

Texas Tech University System

Regulation 07.04

Freedom of Expression

Approved: August 9, 2019

Modified: October 4, 2019

Next Scheduled Review: July 2021

1. Purpose

- a. The Texas Tech University System (“System”) and its component universities (referred to herein collectively as the “University”) recognize freedom of speech and expression as a fundamental right and seek to ensure free, robust, and uninhibited debate and deliberations by students enrolled at the University as well as other persons. This regulation is intended to protect the expressive rights of persons guaranteed by the constitutions of the United States and the State of Texas by recognizing freedom of speech and assembly as central to the mission of the University and ensuring that all persons may assemble peaceably on University campuses for expressive activities, including to listen to or observe the expressive activities of others. For purposes of this regulation, “expressive activities” means any speech or expressive conduct protected by the First Amendment to the United States Constitution or by Section 8, Article I, Texas Constitution, and includes assemblies, protests, speeches, the distribution of written material, the carrying of signs, and the circulation of petitions.

2. Outdoor Common Areas

- a. The University’s common outdoor areas (operated and either owned or leased by the University) are deemed traditional public forums, and any person is permitted to engage in expressive activities in those areas of the University campus.
- b. 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 regulation. Further, activities that are unlawful or that materially and substantially disrupt the normal operations of the University’s campus are prohibited. Expressive activities on University grounds do not imply endorsement by the University.

3. General Guidelines and Policy Regarding Expressive Activities

- a. *Applicability.* This regulation applies to all expressive activities of any person in the University’s outdoor common areas. This regulation does not apply to the activities of the University itself. Individuals may engage in expressive activities without prior reservation, registration, or approval, provided such activities are conducted pursuant to applicable law as well as System and University policy.
- b. *Prohibited Commercial Activities.* For purposes of this regulation, expressive activities do not include commercial speech. As such, commercial activities are prohibited on University grounds without a prior written agreement with the University.

- c. *Other Prohibited Activities.* Groups or individuals engaging in materially and substantially disruptive activities, or those failing to comply with applicable laws or System or University policy, may face immediate removal from University premises and/or other appropriate actions by University officials, including University police.
- d. *Reservation of Outdoor Common Areas.* Each University may adopt operating policies and procedures regarding the reservation of outdoor common areas by individuals or groups for the purpose of engaging in expressive activities. Such operating policies and procedures must be sent to the Office of General Counsel for review. If any area of the University's outdoor common areas has been reserved, the reserving individual or group shall be given priority for use of such area.
- e. *Damage Caused by Expressive Activities.* Groups or individuals are responsible for any damage and harm to persons and property that arise from expressive activities.

4. Reasonable Time, Place, and Manner Restrictions

- a. *Reasonable Time, Place, and Manner Restrictions.* The following reasonable time, place, and manner restrictions are applicable to expressive activities in University outdoor common areas:
 - i. Activities that are unlawful or that materially and substantially disrupt the normal operations of the University are prohibited.
 - ii. Activities that materially and substantially prevent other individuals or groups from carrying out an expressive activity are prohibited.
 - iii. Activities that substantially interfere with vehicular or pedestrian traffic including the ingress or egress of University facilities are prohibited.
 - iv. Activities that substantially interfere with fire protection, law enforcement, or emergency or medical services are prohibited.
 - v. Activities that threaten or endanger the health or safety of any person on University grounds are prohibited.
 - vi. Activities that result in damage or destruction of University property are prohibited. Nothing may be affixed to or written on University property or grounds.
 - vii. Activities that inherently lose First Amendment protection (e.g., defamatory statements, true threats/fighting words, obscenity [as defined by law]) are prohibited.
 - viii. Expressive signage, posters, displays, or structures (herein "displays") must be hand-held, no larger than 3 feet in height by 3 feet in width. Displays, literature, and other items may not be left unattended.
 - ix. Amplified sound shall not exceed 80 decibel levels near University buildings, as measured at the outdoor edge of such buildings closest to the amplified sound. Any amplification device must be hand-held.
 - x. No open flames are permitted on the University campus without the express written permission of the University.

