

# Free Speech and Expressive Activities – LR 518.3

## University of Arkansas at Little Rock

**Policy Name:** Free Speech and Expressive Activities

**Policy Number:** LR 518.3

**Effective Date:** October 15, 2019

**Revised Dates:** October 15, 2019, July 31, 2023

**Most Recent Review Date:** Policy Review Board, July 31 2023

### **Reason for Policy:**

This policy is required to comply with Act 184 of 2019, Act 613 of 2023, University of Arkansas Board of Trustees Policy 705.1, and University of Arkansas System Policy 715.1.

### **Definition of Terms:**

**Expression**— ~~All forms of non-commercial expression that are protected by the First Amendment to the U.S. Constitution, which may include peaceful assemblies, speeches, protests, picketing, leafleting, circulating petitions, distributing literature, and similar expressive communications and activities.~~ Any lawful verbal or written means by which an individual may communicate an idea to another individual.

**Campus Forum** – (1) an outdoor area of campus (as defined below) or (2) any non-academic and publicly open portion of the Donaghey Student Center.

**Member of the Campus Community**— An enrolled student, an administrator, faculty member, staff member, registered student organization, a group seeking official recognition as a registered student organization, or an invited guest of any of the foregoing persons or groups.

**Large-Scale Event**— (1) An event that involves the use of amplified sound; (2) an event that involves the placement of a stage, carts, vehicles, trailers, or multiple tables; or (3) a parade, demonstration, or similar planned event that: (a) can reasonably be expected to attract 50 or more people, including participants and spectators or (b) can reasonably be expected to require additional security, crowd control or other substantial University resources. A “large-scale event” does not include a spontaneous, contemporaneous assembly of members of the campus community.

**Non-Member of the Campus Community**— All persons, groups, clubs, or other organizations that do not come within the definition of “Member”.

**Registered Student Organization (RSO)** — An organization (including a club) comprised of University students that is registered with the campus office ~~of~~ for student involvement and leadership.

**Outdoor Area of Campus**— The generally accessible outside areas of the campus of a state-supported institution of higher education where members of the campus community are commonly allowed, including grassy areas, walkways, and other similar common areas. “Outdoor Area of Campus” does not include outdoor areas where access by the majority of the campus community is restricted.

**Student** – Any person who is enrolled on a full-time or part-time basis at the university.

## **I. Policy Statement**

The University recognizes the important role of intellectual freedom and free expression on campus, and it seeks to further the advancement of knowledge by means of research and discovery, teaching, and vigorous discussion of ideas. Students and faculty are free to discuss matters of public concern to the extent consistent with the First Amendment to the U.S. Constitution; Article 2, Section 6, of the Arkansas Constitution; state and federal statutes and regulations; and the reasonable, content-neutral restrictions set forth in this policy and other University and campus policies.

The University recognizes that individuals or groups may be opposed to certain expressive activities or speakers. Disagreement with different opinions is acceptable; however, the use of violence (including threats of violence and unlawful harassment), violations of law, and violations of University policy are not consistent with creating an environment in which ideas can be discussed openly. An individual or group wishing to protest an expressive activity on campus is subject to the same standards as presenters. ~~Individuals who choose to listen bear the responsibility of recognizing and honoring the right of free speech.~~ On-campus protests and demonstrations that materially and substantially infringe upon the rights of others to engage in or listen to expressive activity are not permitted.

This policy describes the rights of members of the campus community to engage in expressive activities ~~in outdoor areas of campus~~ and provides for procedures and restrictions that are intended to protect the interests of the University and the campus community. To the extent any part of this policy conflicts with ~~Arkansas Act 184 of 2019 (Ark. Code Ann. § 6-60-1005), the provisions of Act 184 will control.~~ an applicable law or constitutional provision, then the relevant law or constitutional provision shall control. Such laws and provisions include the First Amendment to the U.S. Constitution; Article 2, Section 6, of the Arkansas Constitution; Act 184 of 2019 (Ark. Code Ann. § 6-60-1001 et. Seq.); and Act 614 of 2023 (Ark. Code Ann. § 6-60-1401 et seq.)

## **II. Applicability of Other Policies**

This policy shall, wherever possible, be construed in a manner that is consistent with other University and campus policies. Those policies may include (but are not limited to) the following:

### **A. Facilities Use**

The utilization of campus facilities is generally governed by Board of Trustees Policy 705.1, the University of Arkansas Systemwide Policies and Procedures 715.1, the University of Arkansas at Little Rock Policy 703.4, and applicable campus policies on facilities use.

