



AlaFile E-Notice

47-CV-2021-900878.80

Judge: ALISON S. AUSTIN

To: WILLARD BRENT WOODALL
tidegal7@gmail.com

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF MADISON COUNTY, ALABAMA

YOUNG AMERICANS FOR LIBERTY UNIVERSITY OF AL HSV ET AL V. MIKE BROCK E
47-CV-2021-900878.80

The following matter was FILED on 12/8/2022 1:23:11 PM

C001 YOUNG AMERICANS FOR LIBERTY UNIVERSITY OF AL HSV

MOTION FOR PRELIMINARY INJUNCTION

[Filer: WOODALL WILLARD BRENT]

Notice Date: 12/8/2022 1:23:11 PM

DEBRA KIZER
CIRCUIT COURT CLERK
MADISON COUNTY, ALABAMA
MADISON COUNTY, ALABAMA
100 NORTHSIDE SQUARE
HUNTSVILLE, AL, 35801

256-532-3390



ELECTRONICALLY FILED
12/8/2022 1:23 PM
47-CV-2021-900878.80
CIRCUIT COURT OF
MADISON COUNTY, ALABAMA
DEBRA KIZER, CLERK

STATE OF ALABAMA

Revised 3/5/08

Cas

Unified Judicial System

47-MADISON

 District Court
 Circuit Court

CV21

 YOUNG AMERICANS FOR LIBERTY UNIVERSITY
OF AL HSV ET AL V. MIKE BROCK E
CIVIL MOTION COVER SHEET
 Name of Filing Party: C001 - YOUNG AMERICANS FOR LIBERTY
UNIVERSITY OF AL HSV

Name, Address, and Telephone No. of Attorney or Party. If Not Represented.

 WILLARD BRENT WOODALL
121 South Court St., STE B
Florence, AL 35630
Attorney Bar No.: WOO103

 Oral Arguments Requested
TYPE OF MOTION**Motions Requiring Fee**

- Default Judgment (\$50.00)
Joinder in Other Party's Dispositive Motion
(i.e. Summary Judgment, Judgment on the Pleadings,
or other Dispositive Motion not pursuant to Rule 12(b))
(\$50.00)
- Judgment on the Pleadings (\$50.00)
- Motion to Dismiss, or in the Alternative
Summary Judgment (\$50.00)
Renewed Dispositive Motion (Summary
Judgment, Judgment on the Pleadings, or other
Dispositive Motion not pursuant to Rule 12(b)) (\$50.00)
- Summary Judgment pursuant to Rule 56 (\$50.00)
- Motion to Intervene (\$297.00)
- Other _____
pursuant to Rule _____ (\$50.00)

*Motion fees are enumerated in §12-19-71(a). Fees
pursuant to Local Act are not included. Please contact the
Clerk of the Court regarding applicable local fees.

 Local Court Costs \$ 0 _____
Motions Not Requiring Fee

- Add Party
- Amend
- Change of Venue/Transfer
- Compel
- Consolidation
- Continue
- Deposition
- Designate a Mediator
- Judgment as a Matter of Law (during Trial)
- Disburse Funds
- Extension of Time
- In Limine
- Joinder
- More Definite Statement
- Motion to Dismiss pursuant to Rule 12(b)
- New Trial
- Objection of Exemptions Claimed
- Pendente Lite
- Plaintiff's Motion to Dismiss
- Preliminary Injunction
- Protective Order
- Quash
- Release from Stay of Execution
- Sanctions
- Sever
- Special Practice in Alabama
- Stay
- Strike
- Supplement to Pending Motion
- Vacate or Modify
- Withdraw
- Other _____
pursuant to Rule _____ (Subject to Filing Fee)

Check here if you have filed or are filing contemporaneously
with this motion an Affidavit of Substantial Hardship or if you
are filing on behalf of an agency or department of the State,
county, or municipal government. (Pursuant to §6-5-1 Code
of Alabama (1975), governmental entities are exempt from
prepayment of filing fees)

 Date:
12/8/2022 1:21:00 PM

 Signature of Attorney or Party
/s/ WILLARD BRENT WOODALL



IN THE CIRCUIT COURT OF MADISON COUNTY
 STATE OF ALABAMA

YOUNG AMERICANS FOR LIBERTY AT UNIVERSITY
 OF ALABAMA IN HUNTSVILLE and JOSHUA GREER,

Plaintiffs,

v.

FINIS ST. JOHN IV, Chancellor of the University of
 Alabama System, in his official capacity, et al.,

Defendants.

Civil Case No.:
 47-CV-2021-900878.80

PLAINTIFFS' RENEWED MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs Young Americans for Liberty at the University of Alabama in Huntsville and Joshua Greer respectfully ask this Court under Alabama Rule of Civil Procedure 65 to issue a preliminary injunction prohibiting Defendants, their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them, directly or indirectly, from enforcing the following provisions of their Use of Outdoor Areas of Campus Policy:

1. The general requirement in Sections B and C that students must receive permission from the University three business days before engaging in expressive activity anywhere on campus. *See* Greer Decl. Ex. 7A, § B (“[R]eservations must be made for activities that make use of outdoor space under the control of [the University]”); *id.* Ex. 7A, § C.2 (requiring students to submit written request for permission to speak “no less than three (3) business days prior to the planned Event”);¹

¹ On September 30, 2021, after Plaintiffs filed their Verified Complaint and first motion for preliminary injunction, Defendants amended their Use of Outdoor Areas of Campus Policy. Greer Decl. ¶ 14. That amended policy is Exhibit 7A to the Declaration of Joshua J. Greer. The amended policy is identified as Exhibit 7A to retain numbering consistent with the Verified Complaint, which contains Exhibits 1–10 with the pre-September 2021 policy as Exhibit 7. Defendants made only minor

2. The speech zones and prior permission requirement in Section F that apply to newsworthy speech. These requirements exempt from the prior permission rule “[s]pontaneous activities of expression, which are generally prompted by news or affairs coming into public knowledge less than forty-eight (48) hours prior to the spontaneous expression,” but even then limit that spontaneous expression to “defined areas, without advance approval.” *Id.* Ex. 7A, § F.1.b. They also allow that “[s]pontaneous activities of expression may occur in other areas of campus in addition to the [defined areas], but an expedited request for use of other outdoor space must be made at least twenty-four (24) hours in advance pursuant to Paragraph C (Reservation Process for Use of Outdoor Space and Approval of GUR Applications).” *Id.* Ex. 7A, § F.1.d; and
3. Provisions in Sections B, C, and E that allow University administrators and police to shut down speech based on subjective and viewpoint-based criteria. These criteria include: the exemption from the prior permission requirement for “casual recreational or social activities,” *id.* Ex. 7A, § B; “the educational experience,” *id.* Ex. 7A, § E.9; and the “date, time, or requested space is unreasonable given the nature” of the speech and “the impact it would have on [Defendants’] resources,” *id.* Ex. 7A, § C.4.c.

Without a preliminary injunction, Plaintiffs will continue to suffer irreparable injury, namely, the loss of their right to free speech as guaranteed by Alabama’s Campus Free Speech Act, Ala. Code § 16-68-1 *et seq.*, and Alabama’s Constitution, Ala. Const., art. I, § 4.

Plaintiffs also request a waiver of the security requirement under Alabama Rule of Civil Procedure 65(c). Courts waive the security requirement when “the issue is

changes that did not alter any of the provisions identified in the Verified Complaint and challenged as unlawful. *Id.* ¶ 16. All references throughout this motion and memorandum in support are to the amended version of the policy.

one of overriding public concern.” *Anders v. Fowler*, 423 So. 2d 838, 840 (Ala. 1982). This comports with how federal courts interpret almost identical language under Federal Rule of Civil Procedure 65. See *BellSouth Telecomms., Inc. v. MCIMetro Access Transmission Servs., LLC*, 425 F.3d 964, 971 (11th Cir. 2005) (“[I]t is well-established that the amount of security required by the rule is within the discretion of the trial court, and the court may elect to require no security at all.” (cleaned up)); *Univ. Books & Videos, Inc. v. Metro. Dade Cnty.*, 33 F. Supp. 2d 1364, 1374 (S.D. Fla. 1999) (no security is required “when the party seeking the injunction has a high probability of succeeding in the merits of its claim,” “when the party to be enjoined is a . . . government that likely would not incur any significant cost or monetary damages,” or when “the constitutional rights of the party or the public” are at stake); cf. *APR Energy, LLC v. First Inv. Grp. Corp.*, 51 F. Supp. 3d 1227, 1249 (M.D. Fla. 2014) (“Typically, a security bond is required when a court enters an injunction which prevents commercial, money-making activities.”).

These exceptions apply in this case because there is a strong public interest in vindicating Plaintiffs’ constitutional and statutory right to free speech, there are no damages to the government at stake in the issuance of the injunction, and Plaintiffs have a high probability of succeeding on their claims. Accordingly, Plaintiffs respectfully ask this Court to waive the security requirement.

In support of this Motion, Plaintiffs rely on the following:

1. Plaintiffs’ Verified Complaint and the exhibits thereto;
2. Plaintiffs’ Memorandum in support of this Motion, filed concurrently with the Motion; and
3. The attached Declaration of Joshua J. Greer.

Plaintiffs respectfully request that this Court grant this Motion and issue a preliminary injunction prohibiting Defendants from enforcing the prior permission and speech zone requirements of their Use of Outdoor Areas of Campus Policy.

Respectfully submitted this 8th day of December, 2022.

/s/ W. Brent Woodall

W. Brent Woodall
THE WOODALL LAW FIRM
121 South Court Street, Suite B
Florence, AL 35630
(256) 349-2507
woodalltrialad@hushmail.com

Tyson C. Langhofer*
Mathew W. Hoffmann*
ALLIANCE DEFENDING FREEDOM
ADF CENTER FOR ACADEMIC FREEDOM
44180 Riverside Parkway
Lansdowne, VA 20176
(571) 707-4655
tlanghofer@ADFlegal.org
mhoffmann@ADFlegal.org

Counsel for Plaintiffs

**Admitted pro hac vice*

CERTIFICATE OF SERVICE

I hereby certify that on December 8, 2022, I electronically filed the foregoing with the Clerk of Court using the AlaFile system, which will send electronic notification of such filing to the following:

Jay M. Ezelle
Cole R. Gresham
Michael R. Lasserre
Starnes Davis Florie LLP
100 Brookwood Place, 7th Floor
P.O. Box 598512
Birmingham, AL 35259-8512
jme@starneslaw.com
crg@starneslaw.com
mrl@starneslaw.com

Counsel for Defendants

Dated: December 8, 2022

/s/ W. Brent Woodall
W. Brent Woodall
The Woodall Law Firm
121 South Court Street, Suite B
Florence, AL 35630
(256) 349-2507
woodalltrialad@hushmail.com

Counsel for Plaintiffs



ELECTRONICALLY FILED
12/8/2022 1:23 PM
47-CV-2021-900878.80
CIRCUIT COURT OF
MADISON COUNTY, ALABAMA
DEBRA KIZER, CLERK

**IN THE CIRCUIT COURT OF MADISON COUNTY
STATE OF ALABAMA**

**YOUNG AMERICANS FOR LIBERTY AT UNIVERSITY
OF ALABAMA IN HUNTSVILLE and JOSHUA GREER,**

Plaintiffs,

v.

**FINIS ST. JOHN IV, Chancellor of the University of
Alabama System, in his official capacity, et al.,**

Defendants.

Civil Case No.:
47-CV-2021-900878.80

**PLAINTIFFS' MEMORANDUM IN SUPPORT
OF RENEWED MOTION FOR PRELIMINARY INJUNCTION**

TABLE OF CONTENTS

Table of Authorities	iv
Introduction	1
Factual Background	3
I. Defendants’ policy imposes a prior permission requirement and speech zones.....	3
II. The Alabama Supreme Court held that Defendants’ speech zones “plainly” violate the Campus Free Speech Act and expressed “serious doubt” regarding the lawfulness of Defendants’ prior permission requirement.	4
III. Defendants’ policy continues to prevent Plaintiffs from speaking.	5
Legal Standard	7
Argument	7
I. Plaintiffs will likely succeed on their Campus Free Speech Act claim.	7
A. Defendants’ speech zones “plainly” violate the Act.....	7
B. Defendants’ prior permission requirement bans what the Act protects: spontaneous speech.....	8
1. The Act outlaws Defendants’ prior permission requirement.	8
2. Defendants cannot meet their burden to justify their prior permission requirement as a valid time, place, and manner regulation.	9
a. Defendants’ policy flunks narrow tailoring and fails to provide ample alternative means for expression.....	11
b. Defendants’ prior permission requirement licenses viewpoint-discriminatory unbridled discretion.	13
II. Plaintiffs will likely succeed on their Alabama Constitution claim.	15
A. The Alabama Constitution provides greater protection than the First Amendment and invalidates Defendants’ policy.	16
B. Defendants’ policy violates well-established First Amendment free speech principles.	18
1. Defendants’ policy fails public forum scrutiny.	18
2. Regardless of forum, Defendants’ policy fails because it is not viewpoint-neutral or reasonable.....	21

