

**UNIVERSITY OF WEST FLORIDA
NOTICE OF PROPOSED AMENDMENTS TO REGULATION**

REGULATION TITLE: **UWF/REG-5.050 Speech, Assembly and Public Expression in Outdoor Areas on Campus**

SUMMARY: In order to reflect the alignment of this regulation with the provisions set forth in Florida Statute § 1004.097, the “Florida Campus Free Expression Act,” which became effective on March 11, 2018, the title of this regulation is changing to “Speech, Assembly and Public Expression in Outdoor Areas on Campus.” It is also being updated to remove all references to a “Designated Public Forum”. The revised regulation defines what expressive First Amendment activities are, where expressive activities are allowed to take place on campus, prohibited conduct and the process to request the use of amplification in expressive activities, and appeals of the denials of such requests.

TEXT OF REGULATION: The current regulation will be stricken in its entirety. The full text of the new Regulation can be viewed in the materials and on the website of the University of West Florida, Office of the General Counsel website <http://uwf.edu/offices/board-of-trustees/regulations/>.

AUTHORITY: U.S. Constitution, Florida Constitution and Florida Board of Governors’ Regulation 1.001.

NAME OF UNIVERSITY OFFICIAL INITIATING PROPOSED REGULATION AMENDMENT:

Dr. Joffrey Gaymon
Vice President
Enrollment and Student Affairs

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION IS: Pamela E. Langham, Esquire, General Counsel, plangham@uwf.edu, (850) 474-3420; FAX (850) 857-6058; Bld. 10/Rm 114; 11000 University Parkway; Pensacola, FL 32514-5750. Any comments regarding the proposed regulation amendment must be sent in writing to the contact person on or before June 16, 2018 to receive full consideration.

THE DATE THIS NOTICE WAS POSTED ON THE UWF BOARD OF TRUSTEES WEBSITE:
May 30, 2018

THE DATE THIS NOTICE WAS PUBLISHED IN “@UWF”:
May 31, 2018

THE FULL TEXT OF THE PROPOSED AMENDMENT TO THIS REGULATION IS SET FORTH BELOW:



UWF Regulation 5.050

Title: Speech, Assembly and Public Expression in Outdoor Areas on Campus

I. Freedom of Speech, Assembly and Public Expression

The freedoms of speech, peaceful assembly, and expression are basic and essential freedoms that the University strives to protect. Reasonable time, place, and manner restrictions will be enforced so that the activities do not materially and substantially disrupt the orderly functioning of the University, infringe upon or interfere with the academic programs and administrative processes of the University, or upon the rights of other individuals or organizations to engage in expressive activities. Enforcement will be content neutral.

II. Definitions

For purposes of this regulation, the following definitions shall apply:

- a. **Commercial Speech.** Commercial speech means speech in which the individual is engaged in commerce, the intended audience is commercial or actual or potential consumers, and the content of the message is commercial.
- b. **Expressive Activities.** Expressive activities are activities such as assemblies, exercise of free speech, protests, demonstrations, marches, and picketing protected under the First Amendment to the United States Constitution and Article 1 of the Florida Constitution. Expressive activity, for purposes of this regulation, does not include commercial speech.
- c. **Outdoor areas of campus.** Outdoor areas of campus are generally accessible areas of the University's Pensacola campus in which members of the campus community are commonly allowed, including grassy areas, walkways, or other similar common areas. The term does not include outdoor areas of campus to which access is restricted. Outdoor areas of campus specifically do not include any buildings or other indoor facilities.

- d. Restricted areas. Restricted areas include areas designated by the President or designee(s) either temporarily or permanently as restricted, parking facilities/areas, athletic or recreational facilities, fields and stadiums unless written permission is granted by the University.
- e. University Community. The University Community consists of the University of West Florida faculty, staff, all other personnel and students.
- f. University Organization(s). University Organization(s) are recognized University organizations, faculty, staff and all other personnel organizations and registered University student organizations. This definition excludes individuals, groups, and/or organizations sponsored by or affiliated with University Organization(s).

III. Orderly Conduct, Processes and Functions of University

Faculty, staff, all other personnel and students, who intentionally act to impair, interfere with, or obstruct the orderly conduct, processes, and functions of the University shall be subject to appropriate disciplinary action by University authorities.