- xi. 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).
- b. *Additional Restrictions.* The above list of reasonable time, place, and manner restrictions is not intended to be all-inclusive. The University reserves the right, as necessary, to impose additional reasonable time, place, and manner restrictions as circumstances arise.
- c. *Restrictions Are Viewpoint-Neutral.* The University's decisions will not be based on political, religious, philosophical, ideological, or academic viewpoints.
- d. *Relocation, Limitation, and Prohibition.* The University reserves the right to relocate, limit, or prohibit individuals or groups engaged in expressive activities in University outdoor common areas based on reasonable time, place, and manner restrictions.

5. Speaker Fees and Approvals

- a. University faculty, staff, and student organizations have the right to invite speakers to University forums to speak. When reviewing speakers, the University will not consider any anticipated controversy related to the event. The University will consider content-neutral and viewpoint neutral criteria including, but not limited to, the following when reviewing speakers:
 - i. Proposed venue and the size of the expected crowd;
 - ii. Anticipated needs for security;
 - iii. Any other necessary accommodations the University deems necessary for the speaker; and
 - iv. Relevant history of compliance or noncompliance with University policies by the speaker or the requestor.

6. Disciplinary Sanctions

- a. Students, student organizations, faculty, or staff who unduly interfere with the expressive activities of others on campus will be subject to the disciplinary policies and procedures outlined in the applicable University Student Code of Conduct, Student Handbook, University Catalog, or University operating policies and procedures.
- b. Violation of this regulation may also constitute a breach of applicable criminal law. In such circumstances, the Penal Code and Code of Criminal Procedure will apply.

7. Grievances

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

Contact Office: System Office of General Counsel
806-742-2155



TEXAS TECH UNIVERSITY SYSTEM

November 12, 2020

Hon. Greg Abbott
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brady.franks@gov.texas.gov

Hon. Dan Patrick
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Hon. Chris Turner
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Hon. Charlie Geren
State Representative, District 99
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Re: Report regarding implementation of the requirements of Senate Bill 18 (2019) on behalf of Texas Tech University, Texas Tech University Health Sciences Center, Angelo State University, and Texas Tech University Health Sciences Center El Paso

Dear Governor Abbott, Lt. Governor Patrick, Speaker Bonnen, and Members of the Texas Senate and House,

On June 10, 2019, Governor Abbott signed Senate Bill 18, an act relating to the protection of expressive activities at public institutions of higher education ("SB 18"). This act amended the Texas Education Code to add Section 51.9315, which in part requires each Texas public institution of higher education to "submit to the governor and the members of the legislature a report regarding the institution's implementation of the requirements" of SB 18.

The four component institutions of the Texas Tech University System ("TTUS") worked collaboratively and with the TTUS Office of General Counsel to implement the requirements of SB 18. We are therefore submitting the attached joint report of Texas Tech University, Texas Tech University Health Sciences Center, Angelo State University, and Texas Tech University Health Sciences Center El Paso in satisfaction of each component institution's reporting obligation under Texas Education Code 51.9315(k). We appreciate your review of our compliance with SB 18. Any questions may be directed to the TTUS Office of General Counsel.

Sincerely,


Tedd L. Mitchell, M.D.
Chancellor, Texas Tech University System

Enclosure

cc: Dr. Lawrence Schovanec, President, *Texas Tech University*
Dr. Lori Rice-Spearman, President, *Texas Tech University Health Sciences Center*
Lt. Gen. Ronnie Hawkins, Jr., President, *Angelo State University*
Dr. Richard Lange, President, *Texas Tech University Health Sciences Center El Paso*



TEXAS TECH UNIVERSITY SYSTEM™

Joint Report of:

Texas Tech University,
Texas Tech University Health Sciences Center,
Angelo State University, and
Texas Tech University Health Sciences Center El Paso

Regarding the Institutions' Implementation of the Requirements of

Senate Bill 18 (2019)

