

1-1-2014

DOC 2014-05 Student Run-Business on Campus Policy

University of Dayton. Department of Management and Marketing

University of Dayton. School of Engineering

University of Dayton. Office of Legal Affairs

University of Dayton. Environmental Health and Safety/ Risk Management.

University of Dayton. Office of Community Standards and Civility

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Recommended Citation

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https://ecommons.udayton.edu/senate_docs/228

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PROPOSAL TO THE ACDEMIC SENATE

Title: **Student Run-Business on Campus Policy**

Submitted By: **Department of Management and Marketing, School of
Business Administration
School of Engineering
Office of Legal Affairs
Risk Management
Community Standards and Civility
Student Development
Housing and Residence Life
UDIT
Purchasing
Food Services
Flyer Enterprises**

Action: **Consultation**

Reference: **Art II. B. 3.e**

Rationale

A working group made up of representatives from units across campus, both academic and non-academic, propose a new policy to govern the regulation of student-run businesses on campus. The policy covers current students who wish to operate a business on University property. The policy is attached.



Student–run Businesses on Campus Policy

Effective Date: July 1, 2014

Approval: Month Day, Year;
[approving officer]

Maintenance of Policy: Department
of Management and Marketing

PURPOSE:

The University of Dayton is a comprehensive university dedicated to the education of the whole person through the connection of theory to practice. In 2005, The Marianist Education Working Group facilitated a campus-wide discussion about the purposes and substance of a Marianist education at UD. The Group's report, *Habits of Inquiry and Reflection: A Report on Education in the Catholic and Marianist Traditions at the University of Dayton*, identified seven student learning outcomes that eventually became the cornerstone of the Common Academic Program. One of these student learning outcomes is "Practical Wisdom," and is summarized as:

All undergraduates will develop and demonstrate practical wisdom in addressing real human problems and deep human needs, drawing upon advanced knowledge, values, **and skills in their chosen profession or major course of study**. Starting with a conception of human flourishing, students will be able to define and diagnose symptoms, relationships, and problems clearly and intelligently, construct and evaluate possible solutions, thoughtfully select and implement solutions, and **critically reflect on the process in light of actual consequences**. (emphasis added).

Many University of Dayton students engage in entrepreneurial activity, both for profit and non-profit, and for curricular as well as co-curricular purposes. This policy allows for entrepreneurial activity among students while still maintaining a reasonable risk profile to protect University assets. The policy seeks to allow an entrepreneurial spirit to grow on campus, seeks to minimize the University's legal and reputational risks while protecting the University's business interests, and seeks to help students grow their business acumen through practical wisdom.

SCOPE: Students.

REFERENCE DOCUMENTS:

1. University of Dayton Student Handbook
2. University of Dayton Student Organization Resource Guide
3. University of Dayton Policy on Use of Facilities
4. University of Dayton Distribution or Sale of Materials or by Employees Policy
5. Work Group Report on Student-Run Businesses on Campus, February 2014

POLICY HISTORY:

The prior policy appears as Paragraph 14 in the Student Handbook, "Student Run Business/Commercial Activity." This policy replaces the prior policy.

Student-Run Business on Campus Policy, (continued)

DEFINITIONS:

- (a) Student-run Business on campus (“SRB”): Any activity conducted by a UD student or group of UD students, both for-profit and non-profit, that exists (presently or in the future) to generate a margin in excess of costs through the creation of value. This policy does not apply to activities students undertake for current academic credit, Flyer Enterprises, or to activities wholly between members of a student organization organized under the Center for Student Involvement (Kennedy Union), which are governed under separate policies, including those found in the Student Organization Resource Guide.
- (b) Start-up Phase: An SRB that exists for the first 30 days after start of operations, or until achieving \$5000 in gross revenues.
- (c) Established Phase: An SRB that has been formally approved by the University after filing the Intent to Continue Student Business Form (Appendix B).
- (d) Designated Areas: Areas on campus where SRBs may sell their products or services, as defined and administered by Flyer Enterprises.

Student-Run Business on Campus Policy, (continued)

POLICY:

Student-run businesses on campus that file an Intent to Start Student Run Business Form at least 20 business days prior to start of operations can operate on campus, subject to the business type and other limitations set forth in the policy. Based on information in the Intent to Start Student Run Business Form, the University may invite the student organizers to provide more information or it may veto the business, in its sole discretion. An SRB that wishes to operate beyond 30 days or after achieving \$5000 in sales must file an Intent to Continue Student-Run Business Form, seek formal approval from Facilities, Legal, Management and Marketing, Food Services, Risk Management, Student Development, Public Safety, Finance, UDIT, and Purchasing, incorporate a legal entity, provide proof of minimum insurance, appoint a business mentor, and produce an annual report. The University may terminate a SRB at any time and for any reason.

