

## Senate Bill 18 Report to the Governor of the State of Texas

### TEXAS A&M UNIVERSITY-CORPUS CHRISTI

#### **Requirements**

On June 10, 2019, the Governor signed SB 18, which added Section 51.9315, *Protected Expression on Campus*, to the Texas Education Code. This new law requires public institutions of higher education to adopt a new policy detailing students' rights and responsibilities regarding expressive activity on campus. Each institution's policy must be approved by the Board of Regents.

#### **Summary of the Legislation**

Institutions shall deem common outdoor areas on campus as traditional public forums and permit any person to engage in expressive activities in those areas freely as long as the person's conduct is not unlawful and does not materially and substantially disrupt the function of the institution.

Institutions shall adopt a policy detailing students' rights and responsibilities regarding expressive activity. The policy must include allowing any person, subject to reasonable time, place, and manner restrictions, to engage in expressive activities on campus; allowing student organizations and faculty to invite speakers on campus; establish disciplinary sanctions for students, student organizations, and faculty who unduly interfere with expressive activities; and establish grievance procedures for complaints concerning violations of this law. The policy must be approved by a majority vote of the Board of Regents before final adoption.

Institutions' policies must be available in the student and personnel handbooks, be distributed to students during orientation, and posted on its internal website.

Institutions shall develop and provide training for employees who will educate and/or discipline students under the policy.

#### **Certification of Compliance**

Texas A&M University-Corpus Christi (TAMU-CC) is in full compliance with Senate Bill 18 and Texas Education Code 51.9315. University Rule 08.99.99.C1 governs Expressive Activities on Campus and was established to comply with SB18 and Texas Education Code 51.9315 by the Texas A&M Board of Regents on May 14, 2020. This rule superseded University Procedure 07.03.01.C0.01, Freedom of Speech, Assembly, and Demonstration.

The following section demonstrates the university's compliance with each requirement individually:

#### **Recognize freedom of speech and assembly as central to the mission of institutions of higher education.**

TAMU-CC University Rule 08.99.99.C1 (Rule Summary) states, "Texas A&M University-Corpus Christi recognizes the constitutional rights and privileges of freedom of

speech in expressive activities by individuals and groups on campus.” In addition, the following statement, further in the rule summary, reaffirms the university’s commitment to freedom of speech and assembly: “Freedom of speech and assembly is central to the mission of institutions of higher education and persons should be permitted to assemble peaceably on the campuses of institutions of higher education for expressive activities, including to listen to or observe the expressive activities of others.”

**Ensure that all persons may assemble peaceably on the campuses of institutions of higher education for expressive activities, including to listen to or observe the expressive activities of others.**

University Rule 08.99.99.C1 section 1.1 states: Any person is allowed, subject to reasonable time, place, and manner restrictions, to engage in expressive activities on campus, including responses to the expressive activities of others.

**Ensure that the common outdoor areas of the institution's campus are deemed traditional public forums.**

University Rule .08.99.99.C1 section 1.4 states: The common outdoor areas of the university’s campus are deemed traditional public forums.

**Permit any person to engage in expressive activities in those areas of the institution's campus freely, as long as the person's conduct is not unlawful and does not materially and substantially disrupt the functioning of the institution.**

University Rule 08.99.99.C1 section 1.4 further states: Any person is permitted to engage in expressive activities in these areas freely, as long as the person's conduct: (a) is not unlawful and (b) does not materially and substantially disrupt the functioning of the institution.

**Include policies in the institution's student handbook and personnel handbook.**

A link to University Rule 08.99.99.C1 can be found in the Student Code of Conduct under Article III 25c. The Student Code of Conduct is published on the University’s website at <https://studentconduct.tamucc.edu/studentcofc.html>.

TAMU-CC does not maintain a personnel handbook. However, the revised university rule was sent to all employees via email on May 19, 2020.

**Provide a copy of each policy to students during the institution's freshman or transfer student orientation.**

Summer 2020 orientation, for incoming fall 2020 students, was held virtually due to the COVID-19 pandemic. Students were given information regarding the Student Code of Conduct in a video format and the link to the Student Code of Conduct, was included in

video. As indicated previously the Student Code of Conduct references University Rule 08.99.99.C1, Expressive Activities on Campus in Article III 25c.

