

STATE OF MICHIGAN

COURT OF CLAIMS

STUDENT ASSOCIATION FOR PSYCHEDELIC
STUDIES (SAPS) and EMILY BERRIMAN,

Plaintiffs,

v

Case No. 25-000148-MZ

THE REGENTS OF THE UNIVERSITY OF
MICHIGAN,

Hon. Brock A. Swartzle

Defendant.

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**OPINION AND ORDER GRANTING
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

The First Amendment is not without irony. Plaintiffs want to celebrate the local decriminalization of psilocybin on the iconic Diag of the University of Michigan, where thousands of speakers have spoken their words to hundreds of thousands of willing (if not always sympathetic) listeners. But it is this very decriminalization at the local level that has purportedly neutered the University's ability to keep the peace, imperiling the parties' collective ability to ensure a safe and lawful space for free speech.

Although sympathetic to the University's position, the Court concludes that denying use of the Diag for "Entheofest 2025" is not reasonable in light of the purposes of that limited public forum. Much of the concern that has motivated the University's decision here followed from problems associated with a wholly different event, "Hash Bash 2025." While both events celebrate the use and cultivation of unlawful substances, the scale of each event is dramatically different, at

least 10:1 when comparing Hash Bash to Entheofest. The University has the resources needed to ensure a safe and lawful Entheofest, and, as a result, plaintiffs are entitled to a preliminary injunction to protect their First Amendment rights.

I. BACKGROUND

Plaintiff, the Student Association for Psychedelic Studies (SAPS), is a Recognized Student Organization (RSO) at the University of Michigan. SAPS and its president, Emily Berriman (collectively referred to as SAPS), filed this lawsuit for injunctive and declaratory relief. SAPS has moved for a temporary restraining order and a preliminary and a permanent injunction compelling defendant, the Regents of the University of Michigan (the University), to approve plaintiffs' application for a Diag reservation permit to host Entheofest 2025 on September 21, 2025.

Plaintiffs originally sued defendant in Washtenaw Circuit Court; the case was transferred to this Court and docketed on September 11, 2025. The Court convened a telephonic status conference that same day, and it held an evidentiary hearing on September 17, 2025.

This dispute centers on the Diag, an open green space in the center of the University of Michigan's Central Campus. The Diag central plaza area "functions as the ceremonial and geographic heart of Central Campus, hosting significant numbers of programmed and unprogrammed student events, informal gatherings, and other major campus initiatives and gatherings in the furtherance of public discourse, campus engagement, and health and well-being." <https://campusplan2050.umich.edu/plans-and-maps/central-campus/diag-area/> (accessed September 17, 2025). The University permits the use of the Diag to gather and for expression within the boundaries of the law and university policies.

<https://campusinvolvement.umich.edu/article/diag-grove-reservation-2>

(accessed

September 17, 2025). Only RSOs and University departments with valid University accounts are eligible to reserve the Diag and request a permit to hold an event. *Id.* The University gives its Division of Public Safety and Security (“DPSS”) “the right to ensure the safety of events as deemed necessary or as requested by event hosts.” *Id.* According to the University DPSS website, DPSS police officers are licensed by the Michigan Commission on Law Enforcement Standards and have full authority to investigate, search, arrest, and use reasonable force to protect people and property under Michigan law and the University’s ordinances.

RSOs and eligible University departments can request an event permit to reserve the Diag by submitting a reservation application to the Center for Campus Involvement and Facilities and Operations. *Id.* Berriman applied as the assigned signer for SAPS to reserve the Diag for Entheofest, a nonuniversity business or nonprofit. SAPS hosts Entheofest in collaboration with James Salame, the founder of Entheofest and Hash Bash. According to Berriman’s affidavit, the annual Entheofest event is held “to educate and advocate for the promising research which is ongoing at medical research institutions across the country demonstrating long-lasting medicinal efficacy after a single administration of entheogenic substances for myriad medical conditions including PTSD with a better safety profile than long-term daily pharmaceutical drugs being prescribed presently for such conditions.”

Entheogens are hallucinogenic or psychoactive substances, usually derived from a plant or fungi. “Entheogen.” Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/entheogen> (Accessed September 17, 2025). Psilocybin is one type of entheogen, commonly known as psilocybin mushrooms or psychedelic mushrooms. Psilocybin is a Schedule I controlled substance under federal and state law. 21 USC 802, 812; MCL

333.7212(1)(c). The City of Ann Arbor, County of Washtenaw, and the County's elected prosecutor have functionally decriminalized entheogenic plant use or possession in the County, where the University's Ann Arbor campus is located. See, e.g., Policy Directive 2021-06, Washtenaw County Office of the Prosecuting Attorney. The University remains bound by state and federal law on psilocybin, regardless of the decriminalization efforts of local officials.

