TO: Members of the Board of Trustees
FROM: President Sabah Randhawa on behalf of: Melynda Huskey, Vice President for Enrollment and Student Services
DATE: June 10, 2022
SUBJECT: Approval of Proposed Amendments to Chapter 516-35 WAC, Use of University Property – Freedom of Expression and Assembly; Chapter 516-36 WAC, Use of University Property – Scheduling and General Use; and WAC 516-52-020, Weapons and Armaments Prohibited
PURPOSE: Action Item

Purpose of Submittal:

To obtain approval from the Board of Trustees to adopt proposed amendments to Chapter 516-35 WAC, Use of University Property – Freedom of Expression and Assembly; Chapter 516-36 WAC, Use of University Property – Scheduling and General Use; and WAC 516-52-020, Weapons and Armaments Prohibited.

Proposed Motion:

MOVED, that the Board of Trustees of Western Washington University, upon recommendation of the President, approve the permanent rule changes to Chapter 516-35 WAC, Use of University Property – Freedom of Expression and Assembly; Chapter 516-36 WAC, Use of University Property – Scheduling and General Use; and WAC 516-52-020 Weapons and Armaments Prohibited as submitted.

Background:

Permanent rulemaking began in fall of 2021 and included representatives from the Attorney General’s Office; Counseling, Health, and Wellbeing; Viking Union Facilities and Services; Space Planning and Administration; Student Life; Public Safety; and University Police. The proposed rules were reviewed by stakeholder groups, the Technical Review Committee, and University Policy and Rules Review Group. A public hearing was held to solicit community and campus feedback.

Amendments to Chapter 516-35 WAC, Use of University Property - Freedom of Expression and Assembly are summarized below:

- Notice to use a limited public forum area by a non-university group or individual must now be provided to the Department of Public Safety only. Requirement to submit notice to the Dean of Students is stricken.
- Added amendment to include use of freestanding objects during freedom of expression or assembly and how and when those types of items can be used as well as limitations and required notice.
• Additional amendments to limitations on use to communicate how long freedom of expression and assembly may take place on a residential campus to include time, place, and manner restrictions.
• A new section added to clarify that nothing in the limitations section is intended to interfere with public participation in open public meetings.
• Cross reference to other WAC chapters or sections are included throughout this chapter for clarity.

Amendments to Chapter 516-36 WAC, Use of University Property – Scheduling and General Use include:
• New section added for post event inspection and ability to assess charges.
• Cross reference to Chapter 516-35 WAC added throughout this chapter for clarity.

Amendments to WAC 516-52-020, Weapons and Armaments Prohibited include:
• Remove restriction of face masks and clarify language to restrict use of tactical face coverings
• Update to the list of permissible items.

A written comment was submitted prior to the public hearing and was read into the record. One public comment was provided during the public hearing. Details are included in the Hearing Officer’s Report.

Supporting Information:
Attachment 1 - Hearing Officer’s Report
Attachment 2 - Chapter 516-35 WAC – Final Draft of Proposed Rule
Attachment 3 – Chapter 516-36 WAC – Final Draft of Proposed Rule
Attachment 4 - WAC 516-52-020 – Final Draft of Proposed Rule
WAC 516-35-001 Definitions. As used in this chapter, the following words and phrases mean:

(1) **Business day.** Any day, Monday through Friday (excluding holidays), during which university offices are open.

(2) **Freedom of expression and assembly.** Any activity protected by the first amendment to the Constitution of the United States and Article I, sections 4 and 5 of the Washington state Constitution. Such activities may include, but are not limited to, informational picketing, petition circulation, distribution of information leaflets or pamphlets, speech-making, demonstrations, rallies, noncontracted appearances of speakers, protests, meetings to display group feelings or sentiments, and other types of constitutionally protected assemblies to share information, perspective, or viewpoints. (Freedom of expression or assembly that involves the placement of any furniture, hardware, prop, vehicle, display, sound amplification, or audio-visual device or other object on university property requires prior approved space reservation. To reserve use of university property, refer to chapter 516-36 WAC.)

