UNIVERSITY RULES FOR
DEMONSTRATIONS AND PROTESTS

Texas State University takes pride in individuals’ engagement with social and political issues, seeing it as a desirable, if not essential, component of a college experience. Texas State respects the right of students and non-students to express their social and political views through all forms of legally protected speech, press, and assembly.

The First Amendment of the United States Constitution states that “Congress shall make no law… abridging the freedom of speech… or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” The First Amendment affords protection both to verbal and written communication and to symbolic speech, which is defined as nonverbal gestures or actions meant to convey a message. Symbolic speech that is protected under the First Amendment includes such things as marching, wearing armbands, and desecrating the American flag. So fundamental is our American value of freedom of speech that the U.S. Supreme Court has upheld such actions as constitutional.

While the rights afforded by the First Amendment of the Constitution are the bedrock of American society, they occupy an even more central place in the life of a university. The fundamental mission of the university— to seek, discover, and disseminate truth— cannot be realized without the open, unimpeded exchange of ideas, both inside and outside the classroom. Consequently, both the U. S. Constitution and the university’s core mission inspire the policies and practices related to the exercise of First Amendment rights at Texas State. The word “unimpeded”, as used here, does not mean that the constitutionally protected rights of speech and assembly are entirely without restriction or limit. For everyone to enjoy unimpeded freedom of speech and assembly, there must be reciprocal understanding of the rights of all individuals. Freedom of speech and assembly should not impinge on the rights of speech and assembly of other individuals. Texas State has a policy on demonstrations that should be reviewed in conjunction with this document (UPPS No. 07.04.07 Demonstrations on University Property).

Student and University Relationships

Texas State strives to maintain good relationships with students by communicating clearly and honestly, with integrity, and by establishing a trusting relationship. Quality, day-to-day interactions between students and university officials set the stage for successful communication during times of tension and emotion. The university wants to engage students in both informal and formal dialogue and to be a part, alongside students, in the life of the university.

While the university encourages engagement with issues, all are urged to understand that each participant has a right to express their opinions. Students are urged to think critically as the exchange of thoughts with others occurs. After all, all students should be exposed to new
ideas and belief systems different than their own as a part of a college education.

**What is a demonstration or protest event?**

Many “free speech” events with political and social justice themes take place on campuses each year. Most of those events happen peacefully and organically with no need for additional rules or policies. The type of demonstrations, protests or marches discussed hereafter are those that warrants some level of institutional response—beginning with simple monitoring and scaling up from there as appropriate. These events may be identified by, among other factors, size, time, place, manner, prior planning, the emotional valence attached to the event, and/or the likelihood to provoke violence or involve civil disobedience.

**TYPES OF DEMONSTRATIONS**

Demonstrations come in several forms: stationary, mobile, and a combination of the two. Stationary demonstrations can take place on the common outdoor grounds of university-owned or leased property. These events are subject to “time, place, and manner” restrictions, as described in [www.dos.txstate.edu](http://www.dos.txstate.edu).

**Stationary Demonstrations**

Some stationary demonstrations involve pictures, graphics, or placards known as exhibits that are intended to provoke a response from or offend on-lookers. These displays can elicit counter demonstrations with an opposing group setting up in proximity to the current demonstration or they can lead to complaints about the content of the offending message. It is important to understand that Texas State cannot treat one protest differently from another based solely on the content, viewpoint or message of the speakers.

As long as the members of the group are abiding by university policies and the law, regardless of the offensive nature of any content, they are exercising their First Amendment rights, and they are allowed to remain. The university is, however, allowed to set limits on freedom of speech and assembly through time, place, and manner policies and decisions if these are applied on a content-neutral basis.

An example of a stationary demonstration is a “sit-in” or “takeover” of a non-academic building or office. These types of demonstrations can only be conducted in accordance with time, place, and manner parameters. Indoor demonstrations can only occur during regular business hours and must disperse when the building closes.

