

Free Speech, Expression, and Assembly

Freedom of speech, expression, and assembly are fundamental rights of all persons and are central to the mission of UTRGV. Students, faculty, and staff have the right to assembly, speak, and attempt to attract the attention of others, and corresponding rights to hear the speech of others when they choose to listen, and ignore the speech of others when they choose not to listen. These activities, however, are subject to the well-established rights of colleges and universities to regulate time, place, and manner so that these activities do not intrude upon or interfere with the academic programs, administrative processes, or other authorized activities of UTRGV.

Honor, integrity, and respect are the core principles of the Vaquero Honor Code. In keeping with these core principles, members of the UTRGV community are expected to act civilly and cooperate with one another, and strive to create an environment and a culture in which people respect and listen to one another. UTRGV is a place for the exchange of ideas, popular and unpopular, and challenges to conventional wisdom are encouraged. UTRGV promotes the exchange of ideas, and members of the UTRGV community are encouraged to allow others to participate and express their views openly.

The answers to these frequently asked questions are based on UTRGV and University of Texas System rules and policies, as well as applicable federal and state law. If there is a conflict between an answer and UTRGV or University of Texas System rules and policies, those rules and policies shall prevail.

View the [UTRGV's report on the implementation of Section 51.9315 of the Texas Education Code](#).

Frequently Asked Questions

1. What is freedom of speech, and what does it protect?

Freedom of speech is the right of a person to articulate opinions and ideas – even opinions and ideas that may be unpopular, controversial, or disagreeable to others – without interference or retaliation from government entities such as UTRGV. The term “speech” constitutes expression that includes far more than just words, but also what a person wears, reads, performs, protests, and more.

In the United States, freedom of speech is protected by the First Amendment of the U.S. Constitution, as well as the Texas Constitution and many state and federal laws. The

United States' free speech protections are among the strongest of any democracy; the First Amendment protects even speech that many would see as offensive, hateful, or harassing. This is not to say that a person has an unfettered right to say anything in class or on campus, only that a vast amount of speech is protected even if it is offensive or morally questionable.

2. Can UTRGV regulate speech, expression, or assembly at UTRGV?

The U.S. Constitution prohibits UTRGV, as a public institution, from banning, punishing, or regulating speech, expression, or assembly based on its content (i.e., speech about a certain matter, regardless of viewpoint) or its viewpoint (i.e., speech concerning only one side of a certain subject matter).

At the same time, public institutions like UTRGV have discretion to adopt rules regulating the “time, place, and manner” of speech, expression, or assembly on their campuses, so long as the rules are content- and viewpoint-neutral and are narrowly tailored to serve a compelling institutional interest. The right to engage in speech, expression, or assembly on UTRGV campuses is not an unfettered right to speak at any time, at any place, and in any manner that a person wishes. UTRGV can regulate where, when, and how speech occurs to preserve the public educational mission of its buildings, facilities, and common outdoor areas and achieve other compelling public interests, such as protecting student and public safety.

3. Who can exercise free speech, expression and assembly at UTRGV, and where can these activities take place?

As of September 1, 2019, common outdoor areas of UTRGV are considered a traditional public forum. This means any member of the general public is free to engage in expressive activity on any topic in common outdoor areas of UTRGV, so long as the speaker's conduct is lawful and does not materially and substantially disrupt the functioning of UTRGV. Members of the general public may engage in expressive activities in common outdoor areas in accordance with the time, place, and manner rules discussed in these FAQs.

Students, faculty, staff, and recognized student, faculty, and staff organizations are free to express their views on any topic, individually or in organized groups, in all buildings, facilities, and common outdoor areas of UTRGV, subject only to the rules necessary to preserve the equal rights of others and other functions of UTRGV. An individual invited and presented as a guest speaker by a registered student, faculty, or staff organization, or an administrative or academic unit of UTRGV, may also engage in expressive activities in UTRGV buildings and facilities.

Adhering to the time, place, and manner rules discussed in these FAQs will help ensure the functions of UTRGV are not materially and substantially disrupted.

When requested by a UTRGV representative or law enforcement officer, a person must identify themselves while on any property or in any building owned or controlled by UTRGV.

