



Kutztown University Policy COT - 008

Policy on the Issuance of No Trespass Orders to Non-Affiliated Individuals

Purpose

This policy establishes the standards and processes that are to be applied when Kutztown University of Pennsylvania (the “University”) considers whether to issue a No Trespass Order to an individual who is not affiliated with the University.

Scope

This policy applies to individuals who are not affiliated with the University either as a student or an employee and addresses conduct of individuals on all property owned or controlled by the University.

This policy will not affect the ability of Non-Affiliated Individuals, as defined herein, to exercise their constitutionally protected rights to free expression through presentation, demonstration, or the distribution of non-commercial literature pursuant to Council of Trustees Policy COT-002, *Non-Sponsored Demonstrations, Presentations, and Non-Commercial Literature Distribution*.

Objective

The objective of this policy is to ensure a productive, safe and secure environment for all members of the University community. The University retains the right to restrict access to any Non-Affiliated Individual(s) who violates University policy, local ordinance, or public law; presents a threat or danger to University property, self, or any member of the University community; or engages in Disorderly Conduct, as described in the Kutztown University Student Code of Conduct or defined by applicable state and local statutes and/or ordinances.

Definitions

Appeal: An internal University process that affords an individual the opportunity to have a University official independently review the factual basis for the issuance of a No Trespass Order.

No Trespass Order: A written order from any commissioned member of the University's Department of Public Safety which excludes a Non-Affiliated Individual from all, or any portion of, University-owned or -controlled property, for a specified term, based on a violation of University policy, local ordinance, or public law.

Non-Affiliated Individuals: An individual who is neither an employee nor a student nor an Official University Volunteer subject to the Code of Conduct of the University, University Policies, or Employment Rules.

Invited Guest: A person, group, club, or other organization invited by a student, staff, or faculty member for University business or social purposes.

University Official: Any individual delegated authority from the President to issue warnings or No Trespass Orders under this policy.

Official University Volunteer: An individual issued a letter through the President's Office or Human Resources designating the individual as an Official University Volunteer.

Prohibited Conduct

The University understands that, as a public institution of higher education, parts of its campus are open to the general public. The University, however, endeavors to provide and maintain a productive, safe, and secure educational, working, and living environment for all members of the University community.

As a condition to access University property, members of the general public assume an obligation to conduct themselves in a manner compatible with University policies, local ordinances and public laws. A Non-Affiliated Individual may be issued a No Trespass Order excluding the individual from University property if the individual engages in conduct that:

- (1) violates a local ordinance, a public law or a University policy;
- (2) threatens
 - a. a harm to any member of the University community or themselves or
 - b. damage to University property;
- (2) interferes with the educational, working, and living environment of the University, which includes Disorderly Conduct, as described in the Kutztown University Student Code of Conduct or defined by applicable state and local statutes and/or ordinances.

The following areas are not open to the Non-Affiliated Individuals, other than Invited Guests, without permission from an authorized University Official:

- (1) academic/research classrooms and laboratories;
- (2) University facilities restricted to use by faculty, staff, and students in connection with academic activities or residential living; and
- (3) University buildings used for student residential living.

Any Non-Affiliated Individual who is not authorized to be in any of the aforementioned areas may be issued a Warning, a No Trespass Order, or be subject to arrest for unlawful trespass. Restricted

areas of the University will be posted accordingly. Similarly, authorized University personnel may provide actual notice of a restriction through direct communication with an individual entering or remaining in an area or building not generally open to the public in lieu of such postings. While a great deal of campus remains open to the public, the University retains the right to restrict access to property owned or controlled by the University if a person engages in the conduct listed above.

Warning – Purpose and Authority to Issue

A warning may be issued to a Non-Affiliated Individual as a notice of a possible violation(s) of University policies, local ordinances, or public law. This warning may be issued by any commissioned member of the Police Department or Department of Public Safety and Police Services, Chief of Police (or designee) or University Official (or designee) and will note the possible consequences of any future violations.

A warning issued to a Non-Affiliated Individual must be issued based on sufficient facts establishing the violation along with any other pertinent information related to the violation. Warnings may be verbal or written. A copy of any written warning will be issued to the individual along with any other applicable documentation. Warnings that are issued to Non-Affiliated Individuals may be used as factual support in the event a No Trespass Order needs to be issued in the future based on a pattern of misconduct. Non-Affiliated Individuals may be expelled from University property for a period of no more than twenty-four hours without issuing a written No Trespass Order.

