

Chapter 516-35 WAC
USE OF UNIVERSITY PROPERTY—FREEDOM OF EXPRESSION AND ASSEMBLY

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WAC

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WAC 516-35-001 Definitions. As used in this chapter, the following words and phrases mean:

(1) **Business day.** Any day, Monday through Friday (excluding holidays), during which university offices are open.

(2) **Freedom of expression and assembly.** Any activity protected by the first amendment to the Constitution of the United States and Article I, sections 4 and 5 of the Washington state Constitution. Such activities may include, but are not limited to, informational picketing, petition circulation, distribution of information leaflets or pamphlets, speech-making, demonstrations, rallies, noncontracted appearances of speakers, protests, meetings to display group feelings or sentiments, and other types of constitutionally protected assemblies to share information, perspective, or viewpoints.

(3) **Limited public forum areas.** Areas of campus available as spaces for freedom of expression and peaceable assembly as protected by the Constitution of the United States and the Washington state Constitution, subject to reasonable time, place, and manner restrictions. Limited public forum areas do not include:

(a) Classrooms or academic buildings utilized for scheduled educational programming with the exception that nothing herein shall be read to interfere between or with the academic freedom of the instructor and enrolled students to engage in educational programs;

(b) Reservable or scheduled property subject to the provisions of chapter 516-36 WAC;

(c) Private administrative or academic offices;

(d) Lavatory or maintenance facilities;

(e) Roadways or sidewalks necessary to permit the free flow of pedestrian, vehicular, emergency responder, or maintenance traffic; or

(f) Any other university property, on a case-by-case basis, where the reasonable application of time, place, and manner restrictions render the location inappropriate for expressive activities.

(4) **Nonuniversity group or individual.** An individual or a collection of individuals who do not have a formal relationship with the university. The term also includes members of these groups who are individually affiliated with the university who desire to use university property for personal, private, or nonuniversity group related activities.

(5) **Time, place, and manner.** Reasonable limitations on the exercise of expressive rights that are neutral as to the content of expression and leave open alternative channels of expression.

(6) **University.** Western Washington University.

(7) **University affiliate.** An entity that has a formal relationship with the university and also encompasses such entity's officers, agents, and employees. The term includes, but is not limited to, the

office of the attorney general, contracted agencies, and 501 (c)(3) organizations with formal relationships to the university.

(8) **University group or individual.** An individual or collection of individuals that has a formal relationship with the university, such as a recognized employee group of the university, a registered student group or organization or an individual acting on behalf of the group or organization as well as an individual who is a currently enrolled student or current employee.

(9) **University property.** All buildings, grounds, or assets owned or controlled by the university and the streets, sidewalks, plazas, parking lots, and roadways within the boundaries of property owned or controlled by the university.

[Statutory Authority: RCW 28B.35.120(12). WSR 22-13-123, § 516-35-001, filed 6/17/22, effective 7/18/22; WSR 18-13-073, § 516-35-001, filed 6/15/18, effective 7/16/18.]

WAC 516-35-005 General policy and purpose. The university believes that freedom of expression and assembly are indispensable qualities of university life, and that active participation in political and social expression both enhances the education of the individual and contributes to the betterment of society. The university is committed to respecting and promoting the rights afforded by the constitutions of the United States and the state of Washington, including the right to free speech, petition, and to peaceably assemble.

University property is intended for use by students, faculty, and staff in support of the university's mission of teaching, research, and public service. Individuals, groups, or organizations may use university property in accordance with university rules and regulations.

To achieve the objectives of this chapter, it is essential that free expression be accomplished in a manner that allows for the orderly function of normal university operations. Thus, the purpose of the time, place, and manner regulations set forth in this chapter are to:

(1) Promote opportunities for exercise of the rights protected by the constitutions of the United States and the state of Washington on the university campus.

(2) Ensure that these activities do not interfere with the furtherance of the university's mission-related responsibilities for which the university's property is dedicated by the state of Washington.

[Statutory Authority: RCW 28B.35.120(12). WSR 18-13-073, § 516-35-005, filed 6/15/18, effective 7/16/18.]

WAC 516-35-010 Use of university property—Notice. (1) Any non-university group or individual who desires to use a limited public forum area on a temporary basis for freedom of expression and assembly must submit notice of planned use to the Western Washington University department of public safety not less than five business days prior to use, subject to limitations set forth in WAC 516-35-030. However, use may be permitted with less notice so long as the use does not interfere with any other function or university operations.

(2) University affiliates or university groups or individuals who desire to use university property or a limited public forum area on a

temporary basis for freedom of expression or assembly must adhere to applicable policies and laws and are requested to provide notice to the Western Washington University department of public safety. If university affiliates or university groups or individuals intend to set up free-standing objects on university property, notice must be given as directed in WAC 516-35-030 (3) and (4).

(3) Submitted notices shall include, but are not limited to, the following:

(a) The contact information for the persons or organizations, including the organization's name and its contact person's name, person's name, address, email address, and telephone number;

(b) The date, time, and location requested for use;

(c) The nature and purpose of the use;

(d) The estimated number of people expected to be involved, including participants, spectators, supporters, and detractors or others;

(e) A description and intended use of any object, free-standing or otherwise, that will be placed on university property including, but not limited to, furniture, hardware, props, vehicle, displays, sound amplification device, audio-visual device, or other objects; and

(f) Other information as may be reasonably requested.

