**STATE OF INDIANA**
**Department of Administration**

Policy Statement
**Effective: 10.20.11**

# PUBLIC GATHERINGS/PROTESTS ON PROPERTY OWNED OR CONTROLLED BY THE STATE OF INDIANA

Prepared by:
Indiana Department of Administration Operations and General Counsel

## BACKGROUND

The State of Indiana recognizes the right of its citizens to gather upon property owned or controlled by the State and also recognizes the right of its citizens to voice their opinions about various issues.

The Indiana Constitution Article 1, Section 31 (2007) states:

> No law shall restrain any of the inhabitants of the State from assembling together in a peaceable manner, to consult for their common good; nor from instructing their representatives; nor from applying to the General Assembly for redress of grievances.

The standard for government restriction of speech in a public forum is as follows: the government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions are justified without reference to the content of the regulated speech, that the restrictions are narrowly tailored to serve a significant government interest, and that the restrictions leave open ample alternative channels for communications of the information. *Price v. State*, 622 N.E. 2d 954 (Ind. 1993).

Therefore, any constraint on the protestors must be a *content-neutral time, place or manner restriction.*

In *Madsen v. Women's Health Center*, 512 U.S. 753 (U.S. 1994), the United States Supreme Court compromised the rights of free speech by allowing some aspects of peaceful protest to be enjoined. The majority, in essence, found freedom of speech interests inferior to rights associated with clinic access, protecting the speech of protesters only when enjoining the speech was not necessary to further the state's interest.

Indiana Statute 4-20.5-6 places the burden of Property Management and security of "the state capitol building and the office buildings and other property owned or leased by the state for the use of an agency." Additionally, the Indiana Department of Administration Commissioner may regulate "the traffic of pedestrians on the street, roads, paths and

grounds of real property controlled by the state through the department in and around the state capitol, office buildings, parking garages, and adjoining state controlled property."

## POLICY

This policy is limited to activity on or about State property and does not encompass local ordinances.

The State of Indiana has a substantial interest in promoting the health, safety and welfare of its citizens. In so doing, the State may have occasion to restrict speech in a public forum to promote these government interests. The State has an interest and duty to promote the safety, health and welfare of those that use and access State property. Thus, there may be a valid restriction on the time and location of a protest but not on the speech itself.

In the restriction of speech in a public forum, there must be an alternative channel for communication of the speech. The State will not act as a censor by limiting speech based on that speech's content.

**APPROVAL**

Robert D. Wynkoop
Commissioner

Activities restricted, regulated or prohibited on the grounds of the State Capitol property and Government Center property include, but not limited to the following.

- Erecting or installing any structures, temporary or permanent, without written authorization from the Indiana Department of Administration (IDOA) is prohibited.
- Temporary use of storage containers, audio equipment, equipment and displays are permitted. Equipment, containers, audio equipment or other items shall be removed upon notification by Indiana State Police, ISP Capitol Police or the IDOA.
- Storage container may be subject to inspection by Indiana State Police or ISP Capitol Police to ensure the safety of the general public, employees and participants of the protest activity.
- Sleeping or camping on State Capitol property or Government Center property is prohibited.
- Flames and anything that can create flames are prohibited without prior authorization by the IDOA.
- Any equipment that produces or uses electricity is subject to inspection by a state engineer or Facilities Management staff.
- Loud, excessive, disruptive noise and/or the use of noise making devices may be restricted or required to cease by the Indiana State Police, ISP Capitol Police or IDOA.
- Signs on poles, sticks or other objects that could pose a danger or harm to others are prohibited.
- Affixing any signs, signage or banners to any structure, part of structure, statue, tree or any portion of state property may be prohibited without prior authorization by IDOA.