

George Mason University Policy Review Taskforce Report April 2006

In the Fall of 2005, President Merten established, a University Policy Review Taskforce [“Taskforce”] to consider how George Mason University manages the use of its public space. His charge gave the Taskforce three responsibilities:

- Review current University policies on the use of public space at the University.
- Review University policies with regard to how groups and individuals that seek to access public space at the University are managed.
- Where appropriate, identify current policies that need to be updated and necessary policies that do not now exist.

The Taskforce was comprised of ten representatives and two ex officio members. Of these, Faculty Senate and Student Government each appointed a representative. The other members reflected a variety of offices and positions from across the University spectrum. The membership included:

- Aseel Al-Mudallal, Student Government Representative
- Charvis Campbell, Director, Student Services & University Life, Arlington Campus
- Patricia Carretta, Associate Dean, University Life (Taskforce Recorder)
- David Drummey, Associate University Counsel
- George Ginovsky, Assistant Chief of University Police
- Jon Gould, Acting Director and Associate Professor, Administration of Justice Program (Taskforce Chair)
- Barbara Lubar, Executive Director, Events Management
- Robert Nadeau, Professor, English, and Faculty Senate Representative
- Karen Pirhalla, Director of Operations, Prince William Campus
- John Spaldo, Director, University Services
- Tom Hennessey, University Chief of Staff (Ex Officio)
- Lawrence Spaine, Director, Physical Plant (Ex Officio)

Because of occasional scheduling conflicts, Ms. Al-Mudallal and Assistant Chief Ginovsky were unable to attend certain meetings. On those occasions their places were taken, respectively, by Andrew Day, a student also appointed by Student Government, and Chief of University Police, Mike Lynch.

Taskforce members met eight times between November 2005 and April 2006. The Taskforce also created a listserv for the group, however emailed communications between members was confined to the logistics of setting up meetings and the sharing of information on existing policies, procedures, and practices for discussion by the group. With the members’ universal interest of a full inquiry and in achieving the best, ultimate recommendations, all deliberations were conducted in person between the members themselves, within the confines of each meeting.

At the conclusion of the Taskforce's review and deliberations a sub-committee comprised of Charvis Campbell, Tom Hennessey, Robert Nadeau, and Karen Pirhalla drafted a report summarizing the Taskforce's findings and recommendations. Following editing assistance from Jon Gould and Tom Hennessey, this draft was circulated among the full Taskforce for review, comment, and changes. Taskforce members met for a final time in April to consider and adopt the report, which they agreed to unanimously.

A Deliberate and Deliberative Process

Taskforce members began by gathering information about existing University policies and campus practices that addressed or involved public use of University facilities. At the Taskforce's first meeting, members received a briefing from Associate University Counsel David Drumme on the constitutional and other legal norms that are applicable to public use, and members investigated practices at other peer institutions, both within Virginia and from across the nation, that govern campus use. At all times, members' discussions were candid, inquiring, respectful, and collegial. The fact that the Taskforce met eight times over the course of six months, and that its findings and recommendations are unanimous, is a measure of how seriously members took President Merten's charge.

The Taskforce identified nine University policies that govern public use. These include:

- University Policy 1103, Space Use
- University Policy, 1105, Graffiti
- University Policy, 1109, Posters
- University Policy 1110, Vending
- University Policy, 1112, Banners
- University Policy 54, Leafleting
- University Policy 56, Weapons
- University Police policies on trespass orders
- Prevailing regulations and practices in place in the Johnson Center and Residence Halls

Taskforce members closely scrutinized these policies and compared them with existing practices that also address campus space. One of the Taskforce's goals was to standardize policy and practice so that the use of campus space is handled consistently across the University.

Findings

Whether found in written policy or practice, Taskforce members concluded that the University is rightly committed to open discourse and access in its use of campus space. Yet, Taskforce members also identified two general shortcomings in the University's approach to its grounds and facilities that deserve attention. Some policies retain ambiguous wording that could result in misinterpretations and misapplications of these policies. In addition, there are inconsistencies between certain policies that could frustrate efforts to ensure that the associated monitoring and enforcement procedures are uniformly applied in fair and equitable ways.