IV. Speech, Assembly and Public Expression

Subject to the terms of this regulation and related University regulations, expressive activities are permitted in outdoor areas of campus so long as the conduct is lawful and does not materially and substantially disrupt the normal operations and functions of the University or infringe on the rights of other members of the University community, except that no demonstrations are permitted inside University buildings without the express written authorization from the University. Any use of amplification equipment on the outdoor areas of campus must have prior written clearance through the Department of Environmental Health and Safety and will be permitted only if there is no interference or disruption of any academic or other University activities. Use of outdoor areas must also be consonant with all other University regulations and policies including, but not limited to the regulations and policies governing commercial speech and activity, distribution of written materials, and use of facilities.

V. Prohibited Interference

All persons and organizations conducting expressive activities in outdoor areas of campus must abide by the general requirement that no such activities may materially or substantially interfere with, disrupt, or impede the normal operations of the University. In order that demonstrators not materially and substantially interfere with the operation of the University or the rights of others, all events conducted pursuant to this regulation shall not:

- (a) obstruct vehicular, bicycle, pedestrian, or other traffic;
- (b) obstruct entrances or exits to buildings or driveways;
- (c) interfere with educational activities inside or outside any building;
- (d) pose a health or safety threat to the University, the University Community, University Organizations, or the general public;
- (f) interfere with or preclude a scheduled speaker from being heard;
- (g) use fighting words to inflict violence or incite a reasonable person to violence or other breach of the peace by their mere utterance;
- (h) damage property of the University, including lawns, shrubs, or trees;
- (i) use sound amplification, including bullhorns, except as approved in advance in writing as set forth in this regulation and within sound limits that will not disrupt normal University operations;
- (j) harass passersby or otherwise disrupt normal activities;
- (k) interfere with scheduled University ceremonies or events.

VI. Duty to Identify for Disruptive Action or Conduct

In the event of disruptive action or conduct, University employees and students involved in demonstrations shall identify themselves by presenting appropriate documents such as ID cards when requested to do so by the President or designee(s), and such representative will identify her/himself when making this request. Demonstrators not officially related to the University of West Florida will be directed to leave the campus immediately or be subject to arrest for a violation of the law forbidding the disruption or interference with the administration or functions of an educational institution.

VII. Disruption of Normal University Operations, Infringement on Rights of Others

If, in the opinion of the President or designee(s), a demonstration is disrupting normal University operations or infringing on the expressive rights of other members of the University community, the President or designee(s) may:

- (a) identify her/himself to the demonstrators, giving name and official position;
- (b) inform the demonstrators that they are in violation of the University regulation/policy and/or in violation of the law and specify the nature of the violation;
- (c) request that the violation cease; and
- (d) in the event of non-compliance with this request, enlist the assistance of the University Police in restoring order and enforcing the law.

VIII. University Police

The University Police, as the President's designated representatives, have a responsibility to:

- (a) declare an expressive activity to be in violation of law and request all demonstrators to cease and desist and to disperse and clear the area or be subject to arrest and/or University disciplinary action;
- (b) arrest any demonstrators observed to be in violation of the law; and
- (c) enlist the assistance of outside law enforcement agencies, or other agencies, if necessary.

Nothing contained in this regulation is intended to limit or restrict the authority of the University of West Florida Police Department or other law enforcement personnel under applicable laws or University regulations, policies and procedures.

IX. Notice to University and Request for Use of Amplification Equipment

Although it is not necessary for a person to obtain prior permission from the University for expressive activities, it is strongly encouraged that such persons contact the University Commons and Event Services office for scheduling purposes at least two (2) business days in advance in order to make adequate arrangements for safety and security and to assure such activities do not interfere with the University's mission and operations. The University Commons and Event Services office may be contacted at the University of West Florida, 11000 University Parkway, Building 22, Pensacola, Florida 32514; 1.850.474.2406, 1.850.857.6117 or servicedesk@uwf.edu

Request for permission to use amplification equipment may be submitted in writing to the University of West Florida, Department of Environmental Health and Safety, 11000 University Parkway, Building 95, Pensacola, Florida 32514-5750, 1.850.474.2525, facsimile 1.850.857.6425 or envhs@uwf.edu at least two (2) business days in advance.