Subject to the following restrictions, SRBs should be permitted to operate at the University of Dayton. Any costs incurred by businesses in complying with the policy will be paid by the business, or owners of the business. SRBs must maintain their own bank accounts and accounting records, and cannot use the University of Dayton's name, Tax ID number, tax-exempt status, or any other University of Dayton property in operating the SRB.

The policy addresses SRBs in two phases. In the Start-up Phase, SRBs that otherwise comply with the Policy, including the filing of a detailed information form in the prescribed time before starting operations, may commence business operations without seeking formal approval from the University (although the University maintains a right to veto the business before it starts operations). In the Established Phase, SRBs must continue to comply with the Policy, but are subject to additional restrictions including requirements to incorporate, purchase liability insurance, team with a mentor, and agree to audit and annual reporting requirements.

The following provisions apply to all SRBs, in both Start-up and Established phases. **Exception: All SRBs involving the sale, production, or manufacture of food or drink products are subject to the limitations imposed by both Start-up and Established phases, from the first day of operations. This means any SRB involving the sale, production, or manufacture of food or drink must seek formal approval prior to commencing operations.**

1. This policy applies to any activity conducted by a UD student or group of UD students, both for-profit and non-profit, that exists (presently or in the future) to generate a margin in excess of costs through the creation of value. The policy does not apply to student organizations organized under the Center for Student Involvement (Kennedy Union), which are governed under separate policies, including those found in the Student Organization Resource Guide.
2. It is the intent of the policy to foster and encourage student-run entrepreneurial startups involving a new business idea or improvement on existing business ideas.
3. Generally, no student on academic or disciplinary probation or suspension can participate in student-run businesses in any manner. If any student involved in an operating SRB is placed on probation or suspension, that student is generally not permitted to be involved with the SRB's on-campus operations.

Student-Run Business on Campus Policy, (continued)

POLICY:

4. This Policy is meant to benefit UD students. A majority of the owners of any student-run business must be registered full-time UD students in order to participate under this policy. If student owners of an SRB graduate and wish to appoint successive owners to operate the SRB, such successive owners must still meet the requirements of this rule.
5. All student-run businesses must operate in compliance with applicable laws at all times.
6. Student run businesses must not use any University-owned trademark, service mark, trade name, trade dress, service dress, or other University identifying characteristic, without the express written permission of Legal Affairs. See also *Student Code of Conduct, Misrepresentation*.
7. All student-run businesses must conform to guidelines to uphold Catholic and Marianist values. These guidelines include a prohibition on any business which requires a liquor license to operate, any business that involves gambling or betting even if legal, or any business that involves the promotion of alcohol. Businesses that promote or celebrate student culture centered around excessive drinking or high-risk drinking activities are also prohibited. Businesses that are involved with writing term papers or to facilitate violations of the academic honor code are prohibited. Other prohibited businesses include, but are not limited to, payday loan/check cashing, events or activities that feature violence or themes of violence, and pornography. SRBs must ensure their purchasing practices do not promote the use of sweatshops or unfair labor practices.
8. Businesses that require students to sell based on commissions are generally prohibited. Businesses that serve as franchisees or agents of other businesses are generally prohibited. Businesses based on affiliate marketing are generally prohibited. Businesses that are based on the sale of any financial product or service are generally prohibited. Businesses that are based on textbook buybacks are generally prohibited.
9. SRBs may only sell products on campus in designated areas and during designated times. Flyer Enterprises will be primarily responsible for creating use guidelines for such designated areas.
10. Businesses are not permitted to sell any products or services in the Student Neighborhood after 11 PM. Businesses that require a gathering of more than 20 students in the Student Neighborhood are generally prohibited.
11. Businesses are not permitted to accept credit card payments using UD's credit card processing facilities, or on UD's networks. Private credit card payments such as PayPal or Square are permitted.
12. Businesses are generally not permitted to compete with UD's Bookstore, Flyer Enterprises, or Dining Services.