On August 13, 2025, the University denied SAPS' request for a permit for the following reasons:

- Promotion of illegal substances, which under state and federal law are illegal and classified as a Schedule 1 controlled substance. It is our institutional responsibility to uphold compliance with state and federal law on University property.
- Safety risks due to the potential for large community scale and past issues with similar events, such as the recent Hash Bash event.

SAPS administratively appealed the decision. The University invited plaintiffs to a meeting where they were asked to provide a plan to mitigate the risks associated with the event.

SAPS provided Salame's "Entheofest Safety Strategy" to the University. The safety strategy proposed several safety measures, including: (1) University-provided blockades or barriers for crowd control; (2) presence of campus police at the perimeter and throughout the event; (3) a neutral, escalating enforcement protocol for unauthorized vendors, including warnings, citations, and if necessary removal. The group planned to designate volunteers to have direct contact with campus police during the event to identify unauthorized vendors or problem areas. SAPS supported the use of frequent announcements during the event that sales or use of illicit substances are prohibited, and stated that they "will reinforce this with disclaimers and reminders both at the event and in advance through social media, as well as with signs and flyers at the event

reinforcing the rules regarding sale and use.” SAPS additionally suggested that the University place prominent signage stating “no use or sales of controlled substances.”

On August 25, 2025, the University affirmed the denial of SAPS’ permit. The University’s stated reasons included: (1) SAPS’ purported failure to adhere to its responsibility to ensure that it, its members, and its collaborators comported with University policies in using the reserved space, as well as Salame’s statement during a meeting with the University that Entheofest would continue, with or without a permit; and (2) SAPS’ acknowledgment during the appeal process that it was aware that illegal drug sales occurred during the 2024 Entheofest “even though SAPS, as part of its permit for Entheofest 2024, committed that there would be ‘no sales/solicitation on campus’ as part of the event.” The University explained that “[a]s a federally funded institution, and as an institution that has a duty to create an environment free of illicit drugs for our faculty, staff, and students, we cannot allow this pattern to continue. Under your stewardship, and with your knowledge, the event for which you seek a reservation facilitates the sale of illegal substances on campus *at the event*—which the First Amendment categorically does not protect.”

II. TESTIMONY AT THE EVIDENTIARY HEARING

As previously noted, the Court held an evidentiary hearing on September 17. Lisa Berm, a member of the University’s Management Team, testified for defendant. Berm explained that Berriman’s initial application lacked necessary details regarding the event and so she had a meeting with Berriman, Salame, and representatives from DPSS on August 5. Sometime after the meeting, Berriman provided the missing details for the application. In the meantime, a University investigation with respect to the application uncovered a YouTube video containing evidence of the sale and distribution of illicit drugs on the Diag during Entheofest 2024. According to Berm, the content of the video raised concerns about safety during the event. On August 13, Berm

authored the letter denying the permit. Berm testified that the permit was not denied on the basis of the content of the proposed speech, and that her use of the word “promotion” in the denial letter referred to the promotion of the sale of illicit drugs on campus.

The same day, Berriman requested to “appeal” the decision. According to Berm, the University does not have an appeal process from the denial of a permit, but the University discussed the request internally and then held another meeting that included herself, Berriman, the Associate Director of Campus Involvement, and Salame. The University expressed concern during the meeting about the use and distribution of illicit drugs during the event and asked how SAPS would mitigate the concern. Berm testified that the University reviewed SAPS’ proposed safety plan and determined that it was not sufficient to stop unauthorized vendors from selling illicit drugs on campus during the event, and so the University affirmed the denial of the permit.

Nicholas Smith, the Director of the Center for Campus Involvement, testified that he learned that Salame had inquired with the City of Ann Arbor about reserving city property on Monroe Street, two blocks away from the Diag, for the same day that SAPS applied to reserve the Diag for Entheofest 2025. According to Smith, popup vendors distributed illicit drugs during the most recent Hash Bash in April 2025, and thousands of people traversed between Monroe Street, an area not under the jurisdiction of University DPSS, and the Diag. Smith testified that this led to the University’s concern about safety on campus during Hash Bash.