### **B. Academic Freedom**

This Policy shall not be interpreted as limiting, expanding, or otherwise affecting the rights and obligations of faculty as set forth in Board of Trustees Policy 405.1.

### **III. Time, Place, and Manner Guidelines**

The University shall not restrict the expression of a member of the Campus Community in a Campus Forum based on (1) the viewpoint of the expression or (2) reaction or opposition from listeners to or observers of the expression. A Campus Forum may be used for expressive purposes so long as they meet the following requirements:

~~Outdoor areas of campus may be used for expressive activities protected by the First Amendment so long as they meet the requirements set forth below. These requirements will be applied to all expressive activities regardless of the content of the expression or the viewpoints of the speakers or participants:~~

1. A Member of the Campus Community may not disrupt a previously scheduled or otherwise reserved activity.
2. The expressive activity must not violate local ordinances, state laws, federal laws, this policy, or other University ~~policies~~ policy, regarding:
  - a. Compliance with state and federal laws on discrimination and harassment; or
  - b. The productive and efficient operation of an instructional or work environment.
3. The duration of the expressive activity may be limited to a reasonable period of time, based on the type of event and the resources required to manage it.
4. There shall be no obstruction of entrances or exits to buildings, driveways, parking lots, or other campus locations.
5. The expressive activity must not materially disrupt vehicular traffic, pedestrian traffic, or scheduled University programs or events. A speaker's use of walkways or other common areas may not block the free passage of others or impede the regular operation of the University.
6. The expressive activity must not create unreasonable safety risks.
7. There shall be no alteration, modification, defacement, or destruction to University-owned or University-leased property.
8. Expressive activities are subject to any campus policies on the permissible posting of signage, use of chalk, or other alterations to University structures.
9. The erection of tents or any temporary structures must be inspected for safety and approved by the Associate Vice Chancellor for Facilities Management and Planning or designee. Construction of other structures is not permitted.
10. The location for the expressive activity must be left in its original condition at the conclusion of the event, and ~~persons~~ individuals are responsible for ensuring that any trash or litter is properly discarded. Any person or entity that causes damage to University-owned or controlled property will be responsible for paying any

charges necessary to return the property to its original state. Similarly, reasonable cleaning charges may be assessed.

11. For Members of the Campus Community, amplification equipment such as loudspeakers are allowed only with prior permission from the Dean of Students or designee. For Non-Members of the Campus Community, amplification equipment such as loudspeakers is allowed only with prior permission from the Vice-Chancellor for University Affairs or designee. Such requests will be evaluated for the potential disruption of regular University activities or processes.
12. Expression that is obscene, defamatory, or consists of fighting words or threats of physical harm, incites imminent lawless action, or is otherwise not entitled to First Amendment protection is not permitted.
13. Except as provided in other University policies, University property may not be used for the purpose of promoting a commercial enterprise or raising money for projects not connected with a University activity.
14. By making a reservation or using a University space for expressive activity, the organizer agrees to be financially responsible for all costs associated with the use of the space—including (but not limited to) security costs related to invited participants, clean up, and repair of damage to University property. Moreover, if warranted by the nature of the event, the University may require a requestor to obtain appropriate liability or other insurance coverage and/or to indemnify the University, its officials, and employees for any claims pertaining to the use of University grounds.
15. Only official academic and administrative units of the University, University-related foundations and the University alumni association, and registered student organizations with the approval of their faculty advisor, are allowed to reserve outdoor spaces during “dead days,” any official final examination periods, or the dates of any Official University Commencement activities.
16. Unless officially authorized to do so, no person engaging in expressive activity may represent that the person or organization is speaking on behalf of the University, **including through the use of the University name, marks, images or logos. Communications regarding an event may factually state a university location for an event, but shall not state or imply University sponsorship or endorsement of an event unless it is in fact conducted by the University.**
17. First priority for use of **outdoor-spaces Campus Forums** shall go to the University’s academic and administrative units, and the University reserves the right to modify or cancel reservations accordingly. All uses of the University’s **outdoor-spaces** remain subordinate to the University’s right to use them at any time to advance the mission of the institution.
18. **Event organizers, including for spontaneous and contemporaneous events, shall make available accurate contact and event information to University officials to enable communications regarding compliance with University policies, including as necessary regarding event security and crowd control arrangements.**

#### **IV. Expressive Forums and Reservation Requirements**

### **A. Use of Campus Forums**

Members of the Campus Community are encouraged to make a reservation to engage in an expressive activity at a Campus Forum at least 3 business days in advance of any planned ~~use of an Outdoor Area of Campus~~ Campus Forum. Members of the Campus Community must make a reservation for a large-scale event and receive prior approval from the Dean of Students or designee at least 3 business days in advance of any planned use of ~~an Outdoor area of Campus~~ a Campus Forum. Members of the Campus Community, however, may spontaneously and contemporaneously assemble, speak, and distribute literature at ~~outdoor areas of campus~~ Campus Forums without receiving prior approval, but otherwise subject to the provisions of this policy.

