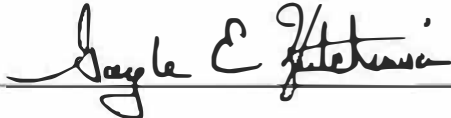


**Office of the President  
California State University, Chico**

**Executive Memorandum 20-006**



**February 10, 2020**

**From:** Gayle E. Hutchinson, President 

**Subject:** Time, Place, and Manner of Expression Policy; Supersedes EM 14-013

Upon the recommendation of the Academic Senate and after consultation with the Cabinet, I approve the Time, Place, and Manner of Expression Policy, effective immediately.

|                                                 |                                                                              |
|-------------------------------------------------|------------------------------------------------------------------------------|
| <b>Policy Title:</b>                            | EM 20-006 Time, Place, and Manner of Expression Policy, Supersedes EM 14-013 |
| <b>Contact:</b>                                 | Office of the President and Office of Student Life and Leadership            |
| <b>Supersedes:</b>                              |                                                                              |
| <b>Revision:</b>                                |                                                                              |
| <b>Enabling Legislation or Executive Order:</b> |                                                                              |

**Time, Place, and Manner of Expression Policy**

**I. PURPOSE**

This policy is issued by the University President, pursuant to California Code of Regulations, Title 5, sections 42350-42354 and 42402, and concerns the use of University buildings and grounds for purposes of commercial transactions and solicitation, noncommercial transactions and solicitation, freedom of expression activities, amplified sound, and posting, including the distribution of handbills and circulars at California State University, Chico ( hereinafter, the “University” or “CSU Chico”).

**II. SCOPE**

This policy applies to students, student organizations, campus-affiliated organizations, faculty and staff, and other off-campus groups or persons while on campus grounds, including commercial vendors or solicitors.

Except where noted and/or where other policies are incorporated by reference, this policy is intended to be the controlling document with regard to the University’s time, place, and manner

restrictions on commercial transactions and solicitation, noncommercial transactions and solicitation, freedom of expression activities, amplified sound, and posting, including the distribution of handbills and circulars.

This policy shall apply unless in conflict with the statutory rights provided by Higher Education Employer-Employee Relations Act, California Government Code sections 3560 et seq or the terms of a controlling Collective Bargaining Agreement.

### III. POLICY STATEMENT

Freedom of expression is a cornerstone of a democratic society and is essential to the educational process. Universities have a special obligation not only to tolerate but also to encourage and support the free expression of ideas, values, and opinions, even when they may be unpopular or controversial. CSU, Chico accepts and embraces this obligation, recognizing that such expression may take a variety of forms, such as speeches, signs, written materials, public assemblies, parades, demonstrations, and artistic representation.

Accordingly, the University promotes respect for differing points of view and respect for the rights of others to express themselves. While one may find certain expression to be quite offensive or even insulting, the University recognizes that this is not a basis to limit free expression. Instead, the appropriate way to counteract such expression is through discourse, critique, and the expression of different points of view. All members of the University community should recognize that freedom of expression includes a responsibility to respect the dignity of others, to acknowledge the right of others to express differing opinions, and to do so in a lawful manner at all times.

This policy is intended to support the right and ability of student organizations and other groups to host activities and events, including Major Events, on campus. The University recognizes that such events can raise significant security concerns and interfere with other University functions and activities. To protect the [First](#) and [Fourteenth](#) Amendment rights of those who wish to participate in events hosted on campus while preserving the educational process and other operations of the University, the University will enforce the rules outlined in this policy. **All criteria for assessing events will be applied in a viewpoint-neutral manner.**

### IV. GENERAL LIMITATIONS FOR USE OF UNIVERSITY BUILDINGS, FACILITIES, OR GROUNDS

The use of campus buildings, facilities, or grounds for purposes of commercial solicitations or transactions, non-commercial solicitations or transactions, freedom of expression activities, amplified sound and posting, including the distribution of handbills and circulars, must comply with all applicable federal, state, and local laws. In addition:

