

70-7 Sales, Solicitation and Advertising

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1. **Purpose.** The purpose of this policy and procedures is to delineate acceptable times, manner, and places on Eastern New Mexico University's (the University's) property, media, or sponsored events for sales, solicitations, and/or advertisements.
2. **Policy.** The primary mission of the University is educational. The University is responsible for promoting and protecting the intellectual and cultural growth and development of the institution and the members of its community. The University's responsibilities also include the need to protect and promote intellectual freedom, and the free exchange of ideas. The University has a legitimate interest in regulating activity or material that could unduly interfere with its educational mission. To this end, the University may impose reasonable restrictions upon the time, place and manner of sales, solicitations, advertisements, displays and the distribution of publications, including the use of ENMU electronic university media,. All such sales, solicitations and advertisements on the University campus shall conform to the regulations contained in this policy.

The foregoing purpose and policies are implemented by the following.

Procedures

3. **Administration.** This policy and procedures shall be administered by the vice president for Student Affairs (VPSA) or his or her designee, the director for Campus Life.
4. **Definitions.**
 - A. **"Sales"** include requesting money, seeking agreement to pay, taking subscriptions, selling merchandise or offering other comparable materials and privileges, in person or by handbills, raffles, consignment sales, posters or similar materials to promote sales.
 - B. **"Solicitation"** may involve all activities noted identified as "sales," as well as solicitation of ideas or points of view, or requesting money or donations.
 - C. **"Advertisements"** are printed or mass media communications targeted at the general public that have, as an integral part of their message, the identification and promotion of a product, service or point of view.
 - D. **"Printed materials"** are publications, handbills, posters, leaflets and other printed materials intended for public distribution or display on campus.
 - E. The term **"obscenity"** is narrowly construed and is limited to materials that lack any literary, artistic, political or scientific value and that contain patently offensive representations or descriptions of ultimate sexual acts, masturbation, excretory functions or lewd exhibitions of the genitals or that include descriptions or representations of children engaged in any sexual activity or in a state of undress.
 - F. **"Non-Expressive Commercial Message"** means commercial advertising or solicitation that lacks any political, social, academic, religious or moral content, component or message.
 - G. **"Expressive Commercial Message"** means commercial advertising or solicitation that includes some political, social, academic, religious or moral content, component or message.

- 5. Scope.** This policy shall apply to:
- A. All campus personnel, students, student organizations, visitors and to any person, organization or business seeking to use campus facilities for the purpose of sales, solicitation or advertising;
 - B. All University facilities and property; and
 - C. All forms of sales, solicitation and advertising, including but not limited to the placement of signage, the conduct of rallies and similar events, the distribution of publications and handbills, and the use of ENMU electronic media for sales, solicitation or advertising purposes.
- 6. Regulation of Place, Time and Manner.** The University has the right to reasonably regulate the place, time and manner of sales, solicitation, advertisements, displays, distribution of publications and the use of ENMU electronic media for such purposes. An application for sales, solicitation or advertising may be denied or regulated if the requested activity will substantially interfere with the University's need to maintain campus safety, avoid disruption of University functions, maintain personal privacy and prevent commercial exploitation of members of the University community, provided that any such regulation must conform to constitutional standards of free speech, free assembly and free association.
- 7. Content or Expressive Viewpoints.** Content or expressive viewpoints shall not be considered in a decision to grant or deny an application for sales, solicitation or advertising on University property or in any University facility, except when the message:
- A. Promotes the use of alcoholic beverages or the abuse of drugs;
 - B. Contains obscenity;
 - C. Threatens, promotes or incites actual violence; or
 - D. Violates any local, state or federal law.
- 8. Timely Review of Applications.** All applications for sales, solicitation or advertising will be reviewed in the order in which they are received. Upon receipt, a decision to grant or deny an application will be made within five (5) business days from the date that a completed application is submitted to the appropriate University authority.
- 9. Right to Appeal.** A decision to deny an application for sales, solicitation or advertising may be appealed to the vice president for Student Affairs. Any appeal must be received by the vice president for Student Affairs no later than five (5) business days from the date of denial. The vice president for Student Affairs shall meet with the applicant within five (5) business days from receipt of the applicant's appeal in order to review the reasons for denial. An applicant may revise the application to meet University standards and re-submit it.
- 10. Guidelines Pertaining to Sales, Solicitation and Advertising.**
- A. Place.
 - 1. The primary locations are in the Campus Union Building, academic buildings, administrative buildings, the intercollegiate athletic facilities, all exterior grounds, at University off-campus sponsored events, and in University publications and electronic media sites.
 - 2. The VPSA or the director of Campus Life will have the names and contact information of those who can approve sales, solicitations and advertising for all areas or buildings.
 - 3. Printed materials may not be placed on windshields of parked vehicles.

