



Freedom of Expression Operating Procedure

Operating Procedure Section: Legal, Compliance, & Internal Audit

Procedure Number: 5.04

Effective Date: August 1, 2023

1. Purpose

This Operating Procedure is adopted to comply with Act 184 of 2019 and Act 614 of 2023 as well as the First Amendment of the United States Constitution and Article 2, Section 6 of the Arkansas Constitution.

2. Definitions

This Operating Procedure adopts and incorporates the terms and definitions set forth in Act 184 of 2019 and Act 614 of 2023.

3. Freedom of Expression

Expressive activities are allowed on all campus forums as defined by Act 614 of 2023, subject to the reasonable time, place, and manner restrictions set forth in this Operating Procedure as well as all applicable state and federal laws. The campus shall not create free speech zones or other designated outdoor areas of campus outside of which expressive activities are prohibited. The campus maintains a position of neutrality as to the content of any protected speech.

4. Outdoor Areas of Campus

All outdoor areas of campus shall be deemed a campus forum for members of the campus community. This does not include outdoor areas where access by a majority of members of the campus community is restricted.

5. Indoor Areas of Campus

Any non-academic and publicly open portion of a campus facility that the campus has traditionally made available to members of the campus community for

expressive purposes shall be deemed a campus forum.

6. Expressive Activities

Expressive Activities and protected expression are those enumerated by Act 184 of 2019 and Act 614 of 2023 as well as all forms of expression protected by the First Amendment to the United States Constitution and Article 2, Section 6 of the Arkansas Constitution.

7. Lawful Limitations on Expressive Activities

Members of the campus community who want to engage in noncommercial expressive activities may do so freely in the public forums of campus so long as that member's conduct is 1) not unlawful, 2) does not materially and substantially disrupt the functioning of a state supported institution, 3) does not materially and substantially disrupt another person's expressive activity, and 4) does not disregard a policy pertaining to the productive and efficient operation of an instructional or work environment.

8. Freedom of Association

The campus shall not deny a student organization any benefit or privilege that is available to another other student organization or otherwise discriminate against an organization based on the expression of that organization.

9. Use of Campus Property for University Sponsored Activities and Events

All areas, owned and operated by the campus, shall be made available for use by the University for University sponsored activities and events. Official university activities and events on campus have precedence over all other events and activities taking place on campus. Any expressive activity that occurs at a location reserved for a University sponsored activity or event shall be accommodated at another area of campus so long as the accommodation is consistent with this policy.

10. Prohibited Activities

The right to engage in Expressive Activities under this Operating Procedure does not include the right to engage in the following:

Obstructing vehicular or pedestrian traffic. Engaging in unlawful activity.

Engaging in activities that create a clear and present threat to public safety.

Engaging in true threats and expression directed to provoke imminent lawless actions and likely to produce imminent lawless actions.

Engaging in unlawful harassment. Utilizing sound amplification devices. Posting materials on University property.

11. Damage to Property owned by the Campus

Any damage to campus property caused by individuals and/or groups engaging in Expressive Activity are the financial responsibility of the individuals and/or groups who caused the damage to the property.

12. Commercial Speech

This policy does not apply to commercial speech. Off-campus individuals and organizations are not allowed to conduct or solicit commercial sales or distribute commercial pamphlets, handbills, circulars, newspaper, magazine and other written material on campus. Parties having a contract with the campus authorizing commercial advertising shall be allowed to distribute or post commercial material in accordance with the terms of their contract.

13. Grievance Process

Any member of the campus community may file a written grievance for any violations of this procedure. The grievance should be sent to the Vice Chancellor for Student Affairs. Upon receipt of a grievance, the Vice Chancellor shall have 10 business days to review the grievance and either grant or deny the grievance. If the grievance is granted the Vice Chancellor shall work with the member and the campus to remedy the grievance.

If the grievance is denied, the member may appeal that denial to the Chancellor. The appeal must be made within 10 business days from the date the member receives the decision of the Vice Chancellor. The Chancellor shall have 10 business days to issue a decision. The decision of the Chancellor is final.

Sources:

Act 184 of 2019: <http://www.arkleg.state.ar.us/assembly/2019/2019R/Acts/Act184.pdf>

Act 614 of 2023: <https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FACTS%2F202>