

# Policy 3.63 (Freedom of Expression) - Procedural Guidelines

## PART I: Introduction and Overview

These Procedural Guidelines are issued to facilitate the implementation and consistent administration and enforcement of Policy 3.63, as revised by the Board of Regents on July 21, 2015. *See Also* [Frequently Asked Questions \(FAQs\)](http://campusactivities.nmsu.edu/) posted at <http://campusactivities.nmsu.edu/>. Certain types of free expression activities may require a permit in advance from the university's Department of Campus Activities; these are indicated in **bold** font throughout the guidelines—*See* Part VI below for the process to obtain a permit.

The policy administrators may continue to develop and issue additional or amended guidelines, consistent with Policy 3.63. These guidelines consist of the following Parts:

<b>Part I:</b>	Introduction and Overview
<b>Part II:</b>	Restrictions on Expression for Special Situations
<b>Part III:</b>	Modes of Free Expression
<b>Part IV:</b>	Respect for University Property and Functions
<b>Part V:</b>	Sanctions
<b>Part VI:</b>	Role of Department of Campus Activities
<b>Part VII:</b>	Dispute Resolution— <i>See</i> Policy 3.63, Section E. 9

## PART II: Restrictions on Expression for Special Situations

Individuals who voluntarily join certain organizations, such as the university police department, ROTC, athletic teams, and confidential research projects, may be subject to additional restrictions on their freedom of expression related to those functions, based upon their knowing and voluntary waiver of their rights consistent with the program needs/directives.

## Part III: Modes of Free Expression

A. Distribution and Posting of Literature and Signs: Individuals or groups may petition, distribute non-commercial written material, hand out newspapers, or conduct speech acts.

1. Literature may be distributed hand-to-hand, through the use of tables, or by posting on designated bulletin boards and kiosks.
2. In-person distribution must be done without the touching of another person.
3. Signage promoting or providing direction to an event does not require a permit, provided the signage is posted no more than 24 hours prior to the event and is removed no later than 24 hours the day following the event. **Signage for longer periods of time require a permit.**
4. **Materials shall not be affixed to any part of a university building or structure without a permit** from the Department of Campus Activities.
5. Posting on traffic signs, power poles, trees, landscaping, or automobiles belonging to others is not allowed.
6. Tables are allowed as long as the tables do not unreasonably interfere with pedestrian traffic, to include blocking ingress or egress. Individuals who have reserved a table through the Department of Campus Activities will be given priority.

B. Group Speech Activities, Including Rallies, Parades and Demonstrations:

1. Any group speech activity, regardless of the number of expected participants, may be coordinated through the Department of Campus Activities at the discretion of the organizers.
2. When planned activities are likely to draw 250 participants or more, notification to the Department of Campus Activities is required.
3. When planned activities necessitate road or parking lot closures or detours, or deny others access to or reasonable use of NMSU property, a permit is required.

- C. Political Activities: Political activities must be conducted in a manner that does not imply the university officially endorses or supports a particular candidate or position.
- D. Electronic Sound Amplification:
1. The use of electronic sound amplification equipment without a permit is authorized in the open lots to the east of the Pan American Center and Aggie Memorial Stadium, the Corbett Center Outdoor Stage, and the Miller Field Gates area off Espina Street, from:  
  
*8:00 a.m. to 7:00 p.m., Sunday through Thursday; and  
8:00 a.m. to midnight on Friday and Saturday*
  2. **Sound amplification equipment may be allowed at other times and in other locations with a permit** obtained from the Department of Campus Activities.
- E. Use of Chalk: Chalk may be used on university premises as long as it is restricted to exterior concrete walkways. All chalk used must be of a temporary or removable nature. The university's maintenance schedules relating to university facilities will not be deferred to protect chalk.
- F. Symbolic Expression Requiring a Permit: **An individual or group who plans free expression activities that involve fire, weapons, or nudity must first obtain a permit from the Department of Campus Activities.** The permit requirement is not intended to impede symbolic expression, but to protect the safety of the university community and property and to ensure compliance with applicable laws. For other types of symbolic expression that an individual or group believes might generate a safety concern, advance notice to the Department of Campus Activities or to the University Police Department is encouraged.
- G. Electronic Communication (e.g., Email, Social Media): Similar to public spaces, electronic communication may fall within a public, limited public, or non-public forum. The protections set forth in Policy 3.63 extend to electronic communication, with similar limitations. Where a site owned, operated, or otherwise controlled by NMSU is limited to certain members or subject matters, speakers must be authorized participants whose communications are germane to the stated subject matter. With regard to communications using electronic and other media, speakers should be aware of federal, state and university anti-discrimination laws and policies, and NMSU's obligation to enforce such laws and policies. *See, for example:* Title IX (20 U.S.C. §1681 *et seq.* and 34 C.F.R. § 106.1 *et seq.*); Title VII (42 U.S.C. §2000e *et seq.*, *as amended*; and NMSU Policies 3.25 (Discrimination, Harassment and Sexual Misconduct on Campus); 2.35.1.1.1 (Acceptable Use); and 3.99 (Prohibition of Hazing and Hostile Misconduct).

