

RESOLUTION NO. 2010-53

REVISING POLICIES GOVERNING PUBLIC ASSEMBLY ON GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY PROPERTY

WHEREAS, the Authority owns and operates public transit facilities which are centers of activity through which members of the public pass each day; and

WHEREAS, the Authority, from time to time, receives requests from members of the general public to exercise constitutional rights of expression and public assembly on GCRTA property; and

WHEREAS, the GCRTA Board of Trustees has determined that policies and procedures pertaining to such activity are necessary to ensure the safe, free, and orderly flow of transit patrons through GCRTA stations, premises, and vehicles; and

WHEREAS, the GCRTA Board of Trustees approved Resolution 1996-57 on April 16, 1996 which established policies and guidelines governing public assembly on GCRTA property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County, Ohio:

Section 1. The GCRTA Board of Trustees has determined that policies pertaining to public assembly on GCRTA property are necessary to regulate such activities while protecting GCRTA patrons from communications that may constitute harassment or intimidation and/or interrupt the safe and orderly flow of patron traffic through stations and premises.

Section 2. The policies governing public assembly on GCRTA property, as set forth in Attachment A, which is incorporated herein by reference, is hereby adopted as the Policy of the GCRTA.

Section 3. That this resolution shall become effective immediately upon its adoption.

Attachment: Policies Governing Public Assembly on GCRTA Property

Adopted: August 17, 2010



President

Attest:



CEO, General Manager/Secretary-Treasurer

**POLICIES GOVERNING
PUBLIC ASSEMBLY ON
GREATER CLEVELAND REGIONAL
TRANSIT AUTHORITY PROPERTY**

INTENT

- (A) The policies and guidelines established herein are necessary in order to:
- (1) Ensure that Greater Cleveland Regional Transit Authority ("Authority") property maintains its status as a non-public forum;
 - (2) Ensure that persons seeking to exercise constitutional rights of freedom and speech, expression, and assembly on Authority property may do so within the limitations of the policies and guidelines established herein;
 - (3) Restrict the time, place, and manner of the activities described herein to designated areas of Authority property;
 - (4) Protect transit patrons using Authority property from repeated communications or encounters which may constitute harassment or intimidation of a captive audience;
 - (5) Ensure the safe, free, and orderly flow of transit patron traffic through and on Authority stations, premises, and vehicles; and
 - (6) Further the purpose of the Authority, which is to transport passengers safely and efficiently via bus and rail.
- (B) A person who wishes to engage in activities governed by these policies and guidelines on or at Authority premises, stations, and vehicles, including, but not limited to, the distribution of literature, shall be protected in accordance with these policies, provided the activities do not:
- (1) Constitute commercial activities, unless by written commercial agreement benefiting the Authority; or
 - (2) Interfere with the transportation function or safe operation of the Authority stations, premises, or vehicles.

APPLICATION

The policies and guidelines established herein apply to all persons using Authority premises, stations, vehicles, or other Authority property, whether Authority employees or members of the public, including, but not limited to, Authority visitors, delivery persons, contractors, and agents for the following activities:

- (A) Commercial Activity. A person may not engage in any commercial activity on Authority stations and premises except by written commercial agreement benefiting the Authority. Other commercial activity is expressly prohibited on Authority property.
- (B) Non-Commercial Free Speech Activity. As a non-public forum, the Authority has authority to limit free speech activities on its property. A person desiring to exercise constitutional freedoms, including, but not limited to, the distribution of literature or solicitation of funds, on, in, within, or about Authority property shall first obtain a written permit for these activities from the Authority. Free speech activities may be exercised only in accordance with the restrictions designated in the permit.

DEFINITIONS

For the purposes of this policy, the following terms have the meanings indicated:

- (A) "Authority property" means all property owned, leased, operated, or controlled by the Authority in connection with public transit activities, including, but not limited to, all buses, rail cars, station areas, entrances, platforms, plazas, escalators, elevators, stairways, parking lots, transfer points, rapid transit vehicles, and other rapid stations.
- (B) "Authorized" means acting pursuant to a written contract, permit, or other evidence of right issued by the Authority.
- (C) "Commercial Activity" means any activity undertaken for profit, including, but not limited to, the sale, provision, advertisement, or display of goods or services; the exchanging, trading, buying, hiring, soliciting, or peddling of commodities, goods, money, services, or property of any kind; or any other revenue producing activity.
- (D) "Emergency situation" means any event creating a condition or circumstance that interferes with the safe or efficient operation of the Authority system, or other conditions or circumstances as may be determined by the Authority to endanger the health, safety, and welfare of persons on or upon Authority property.
- (E) "Free speech activity" means any manner of exercising constitutionally protected freedoms of religion, speech, press, and assembly, including, but not limited to, campaigning for political candidates and issues.
- (F) "Person" means any individual, organization, firm, partnership, corporation, company, association, or joint stock association, and includes the trustee, receiver, committee, assignee, or other representative thereof.
- (G) "Transit patron" means a person in or upon Authority property for the purpose of using Authority public transportation service available at that site.
- (H) "Vehicle" means all buses and rapid transit cars owned by and/or operated by the Authority.

PERMIT REQUIRED; APPLICATION INFORMATION

All persons desiring to use Authority property for non-commercial free speech activities governed by these policies and guidelines shall submit to the General Manager/Secretary-Treasurer of the Authority, or his or her designee, a written request in a form prescribed by the Authority setting forth at least the following:

- (A) The full name, mailing address, and telephone number of the entity/person sponsoring, promoting, or conducting the proposed activity;
- (B) A description of the proposed activity, indicating the type of communication to be involved;
- (C) The dates and hours during which the activity is proposed to be carried out;
- (D) The number of persons to be engaged in the activity;
- (E) The specific area of Authority property in which the proposed activity is planned; and
- (F) Whether handbills, leaflets, circulars, or other printed material will be distributed.

