

08.99.99.01 Expressive Activity on Campus



Approved: May 14, 2020
Reviewed: June 25, 2024
Next Scheduled Review: June 25, 2029

RULE SUMMARY

In 2019, the 86th Texas Legislature passed Senate Bill 18, addressing the protection of campus expressive activities. This new law adds Texas Education Code Section 51.9315, which requires that each public institution of higher education “adopt a policy detailing student’s rights and responsibilities regarding expressive activities” on its campus.

As stated in the Preamble to the bill: Freedom of expression is of critical importance and requires each public institution of higher education to ensure free, robust, and uninhibited debate and deliberations by students enrolled at the institution, regardless of whether the students are on or off campus. It is a matter of statewide concern that all public institutions of higher education officially recognize freedom of speech as a fundamental right. Freedom of speech and assembly is central to the mission of institutions of higher education and persons should be permitted to assemble peaceably on the campuses of institutions of higher education for expressive activities, including to listen to or observe the expressive activities of others.

This rule has been amended to comply with Governor Greg Abbott’s Executive Order GA-44, dated March 27, 2024.

DEFINITIONS

This section defines the terms used in this rule. The definitions include both the singular and plural version of the term:

1. **Antisemitism** means a certain perception of Jews that may be expressed as hatred toward Jews. The term includes rhetorical and physical acts of antisemitism directed toward Jewish or non-Jewish individuals or their property or toward Jewish community institutions and religious facilities.¹ Antisemitic conduct comprised of behavior expressed in section 1.3.2 of this rule can be sanctioned by the university.
2. **Benefit** means recognition by or registration with the university, the use of the university’s facilities for meetings or speaking purposes, the use of channels of communication controlled by the university, and funding sources made generally available to student organizations at the university.
3. **Campus** means all land and buildings owned or leased by the university.

¹ Texas Government Code, Section 448.001.

4. **Common outdoor areas** mean places located outside a building or facility that are accessible to the public, such as streets, sidewalks, plazas, lawns, and parks, unless closed by the university for a special event. This term does not include areas immediately adjacent to a private residence.
5. **Employee** means an individual employed by the university.
6. **Expressive activity** means any speech or expressive conduct protected by the First Amendment to the United States Constitution or by Section 8, Article I, Texas Constitution, and includes assemblies, protests, speeches, the distribution of written material, the carrying of signs, and the circulation of petitions. The term does not include commercial speech.
7. **Faculty** means any full or part-time employee of the university holding an academic appointment
8. **Illegal Harassment** means expressive conduct that is so severe and pervasive and objectively offensive that it denies or limits a person's ability to participate in or benefit from an educational program or activity.
9. **Inciting or producing imminent lawless action** means speech or behavior that presents a clear, present, and imminent threat of physical harm or property damage.
10. **Materially and substantially disrupt** means interrupting a program or activity in a significant and consequential manner.
11. **Person** means students, faculty, staff, student organizations, and third parties.
12. **Reasonable time, place, and manner restrictions** means limitations that: (1) are narrowly tailored to serve a significant institutional interest; (2) employ clear, published, content-neutral, and viewpoint-neutral criteria; (3) provide for ample alternative means of expression.
13. **Staff** means an employee of the university that is not a faculty member.
14. **Student** means an individual currently enrolled at the university, full or part-time, pursuing undergraduate, graduate, or professional studies, including students who were enrolled the previous semester and registered for a future semester.
15. **Student Organization** means any organization that is composed mostly of students enrolled at an institution of higher education and that receives a benefit from the institution.
16. **Third-party (External Client)** means an individual or entity that is not a student, student organization, or employee of the university.
17. **Traditional public forum** means a place, widely recognized in law, which has been intended for the use of the public, and has been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions when the principal function of the location would not be disrupted by expressive activity. Examples of traditional public forums include public streets, sidewalks, plazas, lawns, and parks.
18. **True Threats** means communication of a serious expression of an intent to harm a specific person or group of people.

