <p><b>University Entities Review</b> Entrance Date: <u>12/9/2021</u> Close Feedback: <u>02/24/2022</u></p> <p><b>University Community Review</b> Entrance Date: _____ Open Feedback: _____ Close Feedback: _____</p> <p><b>Board of Trustees Review</b> Entrance Date: _____ Approval Date: _____</p>	<p style="text-align: center;"><b>POST APPROVAL PROCESS</b></p> <p>Verify:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Policy Number</li> <li><input type="checkbox"/> Section</li> <li><input type="checkbox"/> Title</li> <li><input type="checkbox"/> BOT approval</li> <li><input type="checkbox"/> Approval date</li> <li><input type="checkbox"/> Effective date</li> <li><input type="checkbox"/> Proper format of Policy Manual posting</li> <li><input type="checkbox"/> TOPS Pipeline and Archives update</li> </ul> <p><b>Policy Office personnel who verified and posted this policy to the University Policy Manual</b> Name: _____ Date posted and verified: _____</p>



**UTAH VALLEY UNIVERSITY**  
Policies and Procedures

<b>POLICY TITLE</b>	Freedom of Speech	<b>Policy Number</b>	161
<b>Section</b>	Governance, Organization, and General Information	<b>Approval Date</b>	
<b>Subsection</b>	Individual Rights	<b>Effective Date</b>	
<b>Responsible Office</b>	Office of the Vice President of Student Affairs and the Office of General Counsel		

**1.0 PURPOSE**

1.1 As free expression and the free exchange of ideas are central to the goals of a university, Utah Valley University is committed to the principles of free speech and assembly guaranteed by the United States Constitution and the Utah Constitution, and in accordance with generally accepted concepts of academic freedom. It is the purpose of this policy to protect and enhance the free exchange of ideas, the right to free speech, and academic freedom in the University and on the university campus, without prior restraint or censorship, subject to limitations on unlawful/unprotected speech and to clearly stated, reasonable, and nondiscriminatory rules regarding time, place, and manner.

**2.0 REFERENCES**

- 2.1 U.S. Const. amend. I
- 2.2 Title VII of the *Civil Rights Act of 1964*, 34 C.F.R. § 106.1 (1972)
- 2.3 Title IX of the *Educational Amendments of 1972*, 20 U.S.C. § 1681 (1972)
- 2.4 *Miller v. California*, 413 U.S. 15 (1973).
- 2.5 Utah Const. art. I § XV
- 2.6 *Campus Individual Rights Act*, Utah Code Ann. § 53B-27-101 (2017)
- 2.7 UVU Policy 154 *Workplace Violence*
- 2.8 UVU Policy 162 *Title IX Sexual Harassment*
- 2.9 UVU Policy 165 *Discrimination, Harassment, and Affirmative Action*
- 2.10 UVU Policy 402 *Keys and Proximity Cards*



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2.11 UVU Policy 425 *Scheduling Campus Facilities*

2.12 UVU Policy 430 *Institutional Campus Closure Policy*

2.13 UVU Policy 541 *Student Code of Conduct*

2.14 UVU Policy 601 *Classroom Instruction and Management*

2.15 UVU Policy 635 *Faculty Rights and Professional Responsibilities*

2.16 UVU Policy 703 *Restrictions on the Use of Skateboards, Roller Blades, Roller Skates, Bicycles, Motorcycles, and Hoverboards*

2.17 UVU Policy 706 *Campus Walkway Safety Policy*

2.18 UVU Policy 710 *Clery Act Compliance*

### 3.0 DEFINITIONS

**3.1 Appeals Committee:** The Appeals Committee, comprised of the Senior Vice President of Academic Affairs, the Vice President of Student Affairs, and the Vice President of Finance & Administration (or their designees), reviews all appeals of any denials or other decisions made pursuant to sections 4.8 through 4.14 of this policy.

**3.2 Commercial speech:** For the purposes of this policy, commercial speech includes all spoken, written, and symbolic speech intended, in whole or in part, for the profit of the person, organization, or institution engaged in the speech. Commercial speech at the University includes speech paid for by persons or organizations who are not members of the university community. Examples include advertisements in or on the UCCU Center, UCCU Ballpark, UCCU Center outdoor digital sign, or commercial handbills. Generally, the sponsors of commercial speech are subject to established university fees and must comply with appropriate university procedures.