(3) **Limited public forum areas.** Areas of campus available as spaces for freedom of expression and peaceable assembly as protected by the Constitution of the United States and the Washington state Constitution, subject to reasonable time, place, and manner restrictions. Limited public forum areas do not include:

(a) Classrooms or academic buildings (conducting) utilized for scheduled educational programming with the exception that nothing herein shall be read to interfere between or with the academic freedom of the instructor and enrolled students to engage in educational programs;

(b) Reservable or scheduled property subject to the provisions of chapter 516-36 WAC;

(c) Private administrative or academic offices;

(d) Lavatory or maintenance facilities;

(e) Roadways or sidewalks necessary to permit the free flow of pedestrian, vehicular, emergency responder, or maintenance traffic; or

(f) Any other university property, on a case-by-case basis, where the reasonable application of time, place, and manner restrictions render the location inappropriate for expressive activities.

(4) **Nonuniversity group or individual.** An individual or a collection of individuals who do not have a formal relationship with the university. The term also includes members of these groups who are individually affiliated with the university who desire to use university property for personal, private, or nonuniversity group related activities.

(5) **Time, place, and manner.** Reasonable limitations on the exercise of expressive rights that are neutral as to the content of expression and leave open alternative channels of expression.

(6) **University.** Western Washington University.

(7) **University affiliate.** An entity that has a formal relationship with the university and also encompasses such entity's officers, agents, and employees. The term includes, but is not limited to, the office of the attorney general, contracted agencies, and 501 (c)(3) organizations with formal relationships to the university.
(8) **University group or individual.** An individual or collection of individuals that has a formal relationship with the university, such as a recognized employee group of the university, a registered student group or organization or an individual acting on behalf of the group or organization as well as an individual who is a currently enrolled student or current employee.

(9) **University property.** All buildings, grounds, or assets owned or controlled by the university and the streets, sidewalks, plazas, parking lots, and roadways within the boundaries of property owned or controlled by the university.

AMENDATORY SECTION (Amending WSR 18-13-073, filed 6/15/18, effective 7/16/18)

WAC 516-35-010 Use of university property—Notice. (1) Any non-university group or individual who desires to use a limited public forum area on a temporary basis for freedom of expression (or) and assembly (in which more than fifty people are likely to assemble,) must submit notice of planned use to the (university police department and to the dean of students) Western Washington University department of public safety not less than ((fifteen)) five business days prior to use, subject to limitations set forth in WAC 516-35-030. However, use may be permitted with less notice so long as the use does not interfere with any other function or university operations.

(2) University affiliates or university groups or individuals who desire to use university property or a limited public forum area on a temporary basis for freedom of expression or assembly must adhere to applicable policies and laws and are requested to provide notice to the (university police department and dean of students) Western Washington University department of public safety. If university affiliates or university groups or individuals intend to set up free-standing objects on university property, notice must be given as directed in WAC 516-35-030 (3) and (4).

(3) Submitted notices ((may)) shall include, but are not limited to, the following:

(a) The contact information for the persons or organizations, including the organization's name and its contact person's name, person's name, address, email address, and telephone number;

(b) The date, time, and location requested for use;

(c) The nature and purpose of the use;

(d) The estimated number of people expected to be involved, including participants, spectators, supporters, and detractors or others;

(e) A description and intended use of any object, free-standing or otherwise, that will be placed on university property including, but not limited to, furniture, hardware, props, vehicle, displays, sound amplification device, audio-visual device, or other objects; and

(f) Other information as may be reasonably requested.
WAC 516-35-020 Use of university property—Evaluation. (1) The president, or the president's designee, shall have the authority to accept, modify, or reject, in whole or in part, the planned use outlined or described in the notice submitted pursuant to this chapter.

(2) In evaluating a notice submitted pursuant to this chapter, the president, or the president's designee, may consider a variety of factors including, but not limited to, the following:
   (a) Whether a university program or activity is scheduled at the location requested. First priority shall be given to the university program or scheduled activity;
   (b) Whether the use is in connection with a university program or activity;
   (c) Whether the intended use is compatible with the educational mission and objectives of the university.

(3) The president, or the president's designee, may specify reasonable fire, safety, law enforcement, sanitation, cleanup, insurance, and other risk- or impact-mitigating requirements for the use of university property. Charges may be applied in the event any of these requirements are deemed to have costs associated with them. (The university will not provide utility connections or hookups.)