4. What is a “common outdoor area” of UTRGV?

“Common outdoor area” refers to outdoor space of UTRGV property that is not used for dedicated UTRGV business or events, an educational function, or a research function on either a permanent or temporary basis. The term also does not include outdoor surfaces of UTRGV buildings, surfaces associated with or connected to UTRGV buildings, UTRGV structures, spaces dedicated to temporary outdoor banners or exhibits, or any other space within UTRGV’s limited public forum.

UTRGV’s limited public forum refers to all UTRGV property, indoor or outdoor, that is not part of the common outdoor area of UTRGV property.

5. When can free speech, expression and assembly take place at UTRGV?

Members of the public, students, faculty, staff, and recognized student, faculty, and staff organizations may engage in expressive activities in common outdoor areas of UTRGV – such as public assemblies, demonstrations, or protests – subject to any reservations that have been made for specific space(s); subject to any rules that address the use of amplified sound or other time, place, manner rules; and as long as the expressive activities are not materially and substantially disruptive. Indoor or outdoor encampment is prohibited.

Members of the public, students, faculty, staff, and recognized student, faculty, and staff organizations are expected to respect all quiet hours in and in the immediate area surrounding campus housing facilities (Heritage Hall, Troxel Hall, Unity Hall, and The Village Apartments in Edinburg, and the Casa Bella Apartments in Brownsville). More information for these quiet hours is available in the [UTRGV Residents Handbook](#).

UTRGV’s limited public forum is available for students, faculty, staff, and recognized student, faculty, and staff organizations only during normal operational hours.

Recognized student, faculty, and staff organizations or academic and administrative units may reserve the use of a room or space in UTRGV buildings or facilities during normal operational hours. Academic and administrative units of UTRGV will have priority in reserving the use of rooms and spaces.

Recognized student, faculty, and staff organizations, and academic and administrative units with a reservation have the right to the reserved room or space for the time covered by the reservation. Any individual, organization, unit, or faculty member, staff

member or student using or occupying a room or space without a reservation must yield control of the room or space in time to permit the organization or unit with a reservation to begin using the room or space promptly at the beginning of its reserved time.

6. What is considered an expressive activity?

“Expressive activity” refers to any speech or expressive conduct protected by the First Amendment of the U.S. Constitution or by Section 8, Article I of the Texas Constitution. In practice, expressive activity means any non-curriculum related assemblies, protests, speeches, distribution of written literature or material, carrying of signs, stationary structures or displays, or circulation of petitions.

Under UTRGV and University of Texas System policies, expressive activities do not include commercial speech (i.e., advertising, promises, and solicitations with the purpose of initiating or engaging in a business transaction of some kind).

7. What types of expressive activities are not protected by the First Amendment?

The First Amendment protects a broad range of expressive activity (including speech that may be controversial, hurtful, or repugnant). Even so, there are types of expression that lose First Amendment protection and are not acceptable under UTRGV policies:

- Incitement of Illegal Activity
 - There is no right to incite people to break the law, including to commit acts of violence. To constitute incitement, the United States Supreme Court has said there must be a substantial likelihood of imminent illegal activity and the speech must be directed to causing imminent illegal activity. For example, a speaker on campus who exhorts the audience to engage in acts of vandalism and destruction of property is not protected by the First Amendment if there is a substantial likelihood of imminent illegal activity.
- Speech that would be deemed a “true threat”
 - Speech that a person would reasonably perceive as an immediate threat to their physical safety is not protected by the First Amendment. For example, if a group of students yelled at a student in a menacing way that would cause the student to fear a physical assault, such speech would not be protected.
- Harassment
 - Harassment aimed at an individual on the basis of a protected characteristic (race, gender, sexual orientation, religion) that is also pervasive and severe; is a

direct or implied threat to employment or education; or creates an intimidating, hostile, or demeaning atmosphere. For example, posting racist messages on the residence hall room based on the perceived or actual ethnicity of a student would be regarded as harassment and not speech protected by the First Amendment.