Smith testified that he reviewed Salame’s mitigation suggestions. Smith has used similar mitigation practices in the past during Hash Bash, including providing “form letters” stating that unauthorized vendors would need to vacate University property, as well as having his colleague distribute flyers on site at events. According to Smith, “compliance was unsuccessful.” On the

basis of his experience with Hash Bash, Smith did not believe SAPS' proposed mitigation strategies would be effective. Smith testified that Hash Bash draws approximately 10,000 attendees, while Entheofest draws approximately 1,000 attendees. He agreed that the problems associated with the most recent Hash Bash informed the University's decision to deny SAPS' application for a permit.

Berriman testified that none of the SAPS' approved vendors sell or distribute illicit drugs. She testified about SAPS' mitigation plan to control unauthorized vendors from distributing drugs during the event, including the use of placards on tents of the event's approved vendors and the presence of DPSS officers to police the public space and remove, ticket, or arrest individuals observed distributing or using illicit drugs. Berriman acknowledged that during past Entheofest events illicit drugs were sold in the Diag area by unauthorized vendors, and that she asked several unauthorized vendors to leave those events. Berriman testified that she was unaware of any safety concerns during past Entheofest events.

Salame testified that the Diag is the historical location for Hash Bash and Entheofest events and is an ideal spot to speak with University students. Salame attempted to secure alternative locations for Entheofest 2025, including Liberty Square in Ann Arbor, but as of the hearing Salame had not received a response to his e-mail communications with that location in more than 30 days.

According to Salame, uninvited vendors have been a problem at previous Hash Bash and Entheofest events. He agreed that in the YouTube video provided to him by the University,¹

¹ The parties stipulated to the admission of the YouTube video. The Court has reviewed the video and finds that unauthorized vendors appear to be selling psychedelic mushrooms from blankets or small tables placed in the grassy area around the Diag.

unauthorized vendors can be seen selling illicit substances in the grassy area of the Diag during Entheofest 2024. He testified that he asked several unauthorized vendors to leave the 2024 event and some did. He testified, however, that the University never raised any safety concerns after any of the four prior Entheofest events. He believed that SAPS and the University shared responsibility to deter illicit drug use and distribution on campus.

Having reviewed the record and pertinent law, and having received testimony, the Court is now in a position to rule on plaintiffs' motion.

III. ANALYSIS

Plaintiffs have moved for a temporary restraining order, a preliminary injunction, and a permanent injunction. Because the Court held an evidentiary hearing and heard testimony from both sides, a temporary restraining order is not appropriate. The matter is on an accelerated time frame, the case being docketed in this Court just a week ago, and thus there has not been sufficient time for a permanent injunction after a full bench trial. Thus, even though the event is scheduled for this Sunday, September 21, and this Opinion and Order might well be the last word before the event takes place, the Court concludes that the framework for a preliminary injunction is the correct one to use here.

Generally speaking, “injunctive relief is an extraordinary remedy that issues only when justice requires, there is no adequate remedy at law, and there exists a real and imminent danger of irreparable injury.” *Davis v Detroit Fin Review Team*, 296 Mich App 568, 613-614; 821 NW2d 896 (2012) (cleaned up). “To obtain a preliminary injunction, the moving party bears the burden of proving that the traditional four elements favor the issuance of a preliminary injunction.” *Hammel v Speaker of House of Representatives*, 297 Mich App 641, 648; 821 NW2d 616 (2012)

(cleaned up); see also MCR 3.310(A)(4). When determining whether to grant a preliminary injunction, the trial court

must evaluate whether (1) the moving party made the required demonstration of irreparable harm, (2) the harm to the applicant absent such an injunction outweighs the harm it would cause to the adverse party, (3) the moving party showed that it is likely to prevail on the merits, and (4) there will be harm to the public interest if an injunction is issued. [*Detroit Fire Fighters Ass'n, IAFF Local 344 v Detroit*, 482 Mich 18, 34; 753 NW2d 579 (2008).]

“The mere apprehension of future injury or damage cannot be the basis for injunctive relief. Equally important is that a preliminary injunction should not issue where an adequate legal remedy is available.” *Pontiac Fire Fighters Union Local 376 v Pontiac*, 482 Mich 1, 9; 753 NW2d 595 (2008) (citation omitted). “Other considerations surrounding the issuance of a preliminary injunction are whether it will preserve the status quo so that a final hearing can be held without either party having been injured and whether it will grant one of the parties final relief before a hearing on the merits.” *Thermatool Corp v Borzym*, 227 Mich App 366, 376; 575 NW2d 334 (1998).