**3.3 Demonstration/protest:** Any rally, gathering, protest, parade, or procession to express views or opinions.

**3.4 Members of the university community:** For the purposes of this policy, all enrolled students, all persons employed by the University, including but not limited to administrators, faculty, and staff, and all organizations comprised of members of the university community, such as UVUSA and registered student clubs.

**3.5 Obscenity:** For the purposes of this policy, obscenity is defined by applicable law, including the following US Supreme Court's "Miller test": whether the average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest; whether the work depicts or describes, in a patently offensive way, sexual



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conduct specifically defined by applicable state law; and whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

**3.6 A Registered student club:** A student group with a common interest or goal, with at least six members where 75 percent of the members are currently enrolled UVU students, that complies with university-registered club requirements, including but not limited to having a lawful purpose, chartering the club, having a club constitution, having a president who is a full-time UVU student and who meets other requirements, and establishing and assessing dues. Registered student clubs are at a minimum funded by member dues and additional funding from the Utah Valley University Student Association (UVUSA).

**3.7 Structure:** Any object (other than objects such as handbills, signs, small lawn signs, notices and posters, arm bands, or personal attire) used in expressing views or opinions, including but not limited to booths, buildings, billboards, banners, large lawn signs, and similar displays.

**3.8 Time, place, and manner restrictions:** Generally speaking, time, place, and manner restrictions refer to requirements on when, where, and how messages may be presented on a university campus. These restrictions are viewpoint neutral, narrowly tailored to serve significant university interests, and designed to leave open ample alternative channels of communication.

**3.9 University campus:** Any campus or facility, physical or virtual, owned or leased by the University, including but not limited to the Orem, Wasatch, UVU West, UVU North, and Provo Airport campuses and the university learning management system.

**3.10 University organizations:** For purposes of this policy, university administrative departments and academic schools/colleges, centers, institutes, or departments.

### 4.0 POLICY

#### 4.1 Scope of this Policy

**4.1.1** All persons on any Utah Valley University campus, including members of the university community and visitors or guests, are protected by and subject to freedom of speech laws and this policy. In permitting the exercise of free speech on its campuses, the University does not sponsor or sanction the messages stated or the methods of speech used, unless expressly stated otherwise.

#### 4.2 Policy Statement

**4.2.1** Because free expression and the free exchange of ideas are central to the goals of a university, Utah Valley University is committed to the principles of free speech and assembly guaranteed by the United States Constitution and the Utah Constitution, and in accordance with generally accepted concepts of academic freedom. The University is committed to protecting and



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enhancing the free exchange of ideas and to artistic expression, the right to free speech, and academic freedom in the University and on the university campus without prior restraint or censorship, subject to limitations on unlawful/unprotected speech and to clearly stated, reasonable, and nondiscriminatory rules regarding time, place, and manner.

**4.2.2** Nothing in this policy shall be construed as protecting, authorizing, or condoning the following unlawful or otherwise unprotected speech, as defined by applicable law: (a) obscenity (see section 3.6); (b) child pornography; (c) defamation; (d) speech that by its very utterance tends to incite an immediate breach of the peace by the hearer; (e) speech that incites or produces imminent lawless action and that is likely to incite or produce such action; (f) speech that creates a hostile environment within the meaning of Title IX of the *Educational Amendments of 1972*, Title VII of the *Civil Rights Act of 1964*, or other applicable law; (g) speech that substantially disrupts, obstructs, or interferes with classes, teaching, the use of offices, ceremonies, sporting events, or other university activities related to teaching, research, or administration of the University, or vehicular or pedestrian traffic; (h) speech that damages university or private property; (i) speech that discloses confidential information or trade secrets of the University or private parties without appropriate authorization; and (j) employee speech that is not a matter of public concern.

**4.2.3** Nothing in this policy shall be construed as authorizing or condoning the use of university trade or service marks (including but not limited to names, logos, mascots, and imagery) in any materials that may be created or displayed under this policy without the express written authorization of the University Department of Trademarks and Licensing.

**4.2.4** Students or employees who violate this policy or its referenced procedures are subject to university discipline. Moreover, all persons who violate this policy are subject to orders to leave the campus and possible arrest for criminal trespass for failure to comply with such orders.

### **4.3 Freedom of Speech and Assembly**

**4.3.1** Members of the university community shall have the right to freedom of speech and assembly without prior restraint or censorship, subject to clearly stated, reasonable, and nondiscriminatory rules and procedures regarding time, place, and manner.