- Obscenity
 - Expressive activity may be deemed obscene (and therefore unprotected) if the expressive activity meets the following (extremely high) threshold: (a) it appeals to the prurient interest in sex; (b) is patently offensive by community standards; and (c) taken as a whole, lacks serious literary, artistic, political, or scientific value. [Chapter 43, Subchapter B of the Texas Penal Code](#) addresses obscenity and related offenses.
- Defamation
 - A statement may be defamatory (and unprotected) if it is an intentional and false statement about an individual communicated to a third party, resulting in damage to the individual's reputation.

Does the First Amendment protect civil disobedience on campus?

No. The First Amendment protects freedom of speech and expression, but does not protect engagement in civil disobedience which, by definition, involves the violation of laws or regulations. For example, if student protestors take over a campus building, or disrupt classes or events, their actions may be subject to punishment not only under UTRGV policies but also in criminal court – if the conduct constitutes a crime. Civil disobedience historically has played a significant role in various social movements, but individuals should be aware that participation in civil disobedience could potentially result in serious criminal charges, policy violations, or conduct charges.

If someone is holding an event on campus, can the event be protested?

UTRGV supports the right to assemble. Public assemblies (protests, picketing, etc.) are allowed. UTRGV encourages all who engage in protest activity to do so safely. In addition to other time, place, and manner rules discussed in these FAQs, below are some rules and reminders for engaging in protest activity safely:

- Avoid activity that infringes on the rights of others, such as blocking and preventing the movement or access of others.

- Follow the lawful instructions of UTRGV administrators or police, such as staying behind barricades, dispersing from an area declared an unlawful assembly, or not resisting arrest. It is against the law to disobey a lawful order by a police officer.
- Leave the area where others are engaging in illegal activities or acts of violence. Remaining in the area could be interpreted as your choosing to participate in the illegal activities or acts of violence, even if that is not your intent.
- Refrain from speech that incites others to commit acts of violence such as pushing, kicking, or spitting on others, destruction of property, or other unlawful actions.
- Masks, facial coverings, or disguises that (a) conceal the identity of the wearer and (b) are calculated to obstruct the enforcement of this policy or the law, or to intimidate, hinder, or disrupt a UTRGV official, officer of the UTRGV Police Department, or other person in the lawful performance of their duty are not permitted.
- Consistent with other UTRGV policy, the possession, use, or display of firearms, facsimile firearms, ammunition, explosives, or other items that could be used as weapons (including but not limited to sticks, poles, clubs, swords, shields, or rigid signs that can be used as a shield) unless authorized by federal, state, or local laws or ordinances or the express permission of UTRGV is prohibited. Likewise, body armor or make-shift body armor, helmets and other garments, such as sporting protective gear, that alone or in combination could reasonably be construed as weapons or body armor, is prohibited unless expressly authorized by UTRGV.
- Carrying an open flame is prohibited unless approval is granted in advance by the Director of Environmental Health, Safety, and Risk Management, or designee.

What is “hate speech?”

The term “hate speech” does not have a legal definition in the United States, but it often refers to speech that insults or demeans a person or group of people on the basis of attributes such as race, religion, ethnic origin, sexual orientation, disability or gender. While the university condemns speech of this nature, there is no “hate speech” exception to the First Amendment and it is only illegal if it falls under one of the attributes described above. In fact, on many occasions, the Supreme Court has explicitly held that prohibitions or punishments for hateful speech violate the First Amendment.

Just because there is a First Amendment right to say something does not mean that it should be said, however. The First Amendment protects a right to say hateful things, but as members of the UTRGV community we strive to create a civil environment and culture in which people respect and listen to one another, rather than choosing to express hate toward others.

What is considered disruptive?

Speech, expression, or assembly that interferes with (1) teaching, research, administration, or other authorized activities; (2) free and unimpeded flow of pedestrian and vehicular traffic; or (3) signs, tables, exhibits, public assemblies, distribution of literature, or guest speakers acting under UTRGV or UT System policies or the time, place, and manner rules discussed in these FAQs may be considered disruptive.

Defining interference as “disruptive” is necessarily contextual. For example, physical interference with others is nearly always disruptive in any context. Interfering with pedestrian or vehicular traffic depends on relation between the volume of traffic and size of the passageway left open. Disruptive noise is the most contextual of all, because it depends on the activity being disrupted. In making determinations of what is disruptive, UTRGV administrators should not be influenced (and are expected not to be influenced) by the viewpoints of those claiming disruption or alleging disruption.