III. Plaintiffs meet the remaining preliminary injunction factors..... 22

Conclusion..... 23

Certificate of Service..... 25

TABLE OF AUTHORITIES

Cases

<i>Arkansas Educational Television Commission v. Forbes</i> , 523 U.S. 666 (1998)	19
<i>Baldwin County Electric Membership Corp. v. Catrett</i> , 942 So. 2d 337 (Ala. 2006)	7
<i>Barrett v. Walker County School District</i> , 872 F.3d 1209 (11th Cir. 2017)	13
<i>Bloedorn v. Grube</i> , 631 F.3d 1218 (2011).....	21
<i>Boardley v. United States Department of the Interior</i> , 615 F.3d 508 (D.C. Cir. 2010)	12
<i>Bock v. Westminster Mall Co.</i> , 819 P.2d 55 (Colo. 1991).....	17
<i>Bowman v. White</i> , 444 F.3d 967 (8th Cir. 2006)	19
<i>Buehrle v. City of Key West</i> , 813 F.3d 973 (11th Cir. 2015)	11
<i>Child Evangelism Fellowship of Maryland, Inc. v. Montgomery County Public Schools</i> , 457 F.3d 376 (4th Cir. 2006)	13
<i>Citizens' Light, Heat & Power Co. v. Montgomery Light & Water Power Co.</i> , 171 F. 553 (C.C.M.D. Ala. 1909).....	16
<i>City of Ladue v. Gilleo</i> , 512 U.S. 43 (1994)	12
<i>City of Lakewood v. Plain Dealer Publ'g Co.</i> , 486 U.S. 750 (1988)	13
<i>Elrod v. Burns</i> , 427 U.S. 347 (1976)	22
<i>Ex parte Birmingham News Co.</i> , 624 So. 2d 1117 (Ala. Crim. App. 1993)	22
<i>Ex parte Christopher</i> , 145 So. 3d 60 (Ala. 2013)	8
<i>Ex parte Wright</i> , 166 So. 3d 618 (Ala. 2014)	20

<i>Forsyth County v. Nationalist Movement</i> , 505 U.S. 123 (1992)	10, 14, 15
<i>Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal</i> , 546 U.S. 418 (2006)	9
<i>Gregoire v. Centennial School District</i> , 907 F.2d 1366 (3d Cir. 1992).....	15
<i>Hays County Guardian v. Supple</i> , 969 F.2d 111 (5th Cir. 1992)	19
<i>International Outdoor, Inc. v. City of Troy</i> , 974 F.3d 690 (6th Cir. 2020)	14
<i>Justice For All v. Faulkner</i> , 410 F.3d 760 (5th Cir. 2005)	19
<i>KH Outdoor, LLC v. City of Trussville</i> , 458 F.3d 1261 (11th Cir. 2006)	22, 23
<i>Khademi v. South Orange County Community College District</i> , 194 F. Supp. 2d 1011 (C.D. Cal. 2002)	19
<i>King v. State</i> , 674 So. 2d 1381 (Ala. Crim. App. 1995)	16, 18
<i>McGlone v. Bell</i> , 681 F.3d 718 (6th Cir. 2012)	19
<i>Mountain States Telephone & Telegraph Co. v. Arizona Corporate Commission</i> , 773 P.2d 455 (Ariz. 1989)	17
<i>NAACP, Western Region v. City of Richmond</i> , 743 F.2d 1346 (9th Cir. 1984)	8
<i>National Institute of Family & Life Advocates v. Beccera</i> , 138 S. Ct. 2361 (2018)	11
<i>Nebraska Press Association v. Stuart</i> , 427 U.S. 539 (1976)	20
<i>OSU Student Alliance v. Ray</i> , 699 F.3d 1053 (9th Cir. 2012)	19
<i>Otto v. City of Boca Raton</i> , 981 F.3d 854 (11th Cir. 2020)	22
<i>Reed v. Town of Gilbert</i> , 576 U.S. 155 (2015)	17
<i>Roberts v. Hargan</i> , 346 F. Supp. 2d 853 (N.D. Tex. 2004).....	19

<i>Saieg v. City of Dearborn</i> , 641 F.3d 727 (6th Cir. 2011)	12
<i>Shuttlesworth v. City of Birmingham</i> , 394 U.S. 147 (1969)	13, 14
<i>Southworth v. Bd. of Regents of Univ. of Wis. Sys.</i> , 307 F.3d 566 (7th Cir. 2002)	13
<i>State v. Coe</i> , 679 P.2d 353 (Wash. 1984)	16
<i>Turner Broadcasting Systems, Inc. v. FCC</i> , 512 U.S. 622 (1994)	18
<i>Turning Point USA at Arkansas State University v. Rhodes</i> , 973 F.3d 868 (8th Cir. 2020)	17, 21
<i>United Brotherhood of Carpenters & Joiners of America Local 586 v. NLRB</i> , 540 F.3d 957 (9th Cir. 2008)	12, 13
<i>United States v. Playboy Entertainment Group, Inc.</i> , 529 U.S. 803 (2000)	20
<i>United States v. Trans-Missouri Freight Association</i> , 166 U.S. 290 (1897)	10
<i>Walker v. Texas Division, Sons of Confederate Veterans, Inc.</i> , 576 U.S. 200 (2015)	19
<i>Water Works & Sewer Board of the City of Birmingham v. Inland Lake Investments, LLC</i> , 31 So. 3d 686 (Ala. 2009)	22
<i>Widmar v. Vincent</i> , 454 U.S. 263 (1981)	19
<i>Young Americans for Liberty at University of Alabama in Huntsville v. St. John IV</i> , --- So.3d ----, 2022 WL 17073690 (Ala. Nov. 18, 2022)	1, 4, 5, 7–12, 13, 14, 16, 23

Constitutional Provisions

Alabama Constitution article I, § 4	15, 16
United States Constitution amendment I	16

Statutes

Alabama Code § 16-68-1	22, 23
Alabama Code § 16-68-2	5, 7, 8
Alabama Code § 16-68-3	4, 5, 7–10, 12, 15, 18, 20, 23

Alabama Code § 16-68-7 22

Other Authorities

Jud Campbell, *Natural Rights and the First Amendment*,
127 Yale L.J. 246 (2017) 18

Spontaneous, Webster’s *Third New International Dictionary* (2002) 9

Thomas M. Cooley, *A Treatise on the Constitutional Limitations Which Rest Upon
the Legislative Power of the States of the American Union* (1868) 17

INTRODUCTION

Defendants—officials at the University of Alabama in Huntsville—passed a policy that directly contradicts the Campus Free Speech Act. The Act protects spontaneous speech; Defendants require three business days’ notice for nearly all student speech. The Act bans speech zones; Defendants created speech zones for speech they subjectively deem “prompted by news or affairs.” So Plaintiffs Joshua Greer and Young Americans for Liberty at the University of Alabama in Huntsville (YAL), a student and student group, filed suit to vindicate their speech rights. They desire to speak in the outdoor areas of campus without Defendants’ prior permission and without limiting their speech about “news or affairs” to University-created zones. But Defendants’ policy forbids just that. In response, Plaintiffs have refrained—and continue to refrain—from speaking on campus.

The Alabama Supreme Court reversed this Court’s dismissal of Plaintiffs’ claims. *Young Ams. for Liberty at Univ. of Ala. in Huntsville v. St. John IV*, --- So.3d ----, 2022 WL 17073690 (Ala. Nov. 18, 2022) (YAL).¹ It held that Plaintiffs are “due” to “prevail” against Defendants’ speech zones because they “plainly” violate the Act. *Id.* at *3, *5. And the Court had “serious doubt[s]” Defendants could justify their requirement that even a single student receive permission in advance to speak on his own campus. *Id.* at *4. For similar reasons, the Alabama Constitution’s free speech guarantee invalidates Defendants’ policy. Plaintiffs thus have much more than a likelihood of success on the merits and need preliminary relief to redress the ongoing irreparable injury.

To protect Plaintiffs’ statutory and constitutional rights, this Court should preliminarily enjoin Defendants from enforcing the policy’s prior permission

¹ This memorandum cites to the Westlaw version of the Alabama Supreme Court’s opinion, which indicates the opinion is not yet released for publication. But the same opinion is in this Court’s record in slip opinion form. *See* Doc. 147.

requirement and speech zones. Specifically, this Court should preliminarily enjoin the following unlawful requirements of Defendants’ Use of Outdoor Areas of Campus Policy:

1. The general requirement in Sections B and C that students must receive permission from the University three business days before engaging in expressive activity anywhere on campus. *See* Greer Decl. Ex. 7A, § B (“[R]eservations must be made for activities that make use of outdoor space under the control of [the University]”); *id.* Ex. 7A, § C.2 (requiring students to submit written request for permission to speak “no less than three (3) business days prior to the planned Event”);²
2. The speech zones and prior permission requirement in Section F that apply to newsworthy speech. These requirements exempt from the prior permission rule “[s]pontaneous activities of expression, which are generally prompted by news or affairs coming into public knowledge less than forty-eight (48) hours prior to the spontaneous expression,” but even then limit that spontaneous expression to “defined areas, without advance approval.” *Id.* Ex. 7A, § F.1.b. They also allow that “[s]pontaneous activities of expression may occur in other areas of campus in addition to the [defined areas], but an expedited request for use of other outdoor space must be made at least twenty-four (24) hours in

² On September 30, 2021, after Plaintiffs filed their Verified Complaint and first motion for preliminary injunction, Defendants amended their Use of Outdoor Areas of Campus Policy. Greer Decl. ¶ 14. That amended policy is Exhibit 7A to the Declaration of Joshua J. Greer. The amended policy is identified as Exhibit 7A to retain numbering consistent with the Verified Complaint, which contains Exhibits 1–10 with the pre-September 2021 policy as Exhibit 7. Defendants made only minor changes that did not alter any of the provisions identified in the Verified Complaint and challenged as unlawful. *Id.* ¶ 16. All references throughout this memorandum are to the amended version of the policy.

advance pursuant to Paragraph C (Reservation Process for Use of Outdoor Space and Approval of GUR Applications).” *Id.* Ex. 7A, § F.1.d; and

3. Provisions in Sections B, C, and E that allow University administrators and police to shut down speech based on subjective and viewpoint-based criteria. These criteria include: the exemption from the prior permission requirement for “casual recreational or social activities,” *id.* Ex. 7A, § B; “the educational experience,” *id.* Ex. 7A, § E.9; and the “date, time, or requested space is unreasonable given the nature” of the speech and “the impact it would have on [Defendants’] resources,” *id.* Ex. 7A, § C.4.c.

FACTUAL BACKGROUND

I. Defendants’ policy imposes a prior permission requirement and speech zones.

Defendants’ Use of Outdoor Areas of Campus Policy places limits on the “freedom to debate and discuss the merits of competing ideas.” Greer Decl. Ex. 7A, § F. Defendants purport to recognize “free and open inquiry” but reserve for themselves the power to “restrict expression.” *Id.*

Defendants’ policy requires “reservations” for students to speak in the University’s “outdoor space,” including campus sidewalks. Verified Compl. ¶ 68. The reservation requirement applies to almost *all* student speech, even a single student speaking alone. *Id.* ¶ 70. Defendants “strongly encourage[]” written requests to use outdoor spaces on campus 10 days in advance, but demand— “[a]t a minimum”—three business days’ notice to speak. Greer Decl. Ex. 7A, § C.2; *accord* Verified Compl. ¶ 72.

Defendants will refuse a request to speak if they have “reasonable grounds” to believe that an applicant fails to meet at least one of 24 conditions. Greer Decl. Ex. 7A, §§ C.4, E. For example, University administrators can deny a request if they deem the date, time, or space for the expressive activity “unreasonable given the nature of the Event and/or the impact it would have on [the University’s] resources and

teaching and research mission.” *Id.* Ex. 7A, § C.4.c. And they can refuse permission if they determine that the speech would jeopardize “the educational experience.” *Id.* Ex. 7A, § E.9.

Defendants offer two, narrow exceptions from their prior permission requirement. First, Defendants exempt “casual recreational or social activities.” *Id.* Ex. 7A, § B. But Defendants’ policy neither defines those terms nor provides examples of such activities. Second, Defendants exempt what they call “spontaneous activities of expression” from their “advance approval” requirement. *Id.* Ex. 7A, § F.1.b. Defendants limit those “spontaneous” activities to speech “generally prompted by news or affairs coming into public knowledge less than forty-eight (48) hours prior to the spontaneous expression.” *Id.*

Students must still confine their “spontaneous” expression to “defined” areas, however. *Id.* Defendants’ policy identifies several areas at the University that in total make up a “very small percentage of campus.” Verified Compl. ¶ 87; *id.* Ex. 9. Thirteen of Defendants’ “defined areas” exclusively border parking lots, roads, or lakes. Greer Decl. Ex. 7A, § F.1.b; Verified Compl. Ex. 9. And Defendants confine nearly all these zones to the peripheries of campus. Verified Compl. Ex. 9. Defendants nonetheless have no requirement that students receive prior approval before distributing literature on campus. *Id.* ¶ 95.

II. The Alabama Supreme Court held that Defendants’ speech zones “plainly” violate the Campus Free Speech Act and expressed “serious doubt” regarding the lawfulness of Defendants’ prior permission requirement.

The Alabama Supreme Court reversed this Court’s dismissal of Plaintiffs’ Campus Free Speech Act and constitutional claims against Defendants’ policy. *See YAL*, 2022 WL 17073690, at *5. First, the Court held that the Act “plainly” prohibited Defendants’ speech zones. *Id.* at *3. The Act bans “free speech zones.” Ala. Code § 16-68-3(a)(4). It defines such zones as “area[s] on campus” that the university

“designate[s] for the purpose of engaging in a protected expressive activity.” *Id.* § 16-68-2(3). The Court reasoned that Defendants’ “designated areas for spontaneous speech fit squarely within [the statutory] definition” of impermissible speech zones. *YAL*, 2022 WL 17073690, at *3. That means—as the Supreme Court put it—Plaintiffs are “due” to “prevail” on their claim that Defendants’ speech zones violate the Campus Free Speech Act. *Id.* at *5.