PERMIT: ISSUANCE; TRANSFERABILITY; RENEWAL; EXCLUSIONS

- (A) Upon receipt of a permit application containing the required information, as stated above, the Authority will issue a permit to the applicant, subject to the limitations set forth herein. The Authority will not exercise judgment regarding the purpose or content of the activity.
- (B) Permits to use Authority property, if granted, will be issued on a first-come, first-served basis. As used herein, "first come" means the person who has first completed the procedural guidelines set forth herein.
- (C) Permits are not transferable or assignable.
- (D) The permit shall authorize the holder to conduct the activity for the date and duration of time defined in the permit.
- (E) Permits may not be extended or renewed.
- (F) Each permit shall specify the area, station, or property where the activity shall take place.
- (G) The Authority reserves the right to cancel any permit, with or without advance notice to the permit holder.

TIME, PLACE, AND MANNER OF ACTIVITY

- (A) Time Regulations. A permit holder shall conduct the free speech activity only during the hour(s) prescribed in the permit.
- (B) Place Regulations.
 - (1) Free speech activity may only be conducted in the area specifically prescribed in the permit. In no circumstance shall a permit be issued for activity on transit platforms or "in revenue service" transit vehicles.
 - (2) Free speech activity is specifically prohibited in any area that obstructs the safe, efficient, free, and orderly flow of passengers' ingress or egress or the operation of Authority business transactions.
- (C) Manner Regulations.
 - (1) Free speech activity shall be conducted only in a conversational tone.
 - (2) The permit holder shall, upon request of an Authority employee, transit police officer, or other law enforcement official, display the permit.
 - (3) In conducting free speech activity, a person may not:
 - (a) Obstruct, delay, or interfere with the free movement of any other person or seek to coerce or physically disturb any other person;
 - (b) Use any sound or voice-amplifying apparatus on Authority property;
 - (c) Conduct any activity in a misleading or fraudulent manner;
 - (d) Erect a table, booth, or other structure unless approval is designated in the Permit;
 - (e) Intentionally touch or make physical contact with another person unless that person has consented to physical contact; and

- (f) Repeatedly attempt to distribute written or printed material to or solicit funds from another person when that other person has indicated to the solicitor that he or she is unreceptive.
- (4) If printed material or other object is handed out, the individual designated as the permit holder shall accept the responsibility of cleaning up or paying for the clean-up of any material or objects left on Authority property. A deposit may be required for this purpose.
- (5) The failure of permit holder to remove all material that the permit holder brought onto Authority property may be grounds for refusal to grant future permits.
- (6) The Authority will require the permit holder, or other person designated as the responsible party in the permit, to post insurance before free speech activity may commence. In determining the amount of insurance, the Authority will consider, among other factors, the extent to which the proposed activity increases the Authority's risk of liability.

DENIAL, REFUSAL, AND CANCELLATION OF PERMITS

An application for a permit shall be denied and/or canceled if one or more of the following occurs:

- (A) One or more of the statements in the permit application is untrue;
- (B) The applicant has not furnished all the information required for the permit;
- (C) An earlier-filed permit was granted for the same time and place;
- (D) A breach or violation of any provision of this Policy occurs, including, but not limited to, failure to demonstrate evidence of requisite insurance; and/or
- (E) A review of the permit application indicates that the activity cannot be conducted without violating this Policy.

POLITICAL CAMPAIGN ACTIVITY

- (A) A permit is required for political campaign activity. A permit will only be issued on a first-come, first-served basis for one (1) campaign sponsor/candidate at any location, accompanied by one (1) assistant.
- (B) All Time, Place, and Manner regulations cited above are applicable.
- (C) All restrictions and fees are contained in the Special Events Usage Policy of the Greater Cleveland Regional Transit Authority.



Greater Cleveland Regional Transit Authority
STAFF SUMMARY AND COMMENTS

TITLE/DESCRIPTION: REVISING THE POLICY ON PUBLIC ASSEMBLY ON TRANSIT AUTHORITY PROPERTY	Resolution No.: 2010-53
	Date: August 12, 2010
	Initiator: Legal Affairs
ACTION REQUEST: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Review/Comment <input type="checkbox"/> Information Only <input type="checkbox"/> Other _____	

- 1.0 PURPOSE/SCOPE: To revise the policy governing constitutionally protected expressive activity on Transit Authority property.
- 2.0 DESCRIPTION/JUSTIFICATION: Revisions were needed to Chapter 850 in order to conform to current case law and statutes regarding the use of nonpublic forums for expressive activity. Revisions were also needed in order to ensure that transit operations and transit patrons are not inhibited by expressive activity.
- 3.0 PROCUREMENT BACKGROUND: N/A
- 4.0 AFFIRMATIVE ACTION/DBE BACKGROUND: N/A
- 5.0 POLICY IMPACT: This policy revision will ensure that the Transit Authority continues to protect first amendment freedoms without disrupting Transit Authority business.
- 6.0 ECONOMIC IMPACT: None.
- 7.0 ALTERNATIVES: Reject this policy revision.
- 8.0 RECOMMENDATION: It is recommended that the policy revision be adopted.
- 9.0 ATTACHMENTS: None

Recommended and certified as appropriate to the availability of funds, legal form and conformance with the Procurement requirements.

CEO, General Manager/Secretary-Treasurer