Non-Members of the Campus Community must make a reservation and receive prior approval from the Vice-Chancellor for University Affairs or designee at least 3 business days in advance of any planned use of an Outdoor Area of Campus. Non-Members may not use indoor areas unless authorized pursuant to the campus policy on facilities use.

### **B. Reservation Preference**

In instances in which prior permission from the University is not required, persons are still encouraged to contact the Dean of Students for scheduling purposes to minimize possible conflicts. Persons with a reserved space will have priority over any other persons seeking to use the area during the scheduled time period for an expressive activity.

### **C. Reservation Requirements for Other Locations**

In addition to the indoor location defined as Campus Forums above, there are additional locations on campus, which include certain indoor facilities, such as auditoriums that may be made temporarily available to Members and Non-Members of the Campus community for assemblies, debates, or other expressive activities as designated by the University. The use of such locations may entail security concerns, scheduling conflicts, or resource constraints. Persons desiring to use such locations may request a reservation pursuant to the facility-specific procedures and policies. Approval of reservations may be conditioned on acceptable security arrangements, insurance or payment of fees. A list of such reservable facilities is available in the Dean of Student's Office.

Other locations on campus are typically reserved for their intended purpose and cannot be reserved for expressive activities. Examples of such locations vary by campus but generally include the following: libraries, the hallways and classrooms in academic buildings, dormitory rooms, faculty and staff offices, administration buildings, medical treatment facilities, research and computer labs, and athletic fields and facilities.

### **D. Registered Student Organizations, Organized Demonstrations, and Large-Scale Events**

The right to freedom of expression includes organized demonstrations. At the same time, this right does not allow individuals to materially disrupt the University's operations or endanger the safety of others. For Members of the Campus Community, large-scale events must receive prior approval from the Dean of Students or designee at least 3 business days in advance of the event or activity. For Non-Members of the Campus Community, large-scale events must receive prior approval from the Vice Chancellor for University Affairs or designee at least 3 business days in advance.<sup>14</sup> The University will work with the requesting person to either meet the request or find a suitable time and location. To ensure safety on campus, the University may require the requesting party to provide a parade route, hire security, ensure egress to facilities, or take other steps to maintain the safety of the campus. Demonstrations and protests are not permitted in buildings. All participants must follow applicable laws and policies.

### **E. Denials and Revocations**

A denial or revocation of permission to engage in an expressive activity shall generally be based on a reason set forth in this policy or other applicable policies of the Board of Trustees or University of Arkansas System. However, no policy can address every possible activity or situation that may occur on University property, and the University reserves the right to address such situations as circumstances warrant.

Any decision to deny a reservation for a ~~publicly accessible outdoor location~~ **Campus Forum** shall be promptly communicated in writing to the requester and shall set forth the basis of the denial. Any such denial must be based on clear, viewpoint-neutral criteria. Anyone aggrieved by the application of these rules may appeal in writing within 10 days to the Vice Chancellor for Student Affairs or designee.

### **F. Miscellaneous**

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This policy does not designate all publicly accessible outdoor locations on campus or any indoor location as a traditional public forum, regardless of whether it is a Campus Forum.

### **V. Sanctions and Enforcement**

Violations of this policy by Members of the Campus Community may result in review and sanctions under applicable University policies ~~and procedures, including but not limited to, the campus code of student conduct, employee handbooks, and campus nondiscrimination policies. Students will be subject to the procedures established in the Code of Rights, Responsibilities, and Behavior (i.e. Code of Student Conduct). Faculty and staff will be subject to the procedures established in applicable employee handbooks.~~ Violations of this policy by other persons may result in removal from campus or arrest. Members and Non-Members of the Campus Community may also lose their privileges to use campus grounds and facilities in the future, in addition to criminal sanctions. Any criminal proceedings are separate from the University's sanctions. The University will enforce this policy in a content-neutral manner.

[1] Students' use of a single table, cart, booth, or similar structure that does not exceed three feet by six feet (3' x 6') is permitted without a reservation at permissible outdoor locations so long as the time, place, and manner guidelines are followed.