### **4.4 Freedom of the Press**

**4.4.1** Members of the university community in their publications or broadcasts are entitled to the full protection of the constitutional right of freedom of the press. Reasonable and nondiscriminatory rules and procedures, consistent with this policy, may be adopted regarding the operations of student, faculty, and staff publications, posting of signs and notices, the distribution of commercial advertising materials, and the solicitation of funds.

**4.4.2** Student publications supported by university funds or student fees, other than those publications sponsored by a college/school, department, or academic program, shall be regulated



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by the University's Student Publications Board pursuant to reasonable and nondiscriminatory procedures, which shall be viewpoint neutral, consistent with this policy, and published on the Student Publications Board website or made available for public inspection upon request. No member of administration or staff, including but not limited to student publication advisors, shall exercise any prior restraint or editorial control over the content of these publications.

**4.4.3** In the case of student publications sponsored by a college, school, department, or academic program, such publications and the roles of any student editors shall be regulated in accordance with the procedures adopted by the sponsoring college, school, department, or academic program, which shall be consistent with this policy.

### **4.5 Academic Freedom**

**4.5.1** Academic freedom in the pursuit and dissemination of knowledge through all media shall be maintained at Utah Valley University (see UVU Policy 635 *Faculty Rights and Professional Responsibilities*). Academic freedom shall be recognized as a right of all members of the faculty, whether with or without tenure or continuing appointment, as they engage in teaching, scholarly and creative activities, and service to the University and their professions.

**4.5.2** Faculty shall evaluate students solely on academic bases reasonably related to legitimate pedagogical concerns, and not on student opinions or conduct unrelated to the academic standards of a course as defined by the standards of the applicable discipline or profession.

**4.5.3** Discussion and expression of all views relevant to the subject matter of a class, even if unpopular, are recognized as necessary to the educational process; however, students have no right to impinge on the freedom of instructors to teach or the right of other students to learn. Faculty members shall not permit classroom behavior that interferes with the faculty member's ability to teach and/or the students' ability to learn. If a student persists in behaving disruptively in class after the instructor has explained the unacceptability of such conduct, the instructor may dismiss the student from the class and may refer the matter to the University's Director of Student Conduct, who shall address the conduct in accordance with UVU Policy 541 *Student Code of Conduct* and other applicable policies.

**4.5.4** Faculty members have the legal rights and privileges of citizens and shall not be subject to punishment or reprisal for the exercise of such rights and privileges; however, they may be subject to sanctions for breach of other policies applicable to faculty, including but not limited to the rules and responsibilities enumerated in UVU policies 154 *Workplace Violence*, 162 *Sexual Misconduct*, 165 *Discrimination, Harassment, and Affirmative Action*, and 635 *Faculty Rights and Professional Responsibilities*.

**4.5.5** All faculty members have the right to academic freedom and the right to examine and communicate ideas relevant to their courses by any lawful means, even where such activities generate hostility or pressures against the faculty member or the University. Faculty shall not use academic freedom or freedom of speech as a pretext to discriminate or create a hostile



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environment within the meaning of Title IX of *the Educational Amendments of 1972*, Title VII of the *Civil Rights Act of 1964*, or other applicable laws or to violate the rights of students pursuant to UVU Policy 541 *Student Code of Conduct* or other applicable UVU policies. Faculty shall also not use academic freedom or freedom of speech as a pretext to teach controversial matter that is not related to their subject.

**4.5.6** Faculty members' exercise of freedom of communication, association, or assembly, or their participation in political activities, does not constitute a violation of duty to the University, to their profession, or to students, except as prohibited by applicable law.

**4.5.7** Faculty members are entitled to support and assistance from the University in maintaining a climate suitable for the exercise of rights of academic freedom, scholarship, and effective teaching and learning. Faculty members are entitled to classrooms free from violence or systematic disruption (see UVU Policy 601 *Classroom Instruction and Management*).

### **4.6 Right to Form Registered Student Clubs**

**4.6.1** Registered student clubs may be established for any lawful purpose. Affiliation of any student club with lawful off-campus groups shall not, in itself, disqualify that club from enjoying the benefits and privileges that the University affords to student clubs. Student clubs shall have the right to keep membership lists confidential and solely for their own use. The names and addresses of officers are required by the University as a condition for registration or access to university funds or enjoyment of university privileges.

**4.6.2** Any registered student club may be added to the university registered student club roster upon the filing of a completed *Club Charter Form* with the UVU Clubs Office.

**4.6.3** Registered student clubs shall maintain their position on the university student club roster upon filing with the UVU Clubs Office each fall semester (by a deadline provided by the University Clubs Office). This *Charter Renewal Form* shall include any changes in the initial charter since its latest filing and shall list the current officers. Clubs that renew by the appropriate date are eligible for merit money. Any club may register at any time.