How can people respond to expressive activity?

UTRGV supports the notion of a “marketplace of ideas,” in which speech that a person disagrees with should be met with more speech that engages and debates it. The First Amendment is founded on, and UTRGV believes in, the premise that we are all better off if ideas can be expressed and responded to, rather than be subject to an imposed orthodoxy of belief and punishment for deviating from it.

It is fundamental that individuals have a right to peacefully express their views and opinions, regardless of whether others may disagree with those expressions. This includes the right of an individual to oppose the views or opinions of others, so long as the individual’s conduct is not unlawful and does not materially and substantially disrupt the functioning of UTRGV. Adhering to the time, place, and manner restrictions discussed in these FAQs and applicable UTRGV or University of Texas System policies will ensure the functions of UTRGV are not materially and substantially disrupted.

Freedom of speech does not give someone the right to drown out words and speech of others; the right to engage in expressive activity would mean little if the audience was able to silence anyone with whom they disagreed. Once a society starts down the path of condoning such de facto censorship, it creates the culture and conditions in which anyone’s rights of speech can be compromised.

In keeping with the civil and respectful culture UTRGV strives to create, individuals may not attempt to coerce, intimidate, or badger any other person into viewing, listening to, or accepting a copy of any communication. Individuals may not persist in requesting or demanding the attention of any other person after that person has attempted to walk away or has clearly refused to attend to the speaker’s communication.

No expressive activity may be conducted in a way that damages, defaces, marks, discolors, or alters in any way the property of UTRGV or of any person who has not authorized the speaker to damage or deface the property. And, no person may damage, deface, mark, discolor, alter, or interfere with any sign, table, or exhibit posted or displayed by another.

In immediately responding, individuals can use signs, tables, distribution of literature, or publicly assemble in any location as described in these FAQs without needing permission, so long as the activity does not materially and substantially disrupt the functioning of UTRGV and otherwise adheres to the time, place, and manner rules discussed in these FAQs and applicable UTRGV or University of Texas System policies.

Amplified sound, large banners or signs, or exhibits may be used only in areas and at times authorized by UTRGV. Individuals cannot use amplified sound to disrupt amplified sound in the same location. UTRGV will use reasonable efforts to timely review and make determinations on specific requests for use of amplified sound, large banners or signs, or exhibits.

Do I need prior approval to engage in expressive activities?

Reservations of space in common outdoor areas can be made in advance in accordance with UTRGV policies, but a space reservation is not required to engage in expressive activities in common outdoor areas. Registered student, faculty, and staff organizations are encouraged to reserve the use of a room or space on University property for purposes permitted by the Regents' Rules ([Regents' Rule 80101 Category of Facilities and Authorized Users](#) and [Regents' Rule 80106 Special Use Facilities](#)) and University rules in accordance with [ADM 10-301 Facility Use](#).

Can I use amplified sound on campus (ex. bullhorns or microphones)?

Yes, under certain circumstances. Use of amplified sound cannot materially and substantially disrupt the functions of UTRGV, and for all common outdoor areas, reservations for use of amplified sound may be required. Individuals cannot use amplified sound to disrupt amplified sound in the same or immediately adjacent location.

Members of the public, students, faculty, staff, and recognized student, faculty, and staff organizations are expected to respect all quiet hours in and in the immediate area surrounding campus housing facilities (Heritage Hall, Troxel Hall, Unity Hall, and The Village Apartments in Edinburg, and the Casa Bella Apartments in Brownsville). More information for these quiet hours is available in the [UTRGV Residents Handbook](#).

UTRGV may prescribe additional rules concerning scheduling, sound levels, location of speakers and direction they are pointed, and other rules necessary to facilitate the use of amplified sound, to mediate any conflict with university functions and any other nearby activities, and to manage environmental impact. University administrators are expected to prescribe such rules in a content- and viewpoint-neutral manner.

Where can I distribute literature (ex. flyers or pamphlets)?

Members of the public, students, faculty, staff, and recognized student, faculty, and staff organizations can distribute literature in common outdoor areas. Registered student, faculty, and staff organizations may distribute literature in UTRGV's limited public forum in connection with the presentation of a guest speaker or other activities in a reserved room or space. The University's rules on solicitation as found in [Regents' Rule 80103 Solicitation](#) and [ADM 10-104 Solicitation on Campus](#) apply.