Any person or organization that is denied permission for a proposed use of amplification may appeal such denial in writing to the Provost or his/her designee within two (2) business days after receipt of a written denial from the Department of Environmental Health and Safety.

Nothing herein shall be interpreted as limiting the right of expressive activity so long as the expressive activities do not violate any content neutral law, regulation, policy or other restrictions designated in this regulation.

X. Exclusions

This regulation does not govern commercial speech and the handing out of pamphlets or other printed material at the University. Commercial speech and distribution of written materials at the University of West Florida is governed by the regulations, policies and rules addressing those respective topics. Use of University buildings and facilities are governed by UWF Regulation 2.005, not this regulation.

Specific Authority: Florida Statutes §§ 877.13, 1001.706, 1004.097, 1006.61.

History –New 10-1-75, Formerly FAC Rule 6 C6-3.014, Amended 5-31-87; Converted to UWF/REG 3.014-7/21/05, Amended 12/16/2013; Amended and converted to UWF/REG 5.050 7/27/2017; Amended with major revisions June 2018.



Regulations

****RENDERED INACTIVE AND REPEALED by operation of law upon the Governor of the State of Florida affixing his signature to Senate Bill No. 4, Chapter 2018-4, Section 6, Florida Laws.**

Number: ~~UWF/REG-5.050~~

Title: ~~Public Expression, Assembly, and Distribution of Written Materials at the University of West Florida~~

- ~~I. Traditional functions of the academic environment necessitate appropriate guidelines that ensure the mission of the institution is honored. The uses of University of West Florida property for public expression, including but not limited to free speech, by faculty, students, staff, and the public are governed and protected by the United States and Florida Constitutions, case law interpreting those Constitutions, and this regulation. There are four types of forums for the purpose of an analysis of use of governmental property for public expression, they are:~~
- ~~a. Traditional Public Forum—a public area, like a street, and park; a place that has always been used for assembly and communication of thoughts between citizens and for discussion of public questions. Publicly owned or operated property does not become a public forum simply because members of the public are permitted to come and go at will. The University does not contain any traditional public forum areas.~~
 - ~~b. Designated Forum—government property that is not a public forum, but that has been intentionally opened up for public discourse. Where a public university by policy or practice has opened up the facilities for expression by the general public. Example: the Designated Public Forum at UWF.~~
 - ~~c. Limited Forum—government property the use of which is limited by the government to certain groups (such as students and employees) or is dedicated for certain purposes (such as a sports field). Any use of these areas is limited, must be scheduled and is governed by applicable policies and procedures. Examples: cafeteria, library, performing arts center, and sports stadiums and fields.~~
 - ~~d. Non Public Forum Areas which are not open for public speech. Examples: individual staff or faculty offices, residence hall rooms, and classrooms.~~
- ~~H. Designated Public Forum—In the interest of facilitating a “marketplace of ideas,” designed to provide opportunities for public debate and discourse while at the same time minimizing disruption to the campus’ core functions, the University has designated an area for public expression. The area northwest of the Pace Library in between the parallel service roads, at GPS coordinates 30° 33' 03.68" N and 87° 13' 02.56" W, is designated as the University’s Designated Public Forum and is marked as such. The Designated Public Forum is open to all individuals seeking to express their opinions without prior registration or approval (except where amplified sound is to be used). This is the only location on campus for non-sponsored public speakers. In the event that a University sponsored or sanctioned activity is scheduled to take place in the Designated Public Forum, alternative space will be made~~

available to interested parties. The use of the Designated Public Forum is limited to regular university operating hours (Monday—Friday, 8:00 a.m.—5:00 p.m.).