Second, the high court had “serious doubt[s]” about the lawfulness of Defendants’ prior permission requirement. *Id.* at *4. The Act provides that members of the campus community, including students and student groups, “are free” to “spontaneously and contemporaneously assemble, speak, and distribute literature” in the “outdoor areas of the campus.” Ala. Code § 16-68-3(a)(3). Universities may regulate speech in the outdoor areas of campus only with a light touch. Colleges can have time, place, and manner requirements for speech “only when they are narrowly tailored to a significant institutional interest” and “employ clear, published, content-neutral, and viewpoint-neutral criteria.” *Id.* § 16-68-3(a)(7). Any such regulations must also ensure “ample alternative means of expression.” *Id.* And “[a]ll restrictions” must allow for students to distribute literature “spontaneously and contemporaneously.” *Id.* But the Court doubted whether Defendants’ policy could be narrowly tailored to any government end because Defendants require “even a single student wishing to speak on campus” to get permission in advance. *YAL*, 2022 WL 17073690, at *4. “Permit schemes and advance notice requirements that potentially apply to small groups are nearly always overly broad and lack narrow tailoring.” *Id.*

III. Defendants’ policy continues to prevent Plaintiffs from speaking.

Plaintiff Joshua Greer is a student at the University. Verified Compl. ¶ 20; Greer Decl. ¶ 2. He is a member of Plaintiff Young Americans for Liberty at the University of Alabama in Huntsville (YAL), an unincorporated expressive association made up of University of Alabama students and a registered student organization at the

University. Verified Compl. ¶¶ 14, 20; Greer Decl. ¶¶ 5, 8–10. YAL is affiliated with Young Americans for Liberty, a nonpartisan organization with nearly 500 chapters nationwide. Verified Compl. ¶ 18. YAL seeks to “identify, educate, train, and mobilize students to promote the natural rights of life, liberty, and property.” *Id.* ¶ 19. To that end, Plaintiffs desire and intend to express their message on campus through a variety of means, including flyers, signs, peaceful demonstrations, hosting tables with information, inviting speakers to campus, and talking with fellow students about their natural rights, among other things. *Id.* ¶ 21; *see* Greer Decl. ¶ 12.

Defendants’ policy has chilled and is chilling Plaintiffs’ speech. Plaintiffs wish to speak about a number of topics on campus spontaneously and without prior permission from the University. Verified Compl. ¶¶ 100–02, 105; Greer Decl. ¶ 12. For example, Plaintiffs want to talk about important issues of public policy like gun control. Verified Compl. ¶ 101. They want to stand in outdoor areas of campus and hold up signs saying that gun control laws and gun-free zones do not stop criminals. *Id.* Plaintiffs also desire to recruit members for YAL by gathering and walking around campus promoting Young Americans for Liberty and its views. *Id.* ¶ 104.

But Defendants will discipline or punish Plaintiffs if they violate Defendants’ policy. *Id.* ¶ 107; Greer Decl. ¶ 17. Defendants’ policy threatens that “[p]ersons who violate these guidelines may be subject to disciplinary action according to the Code of Conduct [and] Student Handbook” which can include anything from a written warning to expulsion. Verified Compl. ¶¶ 107, 110. As for Plaintiff YAL, disciplinary action can include a written warning up to a bar on official group recognition. *Id.* ¶ 111; *accord id.* Ex. 10 at 1. Defendants also threaten discipline for students who try to “circumvent” the advance approval requirement by falsely claiming to speak “spontaneous[ly].” Greer Decl. Ex. 7A, § F.1.e. Defendants reserve for themselves the discretion to “consider any relevant evidence” as to whether the speech was not “spontaneous” and thus “inappropriate[ly]” evading the policy’s requirements. *Id.*

Because of this fear of discipline, “Plaintiffs have refrained from engaging in their desired expressive activity.” Verified Compl. ¶ 112; *see* Greer Decl. ¶¶ 18–19. So Plaintiffs have not been able to recruit members as effectively, which has led to lower attendance at events and less visibility for YAL. Verified Compl. ¶¶ 113–14; Greer Decl. ¶ 19.

LEGAL STANDARD

To obtain a preliminary injunction, Plaintiffs must show: (1) they have “at least a reasonable chance of success on the ultimate merits of [their] case”; (2) they would suffer “immediate and irreparable injury” without an injunction; (3) no adequate remedy at law exists; and (4) the balance of the hardships weighs in Plaintiffs’ favor. *Baldwin Cnty. Elec. Membership Corp. v. Catrett*, 942 So. 2d 337, 344 (Ala. 2006).

ARGUMENT

I. Plaintiffs will likely succeed on their Campus Free Speech Act claim.

As the Alabama Supreme Court held, Defendants’ speech zones “plainly” violate the Act, meaning Plaintiffs have much more than a likelihood of success against them. The high court also had “serious doubt[s]” about the lawfulness of Defendants’ prior permission requirement. That requirement by definition outlaws spontaneous speech—the very speech the Act protects—and does not qualify a valid time, place, and manner regulation. Plaintiffs will likely succeed on their statutory claim.

A. Defendants’ speech zones “plainly” violate the Act.

The Act prohibits “free speech zones or other designated outdoor areas of the campus in order to limit or prohibit protected expressive activities.” Ala. Code § 16-68-3(a)(4). “The Act broadly defines a ‘free speech zone’ as ‘[a]n area on campus of a public institution of higher education that is designated for the purpose of engaging in a protected expressive activity.’” *YAL*, 2022 WL 17073690, at *3 (quoting Ala. Code § 16-68-2(3)). Defendants’ “designated areas for spontaneous speech fit squarely within this definition; those areas are ‘area[s] . . . that [are] designated for the

purpose of engaging in protected expressive activity.” *Id.* (quoting Ala. Code § 16-68-2(3)). Thus, the Alabama Supreme Court held that Defendants’ “policy plainly violates the Act” by “creat[ing] designated areas for spontaneous speech.” *Id.* at *5. Plaintiffs are “due” to “prevail” on their claim against Defendants’ speech zones. *Id.*

B. Defendants’ prior permission requirement bans what the Act protects: spontaneous speech.

Defendants’ prior permission requirement facially violates the Act’s protection of spontaneous speech. By any definition, asking for permission to speak in advance is not spontaneous. And the unlawfulness of Defendants’ speech zones—to which they limited (what they erroneously consider to be) spontaneous speech—means Defendants’ policy requires almost *all* student speech to receive prior permission. For similar reasons, Defendants’ prior permission requirement flunks the narrow tailoring and ample alternative means requirements of the Act, all while granting administrators unbridled discretion to censor speech they don’t like. The prior permission requirement cannot be a valid time, place, and manner regulation.

1. The Act outlaws Defendants’ prior permission requirement.

The Act guarantees that members of the campus community have the right “to engage in protected expressive activity in outdoor areas of the campus, and to spontaneously and contemporaneously assemble, speak, and distribute literature.” Ala. Code § 16-68-3(a)(3). But Defendants’ policy requires students to obtain advance approval to speak in the outdoor areas of their campus. Verified Compl. ¶¶ 68–72. By “requiring advance notice” to speak, Defendants “outlaw[] spontaneous expression.” *NAACP, W. Region v. City of Richmond*, 743 F.2d 1346, 1355 (9th Cir. 1984).

The Act does not define “spontaneous,” so its “plain and ordinary meaning” controls. *Ex parte Christopher*, 145 So. 3d 60, 64 (Ala. 2013). As Defendants previously conceded, spontaneous means “proceeding from natural feeling or native tendency without external constraint” or “arising from a momentary impulse.”

Motion to Dismiss 19–20 (quoting *Spontaneous*, *Webster’s Third New International Dictionary* (2002)). But their policy imposes a three-business-day, prior permission requirement on nearly all student speech. Verified Compl. ¶ 72. By any definition, waiting three days to speak is not “spontaneous.”

Given that the Alabama Supreme Court has held Defendants’ speech zones unlawful, Defendants’ policy offers virtually no protection for spontaneous (under any definition) speech. Previously, Defendants attempted to square their prior permission requirement with the Act’s spontaneous speech protection by pointing to their speech zones’ allowance for so-called “spontaneous” speech. *E.g.*, Greer Decl. Ex. 7A, § F.1; Motion to Dismiss 20 & n.7. That’s an incorrect definition of spontaneous. Opp. to MTD 11–13. But without those unlawful speech zones, nearly *all* student speech must receive advance approval. So Defendants’ policy necessarily violates the Act by failing to provide appropriate protection for students’ right to speak spontaneously.

2. Defendants cannot meet their burden to justify their prior permission requirement as a valid time, place, and manner regulation.

Not only does Defendants’ prior permission requirement facially violate the Act, it also does not qualify as a lawful time, place, and manner regulation. The Act only allows universities to maintain time, place, and manner restrictions on speech in the outdoor areas of campus that are “narrowly tailored” to a significant government interest and that “employ clear, published, content-neutral, and viewpoint-neutral criteria.” Ala. Code § 16-68-3(a)(7). Defendants must also provide “ample alternative means of expression.” *Id.*

Defendants bear the burden of proving the lawfulness of their time, place, and manner requirements. *YAL*, 2022 WL 17073690, at *4; accord *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 429 (2006) (“[T]he burdens at the preliminary injunction stage track the burdens at trial.”). “The analysis of time, place, and manner restrictions is highly fact-bound.” *YAL*, 2022 WL 17073690, at *4

(cleaned up). That analysis proceeds according to well-established constitutional principles. The Act safeguards “speech protected by the First Amendment to the United States Constitution and Article I, Section 4 of the Constitution of Alabama.” Ala. Code § 16-68-3(a)(2). It draws its time, place, and manner requirements directly from constitutional free speech jurisprudence. *See, e.g., Forsyth Cnty. v. Nationalist Movement*, 505 U.S. 123, 130 (1992). The “well-settled rule” is that when the Legislature uses “technical words . . . in an act,” with meaning “conclusively settled by long usage and judicial construction,” then courts give the words their “generally accepted meaning.” *United States v. Trans-Missouri Freight Ass’n*, 166 U.S. 290, 353 (1897); *accord YAL*, 2022 WL 17073690, at *3 (“[F]ederal caselaw is persuasive in evaluating the Act’s provision regarding time, place, and manner restrictions.”).

Defendants did not narrowly tailor their prior permission requirement to any interest—such as quiet around a classroom during class hours—nor provide ample alternative channels for speech. Defendants prevent students—and even a single student—from speaking on their own campus for three business days. That prohibition alone gave the Alabama Supreme Court “serious doubt” that Defendants could meet their narrow tailoring burden. *YAL*, 2022 WL 17073690, at *4. A single student’s speech poses no risk of undermining any University interest. In fact, the Legislature instructed the University that what most advances its educational mission is “the fullest degree possible of intellectual freedom and free expression.” Ala. Code § 16-68-3(a)(1). What’s more, Defendants’ prior permission requirement discriminates based on viewpoint by granting unbridled discretion to administrators to squelch speech. Under the Act, any one of these grounds is fatal to Defendants’ policy.

a. Defendants’ policy flunks narrow tailoring and fails to provide ample alternative means for expression.

Narrow tailoring “demand[s] a close fit between ends and means” to “prevent[] the government from too readily sacrificing speech for efficiency.” *YAL*, 2022 WL 17073690, at *4 (cleaned up). A court “do[es] not simply take the [government] at its word that the [policy] serves [its] interests.” *Buehrle v. City of Key West*, 813 F.3d 973, 978–79 (11th Cir. 2015). Rather, the government “must rely on at least *some* pre-enactment evidence that the regulation would serve its asserted interests.” *Id.* at 979 (cleaned up). Defendants’ policy lacks narrow tailoring to any interest for at least three reasons.

First, Defendants’ policy requires prior permission for even a single student to speak in the outdoor areas of campus. Verified Compl. ¶ 70. But—as the Supreme Court recognized—“[p]ermit schemes and advance notice requirements that potentially apply to small groups are nearly always overly broad and lack narrow tailoring.” *YAL*, 2022 WL 17073690, at *4. A single student’s speech on his own campus poses no risk to competing uses of space or campus safety. That’s especially true given that Defendants exempt a potentially unlimited number of students from engaging in “casual recreational or social activities”—whatever that means—without advance permission. *See Nat’l Inst. of Fam. & Life Advoc. v. Beccera*, 138 S. Ct. 2361, 2375 (2018) (compelled disclosure law failed to satisfy intermediate scrutiny where the disclosure requirements were “wildly underinclusive”); *infra* Section I.B.2.b. Naturally, the Alabama Supreme Court had “serious doubt[s]” that Defendants could meet their narrow tailoring burden, *YAL*, 2022 WL 17073690, at *4, meaning that Plaintiffs have—at the very least—a reasonable chance of success on their claim.

