

# University of Houston ■ Clear Lake

## MEMORANDUM OF ADMINISTRATIVE POLICY

**SECTION: General Administration**

**AREA: Legal Affairs**

**Number: 01.D.15**

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**SUBJECT: Freedom of Expression**

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### I. PURPOSE

The University of Houston - Clear Lake (hereinafter referred to as University) is committed to fostering a learning environment where free inquiry and expression are encouraged at each of its universities. The University expects that persons engaging in expressive activities will demonstrate civility, concern for the safety of persons and property, respect for university activities, respect for those who may disagree with their message, and compliance with applicable System and university policies and applicable local, state, and federal laws. The University of Houston-Clear Lake maintains its right to place reasonable time, place, and manner restrictions on expressive activities.

Additionally, any activities that are unlawful or materially and substantially disruptive to the normal operations of the university will not be tolerated. The purpose of this policy is to provide for expressive activities to be conducted on university grounds in a manner consistent with these principles. Groups of individuals engaging in materially and substantially disruptive activities or failing to comply with applicable System or university policies, or applicable local, state, and federal laws may face immediate removal from the campus and/or other appropriate actions by university officials and university police.

### II. DEFINITIONS

- 2.1 Amplified sound: The use of any loudspeaker, loudspeaker system, sound amplifier or any other machine or device which produces, reproduces, or amplifies sound.
- 2.2 Decibel level: The intensity of sound expressed in decibels read from the A-level weighting scale and the slow meter response as specified by the American National Standards Institute.
- 2.3 Non-permitted commercial activities: The use of the University's facilities and/or grounds by the University of Houston - Clear Lake students, faculty, and staff for personal gain including distribution or posting of commercial literature or other items on campus for personal gain. Non-permitted commercial activities also include commercial use of University space by non-University affiliated individuals or groups where such use is not authorized by a written agreement with the University

- 2.4 Expressive activity: Any non-curriculum related rally, parade, demonstration, stationary structure or display, concert or other expressive activity, including literature distribution.
- 2.5 Official University event or activity: Any event, program or activity sponsored by a University department in the course of fulfilling their University mission, activities that occur within the classroom, or events that occur within the regular or recurring sphere of activity of a University department.
- 2.6 Student organization: A student organization officially registered with the Student Life Office.
- 2.7 Sign: A billboard, placard, or other writing, drawing, picture, projected image, or similar item displayed for the purpose of promoting events or activities or to convey a message or information of any type.
- 2.8 University: The University of Houston - Clear Lake
- 2.9 University department: Any academic or nonacademic unit or division or any other official University entity.
- 2.10 University grounds: Any outdoor University-owned, leased, or maintained grounds, excluding all buildings and structures.

### III. POLICY

- 3.1. As a part of the University's commitment to fostering a learning environment, student organizations and faculty may invite speakers to speak on campus in accord with System and university policies.
- 3.2. This policy is applicable to any Expressive Activity at locations on University Grounds. This policy does not apply to any Official University Event or Activity, except as noted.
- 3.3. Common outdoor areas of the System are deemed traditional public forums. Therefore, those who wish to engage in an Expressive Activity (including literature distribution) may engage in such expressive activity in the university's common areas (e.g., university parks, grassy areas, and



- sidewalks) without prior registration or approval.
- 3.4. If an Expressive Activity attracts an audience of 50 or more people, substantially disrupts university business or classes, blocks building access, or creates vehicular, pedestrian, or other traffic hazards, then the Expressive Activity may be required to be relocated to another area on campus that can better accommodate the large group or type of activity.
- 3.5. Amplified Sound Amplified sound shall not exceed 68 decibel levels near University buildings, as measured at the outdoor edge of such buildings closest to the amplified sound. Advance reservation is required before amplified sound may be used on campus grounds and is only permitted in Alumni Plaza (4.5). Amplified sound may only occur from 4:00 p.m. to midnight on class days, and from 8:00 a.m. to midnight on non-class days. Students, employees and visitors may use amplified sound on campus grounds only at the locations and times published by the Dean of Students. Amplified sound areas may be reserved on a first-come, first-served basis and are subject to the reservation procedures published by the Dean of Students and this policy.
- 3.6. University buildings are reserved for use by university students, faculty, and staff, except as provided herein, or otherwise permitted by policies of the university.
- 3.7. Non-Permitted Commercial Activities (as defined in section 2.3) are not allowed. An Expressive Activity permitted under this policy does not imply official endorsement by the university. Decisions to be made by university officials under this policy will be based on the guideline set forth in this policy and will not be based on the content or viewpoint of a proposed Expressive Activity. Groups or individuals engaged in an Expressive Activity are responsible for the content of the expression. Questions regarding this policy may be directed to the university's Dean of Students Office.
- 3.8. Grievances- Complaints of a violation under this policy may be made as follows:

Members of the university community may file a grievance regarding an alleged violation of this policy in the manner provided in the applicable University Student Code of Conduct, Student Handbook, University Catalog, Faculty Handbook, or employee/personnel manual.