How does expressive activity apply in the classroom?

Exploring diverse points of view in the course of scholarly debate, discussion, and research is vital to UTRGV's academic mission. The freedom of faculty and students to explore topics related to their areas of scholarship and research is fundamental to UTRGV's mission and is encouraged by UTRGV faculty. Sometimes these topics are contentious, but UTRGV believes academic freedom is essential to fostering a better understanding of the world we share.

Taking civil and reasoned exception to data or views offered is essential to scholarly inquiry. To maintain an atmosphere conducive to scholarly inquiry, faculty have authority to maintain order in their classes and classrooms. Scholarly debate and discussion in class or the classroom should be germane to the subject(s) being taught, and faculty are not expected to introduce into their teaching controversial matter that is no relation to the subject(s) being taught. Expressive activities may not interfere or disrupt any teaching activities.

Can a person violate University policy even if the law is not broken?

Yes. Individuals or groups of individuals engaging in activities that are materially and substantially disruptive to the normal operations of UTRGV, including classes and business activities, or who fail to comply with UTRGV policies and applicable local, state, and federal laws may face immediate removal from the campus or other appropriate actions by UTRGV officials or police. Appropriate action for members of the UTRGV community may involve disciplinary action under relevant policies applicable to faculty, staff, or students.

Please note that the UTRGV Police Department may immediately enforce UTRGV or UT System rules related to speech, expression, and assembly if a violation constitutes a

breach of the peace or compromises public safety. [Chapter 42 of the Texas Penal Code](#) addresses disorderly conduct and related offenses.

How does the University ensure the safety of students, faculty and staff?

UTRGV balances a commitment to free speech and public safety. People who threaten or commit acts of violence are subject to arrest and prosecution by law enforcement, as well as discipline imposed by UTRGV.

If you feel threatened, contact the UTRGV Police Department at (956) 882-4911. Non-emergencies can be reported at (956) 882-7777.

What do I do if I have a complaint or concern?

You may report any complaint or concern about enforcement of UTRGV's rules related to expressive activities or violation of Texas Education Code Section 51.9315 to [Institutional Compliance](#) or to [Vaqueros Report It](#).

Where can I find more information?

Below are applicable UTRGV and University of Texas System rules and policies. If there is a conflict between an answer and UTRGV or University of Texas System rules and policies, these rules and policies shall prevail.

UT System Regents' Rules and Regulations

The following Regents' Rules also regulate certain categories of speech:

- Students:
 - [RR 80101](#) Category of Facilities and Authorized Users
 - [RR 80103](#) Solicitation
 - [RR 80106](#) Special Use Facilities
 - [RR 40501](#) Speech and Assembly

- Access by Unaffiliated Persons:
 - [RR 40501](#) Speech and Assembly
 - [RR 80101](#) Category of Facilities and Authorized Users Faculty

- Academic Freedom:
 - [RR 31004](#) Rights and Responsibilities of Faculty Members

- Information Resources:
 - Information Resources Acceptable Use Policy
- Political speech by UTRGV employees:
 - [RR 30103](#) Standards of Conduct
 - [RR 30104](#) Conflict of Interest, Conflict of Commitment, and Outside Activities

[Rule 10701: Policy Against Discrimination](#)

UTRGV Handbook of Operating Procedures and Other Governing Policies

Some sections of the [UTRGV Handbook of Operating Procedures \(HOP\)](#) have relevance for regulating speech activities:

- [ADM 03-100](#) Non-Discrimination and Complaint Procedure
- [ADM 03-300](#) Sexual Harassment and Sexual Misconduct
- [ADM 04-101](#) Standards of Conduct
- [ADM 05-100](#) Faculty Senate Constitution
- [ADM 06-200](#) Staff Senate Constitution
- [ADM 06-106](#) Faculty Rights and Responsibilities
- [ADM 06-304](#) Academic Committees and Councils
- [Information Resources Use and Security](#)
- [ADM 10-104](#) Solicitation on Campus
- [ADM 10-301](#) Facility Use
- [STU 02-100](#) Student Conduct and Discipline