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October 21, 2019

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**RE: Forum Act Report, Act 184; Arkansas State University System**

Pursuant to Act 184, I write to report the details involving the implementation of Act 184 on the ASU System campuses.

1. On March 8, 2019 the ASU Board of Trustees repealed its previous Freedom of Expression and instructed all campuses within the ASU System to begin immediate compliance with Act 184 of 2019.
2. Since this date, all campuses have adopted an identical policy consistent with the guidelines of Act 184 and have posted such policies to their respective campus websites. A copy of the policy in effect for all ASU System Campuses is attached.

Should any additional information be required, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brad Phelps".

Brad Phelps  
ASU General Counsel

CC: Shane Broadway, via email

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**Effective Date: July 24, 2019**

**Subject: Freedom of Expression Operating Procedure**

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**1. Purpose**

This Operating Procedure is adopted to comply with Act 184 of 2019 as well as the First Amendment of the United States Constitution.

**2. Definitions**

This Operating Procedure adopts and incorporates the terms and definitions set forth in Section 6-60-1003 of Act 184 of 2019.

**3. Freedom of Expression**

Expressive activities are allowed on all outdoor areas of campus subject to the reasonable time, place, and manner restrictions set forth in this Operating Procedure as well as all applicable state and federal laws. The campus shall not create free speech zones or other designated outdoor areas of campus outside of which expressive activities are prohibited. The campus maintains a position of neutrality as to the content of any protected speech.

**4. Outdoor Areas of Campus**

All outdoor areas of campus shall be deemed a public forum for members of the campus community. This does not include outdoor areas where access by a majority of members of the campus community is restricted.

**5. Expressive Activities**

Expressive Activities are those enumerated by Act 184 as well as all forms of expression protected by the First Amendment to the United States Constitution.

**6. Lawful Limitations on Expressive Activities**

Members of the campus community who want to engage in noncommercial expressive activities may do so freely in the outdoor areas of campus so long as that member's conduct is 1) not unlawful, 2) does not materially and substantially disrupt the functioning of a state supported institution and 3) does not materially and substantially disrupt another person's expressive activity.

## **7. Freedom of Association**

The campus shall not deny a student organization any benefit or privilege that is available to another other student organization or otherwise discriminate against an organization based on the expression of that organization.

## **8. Use of Campus Property for University Sponsored Activities and Events**

All outdoor areas, owned and operated by the campus, shall be made available for use by the University for University sponsored activities and events. Official university activities and events on campus have precedence over all other events and activities taking place on campus. Any expressive activity that occurs at a location reserved for a University sponsored activity or event shall be accommodated at another outdoor area of campus so long as the accommodation is consistent with this policy.

## **9. Prohibited Activities**

The right to engage in Expressive Activities under this Operating Procedure does not include the right to engage in the following:

Obstructing vehicular or pedestrian traffic.

Engaging in unlawful activity.

Engaging in activities that create a clear and present threat to public safety.

Engaging in true threats and expression directed to provoke imminent lawless actions and likely to produce imminent lawless actions.

Engaging in unlawful harassment.

Utilizing sound amplification devices.

Posting materials on University property.

## **10. Damage to Property owned by the Campus**

Any damage to campus property caused by individuals and/or groups engaging in Expressive Activity are the financial responsibility of the individuals and/or groups who caused the damage to the property.

## **11. Commercial Speech**

This policy does not apply to commercial speech. Off-campus individuals and organizations are not allowed to conduct or solicit commercial sales or distribute commercial pamphlets, handbills, circulars, newspaper, magazine and other written material on campus. Parties having a contract with the campus authorizing commercial advertising shall be allowed to distribute or post commercial material in accordance with the terms of their contract.

**Act 184 of 2019:**

**<http://www.arkleg.state.ar.us/assembly/2019/2019R/Acts/Act184.pdf>**