- The activities must conform to the time, place, and manner restrictions established by this policy;
- The activities must not unreasonably interfere with students' ability to participate in the educational process or to gain access to the educational resources and opportunities the

University provides;

- The activities must not disrupt University activities, including classes in session or other scheduled academic, educational, athletics, cultural arts, and career programs or with use of the University Library;
- The activities must not obstruct the flow of pedestrian or vehicular traffic;
- The activities must not interfere with or disrupt the conduct of University business and operations;
- The activities must not employ unauthorized sound amplification or create unreasonable noise disruptive of normal University activities;
- The activities must not disrupt the residential tranquility of on-campus housing facilities, such as through unauthorized commercial solicitation;
- The activities must not violate any federal, state, local, or University safety code, such as regulations set by the State Fire Marshall;
- Although this list is not all-inclusive, the following activities are NOT protected forms of expression:
  - True and/or credible threats
  - “Fighting words”
  - Defamation
  - Obscenity
  - Terrorist threats
  - False advertising
  - Expression that constitutes criminal or severe harassment
  - Expression that is directed to inciting imminent lawless action and is likely to incite such action

Anyone who observes speech or other expressive activity that violates these General Limitations and restrictions above, or the more specific conditions set forth below, may report such violation by contacting the [Student Life and Leadership Office](#).

See California Education Code, § 89030-31; Title 5, California Code of Regulations, Sections [41301](#) and [\(42350-42354\)](#).

## **V. APPROVED AND PRIORITY USES OF UNIVERSITY FACILITIES**

Use of those University facilities that may be scheduled for activities or events is limited to the following purposes and is normally granted in the following order of precedence:

- The Regular University Instructional Program: Actual classes and scheduled meetings that are part of the regular academic program.
- The Broad University Instructional Program: Discussions, instructionally related activities/programs such as music, drama, forensics, journalism, intercollegiate athletics; special programs and other activities, that are a part of normal class-associated or academic programs; courses that are a part of the authorized campus Continuing Education program.

- **Research and Consultant Activities:** Programs that are research-oriented in nature that contribute to the professional development of students, faculty, and staff, and consultant activities that have been approved by the University.
- **Educational and Co-Curricular Activities:** Events such as conferences, meetings, lectures, musicals, concerts, films, productions, contests, or public assemblies concerned with the professional, cultural, recreational, or entertainment phases of University life. Participants and guests may include students, faculty, and staff of other educational institutions, and the general public when such participants or guests are appropriate to the function.
- **Other Uses:** Use of facilities for programs consistent with the objectives of the University may be granted to those agencies and organizations with whom the University has entered into a lease, operating, or similar agreements.

#### Notes Regarding Specific Areas:

- Sidewalks surrounding University property are the purview of the City of Chico and users must comply with all City regulations regarding use, permits, and licensing.
- All rooms in the Bell Memorial Union (BMU), the plaza area to the south of the BMU known as “Wildcat Plaza”, the sidewalk area directly to the north of the BMU near the Wildcat Store, the Wildcat Recreation Center (WREC), and the plaza area near the entrance to the WREC are under lease and purview of Associated Students and are not public venues. Any events or activities conducted in these BMU/WREC Areas are subject to the policies of the [Associated Students](#).
- Residential areas of campus, including Whitney Hall, Sutter Courtyard and Hall, Shasta Hall, Lassen Hall and the Shasta/Lassen Lawn, Esken Hall, Mechoopda Hall, Konkow Hall, and all the University Village grounds (“University Residential Areas”), are under the purview of [University Housing](#) and are not public venues. Any events or activities held in University Residential Areas are subject to the policies of University Housing.

## **VI. DIRECTIVES FOR TIME, PLACE, AND MANNER**

The University may impose reasonable time, place, and manner restrictions on the exercise of the right of expression, to ensure safety, security, and order, prevent unlawful conduct, preserve architectural aesthetics, and limit the volume of commercial solicitations even in public forums. The following directives are not all-inclusive; rules and procedures applicable to specific venues must also be observed.

