

THE UNIVERSITY OF WEST FLORIDA
NOTICE OF PROPOSED AMENDMENT TO REGULATION

DATE: June 10, 2024

REGULATION TITLE AND NUMBER: UWF REGULATION 5.050 Speech, Assembly, and Public Expression on Campus (*formerly Speech, Assembly, and Public Expression in Outdoor Areas on Campus*)

PURPOSE AND EFFECT: The purpose of this amendment is to delineate and clarify time, place, and manner restrictions for expressive activities on campus.

SUMMARY: The proposed amendment to this regulation is as follows:

- Revised and clarified existing definitions for Expressive Activities, Outdoor Areas, Restricted Areas, and the University Community
- Added definitions for Indoor Areas, Picketing, and Material and Substantial Disruption
- Deleted the definition of University Organizations – now included in University Community
- Clarified that Expressive Activities shall not create a material and substantial disruption of University functions
- Revised guidelines for use of amplification both indoors and outdoors
- Clarified that Indoor Areas may be utilized for Expressive Activities by following procedures described in UWF policy SA-02, Use of University Facilities for Events and Activities
- Clarified that Expressive Activities must comply with all other University regulations and policies, as well as general requirements for use of University buildings and grounds
- Clarified interference with University functions and interference with others
- Clarified that members of the University Community who intentionally act to cause a material and substantial disruption or impair, interfere with, or obstruct the orderly conduct, processes, and functions of the University may be subject to appropriate disciplinary action.
- Added prohibitions on occupying space overnight (including camping) without written authorization, erecting permanent or semi-permanent structures without written authorization, picketing in indoor areas, utilizing a fire or open flame without written approval, and remaining in any Restricted Area after permitted access hours
- Added provisions for limiting Expressive Activities in duration
- Reorganized portions of the regulation for clarity, including relocating the duty to identify and the options available to the President in case of disruption to the newly created Violations section
- Clarified the role of the University Police
- Reorganized and clarified exclusions from this regulation
- General revisions for formatting and clarity

AUTHORITY TO AMEND THE REGULATION: §§ 1001.706, 1004.097, and 1006.61, Florida Statutes

NAME OF UNIVERSITY OFFICIAL INITIATING PROPOSED REGULATION AMENDMENT: Betsy Bowers, Vice President of Finance and Administration

COMMENTS CONCERNING THE PROPOSED REGULATION AMENDMENT SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. In response, the University may solicit additional written comments, schedule a public hearing, withdraw or modify the proposed regulation amendment in whole or in part after notice, or proceed with adopting the regulation amendment. The comments must identify the regulation(s) on which you are commenting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED AMENDMENT TO THE REGULATION OR CHALLENGE: Jessica Whittle, Paralegal, Office of the General Counsel at gcfrofrontdesk@uwf.edu or 850-474-3420 or Office of the General Counsel, Building 10, 11000 University Parkway, Pensacola, Florida 32514.

THE FULL TEXT OF THE REGULATION: The full text of the proposed amendment to the regulation is attached below this Notice. The full text of the proposed amendment and existing regulation is also posted on UWF's website: <https://uwf.edu/offices/board-of-trustees/regulations/>



Regulations

Number: UWF/REG 5.050
Title: Speech, Assembly, and Public Expression ~~in Outdoor Areas~~ on Campus
Responsible
Department: Division of Finance and Administration and Division of Academic Engagement and Student Affairs

~~I. General Statement:~~

~~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.~~

~~H. Definitions~~

~~Commercial Speech—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.~~

~~Expressive Activities—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 I of the Florida Constitution. Expressive activity, for purposes of this regulation, does not include commercial speech.~~

~~Outdoor Areas of Campus—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.~~

~~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.~~

~~University Community—consists of the University of West Florida faculty, staff, all other personnel and students.~~

~~University Organization(s)—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.~~

~~III.— 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.~~

~~IV.— Prohibited Interference~~

~~A.— Interference with University Functions~~

~~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:~~

- ~~1.— Obstruct vehicular, bicycle, pedestrian, or other traffic;~~
- ~~2.— Obstruct entrances or exits to buildings or driveways;~~
- ~~3.— Interfere with educational activities inside or outside any building;~~
- ~~4.— Pose a health or safety threat to the University, the University Community, University Organizations, or the general public;~~
- ~~5.— Interfere with or preclude a scheduled speaker from being heard;~~
- ~~6.— Use fighting words to inflict violence or incite a reasonable person to violence or other breach of the peace by their mere utterance;~~

- ~~7. Damage property of the University, including lawns, shrubs, or trees;~~
- ~~8. 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;~~
- ~~9. Harass passersby or otherwise disrupt normal activities;~~
- ~~10. 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 Policy 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 materials 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.~~

I. General Statement:

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

Nothing herein shall be interpreted as limiting the right of Expressive Activity so long as the Expressive Activities do not violate any law, regulation, policy, or other restrictions designated in this regulation.

II. Definitions

Commercial Speech – 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. See UWF Policy P-05, Commercial Solicitation, for additional information.

Expressive Activities – include, but are not limited to, any lawful oral or written communication of ideas, including all forms of peaceful assembly, protests, and speeches; distributing literature; carrying signs; circulating petitions; faculty research, lectures, writings, and commentary, whether published or unpublished; and the recording and publication, including the Internet publication, of video or audio recorded in Outdoor Areas. Expressive Activities, for purposes of this regulation, do not include defamatory or Commercial Speech.

Indoor Areas – spaces in or attached to University buildings and facilities, including classrooms, libraries, laboratories, offices, and residence halls.

Material and substantial disruption – any conduct that intentionally and significantly hinders another person’s or group’s expressive rights. The term does not include conduct that is protected under the First Amendment to the United States Constitution and Art. I of the State Constitution, including, but not limited to, lawful protests and counter-protests in the Outdoor Areas or minor, brief, or fleeting nonviolent disruptions that are isolated or brief in duration.