**4.6.4** The UVU Clubs Office may remove a student club from the university-registered student clubs roster for failure by the club to abide by university rules and policies or federal or state law.

### **4.7 Student Body Officer Elections**

**4.7.1** Subject to the limitations on unlawful/unprotected speech (section 4.2.2) and reasonable, viewpoint-neutral, and nondiscriminatory time, place, and manner restrictions, student body officer elections for the Utah Valley University Student Association (UVUSA) shall be regulated pursuant to the UVUSA constitution and bylaws.



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### 4.8 Speakers

**4.8.1** The rights of speakers to freedom of expression under the United States Constitution and the Utah Constitution shall be protected. The rights of speakers to speak and audiences to hear, free from undue disruption and interference, shall also be protected.

**4.8.2** In permitting the exercise of free speech on its campuses, the University does not sponsor or sanction the messages stated or the methods of speech used unless expressly stated otherwise.

**4.8.3** Members of the university community shall have the right to invite speakers to address audiences on campus (at the expense of the sponsoring organization and members), subject to the limitations on unlawful/unprotected speech (section 4.2.2), reasonable and nondiscriminatory time, place, and manner restrictions, and other policies governing the use of university facilities such as university safety and security policies (such as UVU Policy 402 *Keys and Proximity Cards*, UVU Policy 403 *Restrictions on the Use of Skateboards, Roller Blades, Roller Skates, Bicycles, Motorcycles, and Hoverboards*, and UVU Policy 407 *Clery Act Compliance*) and applicable facilities and scheduling policies (such as UVU Policy 425 *Scheduling Campus Facilities*, UVU Policy 429 *Campus Walkway Safety Policy*, and UVU Policy 430 *Institutional Campus Closure Policy*), to the extent such policies are consistent with this policy.

**4.8.4** Members of the university community, except university organizations, who invite speakers to address audiences on or off the campus, may not use the name of the University to imply official sponsorship of the speaker in advertising or publicizing the event, but may use the University's name as a means to identify the location of the event.

### 4.8.5 Speaker Areas

**4.8.5.1** Speakers may speak in any outdoor area, as long as such speech does not violate the time, place, and manner restrictions set forth in section 4.8.6 of this policy. The University also provides reasonably appropriate places inside the Sorensen Student Center and outside the Student Life and Wellness Center Plaza and the Pope Science Courtyard to enable speakers to address those wishing to listen. These places shall be available to any person, but university organizations and members of the university community shall have scheduling preference in the use of these designated places.

**4.8.5.2** Nothing in this section (4.8.5) shall be interpreted as limiting the right of free speech elsewhere on the campus as provided by this policy.

### 4.8.6 Time, Place, and Manner Restrictions for Speakers

**4.8.6.1** Although it is not necessary for a person using one of the designated places in section 4.8.5.1 to obtain prior permission from the University, the University encourages such persons to contact the Campus Scheduling Office to reserve or schedule a designated place in advance to ensure availability, in accordance with the UVU Policy 425 *Scheduling Campus Facilities*.





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University organizations and members of the university community reserving use of these designated places shall be given priority over those seeking to use these places without reservation.

**4.8.6.2** The Campus Scheduling Office shall provide general notice of the procedures for reserving the speaker areas in section 4.8.5.1. Use of the speaker areas may be reserved for up to two hours for purposes of speaking.

**4.8.6.3** Persons reserving speaker areas may use university-provided tables and other temporary means for displaying or distributing information, provided that they set up and remove them upon the expiration of their reservation. Reservations and arrangements for tables, including the payment of applicable fees, shall be made with the Campus Scheduling Office.

### **4.9 Protests and Demonstrations**

**4.9.1** To facilitate robust debate and the free exchange of ideas, peaceful protests and demonstrations on campus are legitimate means of expression. Anyone who wishes to engage in protests and demonstrations shall be permitted to do so, as long as the protest/demonstration and the conduct of participants

- 1) Does not take place in indoor rooms/areas where quiet or reflection may be expected by those using these rooms/areas (including but not limited to classrooms, laboratories, the Reflection Center, the Woodbury Art Museum, the Fulton Library, the Bingham Gallery, the Noorda Center for the Performing Arts, and other indoor venues where theatrical/musical performances or public or private ceremonies are occurring);
- 2) Does not take place inside buildings where minors or vulnerable populations are predominantly present (including but not limited to the Wee Care Center, the Cole Nellesen Building, or indoor rooms/areas where youth camps are taking place);
- 3) Is not violent; and
- 4) Does not unduly disrupt the functioning of the University, interfere with the rights of other members of the university community, or damage university or private property. Protests and demonstrations are also subject to the limitations on unlawful/unprotected speech (section 4.2.2) and reasonable and nondiscriminatory time, place, and manner restrictions.



