

Office of University Counsel – Guidance on First Amendment Issues (Fall 2020)

The information below is intended as a reminder regarding certain important First Amendment issues on campus. In light of the upcoming election season and recent protests and demonstrations, freedom of speech and expression is a topic likely to generate a significant amount of attention and discussion this fall. The intricacies of the First Amendment at a public university are complicated and can turn on narrow definitions and understandings. The University's Office of University Counsel (universitycounsel@iastate.edu) is always available to help respond to questions about specific situations and circumstances.

STUDENT EXPRESSION IN THE CLASSROOM (Clothing, Face Coverings, etc.)

With respect to student expression in the classroom, the University does not take disciplinary action against students based on the content or viewpoints expressed in their speech.

You may encounter protected speech or symbolic speech in your classroom on clothing, hats, patches, or during the pandemic, on face coverings that students wear to class. *Normally, this speech and expression will be protected by the First Amendment.* Only in rare instances will such speech fall outside the First Amendment's protections (e.g., true threats, unlawful harassment, imminent incitement of lawlessness). Students may wear clothing, including face coverings, that support political candidates, promote political issues, or are even offensive to a majority of our campus community. Only in the most rare and particular circumstances would this speech fall outside of the protections of the First Amendment.

In contrast, classroom *conduct* that is disruptive should be responded to. The classroom is a special forum with a specific purpose, i.e., facilitating effective teaching and learning. Accordingly, the University may fairly and consistently apply reasonable content and viewpoint neutral restrictions on student conduct in the classroom. For example, student conduct, such as in-class protests or demonstrations, that materially and substantially disrupts class work is not protected by the First Amendment. Faculty are in charge of their classrooms and can expect students to comport themselves in a manner that is consistent with an effective learning environment. If a student continues after fair warning to engage in disruptive classroom conduct, it may be necessary to invoke the [classroom disruption procedures](#) or contact the [Office of Student Conduct](#) for additional assistance. But care must be taken because we cannot prohibit student speech because of "a mere desire to avoid the discomfort and unpleasantness" that accompanies an unpopular viewpoint. If there is a question about whether certain speech or expression inside the classroom is protected or unprotected, contact the [Office of University Counsel](#).

POLITICAL DISCUSSIONS IN THE CLASSROOM

Classroom discussions, including those that are political in nature, must be germane (i.e., relevant to the scholarly subject matter of the course) and be presented by appropriate means. Teaching methods that target individual students in an unfair way so as to prevent them from full participation in a course are not regarded as appropriate. Instructors should be careful not to introduce or discuss subjects, including political subjects, which have no relation to the class. Instructors should seek to provoke genuine debate and learning that is germane to the subject matter of a course – and avoid simple ruminations on current events or political opinions.

Similarly, if a topic raised by a student is not relevant or germane to the class, the instructor may ask that discussion on the topic cease. Further, if a student addresses a class in an unduly disruptive manner, such as by yelling or

continually interrupting others, the instructor may ask the student to cease this conduct, and if the conduct does not cease the instructor may use the techniques available to address [disruptive students](#). Again, it is critical that classroom rules be viewpoint neutral and applied in a consistent and fair manner.

POSTERS

Pursuant to the [Facilities and Grounds Use, Activities policy](#), posters and other visual display materials (other than official University messages including Cyclones Cares information) may be affixed only on permanent building bulletin boards. Posters placed on other parts of buildings is a violation of policy (e.g., windows, walls, doors, etc.) Posters placed on any building surface, other than bulletin boards, should be removed when observed. Removal can be done by ISU-PD officers or FP&M staff. However, removal practices must be consistently followed and posters must be removed regardless of the content or viewpoints expressed on the posters. All posters and other visual display materials in violation of this policy should be removed immediately regardless of content.

Posters posted on University “general” (i.e., public) bulletin boards are permissible and should **not** be removed by University staff regardless of content. If there is a question about the content of a poster posted on a general bulletin board and about whether material should be removed from a general bulletin board, the Office of University Counsel must be consulted prior to any content being removed. Only in very rare instances will removal be approved. “Restricted” (i.e., non-public) bulletin boards are to be used only by the designated department, unit, or organization that is responsible for the bulletin board for official department/unit communications. The official representative of the respective department, unit, or organization must approve use of these bulletin boards and should immediately remove all postings that are not approved and official.

Finally, signs, banners, and other display materials (including posters) are not to be affixed to “sidewalks, trees, fences, shrubs, light poles or other fixtures of the landscape.” Posters or other display materials placed on any of these surfaces should be removed. All such posters should be removed immediately regardless of content. This practice must be consistently followed.

CHALKING

Pursuant to the [Chalking on Campus](#) policy, chalking with water-soluble chalk on horizontal sidewalk surfaces is generally permitted on-campus, subject to specific restrictions detailed in the policy. As detailed more fully in the policy, chalking is prohibited on all vertical surfaces and on all non-sidewalk surfaces, including but not limited to benches, buildings, columns, fountains, monuments/statues, signs, stairs/steps, walls, and windows.

Chalking is also not permitted in certain specific locations on campus, including within the memorial union plaza and memorial space, the historical quad space, the Anderson Sculpture Garden, the George Washington Carver Plaza, the Knoll, and areas outside health care facilities, veterinary medicine facilities, facilities and outdoor areas used by ISU athletic programs and teams, and other outdoor areas where access is restricted to a majority of the campus community. A campus map identifying prohibited chalking locations is available [here](#).

If you see chalking that you believe violates this policy, contact the Department of Public Safety or FP&M. Do not remove it yourself. Chalking removal practices must be consistently followed. Chalking may also be removed during regular cleaning and maintenance operations, but in such cases the removal must be done without regard to the content or viewpoint of the message expressed. If there is a question about whether chalking should be removed (outside of normal scheduled cleaning), the Office of University Counsel must be consulted prior to any content being removed.

If there is a question about any of these policies and practices, please contact the [Office of University Counsel](#).