For example, several policies (1103, 1109, and 1110) state that the use of campus space must be consistent with the “educational mission of George Mason University.” Strictly interpreted, this language seems to disallow the use of space for the commercial, charitable, recreational, and political activities that routinely occur on George Mason University campuses and serve the interests of its members. This language could also be interpreted as inconsistent with that in policy 1103, which regulates campus events attracting more than 600 people, and which ties events to the University’s “strategic plan” to function as an “intellectual or societal leader” and to develop “good relationships and fundraising partnerships.”

Similarly, policy 1103 says that any “University or non-university agencies” that use George Mason University facilities may not restrict their membership “on the basis of . . . political persuasion,” among others. Yet this language would seem to exclude political parties and some special interests groups from using space at George Mason University for meetings, demonstrations, and protests that should be available to campus members, especially students, in that they advance civic education. The members of the Taskforce uncovered other such ambiguities and inconsistencies in George Mason University policies and procedures on the use of its grounds and facilities.

The members believed that the most expedient way to eliminate these ambiguities and inconsistencies was to anchor University policy in certain general principles, and then to apply these principles to specific settings. The Taskforce, then, proceeded along three lines.

- Define the general principles that should apply to the use of campus facilities.
- Establish a framework to apply these principles, taking account of distinctions between internal and external users; core educational functions and other activities; and spaces designated for limited public access and those that are not.
- Use the principles and framework to eliminate ambiguity in individual policies, procedures, as well as inconsistencies between the same.

Recommendations

The Taskforce recommends a single, organizing principle on the use of University facilities and campus space. After deliberation and discussion, members suggest the following:

Open discourse and assembly have a hallowed place in the American democratic system. At George Mason University, campus policies and procedures regarding the use of space and facilities are predicated on these values. At the same time, University policies and procedures proceed on the assumption that space and facilities are intended primarily for the use of University students, faculty and staff to advance the core functions of the institution: education/instruction, research and community service. Facilities and spaces may be used in these ways provided the activities or events do not interfere with the core functions of the institution, prevent or interrupt the core use of the space or facility, or endanger or present a safety hazard to others. Use of the facilities and campus space will be managed in accordance with this principle.

University space and facilities should not be managed in a way that regulates the content of events or activities, but certain activities need not be permitted. For this reason the Taskforce recommends a policy statement that the University does not condone obscenity or defamation in the use of its space or facilities. In determining if something should be prohibited for these reasons, the University representative required to enforce this policy should consult the Office of University Counsel.

The size and complexity of the University are now such that more attention must be paid to activities that test the boundaries of this use policy. As a result, the Taskforce recommends that the Office of the President identify and designate individuals to whom questions will be referred when difficult policy decisions must be made. This is particularly important when demonstrations, either scheduled or unscheduled, occur and University police officers are called to enforce University policy.

In developing these recommendations, the Taskforce identified existing policies that are either out of date, inconsistent, or require review. To address this problem – and to help implement the recommendations in this report – the Taskforce recommends that the University designate an administrative office to coordinate the review, assessment, and compilation of policies regarding use of space and facilities and to implement and disseminate any policy changes in a systematic fashion so that enforcement is consistent across the University.