RULE

1. EXPRESSIVE ACTIVITY RIGHTS

- 1.1. Any person is allowed, subject to reasonable time, place, and manner restrictions, to engage in expressive activities on campus, including by responding to the expressive activities of others.
- 1.2. Student organizations and employees are allowed to invite speakers to speak on campus. In determining the amount of a fee to be charged for use of the university's facilities for purposes of engaging in expressive activities, the university may consider only content-neutral and viewpoint-neutral criteria related to the requirements of the event, such as the proposed venue and the expected size of the audience, any anticipated need for campus security, any necessary accommodations, and any relevant history of compliance or noncompliance by the requesting student organization or employee with this rule and other relevant rules. The university may not consider any anticipated controversy related to the event.
- 1.3. The university may not take action against a student organization or deny the organization any benefit generally available to other student organizations at the university based on a political, religious, philosophical, ideological, or academic viewpoint expressed by the organization or of any expressive activities of the organization.
 - 1.3.1 The university may take action against individuals or groups that engage in expressive activity that is not protected by this rule or the First Amendment². Sanctions that may be imposed include all those enumerated in § 14.10, Article VII: Sanctions of the *Student Handbook and Code of Student Conduct*.
 - 1.3.2 Expressive activities that may result in sanctions and are not protected by this rule or the First Amendment include the following: physical abuse or assault, true threats, disruption of the academic environment or university-sponsored extracurricular event; inciting or producing imminent lawless action; or illegal harassment.
 - 1.3.3 Conduct described in 1.3.2 may be reviewed and adjudicated under The Texas A&M University System (A&M System) Regulation *08.01.01, Civil Rights Compliance*, including those related to actionable discrimination or harassment based on race, color, sex, religion, national origin, age, disability, genetic information, veteran status, sexual orientation, gender identity, or any other classification protected by federal, state, or local law.³ Additionally, said conduct may also be reviewed and adjudicated by the Office of Student Rights and Responsibilities using the Code of Student Conduct when the conduct does not rise to the level of a civil rights violation.

² This rule must be applied in a manner consistent with the [Dear Colleague Letter \(July 28, 2003\)](#) issued by the Department of Education related to First Amendment and civil rights laws compliance.

³ This includes unprotected activities motivated by antisemitism and other forms of shared ancestry discrimination as listed in the [Dear Colleague Letter \(Nov. 7, 2023\)](#) issued by the Department of Education in the wake of the tragic events of October 7, 2023.

- 1.4. The common outdoor areas of the university's campus are deemed traditional public forums. Any person is permitted to engage in expressive activities in these areas freely, as long as the person's conduct: (a) is lawful; and (b) does not materially and substantially disrupt the functioning of the institution. Members of the university community are allowed to assemble or distribute written material in common outdoor areas without a permit or other permission from the institution.
- 1.5. Nothing in this rule should be interpreted as prohibiting faculty members from maintaining order in the classroom.

2. GRIEVANCE PROCEDURE

- 2.1. Any person who believes that their campus expressive activity rights, as recognized by this rule, have been unduly interfered with by a student, student organization, or employee has the right to file a grievance.
- 2.2. Grievances should be filed with the Compliance Office.
- 2.3. A student, student organization, or employee who is found to have unduly interfered with another person's expressive activity rights, as recognized by this rule, is subject to disciplinary action in accordance with the university's applicable rules and procedures. The Compliance Office will review the grievance and refer the complaint to the appropriate office for further action if a violation of this rule was found to occur. The referral office will be determined by the status of the offending individual. Complaints concerning:
 - (a) faculty will be referred to the Office of the Provost;
 - (b) students will be referred to the Office of Rights and Responsibilities; and
 - (c) staff and third parties will be referred to the Human Resources Department.

3. IMPLEMENTATION

- 3.1. A copy of this rule must be included in any university published student handbook and personnel handbook.
- 3.2. A copy of this rule must be provided to students during the university's new student orientation program.
- 3.3. A copy of this rule must be posted to the university's website.

4. EXTERNAL CLIENT EVENTS

Events organized by an external party and held on campus must be sponsored by a recognized student organization, university academic or administrative unit, or an A&M System member.

RELATED STATUTES, POLICIES, OR REQUIREMENTS

[Texas Education Code § 51.9315](#) Protected Expression on Campus

[Texas Government Code § 448.001](#)

Texas OAG Guide to First Amendment Issues on Campus (September 7, 2018).

[Executive Order GA-44 \(March 27, 2024\)](#)

Appendix

Security Cost Protocol for Expressive Activity

Contact Office

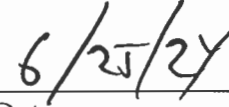
University Compliance Office (201) 784-2003

System Approvals*

Approved for Legal Sufficiency:



Ray Bonilla
General Counsel



Date

Approved:



John Sharp
Chancellor



Date

***System approvals are contingent upon incorporation of any and all System-required changes in the rule's final posting.**