**An Act Relating to the Protection of Expressive Activities at
Public Institutions of Higher Education**

Codified as Texas Education Code § 51.9315

November 12, 2020

JOINT REPORT REGARDING INSTITUTIONS' IMPLEMENTATION OF THE REQUIREMENTS OF SENATE BILL 18

November 12, 2020

Background

The 86th Texas Legislature approved Senate Bill 18, an act relating to the protection of expressive activities at public institutions of higher education ("SB 18"). This bill was signed into law by Governor Abbott on June 10, 2019. SB 18 directs that "freedom of expression is of critical importance" and requires all Texas public institutions of higher education "ensure free, robust, and uninhibited debate and deliberations by students" by satisfying the requirements of the new Texas Education Code § 51.9315, including, but not limited to:

1. Ensuring common outdoor areas of campus are deemed traditional public forums and permitting any person (including members of the university community and members of the public at large) to engage in expressive activities in those areas freely;
2. Adopting a policy that imposes reasonable restrictions on the time, place, and manner of expressive activities in the common outdoor areas of campus;
3. Adopting a policy regarding approval of outside speakers and the charges for use of the institution's facilities; and
4. Adopting a policy detailing students' rights and responsibilities regarding expressive activities, including disciplinary sanctions for undue interference with expressive activities of others and a grievance procedure for addressing complaints.

Consistent with Texas law, the Texas Tech University System ("TTUS") and each of its four component institutions recognize freedom of speech and expression as fundamental rights and seek to ensure free, robust, and uninhibited debate and deliberations by students enrolled at TTUS universities as well as other persons. As required by SB 18, TTUS and its component institutions have complied with all requirements of the new law.

Joint Report

Texas Education Code § 51.9315(k) requires each Texas public institution of higher education to "submit to the governor and the members of the legislature a report regarding the institution's implementation of the requirements" of SB 18. This Joint Report is submitted by the TTUS in satisfaction of such obligation on behalf of all four of its component institutions: (1) Texas Tech University, (2) Texas Tech University Health Sciences Center, (3) Angelo State University, and (4) Texas Tech University Health Sciences Center El Paso.

Texas Tech University System Regulation 07.04

Many of SB 18's requirements are satisfied by [TTUS Regulation 07.04 Freedom of Expression](#). A System-wide working group worked diligently from the law's enactment in June 2019 to prepare this System-wide policy. In preparing this Regulation, the working group consulted with the presidents of each institution, attorneys in the TTUS Office of General Counsel, and individuals on each campus responsible for the Regulation's implementation, including campus law enforcement officials and student affairs professionals.

The Board of Regents approved TTUS Regulation 07.04 *Freedom of Expression* during their August 2019 meeting, effective immediately. While the Regulation immediately took effect at each component institution upon the Regents' approval, each university also expressly adopted the Regulation through a university Operating Policy and Procedure ("OP"). The Regulation and university OPs are available online at the following links:

Institution	Policy No.	URL
Texas Tech University System	Reg. 07.04	http://www.texastech.edu/offices/cfo/system-regulation-07.04-freedom-of-expression.pdf
Texas Tech University	OP 61.44	https://www.depts.ttu.edu/opmanual/OP61.44.pdf
Texas Tech University Health Sciences Center	OP 61.27	https://www.ttuhscc.edu/administration/documents/ops/op61/op6127.pdf
Angelo State University	OP 74.07	https://www.angelo.edu/content/files/14561-op-7407-freedom-of-expression-activities
Texas Tech University Health Sciences Center El Paso	OP 61.27	https://el Paso.ttuhscc.edu/opp/documents/61/op6127.pdf

Implementation of the Requirements of SB 18

TTUS's component universities implemented each requirement of SB 18 on or before the statutory deadlines. The universities' implementation of each of the various requirements of SB 18 are described below, in the order each requirement appears within SB 18.

- 1. Ensure the common outdoor areas of campus are deemed traditional public forums and permit any person to engage in expressive activities in those campus areas freely.**

Required by: Texas Education Code § 51.9315(c).

Implementation: [TTUS Regulation 07.04](#), Section 2(a), requires that each TTUS component university's "common outdoor areas (operated and either owned or leased by the University) are deemed traditional public forums, and any person is permitted to engage in expressive activities in those areas of the University campus." As required by Texas Education Code § 51.9315(e), this policy does not limit the right of student expression at other campus locations or prohibit faculty members from maintaining order in the classroom.