[Statutory Authority: RCW 28B.35.120(12). WSR 22-13-123, § 516-35-010, filed 6/17/22, effective 7/18/22; WSR 18-13-073, § 516-35-010, filed 6/15/18, effective 7/16/18.]

WAC 516-35-020 Use of university property—Evaluation. (1) The president, or the president's designee, shall have the authority to accept, modify, or reject, in whole or in part, the planned use outlined or described in the notice submitted pursuant to this chapter.

(2) In evaluating a notice submitted pursuant to this chapter, the president, or the president's designee, may consider a variety of factors including, but not limited to, the following:

(a) Whether a university program or activity is scheduled at the location requested. First priority shall be given to the university program or scheduled activity;

(b) Whether the use is in connection with a university program or activity;

(c) Whether the intended use is compatible with the educational mission and objectives of the university.

(3) The president, or the president's designee, may specify reasonable fire, safety, law enforcement, sanitation, cleanup, insurance, and other risk- or impact-mitigating requirements for the use of university property. Charges may be applied in the event any of these requirements are deemed to have costs associated with them.

(4) Whenever the president, or the president's designee, rejects, either in whole or in part, a request for use of university property, the reasons for such rejection shall be stated in writing.

[Statutory Authority: RCW 28B.35.120(12). WSR 22-13-123, § 516-35-020, filed 6/17/22, effective 7/18/22; WSR 18-13-073, § 516-35-020, filed 6/15/18, effective 7/16/18.]

WAC 516-35-030 Use of university property—Exceptions, limitations, and termination of use. (1) The president, or the president's designee, may apply time, place, and manner exceptions to limit, relocate, reschedule, terminate, cancel, or prohibit the use of university property for freedom of expression activities to protect persons or property from harm and/or to prevent the disruption of university operations including, but not limited to, violations of WAC 516-24-130, 516-52-020, or other laws or university policies.

(2) The use of university property for freedom of expression and assembly must comply with all requirements and limitations set forth in WAC 516-24-001 and 516-36-030.

(3) Any activity that involves the placement of furniture, hardware, prop, vehicle, display, sound amplification device, audio-visual device, or other free-standing object on university property for freedom of expression and assembly requires notice pursuant to WAC 516-35-010.

(a) Placed or free-standing objects that are not generally moveable or are of a size or nature that they may pose a personal safety risk, a risk to property, or block egress and traffic flow must have prior approval through a space reservation. To reserve university property, refer to chapter 516-36 WAC.

(b) Objects that are small, moveable by a single person, not permanent or do not need to be secured, and are lightweight; for example, small displays less than four feet in any dimension, folding tables, easels, or other similar object do not require a reservation to place on university property for a limited time and may be subject to other university imposed time, place, or manner restrictions.

(c) At least one person must be present at all times to attend to any placed object for the duration of use until completion of activity pursuant to subsection (6) of this section.

(4) In order to allow for the expression of a wide range of viewpoints and to allow the utilization of university property for a wide range of purposes, the use of university property for freedom of expression and assembly may be limited in duration to the following:

(a) Activities may not continue for longer than five calendar days from start to finish; and

(b) Activities are limited to 7:00 a.m. to 10:00 p.m. on any day due to the residential nature of campus.

(5) University employees, student groups, and university-affiliated groups may reserve outdoor space on campus for university-sponsored activities pursuant to chapter 516-36 WAC. If space is reserved for a university-sponsored activity, other persons and groups may be prohibited from engaging in freedom of expression and assembly in the reserved space. In such cases, a university representative may suggest another area on campus for freedom of expression and assembly.

(6) The group or individual utilizing university property for freedom of expression and assembly must return the university property to its original condition after the use and is responsible for the costs of cleanup and the costs to repair damages to the limited public forum area and other university property that arises from such use.

(7) The university will not provide utility connections or hook-ups.

(8) Nonuniversity groups and individuals may not use the interior of any facility for freedom of expression and assembly.

(9) Freedom of expression and assembly must otherwise be conducted in compliance with any other applicable university policies and rules, local ordinances, and state or federal law.

(10) **Exception - Open public meetings.** Nothing in these rules is intended to interfere with public participation in meetings of the university's governing board or associated student body that are required to be open to the public under the Open Public Meetings Act, chapter 42.30 RCW.

[Statutory Authority: RCW 28B.35.120(12). WSR 22-13-123, § 516-35-030, filed 6/17/22, effective 7/18/22; WSR 18-13-073, § 516-35-030, filed 6/15/18, effective 7/16/18.]

WAC 516-35-040 Unscheduled expression and assembly—University affiliates or a university group or individual. Protecting impromptu and spontaneous peaceable assembly for the purposes of expression, protest, and dissent is essential to fulfilling the university's commitment to freedom of expression and assembly. Thus, the lack of notice to use university property by university affiliates or a university group or individual is not necessarily a sole basis for terminating any expressive activity, including impromptu activities, unless the protest or assembly conflicts with a previously scheduled event in the same location or is in violation of law and/or university policy including, but not limited to, WAC 516-24-130 and 516-52-020.

To ensure space is available for expression or assembly, university affiliates or a university group or individuals are encouraged to provide notice.

[Statutory Authority: RCW 28B.35.120(12). WSR 18-13-073, § 516-35-040, filed 6/15/18, effective 7/16/18.]