**Mobile Demonstrations and Marches**

Mobile demonstrations, or marches, proceed from one point to another, often accompanied by some loud noise or clamor and signs. The point of the march is usually to gather sympathizers along the way and to raise awareness among on-lookers. The marchers must still abide all the appropriate university policies and directives, including the policy on amplified sound ([UPPS 07.04.05 Assembly Activities Involving Amplified Sound, Exhibits, and Erecting Symbolic Structures](http://www.dos.txstate.edu)).
Monitoring Demonstrations and Protests

“Monitoring” a protest event has several purposes, the primary one being to protect the educational mission of the university by preventing possible disruption. The second is to protect the First Amendment and other rights of all participants. This includes the protestors, passers-by, counter-protestors, and those who gather to watch. The third purpose of monitoring is to protect the right of choice of other members of the university community to participate or not to participate.

Types of Protests

Protest activities fall into at least three categories: those that are entirely lawful, nonviolent civil disobedience, and violent civil disobedience.

Lawful demonstrations are constitutionally safeguarded and should be protected at all cost. The First Amendment guarantees the right to assemble peaceably, although the courts have allowed public institutions to restrict the time, place, and manner of speech and assembly on a content-neutral basis. While the university does retain the authority to define appropriate time, place, and manner, there is significant latitude within these constraints.

There is no policy allowing for nonviolent civil disobedience. Likewise, there is not a clear line between nonviolent civil disobedience that might be tolerated on a limited basis and behavior that cannot be tolerated and can result in arrests. Once a protestor engages in any form of civil disobedience, by definition, the protestor is breaking the law and university officials must make a judgment call in the moment in terms of how to react.

Violence and threats of violence, damage to property, and disruption of classrooms, laboratories, or the library, as well as occupation or disruption of key offices and departments will not be tolerated. The university police have a duty to intervene if they deem a participant to be inciting others to violence. They will not wait for the violence to erupt to act. Further, undue interference with the First Amendment rights of others, such as disrupting a public speech, will not be allowed and may be subject to disciplinary sanctions.

Plans for a demonstration or protest

Demonstrations or protests generally have specific goals, which are typically to raise awareness and garner support from a larger swath of the community. Texas State University officials have no desire to thwart individuals or their efforts to communicate their stance on issues, but want them to do so within the limits of legally protected action. Individuals are strongly encouraged to work with university officials to plan for their protest or demonstration.

The associate director for Student Involvement in the LBJ Student Center, with assistance from the dean of students, has the primary responsibility, on behalf of the university, for monitoring student protest activity and coordinating the university’s response in collaboration with the University Police Department (UPD). Student Involvement is the central repository of information about protests and demonstrations. Individuals or groups
requesting information regarding demonstrations or protests should contact Student Involvement at the LBJ Student Center 4-2.1, email getinvolved@txstate.edu, or call 512-245-3219. Student Involvement and the Dean of Students staff work closely with the University Police Department to monitor demonstration or protest activities “on the ground” as they are occurring. Staff members from Student Involvement and the Dean of Students Office are typically on site to (a) assure that rights to freedom of speech and assembly are respected, (b) assist participants in staging an effective and lawful event in compliance with time, place, and manner regulations, and, (c) advise participants if they are violating university policies.

When the university becomes aware of protest or demonstration, the associate director of Student Involvement will contact UPD to request that a police officer be present. More often than not, a police officer and a Student Affairs staff member will “drop by” the demonstration or protest location to ensure that it is proceeding well. They will make contact with the organizers, introduce themselves, communicate with the demonstrators or protesters, and offer assistance if needed. The officer and the staff member then make a judgment about the need to remain at the demonstration or protest. If they leave, they may return later to verify that the demonstration or protest has ended or that it is still proceeding peacefully.

The presence of a Student Affairs staff member is intended to assist participating individuals as they exercise their legally protected rights to speech and assembly. Student Affairs staff members are also responsible for responding to any violations of university policy and for working in partnership with the police to safeguard the university. Staff members do not monitor content.

Civil Disobedience

Civil disobedience is illegal by definition. It constitutes a decision on the part of an individual, who may or may not be a member of a collective action, to intentionally violate a law or policy in protest of an unfairness or injustice by a government or some other institution such as a bank, corporation, or university. As a form of rebellion, protest, or resistance, civil disobedience has a long history both in the United States and around the world.

