



October 21, 2019

Honorable Senator Cecile Bledsoe
Arkansas Legislative Council Co-Chair
709 Sky Mountain Drive
Rogers, AR 72757

Honorable Representative Jeff Wardlaw
Arkansas Legislative Council Co-Chair
3418 Highway 160 E.
Hermitage, AR 71647

University Counsel

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Via electronic mail only to cecile.bledsoe@senate.ar.us and jeff@jeffwardlaw.com

RE: Arkansas Tech University Compliance Information for Act 184 of 2019

Dear Senator Bledsoe and Representative Wardlaw:

Pursuant to A.C.A. §6-60-1008 (Act 184 of 2019), please consider this correspondence as Arkansas Tech University's submission of the required report detailing the institution's courses of action that have been implemented to ensure compliance with the requirements of this subchapter.

Specifically, Arkansas Tech University has taken the following steps to ensure compliance:

- Beginning in the spring of 2019, a joint sub-committee composed of members of the Staff Senate and the Faculty Senate from both the Russellville and Ozark campuses began the process of reviewing the institution's current free speech policy and drafting a new, revised policy that would comply with Act 184 of 2019. In September of 2019, this revised draft was presented to, discussed by, and ultimately unanimously passed by each of the respective senates.
- On October 17, 2019, the Arkansas Tech University Board of Trustees unanimously adopted this proposed revision, which is now the university's "Freedom of Expression" policy. A copy of this policy is attached to this letter.
- The policy has been made publicly available on the University Counsel's webpage located at: <https://www.atu.edu/policies/policies/701%20-%20Freedom%20of%20Expression%20Policy.pdf>
- Specifically for purposes of A.C.A. §6-60-1007, all Student Affairs departments, including Residence Life, Department of Public Safety, Fraternity and Sorority Life, Diversity and Inclusion, Campus Recreation, Health and Wellness, Title IX, and

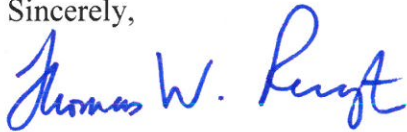
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International Student Services received specific training from University Counsel on the Freedom of Expression policy to enable them to understand the policies and duties of Arkansas Tech University regarding free expression on campus.

- During the spring 2019 semester, numerous “legislative updates” were held on campus where Act 184 and its requirements were specifically discussed.
- The policy has been presented to the Student Government Association.
- To ensure future compliance, the policy will be discussed at Freshman Orientation in August of each year. In addition, once each quarter, the institution conducts “onboarding” with new employees. This is a full day of additional training on university practices and procedures that is required for all employees hired within the previous 90 days. The university’s Freedom of Expression Policy will be part of the information that is provided and discussed during that required training to enable these individuals to understand the policies and duties of Arkansas Tech University and its employees regarding free expression on campus.
- To ensure future compliance, the policy will be discussed at New Faculty Orientation in August of each year to enable them to understand the policies and duties of Arkansas Tech University and its employees regarding free expression on campus.

As required by A.C.A. §6-60-1008, a letter containing this same information is being concurrently provided to Governor Hutchinson. Thank you for your consideration of this matter.

Sincerely,



Thomas W. Pennington
University Counsel
Arkansas Tech University

TWP/cc

cc: Marty Garrity
Jill Thayer
Shawna Amos
Dr. Robin E. Bowen
Ashley Golleher

ARKANSAS TECH UNIVERSITY BOARD POLICY

Policy Number: 701

Subject: Freedom of Expression Policy

Date Adopted: March 2009

Revised: August 2017, October 2019

Arkansas Tech University recognizes and supports the rights of the members of the campus community and visitors to speak in public and to demonstrate in a lawful manner in outdoor areas of campus. "Outdoor areas of campus" means the generally accessible outside areas of an Arkansas Tech University campus where members of the campus community are commonly allowed, including, without limitation: (i) grassy areas; (ii) walkways; and (iii) other similar common areas.¹

Expressive activities protected under this policy consist of speech and other conduct protected by the First Amendment to the United States Constitution, including without limitation:

1. Communicating through any lawful verbal, written or electronic means;
2. Participating in peaceful assembly;
3. Protesting;
4. Making speeches, including without limitation those of guest speakers;
5. Distributing literature;
6. Making comments to the media;
7. Carrying signs; and
8. Circulating petitions.