Before the Court considers the propriety of an injunction, it must initially consider whether plaintiffs have demonstrated a violation of their First Amendment rights. To determine whether a speech restriction on publicly owned property is compatible with the First Amendment, the Court considers: “(1) whether the speech is protected under the First Amendment; (2) what type of forum is at issue and, therefore, what constitutional standard applies; (3) whether the restriction on speech in question satisfies the constitutional standard for the forum.” *Miller v City of Cincinnati*, 622 F 3d 524, 533 (CA 6, 2010). The University does not argue that the proposed event and the speech to take place during that event somehow fall outside the First Amendment’s scope. The Court concludes that the proposed event and speech are protected under the First Amendment.

With respect to the forum, a “limited public forum” is created when government reserves a forum for use by certain groups, such as student groups, or for discussion of certain subjects, such as school board business. *Perry Ed Ass’n v Perry Local Educators’ Ass’n*, 460 US 37, 46 n 7; 103 S Ct 948; 74 L Ed 2d 794 (1983). See also *Miller*, 622 F3d at 534-535 (stating with respect to a limited public forum that a government entity may create a forum that is limited for use by certain groups or dedicated solely to the discussion of certain subjects). University policy does not allow members of the general public to reserve the Diag. The policy allows only RSOs and University departments to reserve the Diag for events. The Court finds that the Diag is a limited public forum.

Restrictions for limited public forums must not discriminate on the basis of viewpoint, and they must be reasonable in light of the purpose served by the forum. *Good News Club v Milford Central Sch*, 533 US 98, 106; 121 S Ct 2093; 150 L Ed 2d 151 (2001). In such forums, the government is allowed to enforce certain content-neutral restrictions. In assessing content-neutrality:

The principal inquiry in determining content neutrality, in speech cases generally and in time, place, or manner cases in particular, is whether the government has adopted a regulation of speech because of disagreement with a message it conveys. The government’s purpose is the controlling consideration. A regulation that serves purposes unrelated to the content of expression is deemed neutral, even if it has an incidental effect on some speakers or messages but not others. Government regulation of expressive activity is content neutral as long as it is “justified without reference to the content of the regulated speech.” [*Ward v Rock Against Racism*, 491 US 781, 791-792; 109 S Ct 2746; 105 L Ed 2d 661 (1989) (citations omitted).]

On the basis of the testimony and evidence presented during the hearing, the Court finds that the University’s decision to deny the permit was content neutral. While the use of the word “promotion” in referring to the “promotion of illegal substances” could be read to refer either to speech or the unlawful distribution of illicit drugs, Berm’s testimony clarified that the University

denied the permit on the basis of the promotion of unlawful distribution of illegal substances, not on the content of the speech.

Moving to the next step of the analysis, the Court finds, on the basis of the testimony and evidence presented, that the denial of the permit was not reasonable in relation to the purpose of the forum. The purpose of the Diag is to provide a designated space to gather and for expression and public discourse—the core constitutional rights of free speech and assembly. The provision of this forum not only benefits the speakers and listeners themselves, but also the University, as it promotes the University’s core mission of educating a virtuous citizenry. In other words, the University benefits from the provision of this forum; it is not solely a source of expense.

As to the reasonableness of denying the permit, the Court recognizes that the University must comply with federal and state law, and it does not have the luxury of “decriminalizing” the use, possession, or distribution of psilocybin. The Court further recognizes that the “decriminalization” actions of the City and County have placed the University in a somewhat exposed circumstance—if the City police, the County sheriff, and the County prosecutor refuse to enforce federal and state laws with respect to psilocybin, then where does that leave the University in trying to enforce those laws? The University’s witnesses provided compelling testimony to the difficult spot this places the institution.

With that said, the University is not without sufficient tools to deal with the types and scale of problems seen in past *Entheofest* events. First, the University has a robust police force of its own under the authority of the DPSS. These officers have the authority to seize contraband and make arrests, where appropriate. Second, both Berriman and Salame gave credible testimony that no one affiliated with SAPS, invited speakers, or event sponsors have engaged in any unlawful

use, possession, or distribution of illegal substances on campus property during past Entheofest events. Third, as evidenced by testimony and the video of last year's event, it is relatively easy to distinguish the official sponsors and vendors who engage in lawful activity from those uninvited third party actors who engage in unlawful distribution of psilocybin-based products. Fourth, they both credibly testified that they will use their best efforts to educate attendees on what is lawful on University property with respect to psilocybin, and, just as importantly, they will ask violators to leave University property and seek assistance from campus police when appropriate.