In the attachments that follow, the Taskforce presents more detailed suggestions for amending those policies. The attachments include:

- A. Recommended changes to Policy 1103: Space Utilization and Scheduling Policy and Policy 1110: Vending Sales and Solicitation Policy
- B. An amended Leafleting Policy
- C. Recommended changes to Policy 1109: Poster Posting Policy
- D. A new Policy on Demonstrations
- E. Recommended changes to Policy 1105: University Graffiti

ATTACHMENT A
Policy No. 1103: Space Utilization and Scheduling and
Policy No. 1110: Vending Sales and Solicitation Policy

- Pertaining to priorities of use of campus space, campus spaces should be open as long as users neither interfere with the core functions of the University, nor prevent or interrupt the core use of the space or facility, nor endanger or present a safety hazard to others. Section V of Policy 1103 as well as Section II of Policy 1110 should be rewritten accordingly.
- With regard to Section IV. Definition of Users in Policy 1103, change definition of Tertiary users to reflect principles/criteria provided by the overarching policy – for example, “whose aims and objectives advance the core functions of education/instruction, research and community service,” or “whose activity or event does not interfere with the core functions of education/instruction, research, and community service.”
- With regard to Section V. Scheduling Priorities in Policy 1103, the Taskforce concurs that Priorities A and B are appropriate providing that references to “core functions” are included in the description of the priorities. However, the Taskforce recommends that priority C be dropped and priority D be rewritten to add “individuals” immediately before “outside organizations” and to replace “academic and service mission” with “core functions of the university and do not interfere with the education/instruction, research, or community service.
- With regard to political organizations or candidates using space, the Taskforce recommends that University groups be given an opportunity to sponsor a political organization or candidate who wishes to appear on campus. If not sponsored by a University group, the political organization or candidate must reserve and pay for use of space.
- The Taskforce noted inconsistencies in University policies pertaining to “individuals” or individual students who may reserve space or hand out leaflets. Johnson Center (JC) policies regarding who or what may reserve kiosks for distributing or handing out leaflets must be consistent with policy 1103. The Taskforce recommends that JC administration review and revise their materials to include policy regarding what individuals and organizations may reserve.
- The Taskforce recommends that Section XIII B in Policy 1103 (“University and non-university agencies using George Mason University facilities are not restricted by, nor may they restrict, on the basis of race, color, sex, sexual orientation, age, religion, creed, national origin, or political persuasion”) as well as any similar language in other policies be amended. As written, these would require exclusion of many organizations that the University would not want to exclude, e.g., Mason’s Black Alumni Association, political candidates, the ROTC, and an all men’s choir.
- References in 1103 and 1110 prohibiting campus use that “results in undue competition with local commercial enterprises” are no longer relevant and may be eliminated. Similarly, the

second paragraph of Section II of Policy 1110 should be changed to permit commercial activity on campus, consistent with recommended changes to the use of outdoor space.

- The Taskforce recommends that Section XI of Policy 1103 be renamed “Outdoor Space,” and that it distinguish between Internal Users, (faculty, staff, and recognized student groups) and External Users (all others). Internal Users should be permitted to use outdoor space at the University under the following terms:
 - Outdoor space should be available for use so long as its use does not interfere with the core functions of the University, prevent or interrupt the core use of the space or facility, or endanger or present a safety hazard to others.
 - Except for spaces so designated in Policy 1103, outdoor space should be reserved in accordance with Policy 1103’s Definition of Users and Scheduling Priorities, including the amendments recommended by the Taskforce.
 - The events managers for the Arlington or Prince William campuses or the office of Johnson Center Operations at the Fairfax campus should be designated as the University representatives for approving use of spaces not otherwise designated in Policy 1103. Each designated representative is charged with the responsibility for ensuring that policies are applied consistently and will notify the President or his designee when there are perceived or alleged violations of the policies.
 - Should a question arise about appropriate use of space, the event manager or the Office of Student Activities will consult with the President or his designee.
- With regard to the use of outdoor space by External Users, the Taskforce recommends that the policy be revised to permit external users to:
 - Use and reserve designated “limited public access areas.”¹ As with internal users, external users may not engage in outdoor activities that interfere with the core functions of the University, prevent or interrupt the core use of the limited public access areas involved, or endanger or present a safety hazard to others. External users should also be subject to the following conditions:
 - When use is for Commercial Purpose. The Taskforce recommends that the policy be revised to require that external users who wish to use outdoor space for commercial purposes secure a permit for the use of the designated limited public access area, display this permit in a prominent location during the period when the

¹ Each campus will specify “limited public access areas.”