Second, Defendants’ prior permission requirement cuts off nearly *all* student speech in the outdoor areas of the students’ *own* college campus. It “prohibits even a single student from spontaneously expressing himself at a normal volume, absent prior University approval.” *YAL*, 2022 WL 17073690, at *13 (Mitchell, J., concurring

in part and concurring in the result) (cleaned up). Defendants’ “prohibition applies at all hours of the day and night, and it applies even when there is no possibility that the student’s speech could disrupt class or any other University function.” *Id.* Yet, the Legislature recognized that the “primary function” of a college is to promote the discovery and dissemination of knowledge. Ala. Code § 16-68-3(a)(1). And it did not prescribe prior permission requirements to meet this end. Quite the opposite, the Legislature determined that to “fulfill that function,” colleges must “strive to ensure the *fullest degree possible* of . . . free expression.” Ala. Code § 16-68-3(a)(1) (emphasis added). Free expression—not the regulation of it—serves Defendants’ interests. Therefore, a policy that restricts almost all student speech in fact contravenes a college’s interest and, naturally, cannot be narrowly tailored.

Third, Defendants’ policy inexplicably exempts literature distribution from its prior permission requirement. Verified Compl. ¶¶ 95–97. Allowing a student to hand out a pamphlet about gun control to another student but then preventing him from speaking about gun control at the same time lacks any constitutional or logical justification and is not narrowly tailored to any significant government interest.

Plaintiffs also lack ample alternative channels. Ample alternatives “must exist within the forum in question,” *Boardley v. U.S. Dep’t of Interior*, 615 F.3d 508, 524 (D.C. Cir. 2010) (cleaned up), and an “alternative is not ample if the speaker is not permitted to reach the intended audience,” *Saieg v. City of Dearborn*, 641 F.3d 727, 740 (6th Cir. 2011). Defendants’ prior permission requirement cuts off nearly all student speech. Verified Compl. ¶ 72. But “a regulation that forecloses an entire medium of public expression across the landscape of a particular community or setting fails to leave open ample alternatives.” *United Brotherhood of Carpenters & Joiners of Am. Local 586 v. NLRB*, 540 F.3d 957, 969 (9th Cir. 2008); accord *City of Ladue v. Gilleo*, 512 U.S. 43, 55 (1994) (“voic[ing] particular concern with laws that foreclose an entire medium of expression”). And Defendants’ speech zones cannot

serve as ample alternatives because they are “plainly” unlawful. *See YAL*, 2022 WL 17073690, at *3. Defendants’ literature distribution exception also fails as an alternative channel. The right of free speech “extend[s] to the right to choose a particular means or avenue of speech in lieu of other avenues.” *United Brotherhood*, 540 F.3d at 969 (cleaned up). Defendants expect students to hand out literature silently instead of making their voices heard on their own campus. *See Verified Compl.* ¶ 97. But Defendants cannot close off an entire medium of expression for their students.

b. Defendants’ prior permission requirement licenses viewpoint-discriminatory unbridled discretion.

Courts “consistently condemn” speech regulations that “vest in an administrative official discretion to grant or withhold a permit based upon broad criteria unrelated to proper regulation of public places.” *Shuttlesworth v. City of Birmingham*, 394 U.S. 147, 153 (1969). Left with only vague or non-existent criteria on which to make their decision, government officials “may decide who may speak and who may not based upon the content of the speech or viewpoint of the speaker.” *City of Lakewood v. Plain Dealer Publ’g Co.*, 486 U.S. 750, 763–64 (1988).

Viewpoint neutrality demands that college policies limit the discretion of officials. *E.g., Barrett v. Walker Cnty. Sch. Dist.*, 872 F.3d 1209, 1226 (11th Cir. 2017) (“[T]he unbridled-discretion doctrine . . . combat[s] the risk of unconstitutional viewpoint discrimination.”); *Southworth v. Bd. of Regents of Univ. of Wis. Sys.*, 307 F.3d 566, 579 (7th Cir. 2002) (“[T]he prohibition against unbridled discretion is a component of the viewpoint-neutrality requirement.”); *Child Evangelism Fellowship of Md., Inc. v. Montgomery Cnty. Pub. Schs.*, 457 F.3d 376, 387 (4th Cir. 2006) (“[I]nvesting governmental officials with boundless discretion over access to the forum violates the First Amendment.”). If the permit scheme involves the “appraisal of facts, the exercise of judgment, and the formation of an opinion,” the danger of viewpoint

discrimination is too great to be permitted. *Forsyth Cnty.*, 505 U.S. at 131. Instead, speech restrictions must contain “narrow, objective, and definite standards to guide” officials. *Shuttlesworth*, 394 U.S. at 151.

At least three provisions of Defendants’ prior permission requirement allow unbridled discretion: (1) the exemption for “casual recreational or social activities”; (2) the protection of “the educational experience”; and (3) the “date, time, or requested space” is “unreasonable given the nature” of the speech and “the impact it would have on” Defendants’ “resources.”

Defendants’ policy “never defines ‘casual recreational or social activities,’ nor does it explain what distinguishes those types of activities from other spontaneous activities of expression.” *YAL*, 2022 WL 17073690, at *13 n.4 (Mitchell, J., concurring in part and concurring in the result). The phrase raises many unanswerable questions that require officials’ exercise of judgment to determine whether the prior permission requirement applies. Take, for example, two students walking to class. Does their conversation between each other qualify as a “casual recreational or social activit[y]”? What if they discuss a controversial topic, such as gun control, and hold opposing views? What if they share their views on gun control with other students on the way to class? What if they ask those other students for their positions on gun control? But what if those students do not want their gun control views solicited? Or what if one of the students points to a pin on his backpack that says “Guns Save Lives” as he passes other students? Many of the above scenarios would undermine Defendants’ purported interests in their prior permission requirement just as much as or more than a single student speaking alone—for which Defendants require advance approval. Verified Compl. ¶¶ 70–72; accord *supra* Section I.B.2.a. This “undefined” exemption “g[ives] unbridled discretion.” *Int’l Outdoor, Inc. v. City of Troy*, 974 F.3d 690, 698 (6th Cir. 2020).

Similarly, Defendants’ policy fails to define “educational experience,” or “unreasonable given the nature of the Event.” Greer Decl. Ex. 7A, §§ C.4.c, E.9. That is particularly troubling given the Legislature’s mandate that Defendants’ proper role does not include “shield[ing]” students from “unwelcome, disagreeable, or offensive” speech. Ala. Code § 16-68-3(a)(2). In an age where some teach that “words wound,” the terms Plaintiffs identified allow Defendants to target speech that may make students uncomfortable and thus hamper their “educational experience.” See *Gregoire v. Centennial Sch. Dist.*, 907 F.2d 1366, 1374 (3d Cir. 1990) (The criterion “educational mission of the school’ is so vague that [the government] has virtually unlimited discretion in deciding which groups qualify and which do not.”). To Defendants, such uncomfortable speech and the possible adverse reaction it provokes may be “unreasonable” in view of the University’s “resources.” All of those terms allow Defendants to form an “opinion” on what viewpoints to allow. *Forsyth Cnty.*, 505 U.S. at 131.

II. Plaintiffs will likely succeed on their Alabama Constitution claim.

The text of Alabama’s free speech guarantee differs vastly from the federal First Amendment. Alabama’s organic law allows “any person” to “speak” on “all subjects.” Ala. Const. art. I, § 4. The plain text—and history—make clear that this provision bans prior restraints while still allowing for valid time, place, and manner regulations. But Defendants’ policy is no more valid a time, place, manner restriction under the Alabama Constitution than it is under the Act. Defendants’ policy discriminates based on content and viewpoint and cannot meet the Act’s intermediate scrutiny. So it has no chance of surviving constitutional strict scrutiny. For similar reasons, Defendants’ policy cannot meet any level of scrutiny under persuasive First Amendment jurisprudence.

A. The Alabama Constitution provides greater protection than the First Amendment and invalidates Defendants’ policy.

Significant textual differences separate the federal Constitution’s Free Speech Clause from the Alabama Constitution’s free speech guarantee. Where the federal provision provides, “Congress shall make no law . . . abridging the freedom of speech,” U.S. Const. amend. I, the Alabama clause reads “[t]hat no law shall ever be passed to curtail or restrain the liberty of speech or of the press; and any person may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty,” Ala. Const. art. I, § 4. Alabama courts have looked to the federal First Amendment as persuasive in interpreting Alabama’s free speech protection. *E.g.*, *King v. State*, 674 So. 2d 1381, 1384 (Ala. Crim. App. 1995). But no Alabama court has held that Alabama’s protection is limited to what the First Amendment provides. For good reason—“Alabama’s § 4 is more elaborate.” *YAL*, 2022 WL 17073690, at *8 (Parker, C.J., concurring in part and concurring in result).

Here, the Alabama Constitution provides greater protection than the First Amendment. Alabama’s free speech clause contains the additional positive right that “any person may speak, write, and publish his sentiments on all subjects.” *Id.* This guarantee imposes “a categorical prohibition of prior restraints.” *See YAL*, 2022 WL 17073690, at *8 (Parker, C.J., concurring in part and concurring in result). In interpreting nearly identical constitutional language, the Washington Supreme Court has held that its constitutional speech guarantee “absolutely forbids prior restraints against [protected speech].” *State v. Coe*, 679 P.2d 353, 360 (Wash. 1984). That is because the Washington Constitution, like the Alabama Constitution, protects the ability of a person to speak in the first instance and only makes him liable if his speech abuses that right. *Id.* at 359; *see also Citizens’ Light, Heat & Power Co. v. Montgomery Light & Water Power Co.*, 171 F. 553, 556 (C.C.M.D. Ala. 1909) (“Neither a court of equity, nor any other department of government, can set up a censorship in advance over such matters, and prevent a person from exercising this

constitutional right.”). Courts in other states with similar constitutional language have also construed this affirmative grant of free speech rights to entail greater speech protection than the First Amendment. *E.g.*, *Bock v. Westminster Mall Co.*, 819 P.2d 55, 58 (Colo. 1991); *Mountain States Tel. & Tel. Co. v. Ariz. Corp. Comm’n*, 773 P.2d 455, 459–60 (Ariz. 1989).

Plaintiffs desire to “speak, write, and publish [their] sentiments” on campus but Defendants’ policy imposes a prior permission requirement prohibiting them from doing so. Verified Compl. ¶¶ 70–72. That is a quintessential prior restraint. *Turning Point USA at Ark. State Univ. v. Rhodes*, 973 F.3d 868, 878 (8th Cir. 2020) (university created prior restraint when it required “a speaker [to] get prior permission from the school in order to use [speech zones]”). Accordingly, Defendants’ prior permission requirement violates Alabama’s free speech clause.

The Alabama Constitution also invalidates Defendants’ speech zones. The bar on prior restraints still allows retrospective and otherwise valid, time, place, and manner requirements. Thomas M. Cooley, *A Treatise on the Constitutional Limitations Which Rest Upon the Legislative Power of the States of the American Union* 597 (1868). But Defendants’ speech zones fail any level of time, place, and manner scrutiny. They target speech based on the content of the message expressed. Content-based regulations “appl[y] to particular speech because of the topic discussed or the idea or message expressed.” *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015). To assess content discrimination, courts “consider whether a regulation of speech on its face draws distinctions based on the message a speaker conveys.” *Id.* (cleaned up). Defendants created speech zones for “spontaneous” speech, which they define as “generally prompted by news or affairs coming into public knowledge less than” 48 hours prior to the speech. Verified Compl. ¶¶ 82, 86. That definition applies to speech based on the topic discussed—“news or affairs.” Governmental “[p]references” for

“news” and “affairs” plainly “make reference to content.” *Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 677 (1994) (O’Connor, J., concurring in part).

On its face, Defendants’ policy allows for students to make “newsworthy” speech of recent vintage without prior approval, while restricting non-newsworthy speech or speech on topics more than two days old to Defendants’ prior permission requirement, all based on what Defendants, in their discretion, consider newsworthy. Restricting speech because of the idea spoken strikes at the very heart of what the Alabama Constitution protects—the freedom to “*express opinions.*” Jud Campbell, *Natural Rights and the First Amendment*, 127 Yale L.J. 246, 281 (2017). And Defendants have no justification for why they need to quarantine even individual students speaking alone to designated areas on campus. *See supra* Section I.B.2.a.

B. Defendants’ policy violates well-established First Amendment free speech principles.

The Alabama Constitution protects more speech than the federal Free Speech Clause, but federal jurisprudence is “persuasive” in interpreting the state constitutional protection. *King*, 674 So. 2d at 1384. Under persuasive First Amendment jurisprudence, Defendants’ policy still fails. The Campus Free Speech Act recognizes the outdoor areas of campus as at least designated public fora. But Defendants cannot meet the demanding scrutiny necessary to justify their viewpoint- and content-discriminatory policy. And Defendants cannot even meet the scrutiny for limited public fora because their policy is neither viewpoint neutral nor reasonable.