### **A. Time**

Indoor events and activities are not assigned fixed limits as to time of day or day of the week, however, University buildings are generally not available for scheduling from 11PM

to 7AM daily. Exceptions include a certain limited number of 24-hour supervised student computer labs.

Outdoor events and activities that involve amplified sound, including music or speech are allowed during the hours of 7 a.m. to 10 p.m. Sunday through Thursday and 7 a.m. to 11 p.m. Friday and Saturday. Outdoor events and activities that do not require use of amplified sound may be held anytime, Monday through Sunday.

Regardless of time, all indoor spaces, certain campus outdoor spaces and all activities involving amplified sound must be scheduled using the University's scheduling protocols (See Section X. Scheduling of Campus Venues). Use of the University's scheduling protocols is encouraged in all cases to facilitate coordination with other events and among potential campus service providers.

## **B. Place**

The Trinity Commons area is the most common place where individuals and groups assemble to exercise the right of free expression unless the space has already been reserved for a scheduled event or activity. (See Section X. Scheduling of Campus Venues).

Other outdoor spaces on campus may also be used for free speech activities, with the exception of the University Residential Areas described above, and the BMU/WREC Areas described above unless permission has been obtained from University Housing or Associated Students respectively. (See Notes Regarding Specific Areas in Section V.)

## **C. Manner**

Regardless of time or place, expressive activity on campus must be conducted in a manner consistent with the General Limitations above and with any additional guidelines pertinent to a particular venue. (See Section X. Scheduling of Campus Venues).

### ***1. Solicitation and Sales***

As defined in Title 5 of the California Code of Regulations ([Section 42350](#)):

- a. **“Sale,” “selling,” or “purchasing”** mean an activity creating an obligation to transfer property or services for a valuable consideration. As provided by [Title 5, section 42350.1](#), “Commercial transactions and the display of property or services for sale on a campus is prohibited except with written permission by the [University] president [or designee].” Members of the campus community are permitted to use the campus to conduct sales or solicit donations as long as they register in advance with the [appropriate department](#) (See Appendix A.7). No entity, campus or non-campus affiliated, may engage in unregistered sales in direct competition with the commercial operations of the Associated Students.
- b. **“Commercial solicitation”** means any direct and personal communication in the course of a trade or business reasonably intended to result in a sale. Commercial solicitation on campus is prohibited unless prior written authorization has been obtained from the University president (or designee).

Commercial solicitation is limited to public venues (outdoors) unless indoor campus facilities are approved and rented for such solicitation. Facilities and grounds under the purview of [University Housing](#) or [Associated Students](#) are not public. (See Section X. Scheduling of Venues).

- c. **“Solicitation”** means to importune, endeavor to persuade, or obtain by asking, but does not include ‘commercial’ solicitation. Pursuant to [Title 5, Section 42350.5](#): “Solicitation shall be permitted on a campus subject, however, to a reasonable regulation by the [University] president [or designee] as to time, place, and manner thereof. Solicitation in violation of established campus directives regarding time, place, and manner is prohibited.” Faculty, staff, or students wishing to engage in solicitation or sales on University property must contact the appropriate department (See Appendix A.7).

## **2. *Electronic communications***

All use of University information technology resources for purposes of individual or collective free expression must adhere to the provisions of the CSU, Chico policies found in Appendix A.1.