- At the Fairfax campus these areas include the Quad and the North Plaza.
- At the Prince William campus these areas encompass the SW corner of Bull Run Hall (at the intersection of the sidewalk leading from the loading dock with the main sidewalk leading from Occoquan Building), and sidewalk leading out of the SW back door of the Verizon Auditorium.
- Due to ongoing construction at the Arlington campus, a limited public access area is not presently available. Requests for use of outdoor space should be made to the Director of Operations at the Arlington campus.

space is being used by the permit holder, and pay a user fee. Permits will be issued without concern for the content of the activity, however the University does not condone obscene or defamatory activities.

- When use is for Non-Commercial Purposes. The Taskforce recommends that the policy be revised to specify that space will be restricted to a limited public access area without need for a permit
- Exceptions. Recognizing that unusual situations may arise, if an external user seeks a different space for its activity, it may make a request of the President or his designee for a temporary exception.
- Except for spaces so designated in Policy 1103, outdoor space may be reserved by external users in accordance with Policy 1103's Definition of Users and Scheduling Priorities, including the amendments recommended by the Taskforce.
- The events managers for the Arlington or Prince William campuses or the office of Johnson Center Operations at the Fairfax campus should be designated as the University representatives for approving use of spaces not otherwise designated in Policy 1103. Each designated representative is charged with the responsibility for ensuring that policies are applied consistently and will notify the President or his designee when there are perceived or alleged violations of the policies.

Attachment B – Leafleting

The Taskforce concluded that leafleting is part of the University experience and should be permitted under the following conditions:

- Internal Users (faculty, staff, and recognized student groups) may leaflet in University areas where it does not interfere with the core functions of the University, prevent or interrupt the core use of the space or facility, or endanger or present a safety hazard to others.
- External Users (all others) may leaflet in limited public access areas on campus so long as it does not interfere with the core functions of the University, prevent or interrupt the core use of the space or facility, or endanger or present a safety hazard to others.
- All leaflets, whether disseminated by internal or external users, should identify their sponsor.
- Persons leafleting are responsible for picking up leaflets dropped on grounds around leafleting areas. Failure to do so may preclude responsible persons from future leafleting.
- Leafleting found to be obscene or defamatory may be prohibited.
- Leafleting done in conjunction with a demonstration or protest (under the proposed Demonstration and Protest Policy) should be governed by those procedures. In unusual circumstances, the President or his designee may name temporary limited public access areas for external users to leaflet.
- Appropriate procedures should be developed and distributed to implement these policies.

Attachment C

Policy 1109: Poster Posting Policy

Posters, too, are an important part of the University experience and serve the interests of members of the University community. Recognizing that poster space at the University is limited and that the University does not condone obscenity or defamation in postings, the Taskforce recommends that Policy 1109: Poster Posting Policy be changed to reflect the following:

- Each campus should have open access boards for postings, available to Internal and External Users, on any variety of subjects. These boards may be limited to a specific quantity by the offices responsible for those open access boards (JC/Student Unions Operations and the Information Services offices at Arlington and Prince William).
- Before posting on an open access board, an individual must receive a date stamp from the University office responsible for the board. That stamp will mark the initial date for posting so that open access boards can be changed of postings at reasonable intervals. To receive a date stamp, the posting must provide a point of contact.
- Postings found to be obscene or defamatory may be removed.
- Questions regarding a poster meeting these requirements will be referred to the President's designee.

Attachment D: Demonstrations and Protests

Demonstrations and protests [collectively “demonstrations”] are a part of University life and should be permitted so long as they remain orderly. However, demonstrations that disrupt core University functions, interfere with the core use of University space, or become destructive may be terminated and subject participants to penalty. In exercising its authority to manage demonstrations, George Mason University will act in a manner that is content neutral and narrowly tailored to serve the University’s interest in normal operations and public safety, and that provides channels of communication for demonstrators within sight and sound of the intended audience.

