

SOUTH DAKOTA SCHOOL OF MINES AND TECHNOLOGY

Policy Manual

SUBJECT: Use of Institutional Facilities and Grounds for Expressive Activity by Non-Affiliated Parties

NUMBER: Policy I-05

South Dakota Mines supports the freedoms of speech and assembly guaranteed by the Constitution (hereinafter “expressive activity”). South Dakota Mines ensures that these freedoms are respected without interfering with the rights of others, including the right of students to receive an education without undue interference. This is in accordance with South Dakota Board of Regents (“SDBOR”) policy 1:32. <https://www.sdbor.edu/policy/Documents/1-32.pdf>.

University facilities and grounds embody investments by students and taxpayers to advance the educational, research and service missions of South Dakota Mines. They are not open to the public for assembly, speech, or other activities as are the public streets, sidewalks, parks, or seats of government. University facilities and grounds are selected, designed, and operated to balance aesthetic and utilitarian considerations, to provide settings conducive to learning and research and to provide venues to expose students to high and popular cultural activities. Consequently, the ability of students, employees, student organizations, and their invited guests (hereinafter collectively and individually “affiliated parties”) to access and utilize campus grounds differ from those who are not affiliated parties (hereinafter “non-affiliated parties”). This policy governs the use of campus grounds by non-affiliated parties for purposes of engaging in expressive activity.

Non-affiliated parties who desire to come on to campus to engage in expressive activity must complete the Request Form for Expressive Activity, which is available at the Surbeck Center Office, which should be completed at least three (3) days prior to the time at which the non-affiliated party desires to come on to campus to engage in expressive activity. Additionally, all non-affiliated parties engaging in expressive activity on campus must adhere to the provisions below.

1. A copy of the approved request form must be displayed or made immediately available upon request of South Dakota Mines personnel.
2. No commercial activity, which includes activities that involve the exchange of goods or services for valuable consideration and speech that relates solely to the economic interest of the speaker and audience and proposes a commercial transaction, will be permitted by non-affiliated parties engaging in expressive activity on campus.
3. Expressive activities by non-affiliated parties will be limited to Monday through Friday, during the hours of 9:00 a.m. – 4:30 p.m. when classes are in session. No expressive activity by non-affiliated parties will be permitted during the first week of each new semester, the week prior to final exams, and the week of final exams.

4. Outdoor areas on campus that aren't otherwise properly restricted are generally available for non-affiliated parties, who are otherwise in compliance with the provisions of this policy, to engage in expressive activity without paying a fee, so long as:
 - a. All applicable federal and state laws, city ordinances, and SD Mines and SDBOR policies are followed;
 - b. Pedestrian and/or vehicular traffic is not impeded.
 - c. Instructional, research, service or administrative activities of the institution are not interfered with.
 - d. Meetings or events sponsored or conducted by SD Mines, affiliated parties or other non-affiliated parties are not disrupted.
 - e. The area has not been previously reserved or scheduled for a particular function.
 - f. No sound amplification is used.
5. Select facilities or locations on campus may also be available for use by non-affiliated parties at rates published by South Dakota Mines.
6. Non-affiliated parties that would like to distribute written material on campus must submit a copy of the material when submitting their Request Form for Expressive Activity.
 - a. Items distributed on University property are the responsibility of the non-affiliated party, and in no way imply or suggest any relationship with, or official sanction by, South Dakota Mines.
 - b. The distribution of any item that would infringe upon, or in any way violate, a legal trademark or copyright will be prohibited. Exceptions will be granted only with the expressed written consent of the trademark or copyright holder.
 - c. No individual may be forced to take materials from a non-affiliated party engaging in an expressive activity.
7. The distribution of flyers on vehicles is strictly prohibited. Patrons of the University are not to be approached physically or verbally in a manner that impedes their normal progress.
8. Non-affiliated parties on campus are subject to South Dakota Mines Campus Weapons Policy VII-08.
9. Non-affiliated parties that disrupt campus activities or classrooms or otherwise interfere with the normal operations of the University will be asked to leave campus immediately. Violence or damage to property will not be tolerated. South Dakota Mines reserves the right to eject any objectionable person or persons from the premises upon the exercise of the authority through any agent or police personnel.
10. If any individual believes a registered or unregistered non-affiliated party is disrupting campus activities or interfering with the normal operations of the University, they should call Campus Safety at 605-394-6100.
11. Non-affiliated parties requesting to enter campus to engage in expressive activity will be

required to hold harmless and indemnify the State of South Dakota, the SDBOR, South Dakota Mines, their officers, agents, or employees from and against any and all actions, suits, damage, liability or other proceedings that may arise as a result of the negligence, misconduct, error or omission of the State of South Dakota, the SDBOR, South Dakota Mines their officers, agents or employees.

12. Non-affiliated parties expressly assume full responsibility for any and all damages or injuries which may result to any person or property by reason of, or in connection with their use of the grounds/facilities pursuant to this policy.
13. South Dakota Mines will be excused from performing any obligation or undertaking under this policy in the event, and for so long as, the performance of any such obligation is prevented or delayed, retarded or hindered by an act of God, fire, earthquake, flood, explosion, actions of the elements, war, insurrection, strikes, walk-outs, action of labor unions, condemnation of laws, orders of government or civilian and military authorizations, or any other cause not within the reasonable control of the University, which will render the performance of its obligations under this policy impracticable.
14. A request form for expressive activity may be denied, and the University reserves the right to cancel or postpone any previously approved request form on one or more of the following grounds:
 - a. Conflict with a pre-existing reservation or planned use of the location that would unreasonably interfere with the event.
 - b. Failure to comply with reasonable restrictions on signage, display, erection of structures, sound amplification restrictions, or other aspects of the expressive activity that would unreasonably interfere with the health or safety of persons, protection of property, access, traffic, or the peaceful, orderly operations of the campus.
 - c. Inadequate notice for purposes of providing security, facilities, or other preparations necessary for the protection of persons and property.
 - d. The reservation or request form is incomplete.
 - e. Failure to comply with any of the provisions of this policy.
15. Non-affiliated parties wishing to appeal a denial may use the appeal process listed in Board of Regents Policy 6:13. <https://www.sdbor.edu/policy/documents/6-13.pdf>