## **3. *Posting, signage, leafleting, and distribution of noncommercial written and printed material***

- a. All requests for signage in the Bell Memorial Union must be approved by [AS Conference Services](#).
- b. Requests to post signage in campus residence areas must be approved by [University Housing](#).
- c. Signage in all other locations throughout the University (including temporary signage, flyers, posters, and banners) must be date stamped by the University [Student Life and Leadership](#) Office and must comply with [University Publicity Protocol](#) (See Appendix A.6.).
- d. In consultation with Student Life and Leadership, leaflets and fliers must comply with the provisions of campus policy before they are distributed. (See Appendix A.6.).
- e. All groups, organizations, or individuals wishing to leaflet, hand out, or otherwise distribute non-commercial written or printed materials on campus must comply with the applicable CSU, Chico policies.
- f. Individuals may, however, without prior scheduling, distribute noncommercial written and printed materials in any outdoor area of the University (except roadways) or in any University building. Where facilities or equipment are required or commercial activity is involved, use of campus scheduling protocols is required (See Section X. Scheduling of Campus Venues).

- g. Littering is not permitted. Posting of written and printed materials on vehicles without the owner's permission is not permitted.
- h. Distribution of materials in electronic format using University information technology resources must comply with the policies in Appendix A.1.
- i. Advertising may be permitted in faculty, staff, alumni, and student publications subject to the policies of each publication. Restrictions regarding advertising of alcohol and tobacco products at the University are contained in the [Campus Alcohol Policies](#) found in Appendix A.3.
- j. Publications in electronic format, utilizing campus information technology resources, are subject to the CSU, Chico policies found in Appendix A.1.
- k. These activities must be consistent with the University's general requirements regarding preservation of campus order and public safety, as presented in Section IV. General Limitations.

#### 4. *Assemblies, marches and demonstrations*

Freedom of expression extends to the right to demonstrate, protest, and advocate through public assemblies, marches, and demonstrations. These activities must comply with this policy.

- a. To address public safety issues (routes of march, necessary public safety staffing, etc.), when possible groups contemplating holding public assemblies, marches, or demonstrations are strongly encouraged to notify the University Police 48 hours in advance of the event.
- b. In addition, to avoid conflicts with other scheduled University events, and to utilize other necessary support services and to ensure event success, where possible organizers of public assemblies, marches, or demonstrations are also strongly encouraged to notify the [Facilities Reservations Office](#).
- c. Where facilities or equipment are required, formal scheduling protocols, and reservation procedures for booking equipment must be followed (See Appendix A.2.).
- d. The University President has delegated the oversight of campus demonstrations to the Vice President for Student Affairs to ensure protection of freedom of expression and constitutional rights. This Vice President will cooperate with University Police, if needed, to implement dispersal procedures only when participants have exceeded the limits of

their constitutional rights or exceeded the general limitations of this policy (See Section IV. General Limitations).

- e. Nothing in this section should be construed as prohibiting spontaneous speech events which arise from news or affairs that reach public awareness.

#### ***5. Events, including Major Events:***

The University is committed to enabling student organizations and other groups to sponsor a variety of events on campus, thereby supplementing and enriching students' educational experience. Toward that end, the campus makes certain facilities and spaces available to student organizations and to other non-University users for events. All events, including Major Events, must comply with the limitations and directives set forth in this policy.

- a. For purposes of this policy, an event is any planned gathering including but not limited to celebrations, dances, lectures, forums, performance rallies, social gatherings, concerts, speaker presentations, and conferences. Major Events are events at which **one or more** of the following conditions apply:
  - 1. Over 200 persons are anticipated to attend;
  - 2. Authorized campus officials determine that the complexity of the event requires the involvement of more than one campus administrative unit;
  - 3. Authorized campus officials determine that the event is likely to significantly affect campus safety and security (based on assessment from the University Police Department, (hereafter UPD) or significantly affects campus services (including kiosk guards, service roads, or parking);
  - 4. Authorized campus officials determine that the event has a substantial likelihood of interfering with other campus functions or activities.

Any determination by authorized campus officials that an event constitutes a Major Event under items 2, 3, or 4 above shall be based on the officials' assessment of information other than the content or viewpoints anticipated to be expressed during the event.