Student-Run Business on Campus Policy, (continued)

POLICY:

13. Beyond a *de minimis* amount of personal property that can fit in one suitcase, students are not permitted to store inventory, equipment, signage or other business property in a campus residence. This prohibition does not apply to “dual use” equipment that a student might possess for academic purposes as well as running a business, such as a computer and printer.
14. Any inventory delivered to a SRB for business purposes may not be delivered to a University of Dayton-owned property.
15. Students must observe reasonable limits on using the University’s computing bandwidth. Reasonable use is defined as that amount of computing resources a student may use in conducting normal and ordinary academic matters, as defined by UDIT from time to time. Student-run businesses are not permitted to use email class lists to solicit business. Student-run businesses are not permitted to use University property to host websites. Students with access to University resources such as photocopiers and other office supplies are not permitted to use such resources in connection with their business. Student employees are not permitted to use their position as employees to promote or advance their businesses.
16. Students are not permitted to use any University property or service in operating an SRB.
17. Door to door sales and solicitations are governed by the Distribution or Sale of Materials or by Employees Policy outlined in the Policies and Procedures Handbook (http://www.udayton.edu/hr/resources/documents/handbooks/Pol_ProcHdbk1.pdf). Door to door sales and solicitations in residential areas is generally prohibited. All direct sales must take place in Designated Areas in compliance with policies then in place, including without limitation the Facility Use Policy. Flyer Enterprises shall possess primary responsibility for operating time, place, and manner of the Designated Areas.
18. If approved by the University, food businesses must acquire a food handlers permit and have their food production facilities inspected by the appropriate city agencies.
19. All SRBs must feature the following language prominently in all communications: *This student-run business is operated independently of the University of Dayton (UD). UD disclaims any responsibility or loss arising from any aspect of the operation of this business.*

Student-Run Business on Campus Policy, (continued)

POLICY:

The following provisions describe the **approval process** for students who wish to start a student-run business.

- A. Before any student-run business can commence operations (other than preliminary business planning), the business must file an “Intent to Start Student Business” Form (see Appendix). The Form must be filed no later than 20 business days before start of operations. The Form is filed with the Department of Management and Marketing, 720 Miriam Hall. The Department of Management and Marketing shall distribute copies of the Form to Legal, Student Development, and Risk Management. Formal approval from these offices is not necessary at this point, but any of these offices can veto the student business by providing its response in writing to the Department of Management and Marketing before the start of business operations.
- B. **The University reserves the right to veto, in its sole discretion, any business proposed in the Form.** The University may also invite (but is under no obligation to invite) the student organizers to provide more information or to an in-person interview to clarify the business operations. If the student-run business is not vetoed after filing the Intent to Start Student Business Form, the student-run business can commence operations as outlined in the form. The business may operate for 30 consecutive calendar days in this phase, or upon reaching \$5,000 in revenues, whichever is shorter. This period is the Start-up Phase. The Start-up Phase cannot be reset through an interruption in time, nor can it be reset by submitting a new Intent to Start Student Business Form for a business idea that is substantially similar to a previously submitted Form. Businesses in the Start-up Phase must comply with all provisions of this Policy.
- C. If a business wishes to continue operations beyond the Start-up Phase, it must file a Intent to Continue Student Run Business Form (Appendix B) with the Department of Management and Marketing and comply with the additional requirements below. The Intent to Continue Student Run Business Form must be filed no later than 5 calendar days of the expiration of the Start-up Phase. Operations beyond the Start-up Phase are called the Established Phase.
- D. All student-run businesses in the Established Phase must operate as an entity other than a sole proprietorship or general partnership. Operation through entities such as limited liability companies (LLC) is highly encouraged and limits liability for the student owners of the business, as well as reduces the potential for vicarious liability for the University. Out-of-state entities can operate in Ohio with the appropriate registrations with the Ohio Secretary of State.

Student-Run Business on Campus Policy, (continued)

POLICY:

- E. Proof of Liability insurance is generally not required in the Startup phase, but may be required pending review by Risk Management. Proof of Liability insurance is required in the Established Phase. Risk Management shall provide guidance for insurance requirements and acceptable proof.
- F. Businesses in the Established Phase must contact a UD Business Mentor and inform the UD Business Mentor of all key facets of the businesses' operations. The Crotty Center will maintain a list of business professionals who volunteer to act as UD Business Mentors to SRBs in the Established Phase. The UD Business Mentors will be provided a copy of this policy and will sign an opinion letter at the beginning of the Established Phase (within 15 business days of being introduced to the business), and annually thereafter, that to the best of their knowledge, the SRB is complying with the Policy.
- G. The Intent to Continue Student Run Business Form must be formally approved by Facilities, Legal, Management and Marketing, Food Services, Risk Management, Student Development, Public Safety, Finance & Administration, Purchasing, and UDIT. The approval must be granted within 15 business days of the filing of the Intent to Continue Student Run Business Form. The student-run business may continue operations while the approval process is pending, unless directed to stop operations by the Office of the Provost.
- H. During the Established Phase, student run businesses must generate an annual report outlining the company's operations and financial statements, as well as its challenges and risks. This report must be published by April 15 of every year, and an electronic copy shall be made available for the campus community to read.
- I. The University maintains the right to audit the operations of the student-run business, and the business consents to such an audit.
- J. The University may order the student-run business to cease operations on University properties at any time and for any reason.
- K. Violations of this policy will be sent to the Office of Community Standards and Civility for review. Appeals for violations are similarly handled by the Office of Community Standards and Civility.
- L. Determinations on whether to veto or disallow any SRB are final.