2. Adopt a policy that imposes reasonable restrictions on the time, place, and manner of expressive activities in the common outdoor areas of the institution’s campus.

Permitted by: Texas Education Code § 51.9315(d).

Implementation: [TTUS Regulation 07.04](#), Sections 2(b), 3, and 4, establish reasonable restrictions on the time, place, and manner of expressive activities in the common outdoor areas of the TTUS universities’ campuses that: (1) are narrowly tailored to serve a significant institutional interest; (2) employ clear, published, content-neutral, and viewpoint-neutral criteria; (3) provide for ample alternative means of expression; and (4) allow members of the university communities to assemble or distribute written material without a permit or other permission from the institution. As required by Texas Education Code § 51.9315(e), this policy does not limit the right of student expression at other campus locations or prohibit faculty members from maintaining order in the classroom.

3. Adopt a policy detailing students’ rights and responsibilities regarding expressive activities at the institution.

Required by: Texas Education Code § 51.9315(f).

Implementation: [TTUS Regulation 07.04](#) sets forth students’ rights and responsibilities regarding expressive activities. Specifically, Sections 2 and 3 permit “any person to, subject to reasonable restrictions . . . engage in expressive activities on campus, including by responding to the expressive activities of others.”¹ Section 5 permits “student organizations and faculty to . . . invite speakers to speak on campus.”² Section 6 “establish[es] disciplinary sanctions for students, student organizations, or faculty who unduly interfere with the expressive activities of others on campus”³ by applying each institution’s existing disciplinary policies and procedures outlined in their applicable University Student Code of Conduct, Student Handbook, University Catalog, or University operating policies and procedures. Section 7 “include[s] a grievance procedure for addressing complaints of a violation of [the policy]”⁴ by applying the “applicable University Student Code of Conduct, Student Handbook, University Catalog, Faculty Handbook, or employee/personnel manual” procedures.

TTUS Regulation 07.04 was “approved by a majority vote of the [TTUS Board of Regents] before final adoption”⁵ at the Regents’ August 2019 meeting. The Regulation is “posted on [TTUS’s and each component university’s] Internet website”⁶ at the URLs set forth on page 3 of this Joint Report.

4. Not take action against a student organization or deny the organization any benefit generally available to other student organizations at the institution on the basis of a

¹ Texas Education Code § 51.9315(f)(1)(A).

² Texas Education Code § 51.9315(f)(1)(B).

³ Texas Education Code § 51.9315(f)(2).

⁴ Texas Education Code § 51.9315(f)(3).

⁵ Texas Education Code § 51.9315(f)(4).

⁶ Texas Education Code § 51.9315(f)(5).

political, religious, philosophical, ideological, or academic viewpoint expressed by the organization or of any expressive activities of the organization.

Required by: Texas Education Code § 51.9315(g).

Implementation: [TTUS Regulation 07.04](#), Section 4(c) requires that institutions' decisions regarding expressive activities be viewpoint neutral and "not be based on political, religious, philosophical, ideological, or academic viewpoints."

5. Adopt a policy regarding approval of outside speakers and the charges for use of the institution's facilities.

Required by: Texas Education Code § 51.9315(h).

Implementation: [TTUS Regulation 07.04](#), Section 5, sets forth the institutions' policy for speaker fees and approvals. Specifically, the Regulation requires that "in determining the amount of a fee to be charged for use of the institution's facilities for purposes of engaging in expressive activities, an institution . . . may consider only content-neutral and viewpoint-neutral criteria related to the needs of the event, such as . . . the proposed venue and the expected size of the audience; any anticipated need for campus security; any necessary accommodations; and any relevant history of compliance or noncompliance by the requesting student organization or faculty member with the institution's policy . . . and any other relevant policies; and may not consider any anticipated controversy related to the event."⁷

6. Ensure the institution's policies adopted in accordance with Section 51.9315 are made available to students enrolled at and employees of the institution.

Required by: Texas Education Code § 51.9315(i).