And fifth, the University is not left on an island without prosecutorial help—under MCL 14.28, the Michigan Attorney General can intervene and appear on behalf of the people in a criminal matter. The Court is confident that the University could, if it wishes, reach out to the Attorney General and seek assistance. Similar assistance could be sought from the U.S. Attorney's Office for the Eastern District of Michigan. Although the types of violations that purportedly took place at one or more past Entheofest events might not ordinarily be handled by federal and state prosecutors, these prosecutors might well get involved when one of the state's flagship educational institutions asks for such assistance.

Another critical point is that past Entheofest events have attracted approximately 1,000 attendees throughout the day, whereas the most recent Hash Bash had 10x that number. The record makes clear that this year's Hash Bash raised serious public-safety concerns, and it is those concerns that motivated, if not wholly, then at least in significant and material part, the University's decision to deny the Entheofest permit. Although there are obvious similarities between the two events, the record reveals that the scale of the proposed Entheofest is well within the University's ability and authority to control any unlawful activity by uninvited third parties.

The University argued that it should not have to shoulder the cost of policing the Entheofest. The Court rejects this argument, as there has been no showing on the current record of the expected cost of policing this relatively modest event. In fact, the University's Office of Campus Development expressly states that DPSS has the right to ensure the safety of events as deemed necessary *or as requested by event hosts*. Thus, the University anticipates that event hosts like SAPS will request DPSS officers at its events to ensure safety.

Given this, the Court finds that SAPS has demonstrated a violation of its constitutional rights and that SAPS is likely to prevail on the merits. This factor weighs in favor of granting a preliminary injunction.

The Court further finds that denial of the permit will irreparably harm SAPS. As of the date of the hearing—four days before Entheofest 2025 is intended to take place—SAPS has been unable to secure an alternative location for Entheofest 2025. Without a permit to host the event on the Diag, SAPS will not be able to exercise its First Amendment rights.

Next, the Court concludes that a public interest exists in the exercise of First Amendment rights, but also that the University has a public interest in enforcing policies aimed at maintaining a safe and lawful campus. These interests effectively balance each other out, and therefore this factor does not weigh heavily for or against a preliminary injunction.

Lastly, the Court finds that the harm caused to SAPS by the denial of its constitutional rights is greater than the speculative legal and financial consequences that the University contends it may face if illegal substances (including psilocybin-based products) are used, possessed, or distributed on campus during Entheofest. This factor weighs in favor of a preliminary injunction.

In the final analysis, and for the reasons set forth here, the Court holds that SAPS has met its burden of showing that a preliminary injunction is warranted. SAPS has no other adequate remedy at law. The Court will, therefore, grant SAPS' motion for a preliminary injunction.

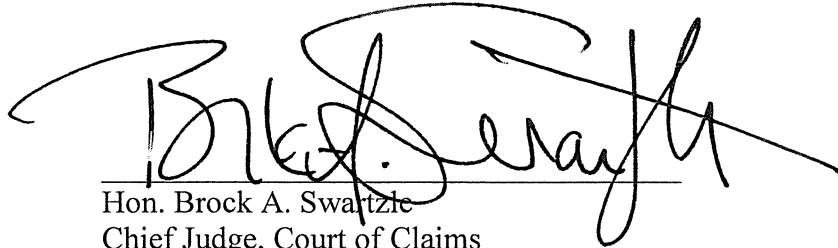
IV. CONCLUSION

Accordingly, for the reasons stated above:

1. IT IS ORDERED that SAPS' motion for a preliminary injunction is GRANTED.
2. IT IS FURTHER ORDERED that SAPS' motion for a temporary restraining order is DISMISSED AS MOOT.
3. IT IS FURTHER ORDERED that the University shall approve plaintiffs' application for a Diag reservation permit to host Entheofest 2025 on September 21, 2025. The parties shall work collaboratively to develop and implement sufficient security measures to ensure a safe and lawful event.

IT IS SO ORDERED. This order does not resolve the last pending claim and does not close the case.

Date: September 18, 2025


Hon. Brock A. Swartzle
Chief Judge, Court of Claims