Student-Run Business on Campus Policy, (continued)

APPENDIX A: Intent to Start Student Run Business Form

Note: Information on this form may contain proprietary or confidential information to the business. This form shall not be made publicly available unless required by law.

INTENT TO START STUDENT-RUN BUSINESS

Name:	Name:
Campus Address:	Campus Address:
Email address:	Email address:
Cell phone number:	Cell phone number:
Major(s) and minor(s):	Major(s) and minor(s):
Year in School:	Year in School:

Name:	Name:
Campus Address:	Campus Address:
Email address:	Email address:
Cell phone number:	Cell phone number:
Major(s) and minor(s):	Major(s) and minor(s):
Year in School:	Year in School:

- 1) Name of proposed business:
- 2) Did you conduct a name search to ensure you can form an LLC in this name? What result?
- 3) Have you formed an LLC or other form of incorporated entity?
- 4) What experience does your management team have with 1) running a startup business; and 2) running a business of this type?
- 5) Who can represent your business to the University? The University is entitled to rely on the representations of this person exclusively.
- 6) Date to commence operations (must be at least 20 business days in the future from filing this form)
- 7) Date Start-up Phase ends (30 calendar days after start of operations):

Student-Run Business on Campus Policy, (continued)

Appendix A Continued:

- 8) Describe the nature of the business in as much detail as possible.
- 9) How do you plan on making money on this business?
- 10) Who are the key suppliers to your business?
- 11) Do you plan on hiring any individuals other than the founders of the business?
- 12) How do you plan on marketing to the UD Community (see Policy for marketing guidelines)?
- 13) Identify any permits or licenses required to run your business.
- 14) Identify any IT requirements or other UD-owned resource requirements
- 15) Identify where you plan to store your inventory
- 16) What forms of payments will you accept? If you plan on accepting credit card payments, what service processor will you use, and do you agree not to use UD networks in accepting credit cards?
- 17) How much money do you need to start your business, and where is this money coming from?
- 18) Have you performed a competitive analysis? What are the results?
- 19) Have you performed a risk analysis for your business? What are the results?

Acknowledgements by student entrepreneurs: By our signatures below, we hereby acknowledge and agree that we:

- have read the Policy in its entirety and agree to comply with it
- will use appropriate disclaimer language in product marketing
- will not act as agents of the University in any manner
- agree to hold harmless the University from any damages arising out of the operation of our business
- agree to file Intent to Continue Student Run Business Form after Start-up Phase

By: _____	By: _____	By: _____
Name: _____	Name: _____	Name: _____
Date: _____	Date: _____	Date: _____
By: _____	By: _____	By: _____

Student-Run Business on Campus Policy, (continued)

APPENDIX B: Intent to Continue Student-Run Business Form

- 1) Attach a copy of the Intent to Start Student-Run Business Form
- 2) Identify any material changes from the information contained in the Intent to Start Student-Run Business Form
- 3) Attach evidence that you have incorporated the business
- 4) Attach evidence that you have applied for an Employer Identification Number (EIN) with the IRS
- 5) Attach evidence of the liability insurance required under the Policy
- 6) List any external advisors (law firms, accounting firms, tax preparation services) that you have appointed, or are considering appointing

Acknowledgements by student entrepreneurs: By our signatures below, we hereby acknowledge and agree that we:

- have read the Policy in its entirety and agree to comply with it
- will use appropriate disclaimer language in product marketing
- will not act as agents of the University in any manner
- agree to hold harmless the University from any damages arising out of the operation of our business
- agree to the appointment of a UD Business Mentor to act as an advisor to our business, and to disclose all material facts necessary to the operation of our business in a timely manner to the UD Business Mentor
- agree that the University has the right to audit our business at any time
- agree to publish an annual report, in the form and substance outlined by the University, to the University community

By: _____	By: _____	By: _____
Name: _____	Name: _____	Name: _____
Date: _____	Date: _____	Date: _____
By: _____	By: _____	By: _____
Name: _____	Name: _____	Name: _____
Date: _____	Date: _____	Date: _____