B. Time.

1. Requests for permission to sell, solicit or advertise are granted for a specified period of time. The Sales, Solicitation and Advertising application form asks the applicant for requested dates and times. The director for Campus Life will respond with approved dates and times.
2. Posters and other printed materials ordinarily may not be displayed for more than two (2) weeks.
3. Any activity may be discontinued and permission revoked by either the VPSA or the director for Campus Life, if the activity:
 - a. does not match the description on the permission form;
 - b. encourages use or abuse of alcohol or drugs;
 - c. contains threats of violence or promotes or incites actual violence;
 - d. contains obscenity;
 - e. causes substantial disruption to the educational mission of the University; or
 - f. violates any local, state or federal law.

C. Manner.

1. Commercial organizations may engage in advertising and commercial solicitation on campus only in accordance with the terms of the approved application. The application will not be approved if it is determined that the proposed advertisement or commercial solicitation will be misleading or that it will substantially interfere with the University's educational mission or promote or encourage the use of alcohol or illegal drugs or other illegal activity. Such written determination will include an explanation of the decision. This determination may be appealed to the vice president for Student Affairs in accordance with the appeal procedures described in this policy.
2. If the director for Campus Life approves an application for commercial solicitation or advertising, then the Director will make a written determination as to whether the requested activity constitutes a Non-Expressive Commercial Message or an Expressive Commercial Message (as those terms are defined in this policy). This determination may be appealed to the vice president for Student Affairs in accordance with the appeal procedures described in this policy.
3. If the director for Campus Life determines that the requested solicitation or advertising constitutes a Non-Expressive Commercial Message, then the director ordinarily will restrict the requested advertising or solicitation activity to the designated commercial areas in and around the Campus Union Building.
4. If the director for Campus Life determines that the requested solicitation or advertising constitutes an Expressive Commercial Message, then the director ordinarily will authorize such activity in and around the designated commercial areas of the Campus Union Building and also in other common areas of the University. The director for Campus Life will specify the common areas where the activity may occur in the permit authorizing such activity. Commercial Messages (both Expressive and Non-Expressive) ordinarily will not be permitted in the following areas due to the adverse impact on the University's educational mission: (1) residential facilities; (2) classroom and laboratory areas and buildings; (3) administrative areas and office areas; and (4) libraries.

11. Unauthorized Materials, Amplification or Charges for Services

- A.** Individuals and commercial organizations attempting to display or distribute unauthorized materials on campus or use campus facilities for unauthorized or un-permitted commercial solicitation or advertising - will be removed from the campus and may be subject to other appropriate legal action.
- B.** Amplification equipment may not be used to advertise or promote sales in conjunction with any approved solicitation activity unless specifically requested and authorized in advance by the regulating office.
- C.** Any activity on the ENMU campus that results in the need to use University personnel for litter collection, crowd control, repair/replacement of University property, etc., may require repayment to the University by the responsible party. The responsible party may also be required to hire such required personnel and services as a condition of approval of the request for sales, solicitation or advertising.

12. Printed Materials.

- A.** Student election campaign literature must conform to the procedures established by the Student Elections Committee of the Associated Students of ENMU.
- B.** Permission to distribute printed materials (such as handbills) must be approved by the director for Campus Life. Applicants may consult the director for Campus Life for specific names and contact information.
- C.** Maximum size of posters is 18" by 24". Posters ordinarily may not be displayed for more than two (2) weeks. A person or organization seeking to display posters beyond the initial two-week period must apply for and obtain permission. All materials representing ENMU must comply with any regulations regarding presentation, including but not limited to ENMU word mark identity, regulations and use of official color dyes, as noted by the Office of Communication Services.
- D.** Posters, announcements, banners, cards, web page entries on official ENMU sites, or other campaign materials for any individual seeking public office may not be posted or displayed on or in any University academic, residential or administrative buildings, campus grounds, parking lots or electronic media. Campaign material for individuals seeking public office may be posted only in an individual's assigned residence hall room or in areas designated for that purpose in or around the Campus Union Building. Student election campaign material may be distributed and displayed only in accordance with the rules of the Associated Students of ENMU. Regulations pertaining to campaign material for Student Government elections are determined by the Associated Students of ENMU (Student Government), and are available from that office.
- E.** Publications may be sold in the Campus Union, the Bookstore and museums maintained by ENMU only in accordance with the regulations established by the management of these agencies.

Approved by the Board of Regents on May 12, 2006.

Amended version approved by Board of Regents on May 9, 2008.