1. Defendants’ policy fails public forum scrutiny.

The outdoor areas of the University’s campus are either traditional or designated public fora, as recognized by the Act and caselaw. The Act declares that “the outdoor areas of campus of a public institution of higher education shall be deemed to be a forum for members of the campus community.” Ala. Code § 16-68-3(a)(4). Traditional public fora, such as “a street or a park” have “immemorially been held in trust for the

use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions.” *Walker v. Tex. Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200, 215 (2015). “A designated public forum . . . exists where government property that has not traditionally been regarded as a public forum is intentionally opened up for that purpose.” *Id.* (cleaned up). And a government need not open a forum “for *all* types of speech by *all* speakers” to create a designated public forum. *Just. For All v. Faulkner*, 410 F.3d 760, 766 (5th Cir. 2005); *see Ark. Educ. Television Comm’n v. Forbes*, 523 U.S. 666, 677 (1998) (“If the government excludes a speaker who falls within the class to which a designated public forum is made generally available, its action is subject to strict scrutiny.”). Moreover, the United States Supreme Court “has recognized that the campus of a public university, at least for its students, possesses many of the characteristics of a public forum.” *Widmar v. Vincent*, 454 U.S. 263, 267 n.5 (1981). For the students, the common outdoor areas of campus function “more akin to a public street or park than a non-public forum” and are thus “public for[a], at least for the University’s students, irrespective of whether the University has so designated them or not.” *Roberts v. Hargan*, 346 F. Supp. 2d 853, 861 (N.D. Tex. 2004).³

³ The First Amendment consensus shows that a campus is at least a designated public forum for students. *E.g.*, *OSU Student All. v. Ray*, 699 F.3d 1053, 1062–63 (9th Cir. 2012) (Oregon State University campus is “at least a designated public forum” for students); *Bowman v. White*, 444 F.3d 967, 979 (8th Cir. 2006) (university’s policy and “practice of permitting speech” in common outdoor areas of campus rendered them “designated public fora”); *McGlone v. Bell*, 681 F.3d 718, 732 (6th Cir. 2012) (“The perimeter sidewalks along [the university’s] campus are traditional public fora and all other open areas are designated public fora.”); *Just. For All*, 410 F.3d at 769 (University of Texas campus is a designated public forum); *Hays Cnty. Guardian v. Supple*, 969 F.2d 111, 117 (5th Cir. 1992) (the “campus’s function as the site of a community of full-time residents . . . suggests an intended role more akin to a public street or park than a non-public forum.”); *Roberts*, 346 F. Supp. 2d at 861 (same); *Khademi v. S. Orange Cnty. Cmty. Coll. Dist.*, 194 F. Supp. 2d 1011, 1024 (C.D. Cal. 2002) (“no doubt” that the “generally available” areas of a community college campus are public fora because they are open to the public).

Government time, place, and manner restrictions on speech in public fora must be content and viewpoint neutral, be narrowly tailored to serve a significant government interest, and leave open ample alternative channels of communication. *Perry Educ. Ass’n v. Perry Local Educators’ Ass’n*, 460 U.S. 37, 45–46 (1983). If the regulation is content or viewpoint discriminatory, the government must satisfy strict scrutiny. *Id.* That is, the regulation must be narrowly tailored to achieve a compelling government interest. *Id.*

Defendants’ prior permission requirement discriminates based on viewpoint. *Supra* Section I.B.2.b. And their plainly unlawful speech zones discriminate based on content. *Supra* Section II.A. Therefore, Defendants’ prior permission requirement and speech zones must pass strict scrutiny. But the policy cannot even pass the Act’s intermediate scrutiny, most notably because—as the Alabama Supreme Court recognized—its prior permission requirement applies to even a single student speaking. *See supra* Section I.B.2.a. So, it cannot pass strict scrutiny, where the policy must be the “least restrictive means” to the government’s end. *United States v. Playboy Ent. Grp., Inc.*, 529 U.S. 803, 813 (2000). It cannot be the least restrictive means to Defendants’ ultimate goal of preserving the educational mission of the University to stifle student speech—speech the Legislature found to advance precisely that mission. Ala. Code § 16-68-3(a)(1). And because the policy cannot meet even intermediate scrutiny, it cannot serve as a valid time, place, and manner requirement in traditional or designated public fora under any circumstances. *See supra* Section I.B.2.a.

What’s more, Defendants’ policy imposes a prior restraint on student speech. Verified Compl. ¶ 142. The First Amendment forbids them except in the most extreme circumstances. *See Neb. Press Ass’n v. Stuart*, 427 U.S. 539, 558 (1976). And they come with a “heavy presumption” against their constitutionality. *Ex parte Wright*, 166 So. 3d 618, 631 (Ala. 2014). The Eighth Circuit recently observed that it could

not identify a single case in which it “allowed a university to impose a prior restraint on a student wishing to use an unlimited public forum.” *Turning Point USA*, 973 F.3d at 879. For good reason. No extreme justifications exist to subject student speech on campus to prior approval.

2. Regardless of forum, Defendants’ policy fails because it is not viewpoint-neutral or reasonable.

Restrictions on speech in a limited public forum must be “reasonable and viewpoint neutral.” *Bloedorn v. Grube*, 631 F.3d 1218, 1231 (2011). As discussed above, Defendants’ policy discriminates based on viewpoint. *Supra* Section I.B.2.b.

Defendants’ policy is also unreasonable. “Reasonableness in this context must be assessed in the light of the purpose of the forum and all the surrounding circumstances.” *Bloedorn*, 631 F.3d at 1231 (cleaned up). Defendants’ prior permission requirement and speech zones violate the policy’s stated purpose of promoting the free expression and exchange of ideas on campus. Defendants claim that they “support[] the right to free expression on campus by University affiliates through rallies, speeches, petitions, vigils, and distribution of materials, among other[]” types of expressive activity. Greer Decl. Ex. 7A, § F. Defendants purport to understand that “[t]he primary function of a university is to discover and disseminate knowledge by means of researching, teaching, discussion, and debate,” and that “[t]o fulfill this function, free and open inquiry and expression of ideas is necessary within [the University] by its University affiliates.” *Id.* But Defendants then stifle expressive activity with a three-business-day permission requirement, except from that requirement anything they subjectively deem newsworthy, and reserve the right to cancel any speech according to subjective and viewpoint-based criteria. *Supra* Sections I.B, II.A. What’s more, they allow students to distribute literature but not to discuss that literature without advance permission. Verified Compl. ¶ 95. Defendants’ policy undermines its own stated interest. It cannot be reasonable.

III. Plaintiffs meet the remaining preliminary injunction factors.

Plaintiffs “meet the remaining requirements as a necessary legal consequence of” showing a likelihood of success on the merits. *Otto v. City of Boca Raton*, 981 F.3d 854, 870 (11th Cir. 2020). Defendants’ policy has prevented and is currently preventing Plaintiffs from speaking in the outdoor areas of their own campus without Defendants’ prior permission and without confining their speech to speech zones—which the Alabama Supreme Court has held are unlawful. Verified Compl. ¶ 112; Greer Decl. ¶¶ 18–19. And Defendants threaten discipline all the way up to expulsion and loss of group recognition for violations of their policy. Verified Compl. ¶¶ 110–11; Greer Decl. ¶ 17. That chill to speech is the paradigmatic case of ongoing irreparable injury: the “loss of [free speech] freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Ex parte Birmingham News Co.*, 624 So. 2d 1117, 1123 (Ala. Crim. App. 1993) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)); accord *KH Outdoor, LLC v. City of Trussville*, 458 F.3d 1261, 1272 (11th Cir. 2006) (“direct penalization” of speech rights “[can]not be remedied absent an injunction”). And precisely because free speech “is critically important during the education experience of students,” the Alabama Legislature authorized injunctive relief for violations of the Campus Free Speech Act. Ala. Code §§ 16-68-1(6), 16-68-7. That irreparable injury “necessarily shows that [Plaintiffs have] no adequate remedy at law.” *Water Works & Sewer Bd. of the City of Birmingham v. Inland Lake Invs., LLC*, 31 So. 3d 686, 692 (Ala. 2009).

The ongoing and imminent injury to Plaintiffs “clearly outweighs whatever damage the injunction may cause [Defendants].” *KH Outdoor*, 458 F.3d at 1272. Any infringement of free speech freedoms constitutes “serious and substantial injury.” *Id.* And Defendants have “no legitimate interest in enforcing” an unlawful policy. *Id.* Defendants suffer “no irreparable harm” from a court “prevent[ing] [them] from

enforcing an unconstitutional [policy] because it is always in the public interest to protect First Amendment liberties.” *Id.*

Enjoining Defendants’ policy will—in fact—advance their stated interest in “disseminat[ion] [of] knowledge.” Greer Decl. Ex. 7A, § F. The Alabama Legislature recognized that the “fullest degree possible” of free speech best fulfills public universities’ traditional function to discover and transmit knowledge. Ala. Code § 16-68-3(a)(1). The campus “marketplace of ideas” flourishes by allowing “free, robust, and uninhibited debate and deliberation by students.” *Id.* §§ 16-68-1(3), (6). Enjoining Defendants’ policy—which restricts speech to unlawful zones and bans nearly all spontaneous speech—will do just that.

CONCLUSION

The Alabama Supreme Court held that Defendants’ speech zones were “plainly” unlawful and had “serious doubt[s]” about Defendants’ prior permission requirement. *YAL*, 2022 WL 17073690, at *3–4. That means—at the very least—Plaintiffs have a reasonable chance of success on the merits. And Defendants’ policy is currently preventing Plaintiffs from speaking on their own campus and from contributing to the marketplace of ideas the Campus Free Speech Act protects. This Court should grant Plaintiffs’ Renewed Motion for Preliminary Injunction.

Respectfully submitted this 8th day of December, 2022.

/s/ W. Brent Woodall

W. Brent Woodall
The Woodall Law Firm
121 South Court Street, Suite B
Florence, AL 35630
(256) 349-2507
woodalltrialad@hushmail.com

Tyson C. Langhofer*
Mathew W. Hoffmann*
ALLIANCE DEFENDING FREEDOM
ADF CENTER FOR ACADEMIC FREEDOM
44180 Riverside Parkway
Lansdowne, VA 20176
(571) 707-4655
tlanghofer@ADFlegal.org
mhoffmann@ADFlegal.org

Counsel for Plaintiffs

**Admitted pro hac vice*

CERTIFICATE OF SERVICE

I hereby certify that on December 8, 2022, I electronically filed the foregoing with the Clerk of Court using the AlaFile system, which will send electronic notification of such filing to the following:

Jay M. Ezelle
Cole R. Gresham
Michael R. Lasserre
Starnes Davis Florie LLP
100 Brookwood Place, 7th Floor
P.O. Box 598512
Birmingham, AL 35259-8512
jme@starneslaw.com
crg@starneslaw.com
mrl@starneslaw.com

Counsel for Defendants

Dated: December 8, 2022

/s/ W. Brent Woodall
W. Brent Woodall
The Woodall Law Firm
121 South Court Street, Suite B
Florence, AL 35630
(256) 349-2507
woodalltrialad@hushmail.com

Counsel for Plaintiffs



ELECTRONICALLY FILED
12/8/2022 1:23 PM
47-CV-2021-900878.80
CIRCUIT COURT OF
MADISON COUNTY, ALABAMA
DEBRA KIZER, CLERK

EXHIBIT 7A

THE UNIVERSITY OF ALABAMA IN HUNTSVILLE
USE OF OUTDOOR AREAS OF CAMPUS

Number 03.01.06

Division Student Affairs

Date June 30, 2020, Revised September 30, 2021

Purpose The Board of Trustees of The University of Alabama, an independent, constitutional instrumentality of the state, controls The University of Alabama in Huntsville (“UAH” or “University”), an enclave created for the pursuit of higher learning, and is committed to free and open inquiry and expression for members of its campus communities. Except as limitations on that freedom are appropriate to the functioning of the campuses and permissible under the First Amendment to the Constitution of the United States, UAH will regulate access to the outdoor areas of UAH’s campus, including sidewalks on its campus, in a manner that respects and supports the freedom of all members of each campus community “to discuss any problem that presents itself.” To that end, this policy provides UAH’s affiliates access to outdoor areas of campus while preserving the primacy of UAH’s teaching, research, and service mission. Among other significant interests, this policy is intended to facilitate responsible stewardship of institutional resources; to protect the educational experience of its students; to preserve the primacy of its teaching and research mission; to ensure health, safety, and order on campus; to regulate competing uses of its facilities and grounds and protect campus property; and protect the safety and wellbeing of those with the right to use the outdoor areas to engage in protected speech, while also providing opportunities for freedom of expression and assembly that is consistent with UAH’s teaching, research, and service mission.

UAH will enforce reasonable time, place, and manner restrictions that are viewpoint neutral to ensure that these interests are protected and that expression does not disrupt the ordinary activities of the institution.

Use of UAH’s outdoor areas by persons, groups, or organizations affiliated or unaffiliated with UAH will be primarily handled in accordance with this policy.

Policy

The outdoor areas of UAH (referred to as “grounds” or “outdoor space”), including the sidewalks on its campus, are intended primarily for the support of the teaching, research,

and service components of its mission. Second priority is given to programs sponsored and conducted by UAH's academic, research, and administrative departments or organizations affiliated with such departments. Beyond these two priorities, use of outdoor space is primarily permitted for activities that are intended to serve or benefit the UAH community and must not interfere with the academic mission or operation of UAH. These additional significant interests include, but are not limited to, protecting the educational experience of its students; ensuring health, safety, and order on its campus; regulating competing uses of its grounds as well as protecting campus property; and protecting the safety and wellbeing of those with the right to use its facilities and grounds to engage in protected speech. To the extent any outdoor space is made available for activities or gatherings, including activities of expression, the reservation and/or use of such space is subject to this policy as well as all other applicable University policies, procedures, and guidelines along with local, state, and federal laws.

A. Who May Use Outdoor Space

Subject to the terms of, and exceptions included in, this policy, outdoor space generally may only be reserved or used by the following:

1. members of the campus community (*i.e.*, UAH faculty, staff, and students);
2. a University academic or administrative unit;
3. a registered student organization;¹ or
4. an individual or organization that is sponsored by (a) the University, (b) a University registered student organization, (c) administrator, or (d) a member of the faculty or staff.²

The aforementioned categories of eligible users are collectively referred to in this policy as "University affiliate(s)." Any University affiliate that reserves outdoor space must participate in any activity associated with that reservation.