The Spring 2021 new student and transfer orientation is also being held virtually. The following statement regarding expressive activities on campus is available in the Student Engagement & Success module in Blackboard to inform students of expressive activities:

*EXPRESSIVE ACTIVITY ON CAMPUS: You may see individuals or groups not associated with TAMU-CC exercising their rights to freely assemble on campus. Senate Bill 18 regards a public university's common outdoor areas as public forums, which means anyone can engage in free speech on campus. Islanders can disagree with speakers and the opinions expressed but may not interfere with the freedom of others to express their views. More information about expressive activities is available in the Student Code of Conduct and in University Rule 08.99.99.C1.*

**Post the policies on the institution's Internet website.**

A digital copy of University Rule 08.99.99.C1 is available in the University Handbook of Rules and Procedures at [http://academicaffairs.tamucc.edu/rules\\_procedures/](http://academicaffairs.tamucc.edu/rules_procedures/)

**Each institution of higher education shall develop materials, programs, and procedures to ensure that the institution's employees responsible for educating or disciplining students understand the requirements of this section and all policies adopted by the institution in accordance with this section.**

To ensure that the university's employees responsible for educating or disciplining students understand the requirements of the new university speech, the university has taken the following actions:

1. The University's rule was sent to all faculty and staff via campus announcement on May 19, 2020. Below is a copy of the email that was sent.

May 19, 2020

**MEMORANDUM**

**TO:** Islander Faculty and Staff

**SUBJECT:** Notice of Published Rules: *08.99.99.C1, Expressive Activity on Campus* and *34.05.99.C1, Tobacco Use, Smoking, and E-Cigarettes/Vaping*

The Texas A&M University System approved university rules [08.99.99.C1, Expressive Activity on Campus](#) and [34.05.99.C1, Tobacco Use, Smoking, and E-Cigarettes/Vaping](#) (revision summaries below). The approved documents may be found at [https://academicaffairs.tamucc.edu/rules\\_procedures/index.html](https://academicaffairs.tamucc.edu/rules_procedures/index.html) along with all approved university rules and procedures.

Substantive Revision Summaries:

- *08.99.99.C1, Expressive Activity on Campus*
  - This new rule provides guidance on expressive activities and replaces university procedure *07.03.01.C0.01, Freedom of Speech, Assembly, and Demonstration*.
  - This rule contains the official definitions of public/non-public forums, and other procedures (e.g. *41.01.01.C0.01, Use of University Facilities*) will be revised to refer to this rule for these definitions.
  - *34.05.99.C1, Tobacco Use, Smoking, and E-Cigarettes/Vaping*
  - The system-required ban on e-cigarettes/vaping has been added.

If you have any questions regarding these rules, or any rule or procedure, please contact either the department listed at the bottom of the rule/procedure or Kevin Houlihan ([kevin.houlihan@tamucc.edu](mailto:kevin.houlihan@tamucc.edu)).

2. On September 8, 2020 an official notice was sent to all enrolled students regarding Constitution Day and included the following statement regarding expressive activities:

*To learn more about your rights and responsibilities and/or expressive activities on campus, please call the office of the Vice President for Student Engagement and Success at 361.825.2612 or email at [seas@tamucc.edu](mailto:seas@tamucc.edu).*

3. An information graphic entitled “Know Your Rights” was published in the student newspaper, Island Waves, Special Edition: Constitution Day on September 17, 2020.
4. Student Engagement and Success staff received training on "Navigating Free Speech on Campus” and University Rule 08.99.99.C1 Expressive Activities on Campus, during their monthly Staff Development Program on September 18, 2020.
5. The Expressive Activities Committee Chair shared the following educational videos series, “Free Speech Orientation Lessons” with the First Year Program in University College requesting they be shared with faculty and their students to engage in conversation in classes. In addition, the video series was shared with the Recreational Sports, Student Activities, University Center departments and the Expressive Activities Committee to share with their students, staff and constituents. The link to the video series can be located at [https://www.youtube.com/playlist?list=PLvLS\\_gTAOjyxkeRnDqiDDR7p-G9XnGkXj](https://www.youtube.com/playlist?list=PLvLS_gTAOjyxkeRnDqiDDR7p-G9XnGkXj).

**Not later than December 1, 2020, each institution of higher education shall 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 this section.**

This report completes TAMU-CC's compliance requirements related to SB-18 and TEC 51.9315.



## 08.99.99.C1 Expressive Activity on Campus

Approved May 14, 2020

Next Scheduled Review: May 14, 2025

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### Rule Summary

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Texas A&M University-Corpus Christi recognizes the constitutional rights and privileges of freedom of speech in expressive activities by individuals and groups on campus.