(4) Whenever the president, or the president's designee, rejects, either in whole or in part, a request for use of university property, the reasons for such rejection shall be stated in writing.

WAC 516-35-030 Use of university property—Exceptions, limitations, and termination of use. (1) The president, or the president's designee, may apply time, place, and manner exceptions to limit, relocate, reschedule, terminate, cancel, or prohibit the use of university property for freedom of expression activities to protect persons or property from harm and/or to prevent the disruption of university operations including, but not limited to, violations of WAC 516-24-130, 516-52-020, or other laws or university policies.

(2) The use of university property for freedom of expression and assembly must comply with all requirements and limitations set forth in WAC 516-24-001 and 516-36-030.

(3) Any activity that involves the placement of furniture, hardware, prop, vehicle, display, sound amplification device, audio-visual device, or other free-standing object on university property for freedom of expression and assembly requires notice pursuant to WAC 516-35-010.

(a) Placed or free-standing objects that are not generally moveable or are of a size or nature that they may pose a personal safety risk, a risk to property, or block egress and traffic flow must have prior approval through a space reservation. To reserve university property, refer to chapter 516-36 WAC.
(b) Objects that are small, moveable by a single person, not permanent or do not need to be secured, and are lightweight; for example, small displays less than four feet in any dimension, folding tables, easels, or other similar object do not require a reservation to place on university property for a limited time and may be subject to other university imposed time, place, or manner restrictions.

(c) At least one person must be present at all times to attend to any placed object for the duration of use until completion of activity pursuant to subsection (6) of this section.

(4) In order to allow for the expression of a wide range of viewpoints and to allow the utilization of university property for a wide range of purposes, the use of university property for freedom of expression and assembly may be limited in duration to the following:

(a) Activities may not continue for longer than five calendar days from start to finish; and

(b) Activities are limited to 7:00 a.m. to 10:00 p.m. on any day due to the residential nature of campus.

(5) University employees, student groups, and university-affiliated groups may reserve outdoor space on campus for university-sponsored activities pursuant to chapter 516-36 WAC. If space is reserved for a university-sponsored activity, other persons and groups may be prohibited from engaging in freedom of expression and assembly in the reserved space. In such cases, a university representative may suggest another area on campus for freedom of expression and assembly.

(6) The group or individual utilizing university property for freedom of expression and assembly must return the university property to its original condition after the use and is responsible for the costs of cleanup and the costs to repair damages to the limited public forum area and other university property that arises from such use.

(7) The university will not provide utility connections or hook-ups.

(8) Nonuniversity groups and individuals may not use the interior of any facility for freedom of expression and assembly.

(9) Freedom of expression and assembly must otherwise be conducted in compliance with any other applicable university policies and rules, local ordinances, and state or federal law.

(10) Exception - Open public meetings. Nothing in these rules is intended to interfere with public participation in meetings of the university's governing board or associated student body that are required to be open to the public under the Open Public Meetings Act, chapter 42.30 RCW.
WAC 516-36-001 Use of university property—General policy and purpose scope. Western Washington University is an educational institution provided and maintained by the people of the state of Washington in order to carry out its broad missions of teaching, research, and public service. A state agency is under no obligation to make its public property available to the community for private purposes, and the university generally reserves its property, buildings, and grounds for its mission-related activities, including: Instruction, research, assembly, student activities, and recreational activities related to education. However, the university makes property available for a variety of uses that are of benefit to the general public under the conditions set forth in these regulations if such general uses substantially relate to, or do not interfere with, university missions.

The purpose of these regulations is to establish procedures and reasonable controls for the use of university property by nonuniversity groups or individuals, university affiliates, university groups or individuals, or students, faculty, or staff who desire to use university property for personal, private, or nonuniversity group related activity.

Reasonable conditions may be imposed to regulate the timeliness of requests, to determine the appropriateness of space assigned, time of use, and to ensure the proper maintenance of the property.

WAC 516-36-004 Freedom of expression and assembly activities not covered. Use of university property for freedom of expression and assembly activities is governed by rules set forth in chapter 516-35 WAC. This chapter does not apply to those individuals or groups using university property for freedom of expression and assembly activities except where directed by chapter 516.35 WAC.