B. Reservation Requirements

University affiliates have the right to engage in spontaneous activities of expression as provided for in Paragraph F of this policy and subject to compliance with applicable

¹ A "registered student organization" is one that is properly registered with UAH's Division of Student Affairs that has not had its available privileges, such as the use of outdoor space, withdrawn, suspended and/or restricted.

² A University registered student organization, administrator, or a member of the faculty or staff, rather than the University, decides which activities of expression and/or assembly they may wish to sponsor.

University rules. Aside from the opportunities for free expression outlined in Paragraph F and casual recreational or social activities, reservations must be made for activities that make use of outdoor space under the control of UAH (an “Event”), including sidewalks within the boundaries of UAH’s campus. When required, requests for Event reservations shall be made in writing in accordance with Paragraph C (*Reservation Process for Use of Outdoor Space and Approval of GUR Applications*).

C. Reservation Process for Use of Outdoor Space and Approval of Grounds Use Reservation (“GUR”) Applications

In addition to the requirements and limitations of this policy, all use of outdoor space is further governed by any policy and procedure relevant to a specific outdoor space, the Alcoholic Beverage Usage at University Events Policy, the Child Protection Policy, the Smoke-and Tobacco-Free Policy, the General Terms and Conditions for Use of Outdoor Space incorporated herein by reference, and all other applicable policies and procedures.

1. Subject to the limited exceptions noted in Paragraph C.6 below and Paragraph F (*Activities of Expression*), each applicant for an Event on campus must register their Event by completing a GUR application. The GUR application and General Terms and Conditions for Use of Outdoor Space is available online at <https://sites.google.com/a/uah.edu/conferences-and-events/home/forms>.
2. To facilitate the review by various UAH departments that have responsibility for different aspects of an Event (e.g., tents, food service, security, risk management, electrical service, etc.), applicants for use of the space are strongly encouraged to submit a GUR application at least ten (10) days prior to the Event. At a minimum, a GUR application must be submitted no less than three (3) business days³ prior to the planned Event. The GUR application will be approved or denied within two (2) business days of receipt.
3. Upon receipt of the GUR application, the UAH Conferences and Events Coordinator will forward same via e-mail to the Chief of Police for the University of Alabama in Huntsville Police Department (“UAHPD”), the Office of Risk Management, Facilities and Operations, and Environmental Health and Safety.

³ A University business day means any day when UAH is in operation. It does not include Saturdays, Sundays, and University holidays or other days when normal business operations are suspended.

4. The UAH Conferences and Events Coordinator will approve a GUR application properly made by an appropriate University affiliate unless there are reasonable grounds to believe that one or more of the following conditions are present:
 - a. The applicant has had their/its available privileges, such as the use of certain outdoor space or facilities, withdrawn, suspended, and/or restricted.
 - b. The proposed outdoor space is unavailable at the time requested because of conflicting events previously planned in or around that location.
 - c. The proposed date, time, or requested space is unreasonable given the nature of the Event and/or the impact it would have on UAH's resources and teaching and research mission.
 - d. The Event would present logistical complexities that cannot be accommodated based on when the GUR application was submitted, the size of the event, and when the Event is to occur.
 - e. The Event would not comply with the provisions of Paragraph E (*General Provisions Applying to All Use of Outdoor Space*).
 - f. The Event would reasonably constitute an immediate and actual danger to the health and safety of UAH students, faculty, or staff, or to the peace or security of UAH that available law enforcement officials could not control with reasonable effort.
 - g. The University affiliate who submits the application has on prior occasions damaged UAH property and has not paid in full for such damage.
 - h. The requested use of outdoor space is inconsistent with the terms of this policy.
5. If issued, a permit granting use of outdoor space shall (a) specify the boundaries of the area to be used; (b) the date for which the use is approved; (c) the time at which the reservation for the use expires, and (d) any special provision(s) concerning the use of the space. If denied, the Associate Director of Conference and Events will set forth in writing the grounds for

denial, including, if applicable, any measures that would cure any defects in the application.

6. Exceptions

- a. Intercollegiate Athletic Facilities. Athletic outdoor practice fields, training facilities, and tennis courts are owned and maintained by UAH for the primary use and benefit of the intercollegiate athletic programs of UAH, of allied non-University athletic activities consistent with such programs, and of official academic events of UAH. The use of these outdoor facilities shall be limited to these purposes unless otherwise authorized by the Athletic Department. Requests for use of all intercollegiate athletic facilities must be made directly to the Athletic Department's Senior Woman Administrator/Assistant Athletic Director. Distribution of materials pursuant to this policy is not allowed in intercollegiate athletic facilities or within the security perimeter of athletic events without the permission of the Athletic Department.
- b. Recreation Facilities. Setzer Field, Riggs Field, the Disc Golf Course, and the grass intramural fields at Southeast Campus Housing are intended primarily for student recreational use on an organized group and individual basis. Requests for recreational facilities shall be made online at <https://rec.uah.edu/Facility/ReservationRequest>.
- c. Charger Union breezeway, Charger Union lawn, Charger Union Outdoor Theater. Reservations for these locations shall be booked in accordance with the Charger Union Use of Space & Reservation Policy.

D. Appeal of Denial of GUR Application

1. A University affiliate whose request for the use of outdoor space is denied may appeal to the Vice President for Student Affairs.
 - a. Appeals should be filed in writing with the Office of the Vice President for Student Affairs within five (5) business days of the denial of the GUR application.
 - b. The Vice President for Student Affairs (or designee) shall convey the appeal decision in writing to the applicant and to the appropriate

administrative unit within five (5) business days after receiving the appeal.

2. The decision of the Vice President for Student Affairs on any appeal shall be final.

E. General Provisions Applying to All Use of Outdoor Space

The following requirements/limitations apply to **ALL** activities or Events requiring access to outdoor space:

1. Persons may not block or otherwise interfere with the free flow of vehicular, bicycle, or pedestrian traffic. The right of way on streets and sidewalks must be maintained.
2. Persons may not block or otherwise interfere with ingress and egress into and out of campus buildings.
3. Persons shall not obstruct, disrupt, interrupt, or attempt to force the cancellation of any event or activity sponsored by UAH or by any individual/group authorized to use outdoor space.
4. Where an invited speaker is the object of protest, persons may demonstrate and/or distribute materials outside the facility where the speech is taking place, subject to the requirements of this policy, which may include registration or notice. Persons who wish to attend an Event must do so as members of the audience and must give the speaker a respectful hearing (e.g., do not interrupt, etc.). Failure to grant the speaker a respectful hearing may result in the offending person(s) being asked to leave or being removed. Signs, placards, or similar paraphernalia associated with a demonstration shall not be carried into any building on campus. This provision is focused on preventing material and substantial interferences. It does not prevent attendees from engaging in silent, nonobstructive protests (e.g., turning their backs on a speaker, etc.) or respectfully engaging a speaker in discussion or debate when the speaker provides that opportunity to the audience.
5. Persons shall not engage in physically abusive or threatening conduct toward any person or group.
6. Persons shall always comply with the directions of UAH public safety personnel, including the UAHPD.

7. Persons shall not prevent, obstruct, or interfere with regular academic, research, administrative, student activities, or other approved activities at UAH.
8. Use of public address systems and amplified sound, including electronic amplification, is only permitted pursuant to the terms of Paragraph G (Use of Sound Amplification) below.
9. The safety and well-being of members of the campus community collectively and individually, as well as the educational experience and other significant interests of UAH as outlined herein, must be protected at all times. UAH maintains the right to impose reasonable time, place, and manner restrictions for Events and activities occurring in outdoor space in a viewpoint-neutral manner to ensure that expressive activity is protected and that expression does not disrupt the ordinary activities of the institution. This includes, but is not limited to, modifying, disbanding or relocating an Event or activity that conflicts with previously scheduled events in or around that space or that reasonably creates a health or safety risk to persons or risk to property on campus.
10. UAH property must be protected at all times.
11. Persons on UAH's property may be required to provide identification and evidence of qualification to a UAH official upon request. Evidence of qualification means evidence that the person is a currently registered student, staff or faculty member at the institution, is a University affiliate, or has lawful activity to pursue at UAH.
12. Persons engaging in activities on UAH property are subject to and must comply with all applicable UAH policies and procedures.
13. Any person or group holding an Event on campus must remove all trash and other items associated with the Event (e.g., fencing, stages, tents, tarps, etc.) and return the grounds to pre-Event condition by 7:00 a.m. the following day. For events that are scheduled to end before 5 p.m., such removal must take place within three hours of the scheduled end of the event. UAH will assess the reasonable costs of returning the grounds to pre-Event condition (including damages, labor, repairs, replacement, etc.) and/or cleanup to those persons or organizations failing to comply with this requirement.
14. Candles, fireworks, pyrotechnics, bonfires, and other open flames are not permitted at any Event using outdoor space unless it is a UAH sponsored

Event that has been coordinated with UAHPD and local fire department officials.

15. Misuse/abuse of trees located on UAH property is prohibited. Examples of tree misuse/abuse include, but are not limited to, climbing, breaking limbs/branches, use of ropes, wire, slack-lines, zip-lines, nails, tape and signage, etc.
16. With the exception of service animals that are trained to do work or perform tasks for a person with a disability, the use of animals in conjunction with an Event is prohibited without prior written approval from the Division of Student Affairs. The Division of Student Affairs shall consult with the Office of Risk Management prior to granting permission.
17. No outdoor Event may last longer than eight (8) hours during a 24-hour period without prior written approval from the Division of Student Affairs. Likewise, overnight camping or the use of temporary shelters (e.g., tents) is not allowed without prior written approval from the Division of Student Affairs.

F. Activities of Expression

The primary function of a university is to discover and disseminate knowledge by means of research, teaching, discussion, and debate. To fulfill this function, free and open inquiry and expression of ideas is necessary within UAH by its University affiliates. At UAH, freedom of expression and assembly is vital to the pursuit of knowledge. Such freedom comes with a responsibility to welcome and promote this freedom for all, even in disagreement, opposition, or even offense.

UAH supports the right to free expression on campus by University affiliates, through rallies, speeches, petitions, vigils, and distribution of materials, among others, provided such an Event complies with this policy and does not disrupt normal University activities, infringe upon the rights of others, or otherwise infringe on UAH's significant interests as set forth herein. Compliance with this policy should prevent such disruption or infringement. Except as provided herein, persons who are not members of the UAH student body, faculty, or staff may only participate in these types of Events upon the invitation of a University affiliate who is actively participating in the Event.

The ideas of different members of a campus community will often and quite naturally conflict, but it is not the proper role of UAH to shield or attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although great value is placed on civility, and while all members of the campus community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used to justify closing off the otherwise lawful

discussion of ideas among members of the campus community, however offensive or disagreeable those ideas may be to some.

The freedom to debate and discuss the merits of competing ideas does not, of course, mean that individuals may say whatever they wish, wherever they wish. UAH may restrict expression or assembly that violates the law, falsely defames a specific individual, constitutes a genuine threat or harassment, unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise incompatible with the functioning of the institution. Likewise, UAH has a significant interest in protecting the educational experience of its students, in ensuring health, safety, and order on its campus, in regulating competing uses of its facilities and grounds, and in protecting the safety and wellbeing of those with the right to use its facilities and grounds to engage in protected speech, among other significant interests. As a result, UAH may reasonably regulate the time, place, and manner of expression in a viewpoint-neutral manner to ensure that these interests are protected and that expression does not disrupt the ordinary activities of the institution. These are exceptions to the general principle of freedom of expression, and it is vitally important that these exceptions never be used in a manner that is inconsistent with an institution's commitment to a free and open discussion of ideas among its campus community.

A multitude of venues and forums across campus are available for free expression if properly registered in advance of the Event. In addition to those opportunities for free expression through Event registration and reservation of campus space, Events providing for freedom of expression may also be promptly allowed in the following situations:

1. Special Guidelines for Spontaneous Activities of Expression
 - a. It is the intent of this policy to ensure that all activities of expression on campus occur without threat to the health, safety, or security of persons or facilities or UAH's other significant interests through proper planning and scheduling. Occasionally, events occur that demand immediate public response, and it is not the intent of this policy to limit the rights of a University affiliate to respond to such events. To be clear, the areas designated herein are not "free speech zones." These areas are designed to further promote activities of expression. As provided for under this policy, there are numerous spaces identified across campus where faculty, staff, and students have the opportunity to exercise free expression.
 - b. Spontaneous activities of expression, which are generally prompted by news or affairs coming into public knowledge less than forty-eight (48) hours prior to the spontaneous expression, may be held by

University affiliates in the following defined areas, without advance approval, provided that the activity does not interfere with any functions for which that space has been reserved in advance, disrupt UAH's teaching and research mission, or otherwise violate this policy.⁴

- i. The amphitheater, identified as area 1 on the Campus Map.
- ii. The grassy area north of Holmes Avenue, south of the Salmon library, and west of the internal sidewalk, identified as area 2 on the Campus Map.
- iii. The grassy, triangular area between Holmes Avenue and John Wright Drive, identified as area 3 on the Campus Map.
- iv. The grassy area north of Holmes Avenue and west of John Wright Drive, identified as area 4 on the Campus Map.
- v. The grassy and treed areas within the Executive Plaza portion of campus identified as areas 5, 6 and 7 on the Campus Map.
- vi. The grassy area north of the University Fitness Center between the University Fitness Center and Holmes Avenue, identified as area 8 on the Campus Map.
- vii. The greenway rectangle area, south of the Charger Union, identified as area 9 on the Campus Map.
- viii. The grassy areas south of the Materials Science Building and north of John Wright Drive, identified as areas 10 and 11 on the Campus Map.
- ix. The grassy area south of Von Braun Research Hall and north of John Wright Drive, identified as area 12 on the Campus Map.
- x. The grassy area west of the Engineering Building and Von Braun Research Hall, and east of John Wright Drive, identified as area 13 on the Campus Map.

