



RULE-MAKING ORDER

R-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Community College District VIII, Bellevue Community College

- Permanent Rule
 Emergency Rule

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
 Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: Create WAC 132H-142 to recognize and support the rights of groups and individuals to engage in first amendment activities while simultaneously balancing the needs and interests of the college to fulfill its mission as a state educational institution of Washington. The college's existing facilities use policy was changed to delete references which conflict with the new first amendment policy and a section was added to direct people to the new policy.

Citation of existing rules affected by this order:

Repealed:
 Amended: WAC 132H-140
 Suspended:

Statutory authority for adoption: RCW 28B.50.140

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 05-04-061 on Jan 31, 2005 (date).
 Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted: March 9, 2005

NAME (TYPE OR PRINT)
 Debra P. Ross

SIGNATURE

TITLE
 Rules Coordinator

CODE REVISER USE ONLY

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9:27

05-07-069

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

The number of sections adopted at the request of a nongovernmental entity:

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in the agency's own initiative:

	New	<u>10</u>	Amended	<u>5</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	<u>10</u>	Amended	<u>5</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>10</u>	Amended	<u>5</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

NEW SECTION

WAC 132H-142-010 Title. WAC 132H-142-010 through 132H-142-060 shall be known as use of Community College District VIII facilities by college groups and non-college groups for first amendment activities.

NEW SECTION

WAC 132H-142-015 Definitions. For the purposes of this policy non-college groups shall mean individuals, or combinations of individuals, who are not currently enrolled students or current employees of Bellevue Community College or who are not officially affiliated or associated with a recognized student organization or a recognized employee group of the college.

For purposes of this policy, college groups shall mean individuals who are currently enrolled students or current employees of Bellevue Community College or who are affiliated with a recognized student organization or a recognized employee group of the college.

The College is a limited public forum for non-college groups. The limited public forum does not include college buildings or athletic fields. College buildings, rooms, and athletic fields may be rented in accordance with the college's facilities use policy.

NEW SECTION

WAC 132H-142-020 Statement of Purpose. Bellevue Community College District VIII is an educational institution provided and maintained by the people of the state of Washington. The public character of the college does not grant to individuals an unlimited license to engage in activity which limits, interferes with, or otherwise disrupts the normal activities for and to which the college's buildings, facilities and grounds are dedicated and said buildings, facilities and grounds are not available for unrestricted use by non-college groups. While said buildings, facilities and grounds are not available for unlimited use by college groups, it is recognized that Bellevue Community College students and employees should be accorded opportunity to utilize the facilities and grounds of the college to the fullest extent possible. The purpose of these time, place and manner regulations is to establish procedures and reasonable controls for the use of college facilities for both non-college and college groups. It is intended to balance the college's responsibility to fulfill its mission as a state educational institution of Washington with the interests of non-college groups or college groups who are interested in using the campus for purposes of constitutionally protected speech, assembly or expression.

NEW SECTION

WAC 132H-142-030 Request for use of facilities. Subject to the regulations and requirements of this policy, college or non-college groups may use the campus limited forums for those activities protected by the first amendment. Examples of first amendment activities would include, but not necessarily be limited to, informational

picketing, petition circulation, the distribution of information leaflets or pamphlets, speech-making, demonstrations, rallies, appearances of speakers in outdoor areas, mass protests, meetings to display group feelings or sentiments and/or other types of constitutionally protected assemblies to share information, perspective or viewpoints.

Non-college groups that intend to be on campus to engage in first amendment activities (hereinafter "the event") shall provide notice to the campus public safety department no later than forty-eight (48) hours prior to the event along with the following information:

- (1) The name, address and telephone number of the individual, group, entity or organization sponsoring the event (hereinafter "the sponsoring organization"); and
- (2) The name, address and telephone number of a contact person for the sponsoring organization; and
- (3) The date, time and requested location of the event; and
- (4) The nature and purpose of the event; and
- (5) The type of sound amplification devices to be used in connection with the event, if any; and
- (6) The estimated number of people expected to participate in the event.

Signs shall be no larger than three feet by five feet (3' x 5') and no individual may carry more than one sign.

If more than thirty (30) people are expected to participate in the event, the event must be held in the southern courtyard, just north of the Carlson Theater.

The use of sound amplification devices is limited to the limited public forum area as long as the sound amplification device is used at a volume which does not disrupt or disturb the normal use of classrooms, offices or laboratories or any previously scheduled college event or activity.

College groups are encouraged to notify the campus public safety department no later than 48 hours in advance of an event. However, unscheduled events are permitted so long as the event does not interfere with any other function occurring at the facility.

College group events shall not last longer than eight hours from beginning to end. Non-college events shall not last longer than five hours from beginning to end.