WAC 516-36-008 Definitions. As used in this chapter, the following words and phrases mean:

(1) **Business day.** Any day, Monday through Friday (excluding holidays), during which university offices are open.

(2) **Freedom of expression and assembly.** Any activity protected by the first amendment to the Constitution of the United States and Article I, sections 4 and 5 of the Washington state Constitution. Such activities may include, but are not limited to, informational picketing, petition circulation, distribution of information leaflets or pam-
phlets, speaking, demonstrations, rallies, noncontracted appearances of speakers, protests, meetings to display group feelings or sentiments, and other types of constitutionally protected assemblies to share information, perspective, or viewpoints.

(3) **Limited public forum areas.** Areas of campus available as spaces for freedom of expression and peaceable assembly as protected by the Constitution of the United States and the Washington state Constitution, subject to reasonable time, place, and manner restrictions. The use of limited public forum areas for freedom of expression and peaceable assembly activities is governed by chapter 516-35 WAC except for those activities identified in that chapter that require reservations. Limited public forum areas are identified in WAC 516-35-001. Limited public forum areas do not include property such as:

(a) Classrooms or academic buildings ([conducting]) utilized for scheduled educational programming with the exception that nothing herein shall be read to interfere between or with the academic freedom of the instructor and enrolled students to engage in educational programs;
(b) Reservable or scheduled property subject to the provisions of this chapter;
(c) Private administrative or academic offices;
(d) Lavatory or maintenance facilities;
(e) Roadways or sidewalks necessary to permit the free flow of pedestrian, vehicular, emergency responder, or maintenance traffic; or
(f) Any other university property, on a case-by-case basis, where the reasonable application of time, place, and manner restrictions render the location inappropriate for expressive activities.

(4) **Nonuniversity group or individual.** An individual or a collection of individuals who do not have a formal relationship with the university. The term also includes members of these groups who are individually affiliated with the university who desire to use university property for personal, private, or nonuniversity group related activities.

(5) **Space administrator.** A university employee, appointed by the president, or the president's designee, who has the authority and responsibility for a designated subset of university property to create and enforce policies and procedures for space use, delegate space approval authority, and are responsible for university space being used in accordance with this chapter, chapter 516-35 WAC, and the university mission.

(6) **Space approval authority.** A university employee who has the authority, consistent with these regulations and approved campus policies and procedures, to review, approve, amend, or deny requests for rental or use of university property.

(a) The university shall maintain a list of the approving authorities.
(b) Requests for approval to lease space shall be governed by chapter 516-34 WAC.

(7) **Time, place, and manner.** Reasonable limitations on the exercise of expressive rights that are neutral as to the content of expression and leave open alternative channels of expression.

(8) **University.** Western Washington University.

(9) **University affiliate.** An entity that has a formal relationship with the university and also encompasses such entity's officers, agents, and employees. The term includes, but is not limited to, the office of the attorney general, contracted agencies, and 501 (c)(3) organizations with formal relationships to the university.
(10) **University group or individual.** An individual or collection of individuals that has a formal relationship with the university, such as a recognized employee group of the university, a recognized student group or organization, or an individual acting on behalf of the group or organization as well as an individual who is a currently enrolled student or current employee.

(11) **University property.** All buildings, grounds, or assets owned or controlled by the university and the streets, sidewalks, plazas, parking lots, and roadways within the boundaries of property owned or controlled by the university.

**AMENDATORY SECTION** (Amending WSR 18-13-073, filed 6/15/18, effective 7/16/18)

**WAC 516-36-025 Scheduling and reservation practices—Duties of requestor.** (1) The primary purpose of university property is to serve the university's instructional, research, and public service activities. However, when not required for scheduled university use, property may be available for rental by nonuniversity groups or individuals in accordance with current fee schedules and other relevant terms and conditions.

(2) No university property may be used by individuals or groups unless the property, including buildings, equipment, and land, have been reserved except as provided in chapter 516-35 WAC. Reservations may not be required in limited public forum areas if the intended use of the property would not cause cost to the university or impact scheduled university activity.