In 2019, the 86<sup>th</sup> Texas Legislature passed Senate Bill 18, addressing the protection of campus expressive activities. This new law adds Texas Education Code Section 51.9315, which requires that each public institution of higher education “adopt a policy detailing student’s rights and responsibilities regarding expressive activities” on its campus.

As stated in the preamble to the bill: “Freedom of expression is of critical importance and requires each public institution of higher education to ensure free, robust, and uninhibited debate and deliberations by students enrolled at the institution, regardless of whether the students are on or off campus. It is a matter of statewide concern that all public institutions of higher education officially recognize freedom of speech as a fundamental right.” Freedom of speech and assembly is central to the mission of institutions of higher education and persons should be permitted to assemble peaceably on the campuses of institutions of higher education for expressive activities, including to listen to or observe the expressive activities of others.

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### Definitions

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The definitions of terms used in the rule include both the singular and plural version of the term:

**Benefit** means recognition by or registration with the university, the use of the university’s facilities for meetings or speaking purposes, the use of channels of communication controlled by the university, and funding sources made generally available to student organizations at the university.

**Campus** means all land and buildings owned or leased by the university.

**Common outdoor areas** means places located outside a building or facility that are accessible to the public, such as streets, sidewalks, plazas, lawns, and parks, unless closed by the university for a special event. This term does not include areas immediately adjacent to a private residence.

**Employee** means an individual employed by the university.

**Expressive activity** 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. The term does not include commercial speech.

**Faculty** means any full or part-time employee of the university holding an academic appointment.

**Materially and substantially disrupt** means interrupting a program or activity in a significant and consequential manner.

**Person** means students, faculty, staff, student organizations, and third-parties.

**Reasonable time, place, and manner restrictions** means limitations 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.

**Staff** means any full or part-time employee or recognized volunteer of the university that is not a faculty member.

**Student** means an individual currently enrolled at the university, full or part-time, pursuing undergraduate, graduate, or professional studies, including students who were enrolled the previous semester and are registered for a future semester.

**Student Organization** means any organization that is composed mostly of students enrolled at an institution of higher education and that receives a benefit from the institution.

**Third-party & Contracted Partners (External Client)** means an individual or entity that is not a student, student organization, or employee of the university.

**Traditional public forum** means a place, widely recognized in law, which has been intended for the use of the public, and has been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions when the principal function of the location would not be disrupted by expressive activity. Examples of traditional public forums include public streets, sidewalks, plazas, lawns, and parks. These areas are generally available for expressive activity, planned or spontaneous, for the individual or small groups (generally where a crowd of 25 or less will be present, and/or where an event is not promoted in advance, and/or when an event is not sponsored by a student organization) at any time without the need for reservation, or prior approval. Obstructing or impeding the flow of vehicular or pedestrian traffic is prohibited.

**Designated public forum** means a part of campus that may become temporarily available for expressive activity as designated by the university. These temporary locations, while in existence, will be treated similar to public streets, sidewalks, and parks in terms of access

and availability for expressive activity. Obstructing or impeding the flow of vehicular or pedestrian traffic is prohibited.

**Limited public forum** means a place that has limited open access for public expression or may be limited to particular groups or to particular topics. Creation of, and access to, limited public forums for student publications may be requested through the office of University Center and Student Activities. Creation of, and access to, limited public forums for non-university publications may be requested through the office of University Services. The material distributed and the form of distribution may not violate state and federal law. The university will maintain its obligation to place reasonable limits on the times during which its limited public forums may be used by any particular individual or group.

**Non-public forum** means a place that is not a traditional public forum or designated public forum. This includes areas that are not by tradition or designation forums for public communication. These forums will be restricted to use for their intended purpose and are not available for public expressive activity. Examples include, but are not limited to, classrooms, residence hall rooms, faculty and staff offices, academic buildings, administration buildings, Health Center facilities, library, research and computer laboratories, and research facilities. The university will maintain its obligation to place reasonable limits on the times during which its non-public forums may be used by any particular individual or group.

