

WSR 24-05-006

PROPOSED RULES

EASTERN WASHINGTON UNIVERSITY

[Filed February 8, 2024, 11:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-02-075.

Title of Rule and Other Identifying Information: Notice of trespass.

Hearing Location(s): On April 18, 2024, at 8:00 a.m., at 215A Tawanka Commons, Cheney, WA 99004.

Date of Intended Adoption: May 17, 2024.

Submit Written Comments to: Annika Scharosch, 211 Tawanka [Hall], Cheney, WA 99004, email ascharosch@ewu.edu, website <https://inside.ewu.edu/policies>, by April 18, 2024.

Assistance for Persons with Disabilities: Contact Annika Scharosch, phone 509-359-6724, email ascharosch@ewu.edu, by April 18, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Extends the time period the Eastern Washington University (EWU) police department can temporarily trespass an individual from campus from 24 hours to 72 hours.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 28B.35.120(12).

Statute Being Implemented: RCW 28B.15.740.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: EWU, governmental.

Name of Agency Personnel Responsible for Drafting: Annika Scharosch, 211 Tawanka Commons, Cheney, WA 99004, 509-359-6724; Implementation and Enforcement: Dr. Shari McMahan, 214 Showalter Hall, Cheney, WA 99004, 509-359-6200.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Not subject to RCW 34.05.328(5).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

February 8, 2024

Annika Scharosch

Associate Vice President for Civil Rights
Compliance and Enterprise Risk Management

OTS-5219.1

AMENDATORY SECTION (Amending WSR 18-06-022, filed 2/27/18, effective 3/30/18)

WAC 172-122-200 Notice of trespass. (1) The president of Eastern Washington University, or the president's designee, has the authority to grant, deny, or withdraw permission for people to be on university property. Any individual who is on university property must comply with university rules. Access to university property may be limited to certain times, certain uses, or certain groups of people. People who are on university property or within a university building without permission may be ordered to leave by any university official.

(2) People who remain on university property without permission, who disrupt university activities, interfere with people's ability to access buildings, or whose conduct threatens the health, safety, or security of anyone on campus may be removed from university property and given a (~~twenty-four-hour~~) trespass notice of up to 72 hours by the president, the president's designee, or a member of the university police department.

(3) In the event a person's conduct continues to threaten the health, safety, or security of anyone on campus, the president or president's designee may trespass the person from university property for up to five years, except expelled students may permanently be trespassed from campus. Any prior license or privilege to be on university property is revoked by the notice of trespass.

(4) A person who is trespassed from university property shall be given a written notice of trespass identifying:

- (a) The reason why the person is being trespassed;
- (b) The duration and scope of the trespass;
- (c) The method for appealing the notice; and

(d) A warning that failing to comply with the notice may result in the person's arrest and criminal charges under chapter 9A.52 RCW. The notice shall be delivered in the manner specified in chapter 9A.52 RCW.

(5) Appeals.

(a) If a current student is trespassed from campus, the initial trespass notice is considered an interim restriction under WAC 172-121-140 and the student will receive an emergency appeal hearing under WAC 172-121-140 with the vice president for student affairs or designee. The authority to bar students from university property in this regulation is separate from and in addition to the authority of the dean of students or vice president for student affairs under the student conduct code, chapter 172-121 WAC. At the conclusion of the entire student conduct process, a student who is expelled may be permanently trespassed from university property in accordance with WAC 172-121-210 (1) (k).

(b) If a current employee is trespassed from a particular portion of campus the employee does not need to access to perform his or her job (e.g., ejected from Roos Field during a football game), the employee can appeal the decision under (c) of this subsection. If an employee is trespassed from all university property because his or her conduct threatens the health, safety, or security of anyone on campus, the employee will be considered to have been placed on paid administrative leave by issuance of the trespass notice and the university will follow its normal employment processes for investigating the alleged behavior and determining what level of discipline, if any, is appropriate.

(c) All other persons who have been removed or trespassed from university property may appeal the decision by submitting to the president or president's designee, by certified mail, a letter stating the reasons the person should not be barred from university property within (~~twenty-one~~) 21 days of issuance of the trespass notice. The trespass notice will remain in effect during the pendency of any review period. The president or president's designee shall review all relevant information and issue a written order affirming, modifying, or revoking the trespass order within (~~twenty~~) 20 days after the request for review is received. This decision is the university's final decision.