(3) Requests to use university property are made to the space approval authority, as defined in WAC 516-36-008 and in accordance with WAC 516-36-020.

(4) The space approval authority may deny the request to use university property when such use would violate any of the limitations set forth in WAC 516-36-030 or where the requestor is unwilling to comply with university requirements for the use of property, as authorized by this chapter.

(5) The university may require an individual or organization to make an advance deposit, post a bond or obtain insurance to protect the university against cost or other liability as a condition to allowing use of any university property.

(6) When the university grants permission to an individual or organization to use its property it is with the understanding and on the condition that the individual or organization assumes full responsibility for any loss or damage resulting from such use and agrees to hold harmless and indemnify the university against any loss or damage claim arising out of such use.

(7) The university and/or government authorities may specify fire, safety, sanitation, and special regulations for activities occurring in, on or with university property. It is the responsibility of the user to obey those regulations, as well as to comply with other applicable university policies, procedures, rules, regulations, and state, local, and federal laws.

(8) When the university grants permission to an individual or organization to use its facilities, the facility may be subject to in-
spection by a representative of the university after the event. Rea-
sonable charges may be assessed against the sponsoring organization
for the costs of extraordinary cleanup or for the repair of the dam-
aged property.

AMENDATORY SECTION (Amending WSR 18-13-073, filed 6/15/18, effective
7/16/18)

WAC 516-36-030 Limitations on use. The following limitations
apply to all uses of any university property, unless specifically per-
mitted by the university for special events:

(1) University property may not be used in ways which obstruct
vehicular, bicycle, pedestrian, or other traffic or otherwise inter-
fere with ingress or egress to the university, any university building
or facility, or that obstruct or interfere with educational activities
or other lawful activities on university grounds, university control-
led property, or at university sponsored events unless approved by the
president, or the president's designee.

(2) University property may not be used in ways that interfere
with educational, research, or public service activities inside or
outside any university building or otherwise prevent the university
from fulfilling its mission and achieving its primary purpose.

(3) University property may not be used for the purpose of cam-
paigning regarding a ballot proposition or by, for, or against candi-
dates who have filed for public office, except that:
   (a) This provision does not apply to candidates for Western Wash-
ington University student offices or student ballot propositions;
   (b) University groups may sponsor candidate forums as well as is-
       sue forums regarding ballot propositions;
   (c) Candidates for office and proponents or opponents of ballot
       propositions may rent university property as a nonuniversity group or
       individual on a short-term basis for campaign purposes to the same ex-
       tent and on the same basis as may other individuals or groups;
   (d) Candidates for office and proponents or opponents of ballot
       propositions may use the limited public forum areas using the proce-
       dures of chapter 516-35 WAC to the same extent and on the same basis as may other individuals or groups; and
   (e) For informational purposes, a university group may invite a
       candidate or another political speaker to one of the meetings of its
       membership on university property, if it has complied with the sched-
       uling procedures of WAC 516-36-025 and applicable university policy.

(4) University property may not be used in ways that create safe-
ty hazards or pose unreasonable safety risks to students, employees,
invitees, or guests.

(5) University property may not be used for commercial purposes,
including: Advertising, commercial solicitation, sales, or other ac-
tivities to promote a product, except as allowed under WAC 516-36-040.

(6) University property may not be used in furtherance of or in
connection with illegal activity.

(7) University property may not be used in such manner as to cre-
ate a hazard or result in damage to university property.

(8) University property may not be used where such use would cre-
ate undue stress on university resources (e.g., a request for a major
event may be denied if another major event is already scheduled for
the same time period, because of demands for parking, security coverage, etc.); use of limited public forum areas for freedom of expression and assembly must be in accordance with chapter 516-35 WAC and this chapter if applicable.

(9) Use of audio amplifying equipment or sound generation is permitted only in locations and at times that will not disturb the normal conduct of university operations. Advance permission by the president, or the president's designee, is required to use audio amplifying equipment or generate sound that may disturb the normal conduct of university operations.

(10) Alcoholic beverages may be served only as allowed under university policies. It is the responsibility of the event sponsor to obtain all necessary licenses from the Washington state liquor and cannabis board and adhere to their regulations, as well as all local ordinances, university rules, and regulations.