Outdoor Areas – generally accessible areas of the University’s Pensacola campus in which members of the University Community are commonly allowed, including grassy areas, walkways, or other similar common areas. The term does not include Restricted Areas and Indoor Areas.

Restricted Areas – include roads, parking areas, athletic or recreational facilities, fields, stadiums, and any area restricting access as indicated by a gate, signage, or the common use of that area (for example, a classroom) unless written permission is granted by the University. Additional areas may be designated by the President.

University Community – the employees, officers, students, and agents of the University while they are on University property, engaged in University business, or while attending activities sponsored by the University, including student organizations as defined in SA-22, Student Organizations.

III. Expressive Activities

Subject to the limitations described in this regulation, Expressive Activities generally may take place on University property. Expressive Activities may occur freely, spontaneously, and contemporaneously as long as the person’s conduct is lawful and does not create a material and substantial disruption of the functioning of the University or infringe upon the rights of other

individuals or organizations to engage in Expressive Activities. Expressive Activities must comply with the following parameters:

A. Outdoor Areas:

1. Expressive Activities shall not create a material and substantial disruption of University functions, as more specifically described below in Section IV.
2. Any sound amplification must not interfere with University business or academic activity. Only a University-related group or organization will be permitted to use amplified sound in an Outdoor Area. Student organizations must go through the appropriate procedures to obtain approval.
3. Occupying space overnight, including camping, without written authorization from an appropriate vice president is prohibited.
4. Erecting permanent or semi-permanent structures without written authorization from an appropriate vice president is prohibited.
5. Expressive Activities may be limited by the University, in its discretion, in the duration of the activity (i.e., a time limitation such as a certain number of hours or days).

B. Indoor Areas:

1. Expressive Activities are permitted in Indoor Areas only upon obtaining written authorization from the University for use of that facility, room, or other indoor space by following the procedures described in UWF policy SA-02, Use of University Facilities for Events and Activities.
2. Amplification of sound is permissible in an Indoor Area only with express written permission.

C. Expressive Activities must comply with all other University regulations, policies, and general requirements for use of University buildings and grounds, including but not limited to P-05, Commercial Solicitation; P-20, Distribution of Written Materials; SA-02, Use of University Facilities for Events and Activities; and SA-30, Nighttime Events, as they may be amended.

IV. Prohibited Interference

A. Interference with University Functions

All persons and organizations who wish to engage in Expressive Activity may do so freely, spontaneously, and contemporaneously as long as the conduct is lawful and does not materially and substantially disrupt others' Expressive Activities or interfere with the functioning of the University. Examples of such behavior include, but are not limited to:

1. Obstructing vehicular, bicycle, pedestrian, or other traffic;
2. Obstructing entrances or exits to buildings or driveways;
3. Interfering with educational activities inside or outside any building;
4. Posing a health or safety threat to the University, the University Community, or the general public;
5. Utilizing a fire or open flame without the written approval of an appropriate vice president, excepting candles less than six inches in length utilized at outdoor vigils and outdoor grilling at tailgating activities on official game days;
6. Interfering with or precluding a scheduled speaker from being heard;
7. Inflicting violence or inciting a reasonable person to violence;
8. Damaging property of the University, including lawns, shrubs, or trees;
9. Harassing passersby or otherwise disrupting normal activities;

10. Remaining in any Restricted Area after permitted access hours, without written permission, or contrary to the common use of the area; or

11. Interfering with scheduled University ceremonies or events.

B. Interference with Others

All persons and organizations who wish to engage in Expressive Activity may do so freely, spontaneously, and contemporaneously as long as the conduct does not infringe upon the rights of other individuals or organizations to engage in Expressive Activity.

C. Violations

1. If, in the opinion of the President or his/her designee(s), an Expressive Activity is materially and substantially disrupting normal University operations or infringing on the Expressive Activity of others, the President or designee(s) may:

- a. Identify themselves to the individual(s) participating in the Expressive Activity by providing their name and official position;
- b. Inform the individual(s) that they are in violation of this University regulation or the law and specify the nature of the violation;
- c. Request that the violation cease (which may include relocation of the Expressive Activity to mitigate or extinguish the disruption); and
- d. In the event of non-compliance with this request, enlist the assistance of the University Police or local law enforcement in restoring order and enforcing the law.

Members of the University Community who intentionally act to cause a material and substantial disruption or impair, interfere with, or obstruct the orderly conduct, processes, and functions of the University may be subject to appropriate disciplinary action.

2. In the event of disruptive action or conduct, members of the University Community involved in Expressive Activities shall identify themselves by presenting appropriate documents such as ID cards when requested to do so by the President or designee. Individuals not officially related to the University Community may be directed to leave the property 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.

3. The University Police are designated as the President's representatives and have a responsibility to:

a. Declare an Expressive Activity to be in violation of law and request all individuals to cease and desist and to disperse and clear the area or be subject to arrest or University disciplinary action;

b. Arrest any individuals observed to be in violation of the law; and

c. Enlist the assistance of outside law enforcement 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. The President may designate additional designees.

V. Contact

Any individual, organization, or group that wishes to engage in Expressive Activities on University property is encouraged to contact the appropriate department responsible for the management of the space which the individual, organization, or group wishes to utilize.

Effective Date: [date]

Authority: §§ ~~877.13~~, 1001.706, 1004.097, and 1006.61, Florida Statutes

History: Adopted as FAC Rule 6 C6-3.014 October 1975; amended May 1987; converted to UWF/REG 3.014 July 2005; amended December 2013; converted to UWF/REG 5.050 and amended July 2017; amended October 2018 and [date].

Last review: [date]