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### **4.9.2 Time, Place, and Manner Restrictions for Protests and Demonstrations**

**4.9.2.1** Although it is not necessary for a person planning a protest or demonstration to obtain prior permission from the University, the University encourages such persons to contact the Campus Scheduling Office to reserve or schedule a place in advance to ensure availability, in accordance with UVU Policy 425 *Scheduling Campus Facilities*. University organizations and members of the university community reserving use of university facilities and places shall be given priority over those who do not have a reservation.

**4.9.2.2** Protests and demonstrations must be orderly at all times and must not jeopardize public order or safety. The University reserves the right to balance the safety of the community and the safety of protestors and may prohibit protestors from wearing masks or otherwise disguising their identity during protests.

**4.9.2.3** Protests and demonstrations must not interfere with the entrances and exits to buildings or the normal flow of pedestrian or vehicular traffic.

**4.9.2.4** Protests and demonstrations must not disrupt or obstruct university functions, organized meetings, or other assemblies in such a way as to invade the rights of others to assemble and the rights of speakers to free expression.

**4.9.2.5** Protests and demonstrations must not interfere with classes and teaching, the use of administrative or academic departments or offices, university activities related to teaching or research, or previously scheduled meetings or events.

**4.9.2.6** Persons violating the time, place, and manner restrictions relating to protests and demonstrations may be subject to arrest or other action authorized by law after notice is given of the restrictions being violated and the persons refuse to cease and desist.

**4.9.2.7** Protesters and demonstrators shall be financially responsible for any damages caused by their protests and demonstrations. Damages caused by third parties not part of the protests and demonstrations shall be assessed against such third parties, with such assessments not being final until they are appealed to and reviewed by the Appeals Committee (section 5.1).

### **4.10 Sound Amplification Equipment**

**4.10.1** Sound equipment shall be used only at volume levels that do not disrupt or disturb teaching, research, or other duly authorized meetings or activities at the University, and in accordance with city ordinances.



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### **4.11 Posting of Signs, Notices, Posters, and Banners**

#### **4.11.1 Non-Commercial Signs, Notices, Posters, and Banners**

**4.11.1.1** The University shall provide reasonable space indoors and outdoors for the posting of non-commercial signs, notices, posters, and banners by members of the university community. Subject to the limitations on unlawful/unprotected speech (section 4.2.2) and reasonable and nondiscriminatory time, place, and manner restrictions, such signs, notices, posters, and banners may deal with any subject matter, including but not limited to notices of meetings or events and expressions of positions and ideas on social or political topics.

#### **4.11.2 Time, Place, and Manner Restrictions for Posting Non-Commercial Signs, Notices, Posters, and Banners**

**4.11.2.1** Members of the university community may post non-commercial signs, notices, and posters on bulletin boards and kiosks located on UVU campus and maintained by the University; however, they may not be posted on bulletin boards or kiosks maintained by academic and administrative departments of the University or in classrooms (per section 4.11.2.2). Non-commercial signs, notices, and posters shall not be attached to non-bulletin board or kiosk locations, such as on trees, buildings or portions of buildings (including walls, doors, windows, fixtures, handrails), fountains, statues, equipment, furniture, or machinery, unless otherwise expressly authorized by the Dean of Students. For lawn sign requirements, see section 4.11.2.9.

**4.11.2.2** Unless expressly designated for broader use, bulletin boards, easels, and kiosks maintained by an academic or administrative department of the University, and all walls, doors, whiteboards, chalkboards, windows, and other areas within classrooms, are reserved exclusively for university organizations for university speech. Designated areas in bathroom stalls in the Sorensen Student Center and Student Wellness Center are also reserved exclusively for university speech by the UVU Student Life division. In addition, designated areas for the hanging of artwork on campus are reserved exclusively for university organizations. Postings under this section do not need to have a Campus Connection stamp but are required to comply with the department's published nondiscriminatory rules and procedures, including a procedure that all such items be date stamped and otherwise identified as authorized by the department.