Information may be distributed as long as it is not obscene or libelous or does not advocate unlawful conduct. The sponsoring organization is encouraged, but not required, to include its name and address on the distributed information. To avoid excessive littering of the campus and/or greatly increased work requirements for college physical plant employees, groups are asked to cooperate with the college in limiting the distribution of information leaflets or pamphlets to the limited public forum site.

Speech that does no more than propose a commercial transaction shall not occur in connection with the event.

The limited public forum used by the group should be cleaned up and left in its original condition and may be subject to inspection by a representative of the college after the event. Reasonable charges may be assessed against the sponsoring organization for the costs of extraordinary clean-up or for the repair of damaged property.

All fire, safety, sanitation or special regulations specified for the event are to be obeyed.

The college cannot and will not provide utility connections or hook-ups for purposes of first amendment activities conducted pursuant to this policy.

The event must not obstruct vehicular, bicycle, pedestrian or other traffic or otherwise interfere with ingress or egress to the college, or to college buildings or facilities, or to college activities or events.

The event must not create safety hazards or pose unreasonable safety risks to college students, employees or invitees to the college.

The event must not interfere with educational activities inside or outside any college building or otherwise prevent the college from fulfilling its mission and achieving its primary purpose of providing an education to its students.

The event must not materially infringe on the rights and privileges of college students, employees or invitees to the college.

The event must also be in accordance with any other applicable college policies and regulations, regulations and policies of Bellevue Community College, local ordinances and/or state or federal laws.

NEW SECTION

WAC 132H-142-040 Additional requirements for non-college groups. The limited public forum may not be used on the same date as any previously scheduled college event or activity at the site (aside from regularly scheduled classes) where it is reasonably anticipated that more than five hundred (500) people will attend the college event or activity.

NEW SECTION

WAC 132H-142-050 The role of the president in first amendment decisions. The president of the college may authorize first amendment activities which are reasonably determined not to cause disruption of college activities despite a literal violation of this policy statement. Such determinations shall be made without consideration of the content or message of the first amendment activities.

The president of the college or designee may at any time, terminate, cancel or prohibit the event if it is determined, after proper inquiry, that the event does constitute or will constitute a clear and present danger to the college's orderly operation.

NEW SECTION

WAC 132H-142-060 Criminal trespass. Any person determined to be violating these regulations is subject to an order from the college public safety department to leave the college campus. Persons failing to comply with such an order to leave the college campus are subject to arrest for criminal trespass.

NEW SECTION

WAC 132H-142-070 Posting of a bond and hold harmless statement. When using college buildings or athletic fields, an individual or organization may be required to post a bond and/or obtain insurance to protect the college against cost or other liability in accordance with the college's facility use policy.

When the college grants permission to a college group or non-college group to use its facilities it is with the express understanding and condition that the individual or organization assumes full responsibility for any loss or damage.

NEW SECTION

WAC 132H-142-080 First amendment activities and protection of the college mission. The college recognizes and supports the rights of groups and individuals to engage in first amendment activities. This policy shall be interpreted and construed to support such activities while simultaneously balancing the needs and interests of the college to fulfill its mission as a state educational institution of Washington.

AMENDATORY SECTION (Amending WSR 82-11-039, Order 80, Resolution No. 149, filed 5/12/82)

WAC 132H-140-010 Title. WAC 132H-140-010 through 132H-140-110 will be known as facility usage for other than first amendment activities for Community College District VIII.

AMENDATORY SECTION (Amending WSR 02-14-007, filed 6/20/02, effective 7/21/02)

WAC 132H-140-020 Statement of purpose. Bellevue Community College District VIII is an educational institution provided and maintained by the people of the state of Washington. The college reserves its facilities, buildings and grounds for those activities ~~((that))~~ ~~((which))~~ that are related to its broad educational mission. At other times, the college facilities may be made available to other individuals and organizations.

The purpose of these regulations is to establish procedures and reasonable controls for the use of college facilities for ~~((noncollege))~~ non-college groups and for college groups where applicable.

In keeping with this general purpose, and consistent with RCW 28B.50.140(7) and 28B.50.140(9), facilities should be available for a variety of uses which are of benefit to the general public if such general uses substantially relate to and do not interfere with the mission of the college. However, a state agency is under no obligation to make its public facilities available to the community for private purposes.

Primary consideration shall be given at all times to activities specifically related to the college's mission, and no arrangements shall be made that may interfere with, or operate to the detriment of, the college's own teaching, or public service programs.

Reasonable conditions may be imposed to regulate the timeliness of requests, to determine the appropriateness of space assigned, time of use, and to insure the proper maintenance of the facilities. Subject to the same limitations, college facilities shall be made available for assignment to individuals or groups within the college community. Such arrangements by both organizations and individuals must be made through campus operations.