- b. All event attendees may be subject to search for contraband, weapons, drugs, alcohol, and other illegal or prohibited materials. Participants will be notified through clearly posted signs at the event entrance if they will be subject to a search.
- c. The maximum room capacity for all campus facilities is established by the State Fire Marshall. The property manager may reduce the capacity further in accordance with staff availability and other considerations.
- d. The possession and/or consumption of alcohol at events will comply with



the Campus Alcohol Policy. The use and/or possession of illegal drugs are prohibited at all campus events.

## **VII. SECURITY PROCEDURES**

If required pursuant to the criteria set forth under “Major Events”, UPD will assess security needs based on objective and credible evidence of specific risks, and not on assessment of the viewpoints, opinions, or anticipated expression of event speakers, sponsors, participants, community, or performers. UPD is responsible for determining and providing the appropriate event security, not the event host.

The goals of UPD’s security recommendations will be to:

- Minimize risks to the health and safety of the event participants, audience, and campus community;
- Minimize risks to the campus and surrounding community;
- Maximize the ability of the event sponsors to successfully hold the event; and
- Protect the exercise of rights of free expression by the event sponsors, participants, community, and all members of the public.

Permissible factors for consideration include but are not limited to:

- The proposed location of the event;
- The estimated number of participants (whether open to the public, or by invitation or ticket);
- The time of day, date, day of week, and duration of the event;
- The proximity of the event to other activities or locations that may interfere, obstruct, or lessen the effectiveness of the security measures being implemented;
- The resources needed to secure the event;
- The anticipated weather conditions;
- Parking and transportation needs;
- Any similar viewpoint and content-neutral considerations relevant to assessment of security needs.

Implemented security measures may include, but are not limited to, adjusting the venue, date, and time of the event; providing additional law enforcement presence at the event; imposing controls or security checkpoints at the event; and creating buffer zones around the event venue.

If UPD determines that, because of new information it has received or changing circumstances, its security assessment must be modified, it will schedule meetings or communications with the event sponsors, University stakeholders, and other appropriate individuals to discuss its revised recommendations.

If during an event an imminent threat to safety or property arises, avoidance or minimization of which requires termination of the event, authority to terminate the event rests with the senior

administrator designated to oversee law enforcement operations. If no senior administrator is present or available, authority is delegated to the highest-ranking UPD officer at the event.

The event sponsors must agree to reimburse costs of basic security provided by UPD. Security fees will be based on standard, approved, and published recharge rates for UPD or other security personnel and for any associated equipment costs or rentals. The number of personnel and amount and type of equipment charged will be based on assessment including but not limited to the following criteria:

1. Event venue, including venue size, location, and number of entrances and exits to be staffed;
2. Time of day;
3. Number of expected attendees;
4. Whether entrances will be controlled and whether tickets will be sold;
5. Whether the event will be open and/or advertised to non-affiliates of the University;
6. Whether alcohol will be served;
7. Whether there will be sales of food, beverages, or other items and whether cash handling will occur;
8. Whether event performers come with personal security teams or details that require UPD liaison;
9. Whether event sponsors or event performers request additional security measures;
10. Whether vehicles, equipment, or items of value will be brought onto campus;
11. Whether parking will be required for the event.

## **VIII. FREE SPEECH COMMITTEE**

1. This committee will advise the University President (or designee) on the feasibility of the Major Events. The Free Speech Committee, a permanent committee of Academic Senate, shall be made up of:
  - a. One faculty member appointed by the Academic Senate Executive Committee
  - b. One staff member appointed by the President
  - c. One student appointed by the Government Affairs Council of the Associated Students
  - d. Associate Vice President of Student Life or designee
  - e. Chief of University Police or designee
  - f. Director of University Public Events or designee
  - g. AS Executive Director or designee, as needed
2. If the University President (or designee) has significant concerns about the safety or compliance with existing University policies, with the orderly conduct of University business, with preservation of the campus learning environment, with the preservation of public safety, with maintenance of University property, and/or with the free flow of pedestrian and vehicular traffic, then she may refer the event to the Free Speech Committee for evaluation, which is to be made within a reasonable period of time. The University President (or designee) retains the authority for decision-making.