Warnings may be stand-alone temporary restrictions and are not a prerequisite to the issuance of a formal No Trespass Order.

No Trespass Order – Purpose and Authority to Issue

A No Trespass Order may be issued when a Non-Affiliated Individual violates this policy. No Trespass Orders may be issued by any commissioned member of the Police Department or Department of Public Safety and Police Services. No Trespass Orders may be issued for a specified area or facility on property owned or controlled by the University or all property owned or controlled by the University, depending on the circumstances. No Trespass Orders will be issued for a specified period of time.

Documentation and Communication

All warnings (oral or written) as well as any No Trespass Orders issued under this policy must be documented in writing. Such documentation must be preserved by the issuing department and communicated to both the Chief of Police and the Vice President for Equity, Compliance and Liaison for Legal Affairs and their respective designees. Additionally, any newly issued warnings or No Trespass Orders shall be communicated during any shift changes or transfers of on-call duties so that responsible parties are aware of any new developments.

The granting of temporary permission to an individual to return to campus for a specific reason must be communicated to both the Chief of Police and the Vice President for Equity, Compliance and

Liaison for Legal Affairs and their respective designees.

Appeal Process

A Non-Affiliated Individual who receives a No Trespass Order may appeal the decision to the Office of the Chief of Police. The University's appeal process is not applicable to any criminal charges, which must be resolved through the appropriate court of jurisdiction.

1. An appeal of the No Trespass Order must be filed in writing with the Office of the Chief of Police within 10 (ten) business days of the date of service of the No Trespass Order.

Written appeals may be hand-delivered, mailed, or emailed to:

Chief of Police
Kutztown University Police Services
P.O. Box 730
Kutztown, PA 19530-0730
publicsafety@kutztown.edu

2. Failure to file a timely written appeal with the Office of the Chief of Police will be considered a waiver of the Non-Affiliated Individual's right to an appeal.
3. Written appeals should include:
 - a. Appellant's contact information, including address, telephone number and email address
 - b. Date of issuance of the No Trespass Order
 - c. Reason for being on University property at the time of the issuance of the No Trespass Order
 - d. Future need to be on University property
 - e. Any other information Appellant wishes to be considered
4. Upon receipt of a timely written appeal, the Chief of Police will review all relevant information and documentation secured from Appellant and the Department of Public Safety.
5. The Chief of Police may delegate the authority to review an appeal to any other University Cabinet member if there is a conflict of interest.
6. The Chief of Police or an assigned designee may uphold, rescind or modify the No Trespass Order in a written decision that will be mailed to the address provided in the written appeal.
7. If a written appeal is filed, the restrictions set forth in the No Trespass Order shall remain in effect until the appeal process is completed. If the No Trespass Order is upheld and the Non-Affiliated Individual to whom the No Trespass Order was issued returns to property owned or controlled by the University or to a specific

location noted in the No Trespass Order, that individual will be subject to arrest under applicable public law.

Any appeals of the final decision of the University are subject to 42 Pa.C.S. §763 (Direct appeals from government agencies).

Authority

Act 188 of 1982, as amended, is the enabling legislation for the Pennsylvania State System of Higher Education (PASSHE) in the Commonwealth of Pennsylvania.

As defined in Act 188, **Section 20-2009-A(a)(4), Powers and Duties of Councils of Trustees**, and **Section 20-2010-A(5), Power and Duties of Institution Presidents**, entrust the power and duty, *“To review and approve the recommendations of the president pertaining to policies and procedures governing the use of institutional facilities and property;”* and, *“To establish policy and procedures governing the use of institutional facilities and property in accordance with guidelines established by the local council,”* respectively.

As defined in Act 188, **Section 20-2019-A(a), Campus Police Powers and Duties**, entrust the power and duty for Campus Police, among other actions detailed in this section, *“to enforce good order on the grounds and in the buildings of the institution; to protect the grounds and buildings of the institution; to **exclude** all disorderly persons from the grounds and buildings of the institution; and, to adopt means necessary for the performance of their duties.”*

- A. **Effective Date:** date
- B. **Approved By:**
Council of Trustees, date