



Presented by Assistant General Counsel Dan McCabe

For a complete listing of the Spring Second Thursday topics, please visit the Office of General Counsel's website at <https://minnstate.edu/system/ogc/index.html>



To promote democratic values and enhance Minnesota's quality of life by developing understanding and appreciation of a free and diverse society.

Minn. Stat. § 135A.011

One way to accomplish this is hosting political candidates or events on campus.





If candidates want to appear on campus for a town hall, fundraising, or event not sponsored by the institution, they should be allowed to rent space as any other group or organization would do.

Same rules–noise restrictions, clean up, etc.–apply.

Use the college or university to endorse or oppose a candidate or party or ballot initiative.

Use institution letterhead, emails, mailing lists or staff assistance for candidate/ballot initiative fundraising or support.

Allow employees to use their title/position to endorse candidates/ballot initiatives.

Use college or university listservs or other college or university resources to support a political party or candidate/ballot initiative.



Colleges and universities are recognized as places where robust discussion occurs, serve as a “ marketplace of ideas.”

Promote respectful, civil discourse on elections, ballot issues.

Be clear about ground rules for speakers, audience.

Responding to hecklers—use appropriate humor, calm explanation of rules.

Coordinate with campus security as appropriate.

Be attentive to local issues that may affect events.

Alert System Office Government Relations.
Do not offer or agree to pay honoraria.
May pay documented expenses.



Find out which candidates have filed for office here:

<https://candidates.sos.state.mn.us>.

Find out the important election related dates:

<https://www.sos.state.mn.us/election-administration-campaigns/elections-calendar/>

Polling place finder is here:

<https://pollfinder.sos.state.mn.us/>

Colleges, universities must provide registration forms as early as possible in fall semester.
Must consult with student government regarding most

Student's voter registration must be based on where student resides.

Student may choose residence at either college/university address or parents' /other permanent address.

Student may vote at only one address.



Political candidates and campaign workers must be allowed access to campaign in on- or off-campus housing.

Reasonable restrictions may be placed, including:

Denying admission to particular room, apartment;

Requiring reasonable, proper ID before entering;

Limits on number of people, hours of visit;

Requiring prior appointment to make visits.

- Minn. Stat. § 211B.20

College/university must make facilities available for
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Classes may be held as usual.

No college or university events—other than classes—may be scheduled between 6:00 pm and 8:00 pm

Outside organizations are not prohibited from renting/using campus space between 6:00 and 8:00 p.m.

Slightly different rules apply to caucus days.

[Precinct Caucus, Primary and Election Day Requirements](#)

Minn. Stat. § 202A.19, subd. 3; § 204C.03, subd. 2

College/university is not required or expected to use campus resources to provide student transportation.

Before using campus resources, (e usi0i.91 2 364 Tf1 0 0 1 111.0

May not use college/university/system computers,

Check your college/university facility use policy to determine whether there are public bulletin boards or other areas in which postings are allowed.

If a bulletin board or other posting area is only for official use, mark it that way.

Be consistent and content neutral in oversight of posting restrictions.



Employees may not either directly or indirectly solicit or receive funds for political purposes during hours of employment.

Minn. Stat. § 43A.32, subd. 1

Employees may not use official authority or influence to:

Compel another person to apply for membership in or become a member of any political organization;

Pay or promise to pay any assessment, subscription, or contribution to a political organization or for any political activity;

Take part in any political activity.

- Minn. Stat. § 43A.32, § 43A.38 , § 211.B.09

A college or university as an institution may not endorse candidates, parties, referenda or other ballot questions. All employees are encouraged to foster an environment of open discourse for students.

When expressing political views, employee must be clear that view is not endorsement by the college/university.

Political messages not prohibited in work space but should be kept out of areas of public access or visible to the public.

Be respectful of other employees sharing workspace.

Buttons or pins may be worn unless college/university regulates insignia worn during work.

See MMB HR/LR Policy #1401

" In the exercise of academic freedom, the faculty member may, without limitation, discuss his/her own subject in the classroom. The faculty member may not, however, claim as a right the privilege of persistently discussing in the classroom any matter that has no relation to the course subject. There is an obligation to respect the dignity of others, to acknowledge their right to express differing opinions to foster and defend intellectual honesty, freedom of inquiry and instruction.....