⁴ See campus map, which also generally marks the noted areas.

- xi. The grassy area west of Von Braun Research Hall and east of John Wright Drive, identified as area 14 on the Campus Map.
 - xii. The grassy area south of Knowledge Drive between University Lake and John Wright Drive, identified as area 15 on the Campus Map.
 - xiii. The grassy areas south of Technology Drive and east of Sparkman Drive, identified as areas 16 and 17 on the Campus Map.
 - xiv. The grassy area south of Knowledge Drive between University Lake and Sparkman Drive, identified as area 18 on the Campus Map.
 - xv. The area north of Technology Drive between Sparkman Drive and University Lake, identified as area 19 on the Campus Map.
 - xvi. Perimeter sidewalks that border the UAH campus alongside Sparkman Drive and/or University Drive.
- c. For scheduling conflict, site preparation/clean-up, and security purposes, a notification should be sent to outdoorrequest@uah.edu promptly after the decision is made to hold the spontaneous activity of expression in any of the foregoing outdoor spaces.⁵ The notice must identify the following:
- i. Contact information for the event organizer (e.g. name, cellphone number, e-mail, etc.);
 - ii. Which of the foregoing areas will be utilized;

⁵ This notification may not be required in situations where the spontaneous activity must occur in one of the defined spaces with such immediacy that it is objectively impractical or unreasonable to provide any of the notification information referenced above in advance of the activity. On the rare occasions that this occurs, the individual or group organizing the event is expected to otherwise comply with this policy as well as any directives from law enforcement or other UAH representatives aimed at maintaining the safety and security of the activity, participants, and/or the campus community. Further, the organizing individual or group should provide the notification information as soon as reasonably practical once the activity is organized or underway.

- iii. The time the activity is expected to begin and end;
 - iv. A general description of the reason for the activity; and
 - v. An estimate on the number of individuals expected to be involved in the Event.
- d. Spontaneous activities of expression may occur in other areas of campus in addition to the areas listed above, but an expedited request for use of other outdoor space must be made at least twenty-four (24) hours in advance pursuant to Paragraph C (*Reservation Process for Use of Outdoor Space and Approval of GUR Applications*). If properly requested, other outdoor space may be made available provided that the activity does not interfere with any functions for which that space has been reserved in advance or otherwise violate this policy.⁶
- e. It is inappropriate for events that have been planned to circumvent this policy by claiming to be spontaneous. In deciding whether an activity of expression is spontaneous or planned, UAH may consider any relevant evidence. If it is determined an effort was made to circumvent established policies, the individual(s)/group(s) involved may be subject to disciplinary action.
2. Special Guidelines for Material Distribution (e.g., distribution of leaflets, pamphlets, written materials, etc.)
- a. University affiliates may distribute directly to other members of the campus community, without advance approval, non-commercial announcements, statements, or materials in any outdoor area of the campus, the use of which is not otherwise restricted or scheduled. In an effort to avoid space scheduling conflicts, assist with site preparation/clean-up, and promote the safety/security of all those involved with the distribution activity, UAH requests that a University affiliate organizing the distribution provide UAH with notice at least twenty-four (24) hours before the planned distribution. As stated above, UAH does not require advance approval, and it does not take the content or viewpoint of speech into account. Such notification

⁶ University affiliates may also elect to engage in expressive activity on the public property that is immediately off campus. Please review the campus map which provides a general understanding of the property lines for campus. Any individual or group engaging in expressive activity on public property is encouraged to review applicable Huntsville city ordinances before engaging in such activity.

should be sent to outdoorrequest@uah.edu and identify/include the following:

- i. Contact information for the event organizer (e.g. name, cellphone number, e-mail, etc.);
 - ii. The date and time of the planned distribution period;
 - iii. The proposed locale of the distribution;
 - iv. A copy of the materials that will be distributed at the event; and
 - v. The anticipated duration of the distribution period; and
 - vi. The anticipated number of people expected to take part in the distribution of materials (not to exceed 10).⁷
- b. Persons distributing such materials are expected to refrain from littering and to encourage the same from others. “Distribution” is defined as and limited to individuals handing materials to other individuals who may accept them or refrain from receiving them. An individual’s right to privacy must be respected. Thus, no person may attempt to threaten, intimidate, or badger another individual into viewing or accepting a copy of any material. Further, no person may persist in requesting or demanding the attention of another individual who has attempted to walk away or has clearly expressed no interest in the material. For purposes of this section, leaving materials unattended on a surface to be picked up is considered littering, not distribution.
- c. Materials may not be distributed door to door in residence halls or academic buildings. Further, materials may not be affixed to the outside of UAH buildings/structures or placed on motor vehicles. Additionally, equipment, such as tables, tents, and chairs, may not be used as part of any distribution activity under this section.

G. Use of Sound Amplification

⁷ This participant restriction (Item 6) does not apply to material distribution occurring as part of spontaneous events held pursuant to Section G.1.

The use of sound amplification (e.g., electronic amplification, public address systems, etc.) may be available upon written request to outdoorrequest@uah.edu and will be considered on a case-by-case basis. If approved, the use of sound amplification in conjunction with an Event must never disrupt the normal functions of UAH or unreasonably disturb the surrounding community. Sound amplification will generally be permitted upon request if the speaker/sound source volume is expected to be reasonably set and localized (i.e., cannot be heard beyond the immediate vicinity of the speaker/sound source). Different locations, such as those adjacent to academic/administrative buildings or residence halls, as well as the timing of the Event may dictate the reasonableness of the volume and speaker/sound source placement. The use of louder sound amplification may be permitted upon request depending on the specifics of the proposed Event (e.g., timing, location, event size, etc.). UAH representatives responsible for managing UAH space (or their designees), which includes UAHPD, maintain full discretion to require that the volume be lowered or muted at any time during the Event if it has the potential to interfere with the academic mission or operation of UAH.

H. Posting Materials, Chalking, & Solicitation

Solicitations, advertisements, promotions, chalking, displays, yard signs or posting materials on UAH's campus by a University affiliate are permissible as provided herein. All other solicitations, promotions, advertisements, chalking, sales, displays, yard signs or postings on campus are prohibited.

1. Posting Printed Materials (e.g., advertisements, solicitations, information, etc.)
 - a. Printed materials may be reasonably posted on designated bulletin boards in accordance with these guidelines. Posting of printed materials in any other location inside campus buildings is prohibited.
 - b. Posted materials must not be obscene, illegal, libelous, or directed to and likely to have the effect of inciting or producing imminent lawless action.
 - c. Advertisers are responsible for the removal and proper disposal of all advertising materials within twenty-four (24) hours after the publicized event has occurred or the time limits or conditions of the advertisement have expired.
 - d. Signs placed in the ground with a stake or similar device ("yard signs") may not exceed 18" x 24" in size. Yard signs shall not be placed in

flowering or non-flowering landscaping beds, tied to trees, or placed in the areas immediately around the Student Services Building. The total number of related yard signs allowed on campus per event may not exceed twenty (20). Yard signs may be reasonably displayed seventy-two (72) hours before an event and must be removed within twenty-four (24) hours of the event. Signs must be dated. Exceptions to these yard sign limitations may be available with prior written approval from the Division of Student Affairs. Before placing a yard sign on campus, University affiliates should complete the temporary signage paperwork available on the [UAH website](#).

- e. Printed materials may not be affixed to the outside of UAH buildings or structures, both permanent and temporary, including fences and barricades.
- f. Placement of printed materials on motor vehicles owned by UAH or third-parties is prohibited.
- g. Permission for display of printed materials or commercial advertisements in or around all UAH facilities must be approved by the appropriate building director, department, or Dean of the college or school responsible for the building. Permission decisions will be made on a viewpoint neutral basis.
- h. Posted materials that do not comply with this policy may be removed.

2. Chalking

- a. Only University affiliates are allowed to chalk within the guidelines provided herein.
- b. Chalking is only permitted on natural gray concrete sidewalks that are naturally subject to being washed by the rain.
- c. No chalking can occur on sidewalks or building entrances that are covered by a shelter of any type.
- d. No chalking can be closer than twenty (20) feet to a building. A building structure includes all porches, stairs, and drive-thrus attached thereto.

- e. No chalking is permitted on a vertical surface, including the riser portion of stairs and walls.
- f. Chalking is not permitted on any type of brick, concrete paver, and/or engraved surfaces.
- g. The type of chalk used must be washable and not capable of withstanding several rains. Spray chalk is strictly prohibited. Sidewalk chalk is recommended.
- h. Removal of chalk in prohibited areas will be handled by the unit responsible for the given area. Organizations may be contacted by said unit and asked to remove the chalking at their own expense.
- i. Please note that all units have the right to remove chalking for aesthetic and event purposes or if not in compliance with this policy.
- j. If any expense is incurred in the removal of chalk because of a violation of the above policies the organization may be held responsible for all expenses and/or subject to disciplinary action.

I. Violations of these Policy Guidelines

UAH reserves the right to enforce these guidelines by all reasonably necessary means to ensure compliance. Events that are or become non-compliant with these guidelines may be cancelled and/or dispersed. Persons who violate these guidelines may be subject to disciplinary action according to the Code of Conduct, Student Handbook, and/or Faculty Handbook as well as potential law enforcement action. Further, costs to clean up or repair damage associated with an Event may be assessed, as applicable, by charging the costs to a student account, a University account, payroll deduction, and/or any and all other methods allowed by law. Persons or groups that repeatedly violate these guidelines may be prohibited from further use of outdoor space. A University affiliate who invites a non-University individual or group onto campus for an Event may be held responsible for that individual or group's compliance with this and other UAH policies. A non-University participant's failure to comply with this policy may result in appropriate action under state or federal law.

Review

Student Affairs will review this policy every five years or sooner as needed.

GENERAL TERMS AND CONDITIONS FOR USE OF OUTDOOR SPACE

Definitions:

- **Agreement:** The terms of these General Terms and Conditions for Use of Outdoor Space, the Policy for Use of Outdoor Areas of Campus, all terms of the applicable form under which You are seeking reservation for an Event (including Grounds Use Reservation application), any Permissive Use Agreement created for use of the space, and all applicable University policies and procedures incorporated therein and applicable thereto.
- **Event:** Any Event or activity requiring reservation pursuant to Sections C. and D. of the Policy for Use of Outdoor Areas of Campus.
- **Premises:** The specific location on UAH property at which Your Event is authorized by UAH to take place.
- **You or Your:** The group, organization, entity, or person requesting permission to hold an Event. The signatory signing the reservation application or registration form represents and warrants that they have full authority to enter into all terms of the Agreement. If You are a group, organization, or other entity, the individual signatory further represents that no further approvals are necessary to authorize their signature. The individual signing will assume personal liability for the Agreement should the group, organization or entity contest such authority or should the group, organization or entity fail to comply with all of the terms and conditions.
- **UAH or University:** The Board of Trustees of the University of Alabama, by and on behalf of The University of Alabama in Huntsville, a public corporation and constitutional instrumentality of the State of Alabama.
- **GUR application:** Collectively, the Grounds Use Reservation application and all other forms required as part of the Grounds Use Reservation application.

Agreement:

You agree to comply with the following general terms and conditions, in addition to all other terms of the Agreement, as a requirement for holding your Event on the Premises of UAH:

1. **Use of Premises.** UAH may grant and give its consent and permission for You to use and occupy the Premises, for the described Event, at the date and time specifically described in Your approved GUR application. UAH's consent and permission is given subject to and dependent upon You complying with the Agreement. You are limited to the number of persons allowed by UAH for the Event. You will take good care of the Premises, and return the Premises in as good a condition as when received. Your Event is restricted to the approved Premises. Any unauthorized use of other areas will constitute trespass and may be subject to prosecution; at a minimum, You will incur additional charges for cleanup and damages for any such unauthorized use.

2. **Charges.** The use of certain Premises may require You to pay a reasonable charge to occupy the space. Any such charge would be noted on UAH's Student Affairs webpage and/or in the reservation application for the applicable space. All such charges must be paid in full prior to the Event registration. In addition, You are also responsible for all reasonable costs of supplies and materials for your Event, required personnel, extra charges related to setup or cleanup as described below, costs of insurance, costs of food, beverages, and catering, and any and all reasonable costs of damage to UAH property.

3. **Supplies and Materials.** All supplies and materials required to conduct the Event must be furnished by You at Your cost, except as specifically agreed otherwise in writing by UAH. UAH may impose additional charges for video or PA setup, or other technical services. Requests for those services must be made in advance.

4. **Personnel & Security.** You must furnish all personnel necessary to conduct and supervise the Event. UAH may, in its sole discretion, elect to supplement Your personnel with University of Alabama in Huntsville Police Department ("UAHPD") personnel in the interest of protecting the health and safety of the campus community and/or UAH property. UAHPD will determine the need for additional security and emergency medical care services depending on the size and type and event. Additionally, UAHPD may charge You an hourly rate, with a minimum of four hours, for the use of UAHPD officers for an Event expected to have 100 or more people in attendance or an Event that requires traffic control and street shutdowns, such as a 5k race or walk-a-thon; however, there will be no charge for security provided by UAHPD for free speech activity. You must ensure that only those individuals who are Your guests are allowed to enter the Premises. All children shall be accompanied by a parent or an adequate number of supervising and responsible adults, and, if applicable, You agree to comply with UAH's policies related to child and youth protection, including the Child Protection Policy. You are responsible for all acts and omissions of personnel obtained by You.