(11) No person may erect a tent or other shelter on university property or remain overnight on university property, including in a vehicle, trailer, tent, or other shelter, with the following exceptions:

(a) The use and occupancy of university housing in accordance with chapter 516-56 WAC;
(b) The use of property by a university employee or agent who remains overnight to fulfill the responsibilities of their position;
(c) The use of property by a university student who remains overnight to fulfill the responsibilities of their course of study;
(d) The use of property where overnight stays are specifically permitted in identified locations for attendees at special events designated by the university.
(e) The use of property during a university, local, state or federal declaration of an emergency as determined by the president, or the president's designee.

(12) Signs and posters and visual displays may be placed only at those locations authorized under, and in accordance with university policies.

(13) Handbills, leaflets, pamphlets, flyers, and similar materials may be distributed only in relation to university sanctioned activities or for purposes of freedom of expression. Materials may not be distributed in a manner that results in littering or requires university resources for disposal.

(14) Animals are only allowed on university property in accordance with WAC 516-52-010 and university policies.

(15) Smoking is not allowed in or on university property, except in accordance with chapter 70.160 RCW.

(16) Mopeds, Segways, skateboards, roller skates, roller blades, bicycles, and similar personal transportation devices may be used on campus in accordance with chapters 516-13 and 516-15 WAC.
WAC 516-35-001 Definitions. As used in this chapter, the following words and phrases mean:

1. **Business day.** Any day, Monday through Friday (excluding holidays), during which university offices are open.

2. **Freedom of expression and assembly.** Any activity protected by the first amendment to the Constitution of the United States and Article I, sections 4 and 5 of the Washington state Constitution. Such activities may include, but are not limited to, informational picketing, petition circulation, distribution of information leaflets or pamphlets, speech-making, demonstrations, rallies, noncontracted appearances of speakers, protests, meetings to display group feelings or sentiments, and other types of constitutionally protected assemblies to share information, perspective, or viewpoints. (Freedom of expression or assembly that involves the placement of any furniture, hardware, prop, vehicle, display, sound amplification, or audio-visual device or other object on university property requires prior approved space reservation. To reserve use of university property, refer to chapter 516-36 WAC.)

3. **Limited public forum areas.** Areas of campus available as spaces for freedom of expression and peaceable assembly as protected by the Constitution of the United States and the Washington state Constitution, subject to reasonable time, place, and manner restrictions. Limited public forum areas do not include:
   (a) Classrooms or academic buildings (conducting) utilized for scheduled educational programming with the exception that nothing herein shall be read to interfere between or with the academic freedom of the instructor and enrolled students to engage in educational programs;
   (b) Reservable or scheduled property subject to the provisions of chapter 516-36 WAC;
   (c) Private administrative or academic offices;
   (d) Lavatory or maintenance facilities;
   (e) Roadways or sidewalks necessary to permit the free flow of pedestrian, vehicular, emergency responder, or maintenance traffic; or
   (f) Any other university property, on a case-by-case basis, where the reasonable application of time, place, and manner restrictions render the location inappropriate for expressive activities.

4. **Nonuniversity group or individual.** An individual or a collection of individuals who do not have a formal relationship with the university. The term also includes members of these groups who are individually affiliated with the university who desire to use university property for personal, private, or nonuniversity group related activities.

5. **Time, place, and manner.** Reasonable limitations on the exercise of expressive rights that are neutral as to the content of expression and leave open alternative channels of expression.

6. **University.** Western Washington University.

7. **University affiliate.** An entity that has a formal relationship with the university and also encompasses such entity's officers, agents, and employees. The term includes, but is not limited to, the office of the attorney general, contracted agencies, and 501 (c)(3) organizations with formal relationships to the university.
University group or individual. An individual or collection of individuals that has a formal relationship with the university, such as a recognized employee group of the university, a registered student group or organization or an individual acting on behalf of the group or organization as well as an individual who is a currently enrolled student or current employee.

(9) University property. All buildings, grounds, or assets owned or controlled by the university and the streets, sidewalks, plazas, parking lots, and roadways within the boundaries of property owned or controlled by the university.