**4.11.2.3** University websites and digital signage are reserved for university organizations for university speech. However, 10 digital signage slots shall be reserved for registered student clubs to advertise meetings, fundraisers, service projects, or other events that are open to the entire student body. Registered student clubs must submit their signage to the UVU Clubs Office and comply with the digital signage procedures included in the UVU Clubs Handbook. The UVU Clubs Office shall post digital signage that complies with such procedures on a first-come, first-served basis, up to the 10-slot limit. The UVU Clubs digital signage procedures shall be viewpoint-neutral and shall not violate this policy.



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**4.11.2.4** University organizations, UVUSA, and registered student clubs may post banners in designated banner areas only after registering the banner with Campus Connection, being assigned a banner location, paying a deposit fee, obtaining a date stamp on the banner, and otherwise complying with Campus Connection procedures. The procedures shall be viewpoint-neutral and shall not violate this policy. Outdoor banners may be posted only in designated outdoor areas identified and maintained by Campus Connection and only after paying a posting and removal fee.

**4.11.2.5** Messages or slogans of any kind shall not be painted, hung, or otherwise written on trees, buildings, windows, sidewalks, grounds, fountains, walls, or other structures or surfaces, or on the personal property of others. No tape of any kind may be used for installation of signs, notices, posters, or banners. Sidewalk chalk messages may be used on sidewalks in the speaker areas designated in section 4.8.5.1 of this policy but are not permitted on any permanent standing structures. All sidewalk chalk messages shall be removed by the end of the day. Individuals or organizations that fail to comply with the requirements may be charged an additional cost for any removal of sidewalk chalk.

**4.11.2.6** All non-commercial signs, notices, posters, or banners posted on UVU campus, other than those specifically exempted in sections 4.11.2.2, 4.11.2.3, and 4.11.2.11, must have a visible expiration date stamp from Campus Connection, after which date the sign, notice, poster, or banner may be removed, generally not to exceed 14 calendar days from the date of posting.

**4.11.2.7** Non-commercial signs, notices, posters, or banners may be re-posted for an additional 14 calendar days within a 60-day time period after the original posting date, but only after it is shown that there is good reason for the sign, notice, poster, or banner to remain in place for a longer period (such as the occurrence of a campus closure during the original posting period) and the sign, notice, poster, or banner has been restamped by Campus Connection.

**4.11.2.8** Due to the limited amount of available display space and preference for university-sponsored speech, the number of posters per event sponsored is limited to 50 for one month or 25 for two months. No more than two flyers for any event may be posted on any single bulletin board or kiosk. No more than two banners may be posted for any upcoming announcement, deadline, or event.

**4.11.2.9** Small lawn signs may only be used to advertise an upcoming event or deadline held on a UVU campus or sponsored by university organizations or members of the university community, or to provide directions to such events. Sponsors of such events must obtain stamps on lawn signs with visible expiration dates from Campus Connection, which shall publish reasonable time, place, and manner procedures that comply with this policy on the size, number, and graphics requirements of such lawn signs, where such lawn signs may be posted, and for how long.

**4.11.2.10** The UVUSA Elections Committee may publish viewpoint-neutral, nondiscriminatory rules and procedures for the posting of campaign posters, signs, and banners, which may include



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exceptions to this policy permitting additional election-related signage on campus during a designated period leading to UVUSA elections.

**4.11.2.11** The University Events and the Athletics departments are exempted from the Campus Connection stamp requirement set forth in section 4.11.2.6 when they post posters, banners, small lawn signs, easels, and other similar media to publicize events sponsored by these departments, as long as they stamp and identify such items as University Events Department or Athletics Department media and otherwise comply with this policy.

**4.11.2.12** University maintenance personnel or other university officials may remove any non-commercial signs, notices, posters, or banners that do not comply with this policy.

### **4.11.3 Commercial Signs, Notices, Posters, and Banners**

**4.11.3.1** Campus Connection shall publish procedures governing the posting or distribution of commercial signs (including digital signage and projections on the side of buildings), notices, posters, banners, and other materials for commercial purposes, except for commercial signage at the UCCU Center, the UCCU Ballpark, other athletic facilities, and at university athletic events (with Campus Connection maintaining a list of other university departments, and their procedures, responsible for commercial signage in these other venues). Campus Connection procedures may include a schedule of fees for nonmembers of the university community and limitations upon the areas in which such commercial speech may take place. The procedures shall be viewpoint neutral. Signs, notices, posters, and banners are subject to the limitations on unlawful/unprotected speech (section 4.2.2) and reasonable and nondiscriminatory time, place, and manner restrictions. All commercial and non-university community signs, notices, posters, and banners shall be available for inspection in Campus Connection, and a written record of actions taken under the procedures shall be maintained and be open for public inspection.