5. **Set Up, Clean-Up, and Care of Outdoor Space.** Unless otherwise agreed in writing by UAH, You are responsible for all set-up, take-down, and clean-up services in connection with the Event, including all decorations, food, beverages, merchandise, and collection of trash and wares. You agree to pay for all repairs (including any repairs to underground utilities or irrigation systems) and cleaning that result from the neglect, use or abuse of the Premises by You or any of Your employees, invitees, guests, or others. You are not allowed to toss or distribute seeds, rice, or confetti at an Event. You may not alter trees, use trees as sign posts, paint roadways, or remove existing University signs.

6. **Insurance.** Unless granted a specific exception by UAH as noted below, You must provide to UAH a certificate of liability insurance from a carrier acceptable to UAH with an A.M. Best rating of A - VII or higher, as evidence of general liability insurance coverage for the use of the Premises and the Event. This insurance shall be primary coverage, and will contain no terms allowing the insurer to be subrogated to the rights of any injured or damaged person or entity. The general liability insurance policy must name The Board of Trustees of the University of Alabama, its agents, officers, and employees, as additional insureds. General liability insurance shall be in the

following minimum amounts: \$1,000,000 per occurrence and \$2,000,000 annual aggregate. All events where minors will participate must obtain sexual assault/molestation insurance in compliance with the Child Protection Policy. Depending on factors such as the location of the Event, size of the Event, duration and timing of the Event, presence of alcohol at the Event, format of the Event, and the presence of other reasonable and objectively acknowledgeable risks involved with Your proposed Event, UAH may require an additional amount of or type of coverage, or may accept a reduced amount of coverage or no insurance. Any limitation or exemption of coverage, however, must be obtained in writing from UAH's Office of Risk Management.

7. Catering. The use of UAH Dining Services for catering of outdoor Events is not required; however, it is encouraged. You (and any approved outside caterer) shall comply with the all licensure and insurance requirements. Food, beverages, and catering shall not be allowed unless approved by UAH in a separate writing made a part hereof. To the extent allowed, You shall be responsible for paying all costs of food, beverages, and catering, which includes, but is not limited to, costs associated with preparation and clean-up. All preparation and service of food and drinks that are not prepackaged must be by a caterer who is licensed and has adequate food liability insurance. UAH reserves the right to request to review a copy of a caterer's liability insurance. You shall be responsible for making all necessary arrangements with the caterer, and paying all expenses and charges of the caterer. Neither You nor any caterer has a right to operate concessions for food, beverages, or officially licensed University merchandise; all such rights are reserved to UAH, unless prior approval is received in accordance with UAH policy. In addition to the other indemnification obligations set forth in this Agreement, You will indemnify UAH for any claims, losses, or demands made by a caterer against UAH arising from or relating to the Event.

8. Alcohol and Tobacco. Alcohol beverage consumption must comply with all University policies and rules regarding alcohol consumption, including, but not limited to, the Alcoholic Beverage Usage at University Events Policy. UAH is a smoke, tobacco, and vape free campus and subject to the Smoke-and Tobacco-Free Policy.

9. Parking Regulations. You and your employees, invitees, and guests must become familiar with, and comply with, all UAH parking regulations and rules. No dedicated or reserved parking spaces are available to You for the Event, unless UAH specifically agrees to the same in writing.

10. AS-IS/Condition of Premises. UAH makes no warranties or representations regarding the Premises, nor any representations or warranties that the Premises are well suited or fit for a particular purpose or Event. The Premises are provided in an **AS IS** condition. You must examine the Premises prior to the Event and You assume all risks of Your use of the Premises.

11. Laws, Rules, Regulations, Policies, and Procedures. You must comply with all laws, orders, ordinances, rules, fire codes, and regulations of federal, state, city, county, and municipal authorities, including, without limitation, rules and policies of UAH and its officials, and applicable laws regarding equal access and nondiscrimination, such as the Americans with Disabilities Act.

12. No Assignment and Subletting. You may not assign or sublet the Premises, or any part thereof, without the express written consent of UAH. The permission granted under the Agreement is personal to You.

13. Indemnification. You hereby agree to indemnify, hold harmless and defend UAH, its affiliated entities, UAH vendors and contractors rendering services to You in conjunction with the Event or your use of the Premises, and each of their respective trustees, directors, officers, employees, and agents, from and against any and all loss, damage or liability resulting from demands, claims, suits, or actions of any character presented or brought for any injuries, including death, to persons or for damages to property caused by or arising out of any negligent (including strict liability), wanton, reckless, or intentional act or omission of You, any of Your contractors, invitees, guests, employees, or agents, or which otherwise arises out of, relates to, or is attributable to, Your use of the Premises and conduct of the Event. This indemnity shall apply whether the same is caused by or arises out of the joint, concurrent, or contributory negligence of any person or entity. The foregoing indemnity shall include, but not be limited to, court costs, attorney's fees, costs of investigation, costs of defense, settlements, and judgments associated with such demands, claims, suits or actions.

14. Additional Liability. You agree to return the Premises to pre-Event conditions. In the event you fail to return the Premises to pre-Event conditions, you agree to be liable for the reasonable costs of clean-up, damages, repairs, and/or replacement of any damage to the Premises or UAH property arising out of Your or Your contractors', invitees', guests', employees', agents' or others' use of the Premises or conduct of the Event. This shall apply to any negligent (including strict liability), wanton or intentional act or omission of You or any of Your contractors, invitees, guests, employees, agents, or others. UAH may calculate the reasonable cost of repairing said damage, including labor charges that may include overtime. You also agree to reimburse UAH for any loss of revenues and/or expenses incurred when damage to the Premises results in the cancellation, reduced attendance, or relocation of future, income generating activities.

For University organizations, departments, and registered student organizations, or for Events sponsored by same, the damages assessed by UAH will be deducted from the University Account number that the University organization or department provides on its GUR application.

Individual faculty and staff members holding or sponsoring Events agree to be personally responsible for damages arising therefrom. In the event of damages, UAH will provide the faculty or staff member with an invoice itemizing the amounts owed. If the faculty or staff member fails to pay the invoiced amount within seven (7) days of it being issued, the invoiced amount will be satisfied by payroll deduction (including a lump sum deduction) and by any other method allowed by law.

Individual students holding Events agree to be personally responsible for damages arising therefrom. In the event of damages, UAH will provide the student with an invoice itemizing the amounts owed. If the student fails to pay the invoiced amount within seven (7) calendar days of it being issued, the invoiced amount will be charged to the student's account (and, thereby, subject to the terms and conditions regarding unpaid student accounts). UAH may also pursue collection of these amounts from a student by any other method allowed by law.

15. Governing Law. Your use of the Premises, this Agreement, and any disputes, shall be governed by and construed and enforced in accordance with the laws of the State of Alabama, without regard to conflicts of law principles. Any claims against UAH shall be submitted to the Alabama State Board of Adjustment. UAH does not waive and specifically reserves all immunities to which it is entitled by the laws of the State of Alabama and the United States, including Article I, section 14 of the Constitution of Alabama, and the Eleventh Amendment to the United States Constitution. Exclusive jurisdiction and venue of any claims not barred by immunity, nor required to be filed before the Alabama State Board of Adjustment, shall be in the Circuit Court of Madison County, Alabama, or the United States District Court for the Northern District of Alabama, Northeastern Division.

16. Termination by UAH. UAH shall have the right to withdraw and terminate the permission hereby given at any time without prior notice if You breach or fail to comply with or abide by any of the terms and conditions in the Agreement. Upon any such termination, You agree to promptly vacate the Premises and cease conduct of the Event. You further acknowledge that the primary function for which the Premises exist is the conduct of events and functions of UAH. Therefore, UAH reserves the right, at any time prior to the Event, to cancel this Agreement and refund all unused charges paid by You if the Event will interfere with official UAH activities or in the event of extenuating circumstances that would render holding of the Event impracticable. You further agree that in the event of any termination by UAH, UAH shall have no liability for any direct or consequential damages or loss that You may suffer or incur as a consequence of such termination.

17. Termination by You. You may cancel the Event, with a full refund of any unused UAH charges, only by sending written notice received by UAH at least thirty (30) days prior to the scheduled Event.

18. Use for Official UAH Function. In the event that a UAH department or division is the user pursuant to this Agreement, then the provisions as to Indemnity (§ 13) shall not apply. The provision as to Insurance (§ 6) may not apply depending upon whether the Event is covered under relevant UAH insurance. If required, payment shall be made by an interdepartmental budget transfer.

19. Copyright Fees, Royalties, and Licenses. You are responsible for securing the consent in writing of the owner of any copyrighted material used by You, and hereby agree to indemnify UAH for any fees, royalties or licenses in connection therewith.

20. Force Majeure. If the Premises are rendered unusable for the Event by reason of Force Majeure, UAH and You are released from their obligations hereunder. UAH will not be responsible for any damages to You, but You will be entitled to a refund of charges paid and not used. Force majeure shall include fire, earthquake, hurricane, flood, severe weather, acts of God, outbreak of communicable disease, or war.

21. No Disruption of UAH Functions. The Premises may not be used in any way, and the Event may not be conducted in any manner, that materially disrupts UAH's teaching, research, administrative, service, or other activities or otherwise negatively impacts UAH's established significant interests. Reasonable modifications or restrictions may be imposed for health and safety concerns, or other conflicts with UAH's educational mission, goals, interests, policies, and procedures.

22. No Animals. With the exception of service animals that are trained to do work or perform tasks for a person with a disability, the use of animals in conjunction with an Event is prohibited without prior written approval from the Division of Student Affairs. The Division of Student Affairs shall consult with the Office of Risk Management prior to granting permission.

23. Code of Student Conduct. Students, student groups, and students sponsored by student groups requesting to hold an Event acknowledge that they are subject at all times to the Code of Student Conduct before, during, and after the Event.

24. Firearms, fireworks, and bonfires. Firearms, fireworks, and bonfires are not permitted on UAH's campus unless approved in writing by the Division of Student Affairs.

25. Digging on campus. All activities requiring any type of digging or driving posts, tent stakes, or signs into the ground require a UAH Dig Permit, which must be obtained and approved in writing through Facilities and Operations.

26. Rentals. Use of items rented for an event, such as port-a-potties, temporary dumpsters, or inflatables must be approved in writing by the Division of Student Affairs. These items must be removed the first business day after the Event.



IN THE CIRCUIT COURT OF MADISON COUNTY
 STATE OF ALABAMA

YOUNG AMERICANS FOR LIBERTY AT UNIVERSITY
 OF ALABAMA IN HUNTSVILLE and JOSHUA GREER,

Plaintiffs,

v.

FINIS ST. JOHN IV, Chancellor of the University of
 Alabama System, in his official capacity, et al.,

Defendants.

Civil Case No.:
 47-CV-2021-900878.80

DECLARATION OF JOSHUA J. GREER

I, Joshua J. Greer, declare:

1. I graduated from the University of Alabama in Huntsville in May 2022.
2. I remain a student at the University pursuing a graduate certificate in federal contracting and procurement management.
3. I am enrolled in a class at the University for the Spring 2023 semester.
4. I plan to take classes at the University beyond the Spring 2023 semester.
5. While taking these classes, I have been and will continue to be a member of Young Americans for Liberty at the University of Alabama in Huntsville (YAL).
6. During the 2021–22 academic year, I worked hard toward building up the YAL chapter.
7. Despite not being able to speak and recruit freely in the outdoor areas of campus because of the University’s policy at issue in this litigation, I recruited some members for YAL.
8. In November 2021, the University recognized YAL as a registered student organization.
9. In May 2022, YAL renewed its registered student organization status for the 2022–23 academic year.
10. YAL continues to be a registered student organization.

11. In the Spring 2023 semester, YAL intends to renew its registered student organization status for the 2023–24 academic year.

12. Both YAL and I continue to desire to speak about a number of issues on campus, as described at Verified Complaint ¶¶ 21–22, 99–102, 104–05.

13. But the University’s Use of Outdoor Areas of Campus Policy requires YAL and I to seek advance permission to speak and limits certain speech to speech zones, as described at Verified Complaint ¶¶ 62–98, 106.

14. The University amended its Use of Outdoor Areas of Campus Policy on September 30, 2021. A true, accurate, and complete copy of the amended policy is Exhibit 7A.

15. The amended policy made only minor changes.

16. The amended policy did not change any of the provisions identified in the Verified Complaint and challenged as unlawful. Those provisions remain in effect.

17. If YAL and I do not abide by the provisions of the Use of Outdoor Areas of Campus Policy, the University’s Student Code of Conduct threatens discipline for us, as described at Verified Complaint ¶¶ 107–11.

18. Given the threat of discipline, YAL and I have refrained from engaging in our desired expressive activity, as described at Verified Complaint ¶¶ 112–14.

19. Given the threat of discipline, YAL and I continue to refrain from engaging in our desired expressive activity, which has prevented us from recruiting as effectively for YAL, resulting in lower attendance and less visibility for the chapter.

I, Joshua J. Greer, a citizen of the United States and a resident of the State of Alabama, hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 8th day of December 2022, at Huntsville, Alabama.



Joshua J. Greer