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## Rule

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### 1. EXPRESSIVE ACTIVITY RIGHTS

- 1.1. Any person is allowed, subject to reasonable time, place, and manner restrictions, to engage in expressive activities on campus, including responses to the expressive activities of others.
- 1.2. Student organizations and university groups can invite speakers to speak on campus. In determining the amount of a fee to be charged for use of the university's facilities for purposes of engaging in expressive activities, the university may consider only content-neutral and viewpoint-neutral criteria related to the requirements of the event, such as the proposed venue, the expected size of the audience, any anticipated need for campus security, any necessary accommodations, and any relevant institutional history of compliance or noncompliance by the requesting student organization or university group with this rule and other relevant system policies or regulations or university rules or procedures. The university may not consider any anticipated controversy related to the event.
- 1.3. The university may not take action against a student organization or deny the organization any benefit generally available to other student organizations at the

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

- 1.4. The common outdoor areas of the university's campus are deemed traditional public forums. Any person is permitted to engage in expressive activities in these areas freely, as long as the person's conduct: (a) is not unlawful and (b) does not materially and substantially disrupt the functioning of the institution.
- 1.5. Members of the university community can assemble or distribute written material in common outdoor areas without a permit or other permission from the institution.
- 1.6. The contents of expressive activities allowed on campus should not be interpreted as any shared opinion, endorsement, or concurrence by the university.
- 1.7. Nothing in this rule should be interpreted as prohibiting faculty members from employing appropriate classroom management techniques to maintain order in class.

## 2. DISRUPTION OF UNIVERSITY OPERATIONS

- 2.1. In the event of disruption of the normal academic or operational functions of the university, including interference with the free use of corridors and entrances to rooms and buildings, the university maintains its right to move to restore order and open operation of the university. Every attempt will be made to discuss issues rationally and to avoid violence or the use of force.
- 2.2. In the event discussions fail, the issues are determined to be non-negotiable, and/or disruption continues, the University Police Chief or designee will issue legal notice to the individual or group to disperse.
- 2.3. If individuals refuse to comply with lawful directives of university officials, they may be subject to disciplinary actions and criminal sanctions.

## 3. GRIEVANCE PROCEDURE

- 3.1. Any person who believes that their campus expressive activity rights, as recognized by this rule, have been unduly interfered with by a student, student organization, university group, or university employee has the right to file a grievance.
- 3.2. Grievances should be filed with or referred to the Employee Development and Compliance Services department (EDCS). EDCS will investigate the grievance and prepare a report summarizing its findings.
- 3.3. A student, student organization, university group, or university employee who is found to have unduly interfered with another person's expressive activity rights, as



recognized by this rule, is subject to disciplinary action in accordance with the university's applicable rules and procedures including those referenced in the Related Statutes, Policies, or Requirements section below. If a violation of this rule was found to have occurred, the report will be referred to the appropriate office for further action. The referral office will be determined by the status of the offending individual. The investigative report will be handled by the appropriate university entity as follows: (a) the President, appropriate vice president, or designee for faculty and staff; (b) the Student Conduct & Advocacy Office for students and student organizations; and (c) the respective authority over the individual/group for third-parties and contracted partners where applicable.

#### 4. IMPLEMENTATION

- 4.1. A copy of this rule shall be included in the university published student code of conduct.
- 4.2. A copy of this rule shall be provided to students during the university's new student orientation programs.
- 4.3. A copy of this rule shall be posted to the University Handbook of Rules and Procedures website.

#### 5. EXTERNAL CLIENT EVENTS

Events organized by an external party and held on campus must be sponsored by a recognized student organization, university academic or administrative unit, or an A&M System member.

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## Related Statutes, Policies, or Requirements

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Texas Education Code § [51.9315](#)

University Rule [07.03.01.C1, Political Campaign Events on Property Under the Control of Texas A&M University-Corpus Christi](#)

University Procedure [08.01.02.C0.02, Accommodations at University Facilities and Events](#)

University Procedure [08.01.02.C0.03, Service and Emotional Support Animals](#)

University Procedure [11.99.99.C0.02, Co-Curricular Services to Minors](#)

University Procedure [21.99.09.C0.01, Access to University Property for Soliciting Donations and for Sales and Rentals](#)

University Procedure [32.01.01.C0.01, Complaint and Appeal Process for Faculty Members](#)

University Procedure [32.01.02.C0.01, Complaint and Appeal Process for Non-Faculty Employees](#)

University Procedure [33.04.99.C0.01, Non-Research Animals on University Campus and in Facilities](#)

University Procedure [41.01.01.C0.01 Use of University Facilities](#)

University Procedure [41.01.01.C0.04, Facility Use Rental and Recovery of Charges](#)

This rule supersedes:

- 07.03.01.C0.01, *Freedom of Speech, Assembly, and Demonstration*

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## **Appendix**

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[University Student Code of Conduct](#)

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## **Contact Office**

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Contact for clarification and interpretation: Employee Development & Compliance Services  
(361) 825-5826