Alternatively, any complaints of a violation under this policy may be made through the University of Houston System Fraud & Non-compliance Hotline.

- 3.9. Disciplinary Actions - Any person that participates in unlawful expressive activity, or that unduly interferes with the Expressive Activities of others on campus, including at an Official University Events or Activity, may be subject to disciplinary action, as outlined in the student codes of conduct, in policies relating to faculty or staff discipline, or in policies or laws relating to visitors on campus.

**3.10. Literature Distribution**

3.8.1 All literature distribution must comply with the following rules:

- 3.8.1.1 Literature or other printed materials must be distributed in person.
- 3.8.1.2 Literature or other printed materials must not be forced upon others.
- 3.8.1.3 The free flow of pedestrian, vehicular, or other traffic must not be obstructed at any point.
- 3.8.1.4 Groups or individuals are responsible for ensuring literature/printed materials do not litter the area.
- 3.8.1.5 Literature/printed materials must not promote Non-Permitted Commercial Activities. This section does not apply to literature/printed material distribution related to a vote for or against a candidate for elective university Student Government Association (SGA) office or for or against a proposition on a ballot at an SGA election. Such distribution by registered university students may take place in areas immediately adjacent to SGA polling locations and must comply with the university's rules.

**3.9 Signs Posted on University Grounds**

The only types of signs that may be placed on university grounds are those that are sponsored by a university department and promote an Official University Event or Activity. Signs may not be attached to university property (e.g., buildings, light poles, benches). University departments wishing to display signs on university grounds that promote an Official University Event or Activity must obtain approval from the university's Dean of Students Scheduling Office and/or the Marketing and Communications Office or designee at least seven business days prior to the proposed display. Student Organizations must request approval through the Student Life Office or designee at least seven business days prior to the proposed display. Signs will be subject to reasonable time, place, and manner restrictions and must include the name of the university department sponsoring the activity that it promotes.

**IV. TIME, PLACE AND MANNER LIMITATIONS**

4.1 The University reserves the right to implement and enforce reasonable time,



place, and manner restrictions regarding expressive activities including, but not limited to, those set forth in this policy. Further, activities that are unlawful or that materially and substantially disrupt the normal operations of the university's campus are prohibited. Prohibited activities include, but are not limited to, the following:

- 4.1.1 Activities that are unlawful or that materially and substantially disrupt the normal operations of the university.
  - 4.1.2 Activities that materially and substantially prevent other individuals or groups from carrying out an expressive activity.
  - 4.1.3 Activities that substantially interfere with vehicular or pedestrian traffic including the ingress or egress of university facilities.
  - 4.1.4 Activities that substantially interfere with fire protection, law enforcement, or emergency or medical services.
  - 4.1.5 Activities that threaten or endanger the health or safety of any person on university grounds.
  - 4.1.6 Activities that result in damage or destruction of university property. Nothing may be affixed to or written on university property or grounds.
  - 4.1.7 Activities that inherently lose First Amendment protection (e.g., defamatory statements, true threats/fighting words, obscenity [as defined by law])
  - 4.1.8 Expressive signage, posters, displays, or structures (herein "displays") larger than 3 feet in height by 3 feet in width. Displays, literature, and other items may not be left unattended.
  - 4.1.9 Open flames on the university campus without the express written permission of the university.
  - 4.1.10 Any activities that are subject to licensing, code, or ordinance requirements/permits must have the proper licenses/permits and satisfy such codes and ordinances (e.g., serving food and beverages).
  - 4.1.11 Amplified sound that exceeds the levels permitted by the university.
- 4.2 The University recognizes that some constitutionally-protected speech may

be considered offensive by some or all listeners. An Expressive Activity does not automatically rise to the level of denying constitutional, statutory, or legal rights of others, solely because a listener is offended by the argument or idea presented. However, expressive activities that interfere with the legal rights of others will not be tolerated, and will be disciplined according to appropriate System policies, including, but not limited to SAM 01.D.07 - Anti-Discrimination Policy (which among other things defines a Protected Class<sup>1</sup>), and SAM 01.D.08 - Sexual-Misconduct Policy.

- 4.3 The Dean of Students or designee may require an expressive activity to relocate if: (1) the anticipated or actual number of persons attending the event exceeds the reasonable capacity of the space intended for use and, therefore, materially interferes with the educational mission of the University; or (2) the activity potentially conflicts with previously scheduled activities and events.