NEW SECTION

WAC 132H-140-025 Facilities use for first amendment activities. Use of the campus for first amendment activities, as defined by law, is governed by the rules set forth in chapter WAC 132H-142-010 through WAC 132H-142-060. This chapter does not apply to those individuals or groups using the college facilities for first amendment activities.

AMENDATORY SECTION (Amending WSR 02-14-007, filed 6/20/02)

WAC 132H-140-030 Request for use of facilities. Requests by ~~((noncollege))~~ non-college groups for utilization of college facilities shall be made to the director of campus operations or a designee, who shall be the agent of the college in consummating rental and use agreements.

AMENDATORY SECTION (Amending WSR 02-14-007, filed 6/20/02)

WAC 132H-140-050 Scheduling and reservation practices. The primary purpose of college facilities is to serve the instructional program of the college. However, the facilities, when not required for scheduled college use, may be available for rental by the public in accordance with current fee schedules and other relevant terms and conditions for such use.

No college facilities may be used by individuals or groups from outside the college unless the facilities including buildings, equipment and facilities land have been reserved.

In determining whether to accept a request for the use of college facilities, the administration shall use the college mission statement and the following items, listed in priority order, as guidelines:

- (1) Bellevue Community College scheduled programs and activities.
- (2) Major college events.
- (3) Foundation related events.
- (4) (~~Non-college~~) Non-college (outside individual or organization) events.

Arrangements for use of college facilities must be made through the campus operations office.

AMENDATORY SECTION (Amending WSR 02-14-007, filed 6/20/02)

WAC 132H-140-065 Limitations and denial of use. Bellevue Community College is a state agency and exists to serve the public. However, the college may deny use of its facilities to any individual, group or organization if the requested use would

- (1) Interfere or conflict with the college's instructional, student services or support programs;
- (2) Interfere with the free flow of pedestrian or vehicular traffic on campus;
- (3) Involve illegal activity;
- (4) Create a hazard or result in damage to college facilities; or
- (5) Create undue stress on college resources (e.g., a request for a major event may be denied if another major event is already scheduled for the same time period, because of demands for parking, security coverage, etc.).

Where college space is used for an authorized function (such as a class or a public or private meeting under approved sponsorship, administrative functions or service related activities), groups must obey or comply with directions of the designated administrative officer or individual in charge of the meeting.

Any individual or group granted permission to use college facilities shall agree in advance to abide by all college rules and regulations. The college reserves the right to deny use of college facilities to any individual or group whose past conduct indicates a likelihood that college rules and regulations will not be obeyed. The college may also deny use to a requesting individual or organization which has used the facilities in the past and has damaged college property, left college buildings and grounds in excessive disorder, or failed to cooperate with college staff concerning use of the facilities.

No person or group may use or enter onto college grounds or facilities having in their possession firearms or other dangerous weapons, even if licensed to do so, except commissioned police officers as prescribed by law.

College facilities may be used for purposes of political campaigning by or for candidates who have filed for public office, directed to members of the public, only when the full rental cost of the facility is paid. Use of state funds to pay for facility rental costs for political campaigns is prohibited. ~~((No person may solicit contributions on college property for political uses, except where this limitation conflicts with federal law regarding interference with the mails.))~~

~~((Orderly picketing and other forms of peaceful dissent are protected activities on and about the college premises when such premises are open to public use. However, interference with free passage through areas where members of the college community have a right to be, interference with ingress and egress to college facilities, interruption of classes, injury to persons, or damage to property exceeds permissible limits. While peaceful dissent is acceptable, violence or disruptive behavior is not a legitimate means of dissent. If any person, group, or organization attempts to resolve differences by means of violence, the college retains the right to take steps to protect the safety of individuals, the continuity of the educational process, and the property of the state.))~~

If at any time actual use of college facilities by an individual or group constitutes an unreasonable disruption of the normal operation of the college, such use shall immediately terminate, all persons engaged in such use shall immediately vacate the premises, and leave the college property upon command of the appropriate college official.

Advertising or promotional materials for any event being held in a college facility must follow the same procedure as applies to students outlined in WAC 132H-120-050.

Use of audio amplifying equipment is permitted only in locations and at times that will not interfere with the normal conduct of college affairs.

BCC facilities may not be used for private or commercial purposes unless such activities clearly serve the educational mission of the college, are either sponsored by an appropriate college unit or conducted by contractual agreement with the college. Commercial uses may also be made as noted in WAC 132H-133-050.

Alcoholic beverages will not be served without the approval of the president or his/her designee. It shall be the responsibility of the event sponsor to obtain all necessary licenses from the Washington State Liquor Control Board and adhere to their regulations, and those of Bellevue Community College.