Implementation: [TTUS Regulation 07.04](#) is incorporated by reference and fully integrated into each TTUS component institution's student handbook,⁸ available at the following links:

Institution	URL
Texas Tech University	http://www.depts.ttu.edu/dos/docs/2020_2021_Handbook.pdf
Texas Tech University Health Sciences Center	https://www.ttuhscc.edu/student-affairs/documents/2020-2021_Handbook.pdf
Angelo State University	https://www.angelo.edu/content/files/27603-student-handbook-2020-21
Texas Tech University Health Sciences Center El Paso	https://el Paso.ttuhscc.edu/studentservices/documents/Institutional-Handbook-2020-2021.pdf

⁷ Texas Education Code § 51.9315(h).

⁸ Texas Education Code § 51.9315(i)(1).

These student handbooks are made available to students “during [each] institution’s freshman or transfer orientation [and] . . . on the institution’s website,”⁹ as set forth above. Finally, these policies are applied and made available to all institution “personnel”¹⁰ through the institutional operating policies and procedures described on page 3 of this Joint Report.

7. Develop materials, programs, and procedures to ensure the institution’s employees responsible for educating or disciplining students understand the requirements and all policies adopted by the institution in accordance with Section 51.9315.

Required by: Texas Education Code § 51.9315(j).

Implementation: After the adoption of TTUS Regulation 07.04, TTUS and university leaders and “employees responsible for educating or disciplining students” were engaged in workshops, trainings, and conversations regarding SB 18 and the resulting expressive activities policy.¹¹ The Vice Chancellor and General Counsel led discussions during separate meetings and conference calls with the Board of Regents, Chancellor, Cabinet, and Presidents regarding development and implementation of these policies.

The TTUS Office of General Counsel led workshops and trainings regarding SB 18, TTUS Regulation 07.04, and processes and procedure for expressive activities with all component universities’ student affairs administrators, university police departments, and provost’s offices. Additionally, the TTUS Office of General Counsel invited the Texas Attorney General’s office to lead interactive trainings relating to these policies, including separate trainings for the System Chancellor and university presidents, and another for the TTUS Office of General Counsel and each university’s student affairs and academic administrators.

To aid in the implementation, communication, and understanding of SB 18 and TTUS Regulation 07.04, all TTUS university communities were notified of the new law and policies by email and/or online announcement system. Finally, student affairs offices at each university partnered with counsel to develop and post *FAQ* documents to assist students in understanding the policies’ applicability. These *FAQ* documents are publicly available on each TTUS component university’s Dean of Students or Student Affairs website, available at the following links:

Institution	URL
Texas Tech University	http://www.depts.ttu.edu/dos/docs/ExpressiveActivitiesFAQs.pdf
Texas Tech University Health Sciences Center	https://www.ttuhscc.edu/student-affairs/expressive-activities.aspx
Angelo State University	https://www.angelo.edu/services/student_services/expressive-activities.php
Texas Tech University Health Sciences Center El Paso	https://el Paso.ttuhscc.edu/studentservices/student-resources/expressive-activities.aspx

⁹ Texas Education Code §§ 51.9315(i)(2), (3).

¹⁰ Texas Education Code § 51.9315(i)(1).

¹¹ Texas Education Code § 51.9315(j).

- 8. Prepare, post on the institution’s Internet website, and submit to the governor and the members of the legislature a report regarding the institution’s implementation of the requirements under Section 51.9315 not later than December 1, 2020.**

Required by: Texas Education Code § 51.9315(k).

Implementation: This Joint Report satisfies this requirement. It is publicly posted to each institution’s website as an exhibit to each university’s operating policy and procedure that incorporates TTUS Regulation 07.04, available at the following links:

Institution	URL
Texas Tech University	https://www.depts.ttu.edu/opmanual/OP61.44.pdf
Texas Tech University Health Sciences Center	https://www.ttuhscc.edu/administration/documents/ops/op61/op6127.pdf
Angelo State University	https://www.angelo.edu/content/files/14561-op-7407-freedom-of-expression-activities
Texas Tech University Health Sciences Center El Paso	https://el Paso.ttuhscc.edu/opp/_documents/61/op6127.pdf