" When a faculty member speaks, writes or endorses products or candidates as a citizen, s/he is

MSCF Master Agreement 2023-25, Art. 23, Section 3
(emphasis added)



"Congress shall make no law * * * abridging the freedom of speech * * * ." United States Constitution, Amend 1.

Applies to public institutions.

Board Policy 3.1 Student Rights and Responsibilities.

Campuses are “peculiarly marketplaces of ideas” -- merely offensive ideas may not be shut off in the name of “conventions” of decency. The First Amendment generally protects speech from government sanction but not speech that:

Speech that is not protected by the First Amendment such as

“Fighting words” (“where such advocacy is directed to inciting or producing imminent lawless action and is likely to produce such action”).

“True threats” (“a statement that a reasonable recipient would have interpreted as a serious expression of an intent to harm or cause injury to another”).

Unlawful harassment/discrimination.

Obscenity, defamation.

Conflict sometimes happens in the “ marketplace of ideas.”

Board Policy 3.1, part 2. Freedom of Expression.

Students shall be free to support causes by orderly means that do not substantially disrupt the regular and essential operation of the institution.

Students shall be free to take reasoned exception to the data or views offered in any course of student and to reserve judgment about matters of opinion, but they are responsible for learning the content of any course of study for which they are enrolled.

Faculty may manage discussion with appropriate rules.

Reasonably related to pedagogical concerns.

Not pretext for viewpoint discrimination.

Applies to Physical Space

Traditional (public streets, sidewalks)

Designated (bulletin boards, campus outdoor space, room rentals, etc.)

Nonpublic (classroom during class, offices)

Traditional Public Forum

Public streets, sidewalks, parks.

Restrictions must satisfy strict scrutiny (government must have compelling interest in regulation and regulations must be narrowly tailored to fit that interest).

No Content and Viewpoint discrimination.

OK to have reasonable time, place, and manner restrictions like:

- Hour restrictions (not at night).
- Noise restrictions (no sound amplification).
- Permits.

Outdoor space

Space reservation and rental

Classrooms

Auditoriums

Bulletin Boards

Forum Analysis

If access, then access on a content and viewpoint neutral basis (this includes religious groups).

BUT time, place, and manner restrictions are OK.

Security

May alert campus security and/or local law enforcement.

Analyze context

Substantial disruption?

Forum?

Security

May alert campus security and/or local law enforcement.

Typically cannot charge one group for security if not charging all groups for security.

So cost of security is an element of the forum analysis.

Institutions may impose reasonable, content neutral criteria in exchange for the benefits of recognition. For example,

Certain number of members.

GPA.

Advisor.

Constitution.

Apply/Renew on periodic basis.



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neutral basis (this includes religious groups)
BUT time, place and manner restrictions are OK

“Funding decisions shall be made in a viewpoint neutral manner.” Boardmanner.” n8 e “

July 28, 2003 OCR DCL on the First Amendment

"OCR's regulations are not intended to restrict the exercise of any expressive activities protected under the U.S. Constitution."

"*** the offensiveness of a particular expression, standing alone, is not a legally sufficient basis to establish a hostile environment."

"Harassment *** must include something beyond the mere expression of views, words, symbols or thoughts that some person finds offensive."

Instead, "harassment must be sufficiently serious (i.e., severe, persistent or pervasive) as to limit or deny a

Follow your policies.

Time, place and manner restrictions.

- Examples: Protestors must leave by close of business day, no sound amplification.
- [Sample Facility Use Policy](#)

Encourage students – create opportunities for relationships building and engagement with students.

Review speech policies.

Engage campus community in hosting discussion forums and other events to dive deeper into issues.

Assess campus climate and respond to feedback.

Lindke v. Freed, 601 U.S. 187 (2024) (a public official who prevents someone from commenting on the official's social media page engages in state action only if the official both (1) possessed actual authority to speak on the state's behalf on a particular matter, and (2) purported to exercise that authority when speaking in the relevant social-media posts).

A link to our survey is provided in the chat. We appreciate your feedback and are always looking for ideas for future webinars and ways to improve.

Please Chat in your questions to the host or the panelists.

