Chapter 172-141 WAC
USE OF OUTDOOR AREAS FOR FIRST AMENDMENT ACTIVITIES

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WAC

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WAC 172-141-010 Commitment and purpose. Eastern Washington University is committed to freedom of expression and first amendment principles. Active participation in dialogue and expression is a vital part of higher education. Listening to and engaging with various viewpoints transforms students into informed citizens. Thus, the university believes freedom of expression is indispensable and is committed to respecting and promoting first amendment rights.

As an educational institution, the university's property and facilities are reserved primarily for educational use including, but not limited to, instruction, research, public assembly of university groups, student activities, and activities directly related to the educational mission of the university. The public character of the university does not grant individuals the right to substantially interfere with, or otherwise disrupt, the normal activities for and to which the university's facilities and property are dedicated. Accordingly, the university's outdoor areas are designated as a public forum for the purposes identified in this chapter and subject to the time, place and manner provisions set forth below.

The time, place, and manner regulations set forth in this chapter establish procedures and reasonable controls for the use of university property. It is intended to balance the university's responsibility to fulfill its mission as a state educational institution with the interest of persons and groups who are interested in using the campus for constitutionally protected expression. Due to the nature of its purpose, the university prioritizes use for university employees, students, and university-affiliated groups. The university intends to open its outdoor spaces to nonuniversity affiliated groups and persons to the extent such usage does not conflict with the rights of university employees, students, and university-affiliated groups or substantially disrupt the university's operations and functions.

[Statutory Authority: RCW 28B.35.120(12) and 42.56.070. WSR 18-11-066, § 172-141-010, filed 5/15/18, effective 6/15/18.]

WAC 172-141-020 Scope. The regulations contained in this chapter apply to all first amendment activities, as defined below, occurring in open areas on university property. These regulations do not apply to first amendment activities inside of a university facility or off campus. University buildings, rooms, and athletic fields may be rented and/or reserved for nonuniversity purposes in accordance with chapter 172-137 WAC.

This chapter does not apply to the area surrounding the university house. The university house is primarily a personal residence and is not open to the public. It is accessible by invitation only and is not a designated area for public expression. Rallies, demonstrations,

and other forms of public expression are not permitted at any time on the grounds of the university house. Given the nature of the university house as a residential home, any assembly or advocacy may not occur within the fenced area surrounding the university house or within one hundred feet of any door on the house.

[Statutory Authority: RCW 28B.35.120(12) and 42.56.070. WSR 18-11-066, § 172-141-020, filed 5/15/18, effective 6/15/18.]

WAC 172-141-030 Definitions. "Employees" includes all people currently employed by the university.

"First amendment activities" includes, but is not necessarily limited to, informational picketing, petition circulation, the distribution of information leaflets or pamphlets, speechmaking, demonstrations, rallies, appearances of speakers in outdoor areas, protests, meetings to display group feelings or sentiments, and/or other types of constitutionally protected assemblies to share information, perspectives, or viewpoints. The following types of expression are not permitted under this chapter and are not protected by the first amendment:

(a) Obscene material, as defined by state and federal law;

(b) Defamation or libelous material, as defined by state law;

(c) Incitement of imminent lawlessness;

(d) True threats, as defined by federal law;

(e) Fighting words, as defined by federal law; and

(f) Speech or conduct that causes a material and substantial disruption of university activities.

"Nonaffiliated groups" is groups that are not affiliated with the university. Nonaffiliated groups include employee union organizations, businesses, nonprofit organizations, advocacy groups, and religious entities, as well as the individuals belonging to such groups.

"Outside community members" means individuals who are not employees, students, or part of a university-affiliated group.

"Students" includes all people currently enrolled in classes at the university.

"University-affiliated groups" includes any group formally recognized by or a part of the university, such as associated students of Eastern Washington University (ASEWU), student groups officially recognized by ASEWU, *The Easterner*, the faculty organization, academic senate, and any other group formally recognized by or directly associated with and a part of the university. It also includes external entities that have a close relationship with the university, including the EWU foundation, the EWU alumni association, and the attorney general's office. University-affiliated groups also include the individual members or employees of such groups when acting on behalf of the group.

[Statutory Authority: RCW 28B.35.120(12) and 42.56.070. WSR 18-11-066, § 172-141-030, filed 5/15/18, effective 6/15/18.]

WAC 172-141-040 Use of outdoor space and notification. (1) Use of outdoor space. University employees, students, university-affiliated groups, nonaffiliated groups, and outside community members may engage in first amendment activities in open, outdoor spaces on the

university's Cheney campus between the hours of 6:00 a.m. and 10:00 p.m. and subject to the restrictions identified in WAC 172-141-050.

(2) Notification. Individuals and groups who are planning on engaging in first amendment activities on campus are encouraged to notify the university police at 509-359-4021 at least twenty-four hours in advance of the activity to ensure adequate safety measures are in place, to acknowledge receipt of these rules, and to ensure there are no scheduling conflicts for the area they are planning to use. This notice does not involve an application or approval process. When providing the notification, groups are encouraged to provide the name of their organization, a contact person, the date, time, and location of the proposed activity, and the estimated number of people expected to participate in the activity. Additional rules apply to large groups as set forth in subsection (3) of this section.