**4.11.3.2** By posting the commercial sign, notice, poster, or banner on campus, the person or organization (a) agrees to hold the University harmless for any assessed damages or liability incurred as a result of the sign, notice, poster, or banner; and (b) is responsible for the content of any signs, notices, posters, or banners it sponsors or posts on campus.

### **4.12 Distribution of Non-Commercial Handbills, Petitions, and Other Written Material**

**4.12.1** ~~Any person may hand out and distribute non-commercial handbills, petitions, or other written material throughout campus without prior approval, as long as the distributed materials clearly identify the author or sponsor of the materials, subject to the limitations on unlawful/unprotected speech (section 4.2.2) and reasonable and nondiscriminatory time, place, and manner restrictions.~~



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### **4.12.2 Time, Place, and Manner Restrictions for Non-Commercial Handbills, Petitions, and Other Written Material**

**4.12.2.1** Distribution of non-commercial handbills, petitions, and other written material on the university campus is permissible but must not interfere with the entrances and exits of university buildings or the normal flow of pedestrian and vehicular traffic.

**4.12.2.2** Distribution may not occur within classrooms, academic and administrative departments or offices, may not interfere with classes, and teaching or university activities related to teaching, may not disrupt the functioning or events of the University, and may not interfere with the rights of other members of the university community.

**4.12.2.3** Handbills or other written materials may not be attached or affixed to private property (including but not limited to vehicles) without the owner's permission and may not be dropped or left on the ground or floors, fixtures, furniture, or in other areas in violation of applicable littering laws.

### **4.13 Distribution of Commercial Handbills**

**4.13.1** Campus Connection shall publish rules and procedures governing the distribution of commercial handbills. The procedures may include a schedule of fees and limitations upon the areas in which such commercial activity may take place. The rules and procedures shall be published on the Campus Connection website, and a written record of actions taken under the rules and procedures shall be maintained and open for public inspection upon request.

**4.13.2** Any person distributing handbills or written material shall be personally responsible for the content of the material and hold the University harmless for any assessed damage or liability incurred as a result of the distribution of the handbills or material.

### **4.14 Non-Commercial Structures**

**4.14.1** Members of the university community and their organizations may erect non-commercial structures on campus to express their views or opinions subject to the limitations on unlawful/unprotected speech (section 4.2.2) and reasonable and nondiscriminatory time, place, and manner restrictions. Such structures may deal with any subject matter, including but not limited to social or political issues.

### **4.14.2 Time, Place, and Manner Restrictions for Non-Commercial Structures**

**4.14.2.1** Members of the university community may erect non-commercial structures in speaker areas defined in section 4.8.5.1 of this policy. Members of the university community may erect structures outside of the speaker areas in section 4.8.5.1 where it is shown that the message is intended for an audience elsewhere on the campus.



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**4.14.2.2** The Campus Scheduling Office shall create viewpoint-neutral, nondiscriminatory procedures related to the physical requirements and limitations, such as health and safety, of non-commercial structures, which shall be maintained and available for inspection on the Campus Scheduling Office webpage.

**4.14.2.3** Prior to the erection of any non-commercial structure, a person or organization must obtain a permit from the Campus Scheduling Office for each proposed structure. Permit application forms may be obtained from the Campus Scheduling Office. The permit application shall include the identity of the member or members of the university community responsible for the structure; the proposed location, size, and design of the structure; the period of time the structure will be in place (up to 30 calendar days for 12 hours per day for booths and buildings of any kind and 24 hours per day for other structures); an agreement to remove the structure at the end of each day and upon expiration of the permit and to pay for any damage the structure may cause to the site upon which it is erected; and an agreement to hold the University harmless for any assessed damages or liabilities caused by the structure itself. In the case of structures other than lawn signs, billboards, banners and similar self-explanatory structures, the Campus Scheduling Office shall require that the structure be regularly staffed during daytime school hours as a condition of issuing the permit and renewing the permit.

**4.14.2.4** The Campus Scheduling Office shall issue the permit if (a) the intended non-commercial structure and uses made of it will not constitute a safety hazard and will not impede the normal functions of the University; (b) the structure does not block or impede entry to any building or interfere with normal pedestrian or vehicular traffic; and (c) the proposed location of the structure does not cause unreasonable damage, in the University's exclusive judgment, to landscaping, such as flowers and shrubs.

