

Robert W. Payne
Associate General Counsel

Memorandum

To: Senate Executive Committee
From: Robert Payne
Date: July 22, 2011
Re: Rule R1-007A

Attached, please find proposed Rule R1-007A, which relates to demonstration and picketing activities at health care facilities, as a specialized application of the general principles of the University Speech Policy (Policy 1-007). This proposed rule was implemented by President Young as an interim rule last April. I have attached the interim rule which currently resides in the Regulations Library as well as the cover memo from President Young which describes the circumstances that necessitated the interim rule.

The attached permanent Rule is in nearly identical form to the interim rule. The only changes that have been made are renumbering of the rule from an interim rule to a permanent rule and eliminating a description of the interim status.

The process for Rules adopted in an interim status is described in Policy 1-001. In essence it provides that (i) "in extraordinary circumstances calling for urgent action" the President may implement an interim Rule without Senate consultation, (ii) at the next opportunity such an interim Rule must be brought to the Executive Committee for processing, and (iii) the Executive Committee shall then determine whether the interim Rule is to be made permanent with, or without approval by the full Senate. More specifically, Policy 1-001(III)(A)(4)(C) allows the Executive Committee to put a Rule into effect without full Senate consideration and approval if the Rule does not "directly or significantly affect... the University's academic missions." The attached Rule does not change basic University policy regarding free speech (as reflected in Policy 1-007) but simply clarifies the time, place and manner restrictions that apply to demonstrations at and around University health care facilities. As such, it is our suggestion that this Rule does not directly or significantly affect the University's academic mission. If the Executive Committee agrees with this analysis, we ask that you make the determination that the Rule can be made permanent without Senate approval. Alternatively, if you conclude that the Rule does indeed directly and significantly affect the University's academic mission, please forward the rule to the Senate for its consideration and approval, per Policy 1-001.

Rule R1-007A: Demonstrations and Picketing at Health Care Facilities (Revision 0) [Effective date: upon approval]

I. Purpose

The purpose of this Rule is to facilitate the free exchange of ideas while creating a health care environment that is comforting and safe for patients and protects patients and their relatives from unwanted encounters, confrontations and unwarranted invasions of personal privacy.

II. Definitions

- A. **Demonstrations and Picketing:** This term as used in the ~~interim~~ Rule shall include all free speech activities including: demonstrating; picketing; bannering; passing out handbills, leaflets, petitions or other written materials; and canvassing, counseling and other personal free speech interactions.
- B. **Health Care Facility:** This term shall mean any University of Utah building regularly visited by patients for the purpose of obtaining medical advice and services.

III. Rule

- A. **Demonstration and Picketing Permitted:** Consistent with the University's general Speech Policy 1-007, groups and individuals wishing to express their ideas in the vicinity of a University Health Care Facility are free to do so in any area and in any manner that is consistent with Policy 1-007 and this Rule. The University of Utah will assist groups and individuals in locating appropriate areas for demonstrating and picketing that provide a clear and unobstructed view of the demonstration activities by employees, patients and visitors to the Health Care Facility while also meeting the reasonable and appropriate time, place and manner restrictions in Policy 1-007 and this Rule.
- B. **Additional Time, Place and Manner Restrictions at Health Care Facilities:** In addition to the general time, place and manner restrictions contained in Policy 1-007, any group or person desiring to demonstrate at a Health Care Facility shall abide by the following restrictions:
 - 1. **No Demonstrating or Picketing Inside Health Care Facilities.** No groups or individual may engage in any demonstrating or picketing activities inside of a Health Care Facility.
 - 2. **Buffer Zone:** No group or individual may engage in any demonstration or picketing activities within one hundred (100) feet of any entrance door to a Health Care Facility.
 - 3. **Patient Walkways to Health Care Facilities:** Beyond the

Buffer Zone, no group or individual may engage in any demonstrating or picketing activities within eight (8) feet of a sidewalk or other walkway that provides primary access between a patient parking area and a Health Care Facility. No group or individual may engage in any demonstrating or picketing activities within eight (8) feet of a sidewalk or other walkway that provides primary access between the Health Care Facility and a public or University bus stop providing public transportation access to the Health Care Facility.

4. Roads, Driveways & Sidewalks. No group or individual may engage in any demonstrating or picketing activities that block or impede access along any other roads, driveways or sidewalks accessing the Health Care Facility.
5. Landscaping. No group or individual may engage in any demonstrating or picketing activities within landscaping areas because of possible damage to plants, flowers and other foliage. Demonstrating and picketing activities are allowed on grass areas.