3. The charges of the committee include:
  - a. Make recommendations to the President (or designee) regarding the feasibility of proposed events.
  - b. Consult with the sponsoring group to explore safety, feasibility and other mitigating factors associated with the event.
  - c. In the rare circumstances when approval may have been denied, hear appeals from sponsoring groups and advise the President for further evaluation of event feasibility.
  - d. Submit an annual report to the Executive Committee of Academic Senate about its activities since the last report.
  - e. Review this policy annually and make revision recommendations to Faculty and Student Policies Committee.

## **IX. COSTS AND FEES**

Use of campus facilities or other property may be subject to a fee and/or require liability insurance and/or an indemnity agreement. Where this is the case, persons or groups granted the use of campus facilities or other property are responsible for payment of any fees and for reimbursing the University or its auxiliaries for any costs incurred. (See Appendix A.5). Security fees will not be charged based on concerns that the subject matter of the event or viewpoints, opinions, or anticipated expression of the sponsors, event performers, or others participating in the event might provoke disturbances or response costs required by such disturbances.

## **X. SCHEDULING OF CAMPUS VENUES**

The University has established formal procedures for scheduling of campus venues to ensure effective campus coordination and to provide individuals and groups with a means by which to reserve facilities, spaces, equipment, and other resources and support services.

Unless otherwise noted below, facilities and/or equipment reservations are accommodated through the [Facilities Reservations Office](#). The BMU, WREC, and adjacent outdoor areas are scheduled through [Associated Students Conference Services](#). Student organizations begin their request for space through the [Student Life and Leadership Office](#) who will formally submit the request on their behalf to Facilities Reservations.

Any events or activities held in CSU, Chico's residential communities, including events and activities in Sutter Courtyard, Shasta/Lassen Lawn, and all University Village grounds are subject to the reservation and policies of [University Housing](#). Questions about these policies may be directed to that office. During certain campus-wide special events (e.g. Commencement, Preview Day, and Orientation), priority will be given to event-related activities in the scheduling of campus facilities, grounds, and resources.

All Major Events, whether held in campus residential neighborhoods, on Associated Students property, or on campus buildings or grounds are forwarded to the Free Speech Committee, who

will determine, within a reasonable period of time, which offices should be engaged for final scheduling.

In carrying out the scheduling function, the University will retain a position of strict neutrality regarding the views groups or individuals may wish to express. The institutional control of campus facilities shall not be used as a device for censorship. The University will not preclude groups or individuals from expressing their views because of disagreement with the views to be presented.

Nothing in this section should be construed as prohibiting spontaneous speech events which arise from news or affairs that reach public awareness.

## **APPENDIX A**

1. Policy on the Use of Computing and Communications Technology for Faculty ([EM 07-001](#)) and the [Standards for Student Conduct](#), Title V, Section 41301; see also [EM 97-018](#).
2. Facilities or equipment requirements are accommodated by the [Facilities Reservations Office](#) or [Student Life and Leadership](#).
3. Restrictions on alcohol and tobacco product advertising ([EM 99-011](#)) and ([EM 94-050](#)).
4. For general protocols about facilities use, see Policy for University Facilities Allocation and Use ([EM13-078](#)) and Delegation of Fiscal Authority and Responsibility ([EO 1000](#))
5. Fee schedules and additional details can be found at the [Facilities Use/Charge Process](#) page at Facilities Reservations and [Conference Services](#) page for Associated Students facilities.
6. For information on approved campus advertising and publicity, see the [University Publicity Protocol](#).
7. For permission to engage in commercial solicitation, faculty and staff and off campus entities must contact the [Facilities Reservations Office](#). Students must contact the [Student Life and Leadership Office](#).
8. For information about on or off campus events involving alcohol, please refer to the [Campus Alcohol Policy](#).