**4.14.2.5** A permit shall be issued for up to 30 calendar days. In the event of compliance with the terms of the permit, it may be renewed, upon application, for the same time period, subject to the requirements applicable to the issuance of the original permit.

**4.14.2.6** University maintenance personnel or other university officials may remove any non-commercial structures that do not comply with this policy.

### **4.14.3 Commercial Structures**

**4.14.3.1** The Campus Scheduling Office shall issue rules and procedures governing the creation and use of structures for commercial purposes. The rules and procedures, which may include a schedule of fees and limitations upon the areas in which such commercial activity may take place, shall be published on the Campus Connection website, and a written record of actions taken under the rules and procedures shall be maintained and open for public inspection upon request. Commercial structures are subject to the limitations on unlawful/unprotected speech (section 4.2.2).



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### 5.0 PROCEDURES

#### 5.1 Appeals

**5.1.1** Any person seeking to appeal decisions made pursuant to sections 4.8 through 4.14 of this policy, such as the denial of a request to post signs, notices, or posters; the removal of signs, notices, or posters by university staff; the assessment of damages caused by protests/demonstrations; the denial of permission to erect a structure or restrictions placed upon a structure’s permit; etc., may do so by submitting a written appeal to Campus Connection within five business days of the adverse decision. The written appeal must include the specific reasons for the appeal request.

**5.1.2** The appeal shall be referred to the Appeals Committee for decision. The committee will consult with the Office of General Counsel to ensure compliance with this policy and applicable law. The decision of the Appeals Committee, which shall be reached by a majority vote, shall be final.

<b>POLICY HISTORY</b>		
January 12, 2017	Temporary Emergency policy approved.	UVU Board of Trustees
June 22, 2017	Revisions, Regular policy process, approved.	UVU Board of Trustees
March 2018	Non-substantive change: Reference to Policy 407 changed to 710 Reference to Policy 429 changed to 706	UVU Policy Office
November 29, 2018	Non-substantive change: Reference to Policy 541 updated from Student Rights and Responsibilities to Student Code of Conduct.	UVU Policy Office
March 25, 2020	Regular policy, limited scope, approved	UVU Board of Trustees
August 13, 2020	Nonsubstantive change: Section 2.8 title was updated from Sexual Misconduct to IX Title Sexual Harassment.	UVU Policy Office
January 28, 2021	Temporary Emergency, Limited Scope approved.	UVU Board of Trustees
	Regular policy, limited scope revision approved.	UVU Board of Trustees



## Executive Summary: Policy 161 *Freedom of Speech* (Temporary Emergency and Regular, Limited Scope)

<b>Date:</b>	November 23, 2020
<b>Sponsor:</b>	Kyle Reyes
<b>Steward:</b>	Alexis Palmer
<b>Policy Process:</b>	Temporary Emergency and Regular
<b>Policy Action:</b>	<b>Revision</b>

### Issues/Concerns (including fiscal, legal, and compliance impact):

Section 4.12.1 uniformly prohibits anonymous written expression (for example, campus signs and handbills), which likely restricts some constitutionally protected speech.

In *Justice for All v. Faulkner* (5<sup>th</sup> Cir. 2005), for example, students at the University of Texas at Austin challenged a university leafleting policy. The university required all leaflets to identify the student or group responsible for distribution. The court said requiring identification *to certain administrators* was permissible so that UT-Austin could reserve their limited public forums to members of the campus community. However, said the court, students have a right to “residual anonymity” where other university staff, faculty, and students—those not involved in the approval process—remain unaware of their identity. This anonymity is “critical to the expression of controversial ideas on university campuses.” Because of the potential chilling effect on speech, the court said the policy was unconstitutional.

Without the constraint of 4.12.1, Campus Connection could approve the posting of materials authored anonymously, upon request.

**Suggested Changes:** Delete section 4.12.1 as follows:

4.12.1 Any person may hand out and distribute non-commercial handbills, petitions, or other written material throughout campus without prior approval, as long as the distributed materials clearly identify the author or sponsor of the materials, subject to the limitations on unlawful/unprotected speech (section 4.2.2) and reasonable and nondiscriminatory time, place, and manner restrictions.

**Requested Approval from President’s Council:**

1) Entrance to Stage 2, Temporary Emergency process

2) Entrance to Stage 2, Regular process

**Drafting Committee:** Alexis Palmer, Ashley Larsen, Jeremy Knee, Joel Herd

**Date for Board of Trustees:** January 28, 2021 for Temporary Emergency