It is assumed that most demonstrations that occur on the campuses of George Mason University will be organized and conducted by students at the University. However, it is recognized that non-students may, from time to time, desire to come on the campuses to demonstrate or participate in a demonstration being organized by students. These guidelines are applicable to all persons, both students and non-students, who demonstrate on the campuses of George Mason University.

The campuses of George Mason University are very different in their composition in that there are several spaces on the Fairfax campus where demonstrations could be held without causing undue interference to classes and the normal operations of the campus. There are fewer such locations on the other campuses. Thus, these guidelines will vary somewhat for the respective campuses in order to accommodate differences in physical spaces and the locations of the campuses.

Definition of Demonstrations

Demonstrations are gatherings of one or more individuals on a campus of George Mason University for the purposes of publicly communicating a grievance or publicly stating a position or cause by spoken word, placard or action.

Location of Demonstrations

To prevent disruption to normal University operations, and in the interests of public safety, demonstrations shall be held in limited public access areas as designated at each campus. In unusual circumstances, the Designated University Official² for the demonstration may name additional, temporary limited public access areas for these purposes.

Demonstration Categories

There are two types of demonstrations: those that are scheduled and planned in advance and those that are more spontaneous and are not scheduled in advance.

² The Taskforce recommends that the President name a Designated University Official for demonstrations. Where the Designated University Official is unavailable, there should be a process in place to designate a substitute.

Planned Demonstrations

A representative from the registered student organization, ad hoc student group, or non-student group should contact the Designated University Official to discuss a date, time, and location for the demonstration. The Designated University Official will continue to serve as a staff liaison with the representative(s) from the group desiring to have a demonstration until the demonstration has been held. This Official will:

- a. Schedule a date, space, and time for the demonstration consistent with the priorities of use contained in Policy 1103.
- b. Inform the George Mason Police, and the Vice President for University Relations of the plans for a demonstration.
- c. Be present at the time of the demonstration to monitor the demonstration.
- d. Contact the demonstration representative during the event if problems arise.
- e. Should circumstances warrant, consult with the University Police about appropriate action.
- f. Should circumstances warrant, bring charges against individuals and student organizations under applicable University policies and procedures in the event a demonstration causes disruption or destruction.

Demonstrations Not Scheduled in Advance

Although all student organizations, ad hoc student groups, or non-student groups are urged to contact the Designated University Official to discuss a date, time, and location in advance of the demonstration, it is recognized that there will be rare occasions when this does not occur. Any spontaneous or unscheduled demonstration that occurs on the campuses of George Mason University is subject to the following:

- a. The Designated University Official will, upon learning of the presence of a spontaneous demonstration, report to the scene of the demonstration and make contact with the apparent leader of the demonstration or with a representative group from the demonstration. Where appropriate, the Designated University Official will notify the George Mason Police, the Vice President for University Life, and the Vice President for University Relations of the presence of the demonstration.
- b. If the demonstration is not in one of the “limited public access areas” the group participating in the demonstration will be asked by the Designated University Official to move to one of these locations. In unusual circumstances, and only when a demonstration is orderly, the Designated University Official may name additional, temporary limited public access areas for demonstrations.
- c. The Designated University Official will monitor the demonstration and will contact a demonstration representative during the demonstration if problems arise.
- d. Should circumstances warrant, the Designated University Official will consult with University Police about appropriate action.
- e. Should circumstances warrant, the Designated University Official will bring charges against individuals and organizations under applicable University policies and procedures in the event a demonstration causes disruption or destruction.

Attachment E – Policy 1105: Graffiti Policy

Taskforce members believe the University chalking policy is a reasonable compromise between open discourse and campus cleanliness. It should, however, be followed consistently. To alleviate any ambiguity, the word “derogatory” should be changed to “defamatory” in Section IV.