- III.—~~The exercise of public expression and assembly on the UWF campus by students, faculty, staff, guests and members of the public, regardless of the location, shall be in accordance with the guidelines set forth herein:~~
- ~~a. Scheduled Assemblies—Assemblies in all areas on the campus, except for the area designated as the “Designated Public Forum,” must be scheduled and approved according to the policies set forth in the locations/buildings/facilities in which they are to be held.~~
 - ~~b. Unscheduled Assemblies—All unscheduled assemblies must be held in UWF’s Designated Public Forum.~~
 - ~~c. Permission for Use of Amplified Sound—The use of amplified sound and the degree of amplification must be reasonable and must not interfere with the normal processes or activities of the University. Written permission for amplification of sound must be obtained prior to use from the Department of Environmental Health and Safety. This applies to all scheduled and unscheduled activities.~~
 - ~~d. Time Restrictions—The use of approved facilities/space will be governed by the regulations applicable to the particular venue.~~
 - ~~e. Non-interference with University Operations—In order that assemblies and exercises of public expression, whether scheduled or unscheduled, not interfere with the normal operations of the University or the rights of others, they shall not, for example:~~
 - ~~i.—Obstruct vehicular, bicycle or pedestrian traffic;~~
 - ~~ii.—Interfere with University Operation inside or outside buildings;~~
 - ~~iii.—Obstruct entrances or exits to buildings, parking lots or roadways;~~
 - ~~iv.—Interfere with or preclude another speaker from being heard;~~
 - ~~v.—Interfere with other classes, scheduled events or other assemblies;~~
 - ~~vi.—Damage University property, including lawns, shrubs or trees; or~~
 - ~~vii.—Endanger the safety of person or property.~~
- IV.—~~Outside Speakers—Faculty, University departments, recognized or registered student organizations, and other recognized or registered university organizations are authorized to invite outside speakers to the campus as set forth below.~~
- ~~a. Individual faculty members may issue invitations to outside speakers as guest speakers for scheduled classes.~~
 - ~~b. University departments or organizations, recognized or registered student organizations, and recognized or registered faculty or staff organizations may issue invitations to outside speakers in accordance with the following procedures:~~
 - ~~i.—Student organizations inviting outside speakers must submit a completed Event Registration Form to Conference Services in the University Commons (Building 22) at the time a facility reservation is made for the purpose of hosting an outside speaker. The Event Registration Form requires the signature of the organizational president and advisor. If, in the judgment of the Director of the University Commons and Student Involvement, the event presents a clear and present danger to the University’s orderly operation, approval to invite the speaker must be granted by the applicable Assistant or Associate Vice President of Student Affairs in accordance with established policy.~~

- ii. ~~The sponsoring organization/department must assume the direct costs of any security or other special services for the event. The organization/department will be notified of these costs before the event is held.~~
 - 1. ~~In determining the event's security needs, the University will consider the following:~~
 - a. ~~The estimated crowd size;~~
 - b. ~~The presence of guests that are not members of the University community;~~
 - c. ~~The presence/availability of alcoholic beverages in accordance with applicable State laws and University regulations and policies.~~
 - 2. ~~If it is determined that security is necessary for the event using the criteria listed above, the sponsoring organization/department will be responsible for the cost of security for the event as determined by University Police but not to exceed overtime costs for two campus police officers. The University will assume responsibility for the cost of any security beyond two campus police officers.~~

~~V. Pamphlets, Petitions and Distribution of Written Material—Written materials may be distributed on campus by individuals or registered or recognized student, faculty, and staff organizations, pursuant to the following regulations:~~

- i. ~~Distributors/Petitioners are subject to applicable University regulations and policies, and local, State and Federal laws;~~
- ii. ~~Petitions must identify the name and address of the organization sponsoring the petition drive;~~
- iii. ~~Student distribution of written materials such as pamphlets and petitions may not take place within any University buildings, with the exception of the specifically designated hallway areas in the University Commons;~~
- iv. ~~Distributors/petitioners may not in any way interfere with the orderly processes of the University, as set forth in parts III.e of this regulation.~~
- v. ~~Printed materials or petitions may not be left unattended, and must be removed when the distribution period ends;~~
- vi. ~~Part V of this regulation shall not be construed to limit the normal communications between students, faculty, staff, and their respective organizations, including certified collective bargaining groups, except as narrowly described above.~~

History ~~New 10-1-75, Formerly FAC Rule 6C6-3.014, Amended 5-31-87; Converted to UWF/REG 3.014 7/21/05, Amended 12/16/2013; Amended and converted to UWF/REG 5.050 7/27/2017.~~

~~RENDERED INACTIVE AND REPEALED by operation of law upon the Governor of the State of Florida affixing his signature to Senate Bill No. 4, Chapter 2018-4, Section 6, Florida Laws.~~**