#### 4.4 RESERVATION OF OUTDOOR SPACE

University of Houston - Clear Lake faculty, staff, students, and members of registered student organizations may reserve the outdoor areas listed in Section 4.5 in advance to conduct expressive activities in accordance with this section.

**Non-University affiliated individuals or groups are only eligible to reserve the outdoor spaces listed in 4.5 (for a fee) and must follow the procedures below to do so. Individuals or groups must request the use of outdoor space through the Scheduling Office. Reservations are accepted on a first-come first-served basis.**

- 3.11. In addition, the requesting group or individual seeking to reserve outdoor space pursuant to this section must submit a completed Expressive Activity Description Form ("Form") to the Dean of Students at least seven business days in advance of the proposed expressive activity. **Absent**

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<sup>1</sup> Protected Class is defined as a "class of persons who are protected under applicable federal or state laws against Discrimination and Harassment on the basis of race, color, sex (including gender and pregnancy), genetic information, religion, age (over 40), national origin, ethnicity, disability, military status, sexual orientation, gender identity or status, gender expression, or any other legally protected status (such as discrimination and/or retaliation based on "antisemitism." Antisemitism "means a certain perception of Jews that may be expressed as hatred towards 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." TEX.GOV'T CODE E § 448.001(2).



extenuating circumstances, the Dean of Students or designee will approve or deny the proposed expressive activity within five business days of receiving the Form. In completing the Form, the following information will be required (Items A-L included on the Form):

- 4.4.1 Date of application;
- 4.4.2 Proposed date(s) of the expressive activity;
- 4.4.3 Proposed start and finish times;
- 4.4.4 Proposed location;
- 4.4.5 Name of the activity; Anticipated attendance;
- 4.4.6 Target audience(s);
- 4.4.7 Advertising methods;
- 4.4.8 Expressive activity description (i.e., speech, rally, open microphone, display, literature distribution, etc.)
- 4.4.9 Campus sponsoring organization name and if any, external sponsoring organization; name (co-sponsor);
- 4.4.10 Contact person name, phone number, and e-mail address; and
- 4.4.11 Applicant's signature.

#### 4.5 OUTDOOR EXPRESSIVE ACTIVITY AREAS THAT MAY BE RESERVED IN ADVANCE

The areas listed below are the University's outdoor expressive activity areas that may be reserved in advance by University of Houston - Clear Lake faculty, staff, students, and members of registered student organizations. These areas may also be used for expressive activity without a reservation; however, an individual or group with a reservation will have exclusive use and priority over other individuals or groups.

- 4.5.1 Alumni Plaza (UHCL Campus): The area located between the Bayou Building and the Student Services Classroom Building with the outdoor water fountain.
- 4.5.2 Recreation Wellness Plaza/Backyard (UHCL Campus): (Grassy area between STEM and REC)
  - 4.5.2.1 Outdoor Athletic Fields and Courts (UHCL Campus)
  - 4.5.2.2 Wilson Park (UHCL Campus): The area is located next to the Entrance 1 Horsepen Bayou Bridge/pond.
  - 4.5.2.3 Pearland Campus Courtyard (Pearland Campus)

**4.6 APPEAL OF DECISIONS RELATED TO EXPRESSIVE ACTIVITY**

The decision as to whether to approve or deny the reservation request will be based on proper and timely completion of the Form, compliance with the applicable sound and sign requirements and availability of space. This decision will be based only on the aforementioned criteria, and in no circumstances will any decision be based on the content or viewpoint of the expressive activity, or upon the expected reaction of others to the expression, except as permitted by law.

The requesting group or individual, if they so desire, may appeal the Dean of Students' or designee's decision in writing to the Vice President of Student Affairs within two business days of the decision. The Vice President of Student Affairs will render a decision within two business days of receiving an appeal. Requestors are encouraged to submit their reservation requests as early as possible to allow time after the approval process to prepare for their activities.

**V. REVIEW AND RESPONSIBILITY**

Responsible Parties: DEAN OF STUDENTS


Review: Every THREE (3) Years on or before March 1



**IV. APPROVAL**



VICE PRESIDENT STUDENT AFFAIRS



PRESIDENT

DATE OF PRESIDENT'S APPROVAL: 6/03/24

**VI. REFERENCES**

University of Houston System Policy Number I.D.15

Texas Education Code § 51.9315 - Protected Expression on Campus

Student Organizations Handbook

Expressive Activity Description Form - Dean of Students Office

**REVISION LOG**

References may be added to MAP documentation before listing the Revision Log at the Subject Matter Expert's discretion.

<b>Revision Number</b>	<b>Approved Date</b>	<b>Description of Changes</b>
1	01/23/2021	Initial version
2	03/11/2024	No changes made.
3	05/23/2024	Align with SAM 01.D.07, updated non-discrimination statement.