IV. References

A. Policy 1-007: University Speech Policy


- V. History. This Rule was first put into effect by the University's President as Interim Rule R1-007A on April 20, 2011. It was subsequently adopted as a regular Rule, Revision 0, approved by the Senate Executive Committee acting on behalf of the Academic Senate on August 15, 2011, effective on that date.

Background information for Revision 0. *{link to history file}*

MEMORANDUM

DATE: April 20, 2011

TO: Jeff West, IPC Committee Chair
Senate Executive Committee

FROM: Michael K. Young 

SUBJECT: Regulations Library, Interim Rule R-1007A

Attached, please find Interim Rule R1-007A. I am requesting the IPC to put this Interim Rule into effect immediately pursuant to the authority of Policy 1-001(III)(4)(d). Extraordinary circumstances require that this rule be implemented on an interim basis prior to presentation to the Executive Committee, and/or without the prior approval by or consultation with the Senate as explained below/

A group from the Carpenters Union is currently engaged in protesting activities at the Huntsman Cancer Institute (HCI). These activities are occurring directly in front of HCI where our patients are arriving for, and departing from, their care. The close proximity of the protesters is inhibiting our regular activities with patients and is very upsetting to the patients. The Carpenters Union has refused the University's requests to move their protest out of the immediate vicinity.

Although I believe that our current Policy 1-007 provides adequate guidance and prohibits the protesting activities in their current location, I think it will be helpful to have the attached rule to clarify the University's expectations in the health-care setting. Because of this urgent problem, I believe it is necessary to promulgate this rule immediately as an interim rule. However, I have also requested the Office of General Counsel to present this interim rule to the Executive Committee of the Senate and to the Senate for promulgation as a permanent rule through the normal rule-making process.

MKY/lm
Attachment

Interim University Rule R1-007A: Demonstrations and Picketing at Health Care Facilities

I. Purpose

The purpose of this rule is to facilitate the free exchange of ideas while creating a health care environment that is comforting and safe for patients and protects patients and their relatives from unwanted encounters, confrontations and unwarranted invasions of personal privacy.

II. Definitions

A. **Demonstrations and Picketing:** This term as used in the interim rule shall include all free speech activities including: demonstrating; picketing; bannering; passing out handbills, leaflets, petitions or other written materials; and canvassing, counseling and other personal free speech interactions.

B. **Health Care Facility:** This term shall mean any University of Utah building regularly visited by patients for the purpose of obtaining medical advice and services.

III. Rule

A. **Demonstration and Picketing Permitted:** Consistent with the University's general Speech Policy 1-007, groups and individuals wishing to express their ideas in the vicinity of a University Health Care Facility are free to do so in any area and in any manner that is consistent with Policy 1-007 and this Rule. The University of Utah will assist groups and individuals in locating appropriate areas for demonstrating and picketing that provide a clear and unobstructed view of the demonstration activities by employees, patients and visitors to the Health Care Facility while also meeting the reasonable and appropriate time, place and manner restrictions in Policy 1-007 and this Rule.

B. **Additional Time, Place and Manner Restrictions at Health Care Facilities:** In addition to the general time, place and manner restrictions contained in Policy 1-007, any group or person desiring to demonstrate at a Health Care Facility shall abide by the following restrictions:

1. **No Demonstrating or Picketing Inside Health Care Facilities.** No groups or individual may engage in any demonstrating or picketing activities inside of a Health Care Facility.
2. **Buffer Zone:** No group or individual may engage in any demonstration or picketing activities within one hundred (100) feet of any entrance door to a Health Care Facility.
3. **Patient Walkways to Health Care Facilities:** Beyond the Buffer Zone, no group or individual may engage in any demonstrating or picketing activities within eight (8) feet of a sidewalk or other walkway that provides primary access between a patient parking area and a Health Care Facility. No group or individual

may engage in any demonstrating or picketing activities within eight (8) feet of a sidewalk or other walkway that provides primary access between the Health Care Facility and a public or University bus stop providing public transportation access to the Health Care Facility.

4. Roads, Driveways & Sidewalks. No group or individual may engage in any demonstrating or picketing activities that block or impede access along any other roads, driveways or sidewalks accessing the Health Care Facility.
5. Landscaping. No group or individual may engage in any demonstrating or picketing activities within landscaping areas because of possible damage to plants, flowers and other foliage. Demonstrating and picketing activities are allowed on grass areas.

IV. References

A. Policy 1-007: University Speech Policy

V. Contacts:

Policy Officer: Dean of Students or General Counsel (801) 581-7619

Policy Owner: Vice President Administrative Services (801) 581-6404

VI. History: This Interim Rule was put into effect on April 20, 2011