There are two forms of civil disobedience: non-violent and violent, with gradations within each category. Most acts of civil disobedience occurring on campuses are non-violent.

Regardless of where on the civil disobedience continuum an action falls, its unlawfulness may have consequences for the civil disobedient. It is important that participants understand that there are risks involved with civil disobedience, and they must be prepared to accept the risks and potential punishment that may result from their involvement, up to and including arrest and potential incarceration.

The university’s response to a student’s civil disobedience depends on the nature of the civil disobedience being undertaken. Non-violent resistance that is essentially symbolic (a sit-in for example) is more likely to be tolerated than aggressive non-violent actions (e.g., a blockade of an exit or entrance of a building). Violence, whether motivated by conscience or criminality, will not be tolerated in any form.
Civil disobedience that threatens the health and safety of others, damages property, or impinges on the rights of others through disruption of speech, instruction, or critical university services is not allowed. Non-violent acts of civil disobedience that may appear harmless may, in fact, pose a threat to health and safety in ways not immediately apparent to the participants.

Direct intervention by a university official or police officer, versus passive monitoring, may be called for when civil disobedience becomes part of the protest scenario. It is often the case that just a few individuals within a crowd engage in civil disobedience. University officials and police officers will always attempt to minimize confrontations with participants and to de-escalate a situation that is increasing in intensity or volatility. University police officers are trained in de-escalation techniques and civilian interaction.

It is true that some minor forms of civil disobedience may be tolerated by the university for a limited time. However, over time, even benign civil disobedience will no longer be tolerable by the institution, and some action will have to be taken such as reading a warning statement that indicates that a continuation of the unacceptable behavior can be cause for arrest if the behavior persists. As already mentioned, more serious forms of civil disobedience cannot be tolerated even for a short time and require a rapid response.

Although the university is willing to extend some latitude to protesting students or non-students, there may be instances in which the threat to safety, security, and property is too great to go unchecked without immediate action. If arrests must be made, they are made based on violations of the law, which are reviewed by the Office of the District Attorney and pursued through the courts. Once a participant is arrested, they must deal with the criminal court system directly, which is outside of the influence or purview of the university.

When pertaining to students, they may also need to appear in the Student Conduct Office. The criminal court system and the university student conduct review process are independent of one another and may run simultaneously or sequentially. Being exonerated of wrongdoing from a criminal standpoint does not guarantee that student judicial action will not be taken, and vice versa.

University Protocols

UPD maintains interdepartmental agreements with the City of San Marcos, Hays County, Williamson County, and the City of Round Rock that address mutual aid. While the Texas State chief of Police has primary responsibility for handling all demonstrations or protests occurring on property owned or leased by Texas State, the agreements allow the chief of Police to request assistance from these agencies. Furthermore, police from city, county, and state agencies have the jurisdictional authority to be on campuses without invitation.

The university’s protocol with demonstrators or protesters generally includes:

- The university official ensuring that the protesting group understands the university policies regarding free speech and assembly so they can conduct an effective protest and demonstration;
- Protecting the rights of all to exercise their freedom of speech on our campuses;
• Extending latitude to students who are communicative with university officials and who are not breaking the law;

• Recognizing that some minor acts of civil disobedience may be tolerated, as long as they do not pose a safety or security threat or unduly interfere with the business of the university;

• When time permits, making our best effort to clearly communicate opportunities to comply with directives to avoid arrest; and

• University policy officers are trained in de-escalation techniques and civilian interaction. Force will only be used as a last resort;

At the beginning of each academic year, students will be reminded through communication channels such as the University Star, faculty lectures, sign postings, social media, and/or email to check websites for information about protests and demonstrations. Additionally, at New Student Orientation and Bobcat Preview, new students will be informed of the existence of information about free speech and assembly, protest activities, and civil disobedience. They will be urged to review it carefully.

VIOLATIONS OF POLICY

Sanctions to any violation of the Code of Student Conduct may include a warning, probation, deferred suspension, suspension, deferred expulsion, or expulsion.

Adapted from materials received from the Division of Student Affairs, University of California