#### **Part IV: Respect for University Property and Functions**

- A. Expressive activities in any type of public forum shall not:
1. Unreasonably obstruct vehicular or pedestrian traffic;
  2. Restrict public access to the entrances or exits to buildings and facilities;
  3. Permanently occupy land areas;
  4. Unreasonably interfere with or disrupt classes, university academic or administrative operations, including scheduled events;
  5. Cause damage to buildings, utilities, or landscaping;
  6. Erect structures that are dangerous or cannot be easily dismantled and removed;
  7. Cause injury or damage to persons or property;
  8. Litter or stake on university premises contrary to Policy 3.63 and these guidelines;
  9. **Affix materials to buildings or other structures without a permit** granted by the Department of Campus Activities.

- B. If there is doubt about whether expressive conduct violates the above, university officials should take effort to resolve the doubt in favor freedom of expression. Such resolution should be based on indicia of measurable disruption, damage or other clear violation, and in accordance with the standards outlined for the distinct types of forums outlined in Policy 3.63, Sections E. 1., E. 2, and E. 3.

## **Part V: Sanctions**

Any person determined to have violated Policy 3.63 or these guidelines, may be subject to any of the following sanctions. The sanction(s) will be commensurate with the seriousness of the violation, and the listing below is not intended to imply that the sanction needs to be imposed in a progressive nor sequential manner.

- A. Non-punitive measures, such as an educational or administrative requirement designed to bring conduct in compliance with Policy 3.63;
- B. Being asked to cease and desist or to relocate by appropriate university employees acting within the scope of their duties or the police;
- C. Being ordered to leave the premises or property owned or controlled by the university by the person in charge of the property or by the police;
- D. Applicable institutional disciplinary proceedings for students, faculty, staff or others, as appropriate;
- E. Prosecution for violation of local, state or federal law;
- F. Restriction of future use of, or access to, the university campus;
- G. Reimbursement for damages.

## **Part VI: Role of Department of Campus Activities**

The Department of Campus Activities, located in Room 106 of Corbett Center, coordinates competing requests for use of campus equipment or facilities, and considers requests for permits made pursuant to Policy 3.63 and these corresponding Procedural Guidelines. Such consideration will be content neutral, and permission shall be granted or denied consistent with the standards for the distinct types of forums described in Policy 3.63, Sections E. 1., E. 2., and E. 3. Permit requests will be reviewed and granted in a fair and consistent manner, in accordance with the standard protocols of the office.

- A. Advance Notice Encouraged: Notice in writing to the Department of Campus Activities about a planned activity or event is encouraged, even if a permit is not required, particularly if an action or event involves reserving a table or location on campus, a potential safety issue (group expression), or other unusual prop. Advance notice provides the Department of Campus Activities the opportunity to resolve competing requests (e.g. first come first serve basis for use of some facilities), and also the opportunity to inform and coordinate as needed amongst potentially affected students or staff, offices and university facilities.
- B. Advance Notification Required: Written notification in advance of a planned activity likely to draw 250 or more participants is required in order that the Police Department and other potentially affected units may make necessary accommodations.
- C. Permit Required- STEPS TO OBTAIN PERMIT:
  - 1. To obtain an Activity Request form, go to: [http://upc.nmsu.edu/activity\\_form/activity.php](http://upc.nmsu.edu/activity_form/activity.php) and follow those procedures.

2. If the form indicates that the request relates to a community college or other university premise, then the Department of Campus Activities will coordinate with the appropriate official(s) from the community college.
3. The Department of Campus Activities will attempt to notify the requestor within two business days regarding the status of the request, if it has not been returned as granted.
4. If the request is granted, the requestor will receive a copy of the signed, approved Activity Request Form (also referred to herein as “permit”).
5. At the actual event, a copy of the permit should be able to be produced, upon request.
6. If the request is denied, the requestor will receive a short statement of the basis of the denial; if the requestor is not satisfied, the Dispute Resolution process outlined in Policy 3.63, Section E. 9. will apply.

## **Part VII: Dispute Resolution**

*See [Policy 3.63, Section E. 9](#)*