(3) Large groups. If an activity is likely to attract one hundred or more attendees or counter-protestors, individuals and groups are required to contact university police at 509-359-4021 at least three days in advance of the activity. Advanced notice is required in such situations because large groups require additional safety and security planning. The purpose and elements of this notice are the same as those specified in subsection (2) of this section.

(4) Other campuses. The use of public spaces on the Spokane campus is governed by Washington State University pursuant to chapter 504-33 WAC. The use of public spaces on the Bellevue campus is governed by Bellevue College under chapter 132H-142 WAC.

[Statutory Authority: RCW 28B.35.120(12) and 42.56.070. WSR 18-11-066, § 172-141-040, filed 5/15/18, effective 6/15/18.]

WAC 172-141-050 Restrictions on use of university property. Use of university property for first amendment activities by university employees, students, university-affiliated groups, nonaffiliated groups, and outside community members is subject to the following restrictions:

(1) Obstruction. No activity may obstruct or disrupt university operations or functions. No activity may obstruct freedom of movement, including, but not limited to, obstructing entrances, exits, staircases, doorways, hallways, or the safe and efficient flow of people and vehicles.

(2) Sound amplification. Any sound amplification device may only be used at a volume that does not disrupt or disturb the normal use of university classrooms, offices, laboratories, meeting space, or any previously scheduled university activity.

(3) Overnight use. No person may camp on university property, except for attendees of special events designated by the university, such as during home football games, commencement or special student activities. "Camp" means to remain overnight, to erect a tent or other shelter, or to use sleeping equipment, a vehicle, or a trailer camper, for the purpose of or in such ways as will permit remaining overnight. This does not include use of university housing or employees who are required to work at night.

(4) Clean-up and repairs. All sites used for first amendment activities must be left in their original condition and may be subject to inspection by a university representative after the activity. Reasonable charges may be assessed against an individual or group for the

costs of cleaning up the condition of the property beyond reasonable wear and tear or for the repair of damaged property.

(5) Harassment. EWU is committed to providing an educational and work environment in accordance with federal law. As such, EWU prohibits people who are using campus property from engaging in harassment. Harassment is defined as conduct by any means that is sufficiently severe, pervasive, or persistent, and objectively offensive so as to threaten an individual or limit the individual's ability to work, study, participate in, or benefit from the university's programs or activities.

(6) Safety. People using university property must comply with all applicable university policies, procedures, rules and regulations; local, state, and federal laws; and fire, health and safety regulations. Any first amendment activities must not create safety hazards or pose safety risks to others.

(7) Noninterference. First amendment activities must not substantially and materially interfere with university activities or otherwise prevent the university from fulfilling and achieving its primary purpose of educating students. Activities must not substantially and materially infringe on the rights and privileges of university employees, students, or university-affiliated groups.

(8) Time limitations. To ensure space is available for everyone, use of the campus for first amendment activities may be limited to not more than eight hours per day and for not more than five days during any two-week period when there is a competing request to use the same space or if continuing use of the space conflicts with an existing reservation for the space.

(9) Reservations. University employees, students, and university-affiliated groups may reserve outdoor space on campus for university-sponsored activities. Reservation of university facilities is governed by chapter 172-137 WAC. If space is reserved for a university-sponsored activity, other persons and groups may be prohibited from engaging in first amendment activities in the reserved space. In such cases, a university representative will suggest another area on campus for the first amendment activities.

(10) Termination or restriction of license. These regulations grant people and groups a limited license to use university property. The university president or designee may, at any time, terminate, cancel, relocate, or prohibit the use of facilities or campus property if an activity is violating these regulations or substantially and materially disrupting or interfering with university operations and functions. Additionally, the university president or designee may, at any time, terminate, cancel, relocate, or prohibit the use of facilities or campus property if reasonably necessary to prevent, stop, or otherwise mitigate: (a) Substantial harm or a threat of substantial harm to the safety of persons; (b) substantial damage to property; or (c) substantial disruption of university functions or operations. Such determinations will be made without consideration to the content of the message communicated by the activity. If a person or group is violating these regulations or any other regulations governing conduct on university property, the person will be advised of the specific nature of the violation, and if they persist in the violation, they may be asked to leave campus in accordance with WAC 172-122-200 and their license to remain on campus is terminated.

[Statutory Authority: RCW 28B.35.120(12). WSR 26-06-020, s 172-141-050, filed 2/20/26, effective 3/23/26. Statutory Authority:

RCW 28B.35.120(12) and 42.56.070. WSR 18-11-066, § 172-141-050, filed 5/15/18, effective 6/15/18.]

WAC 172-141-060 Distribution of materials. Information that falls within the definition of "first amendment activities" as set forth in WAC 172-141-030, may be distributed in open spaces on campus. The distributor is encouraged, but not required, to include its name and address on the distributed information. All individuals and groups may distribute information in outdoor space. Anyone may personally distribute noncommercial announcements, handbills, pamphlets, or materials in any outdoor area of campus consistent with the orderly conduct of university operations, maintenance of university property, and the free flow of vehicular and pedestrian traffic. Efforts must be made to avoid litter. Materials may not be posted or affixed to any university property unless such posting is done in accordance with the university's poster policy. A copy of the poster policy is available on the university's website.

[Statutory Authority: RCW 28B.35.120(12) and 42.56.070. WSR 18-11-066, § 172-141-060, filed 5/15/18, effective 6/15/18.]