In order to maintain safety, security and order, and to ensure the orderly operation of the campus, Arkansas Tech University reserves the right to limit such activities by the following regulations regarding time, place, and manner of such activities:

- Arkansas Tech University will remain neutral as to the content of any public demonstration, debate, speech, or other form of expression.
- Expressive activities occurring in the outdoor areas of campus shall occur between the hours of 8:00 a.m. and 8:00 p.m.
- There must be no obstruction of entrances or exits to buildings or classrooms or offices (to enable regular operations).
- There must be no interference with educational activities inside or outside of buildings.

¹ "Outdoors areas of campus" does not include outdoor areas where access by the majority of the campus community is restricted.

- There must be no impediment to normal pedestrian or vehicular traffic or other disruptions of University activities, including sidewalks, roads, and parking areas all of which must remain unobstructed.
- There must be no interference with scheduled University ceremonies, events, or activities.
- Additional tables, chairs, and/or other special accommodations for use in locations will not be provided by the University.
- There must be no true threats or expression directed to provoke imminent lawless actions and likely to produce it.
- There must be no harassment. For purposes of this policy, harassment is defined as expression that is so severe, pervasive, and subjectively and objectively offensive that it effectively denies access to an educational opportunity or benefit provided by the university.
- There must be no material or substantial disruption. The phrase “material or substantial disruption” means a disruption that occurs when a person, with the purpose or knowledge of significantly hindering the expressive activity of another person or group, prevents the communication of a message of another person or group, or prevents the transaction of the business of a lawful meeting, gathering or procession by:
 1. Engaging in fighting, violence, or other unlawful behavior; or
 2. Physically blocking or using threats of violence to prevent any person from attending, listening to, viewing, or otherwise participating in an expressive activity.

“Material and substantially disrupts” DOES NOT INCLUDE conduct that is protected under the First Amendment to the United States Constitution or Arkansas Constitution, Article 2, §§4, 6, and 24, which includes without limitation:

(i) lawful protests in an outdoor area of campus that is generally accessible to members of the campus community, except during times when the area has been reserved in advance for another event; or (ii) Minor, brief, or fleeting non-violent disruptions of events that are isolated and short in duration.

- Any display materials must be completely removed at the conclusion of the event.
- When display materials are used, a representative must be present at all times.
- Damage or destruction of property owned or operated by the University, or damage to property belonging to students, faculty, staff or guests of the University is prohibited. Persons or organizations causing such damage may be held financially responsible.
- Persons or organizations responsible for a demonstration, debate, speech, or other form of expression event must remove all signs and litter from the area at the end of the event.
- There must be compliance with all applicable local, state, and federal laws and University policies, rules, and regulations.
- Use of sound and/or voice amplification is not permitted while classes are in session.
- No open flames.

- Any non-university informational flyers or posters must be posted in the approved areas set forth in the Student Handbook.
- Overnight camping and related camping items including, but not limited to, tents, sleeping bags, tarps, and other temporary shelters, are not permitted.
- No structures may be erected and no items may be staked or inserted into the ground.

Any individual violating these regulations regarding time, place, and manner will be subject to immediate eviction or removal from the campus, without further warning, by appropriate University agents or officials and may be subject to appropriate legal action. Students or Registered Student Organizations violating these regulations may be subject to action as described in the Student Code of Conduct.

Nothing in this policy is intended nor should it be understood as an endorsement or approval by Arkansas Tech University of any speech or demonstration, an invitation or license to speak or demonstrate or the granting of any right or permission to speak or demonstrate on campus beyond the right existing under federal and state law.

Freedom of Association

Arkansas Tech University campuses shall not deny a student organization any benefit or privilege that is available to any other student organization or otherwise discriminate against an organization based on the expression of that organization.

“Student organization”, as that phrase is used in this policy, means an officially recognized group at a state-supported institution of higher education or a group seeking official recognition, composed of admitted students that receive or are seeking to receive benefits through the state-supported institution of higher education.