AMENDATORY SECTION (Amending WSR 18-13-073, filed 6/15/18, effective 7/16/18)

WAC 516-35-010 Use of university property—Notice. (1) Any non-university group or individual who desires to use a limited public forum area on a temporary basis for freedom of expression or assembly in which more than fifty people are likely to assemble, must submit notice of planned use to the Western Washington University department of public safety not less than five business days prior to use, subject to limitations set forth in WAC 516-35-030. However, use may be permitted with less notice so long as the use does not interfere with any other function or university operations.

(2) University affiliates or university groups or individuals who desire to use university property or a limited public forum area on a temporary basis for freedom of expression or assembly must adhere to applicable policies and laws and are requested to provide notice to the Western Washington University department of public safety. If university affiliates or university groups or individuals intend to set up free-standing objects on university property, notice must be given as directed in WAC 516-35-030 (3) and (4).

(3) Submitted notices shall include, but are not limited to, the following:

(a) The contact information for the persons or organizations, including the organization's name and its contact person's name, person's name, address, email address, and telephone number;
(b) The date, time, and location requested for use;
(c) The nature and purpose of the use;
(d) The estimated number of people expected to be involved, including participants, spectators, supporters, and detractors or others;
(e) A description and intended use of any object, free-standing or otherwise, that will be placed on university property including, but not limited to, furniture, hardware, props, vehicle, displays, sound amplification device, audio-visual device, or other objects; and
(f) Other information as may be reasonably requested.
WAC 516-35-020 Use of university property—Evaluation. (1) The president, or the president's designee, shall have the authority to accept, modify, or reject, in whole or in part, the planned use outlined or described in the notice submitted pursuant to this chapter.

(2) In evaluating a notice submitted pursuant to this chapter, the president, or the president's designee, may consider a variety of factors including, but not limited to, the following:

(a) Whether a university program or activity is scheduled at the location requested. First priority shall be given to the university program or scheduled activity;

(b) Whether the use is in connection with a university program or activity;

(c) Whether the intended use is compatible with the educational mission and objectives of the university.

(3) The president, or the president's designee, may specify reasonable fire, safety, law enforcement, sanitation, cleanup, insurance, and other risk- or impact-mitigating requirements for the use of university property. Charges may be applied in the event any of these requirements are deemed to have costs associated with them. (The university will not provide utility connections or hookups.)

(4) Whenever the president, or the president's designee, rejects, either in whole or in part, a request for use of university property, the reasons for such rejection shall be stated in writing.

WAC 516-35-030 Use of university property—Exceptions, limitations, and termination of use. (1) The president, or the president's designee, may apply time, place, and manner exceptions to limit, relocate, reschedule, terminate, cancel, or prohibit the use of university property for freedom of expression activities to protect persons or property from harm and/or to prevent the disruption of university operations including, but not limited to, violations of WAC 516-24-130, 516-52-020, or other laws or university policies.

(2) The use of university property for freedom of expression and assembly must comply with all requirements and limitations set forth in WAC 516-24-001 and 516-36-030.

(3) Any activity that involves the placement of furniture, hardware, prop, vehicle, display, sound amplification device, audio-visual device, or other free-standing object on university property for freedom of expression and assembly requires notice pursuant to WAC 516-35-010.

(a) Placed or free-standing objects that are not generally moveable or are of a size or nature that they may pose a personal safety risk, a risk to property, or block egress and traffic flow must have prior approval through a space reservation. To reserve university property, refer to chapter 516-36 WAC.
(b) Objects that are small, moveable by a single person, not permanent or do not need to be secured, and are lightweight; for example, small displays less than four feet in any dimension, folding tables, easels, or other similar objects do not require a reservation to place on university property for a limited time and may be subject to other university imposed time, place, or manner restrictions.

(c) At least one person must be present at all times to attend to any placed object for the duration of use until completion of activity pursuant to subsection (6) of this section.

(4) In order to allow for the expression of a wide range of viewpoints and to allow the utilization of university property for a wide range of purposes, the use of university property for freedom of expression and assembly may be limited in duration to the following:

(a) Activities may not continue for longer than five calendar days from start to finish; and

(b) Activities are limited to 7:00 a.m. to 10:00 p.m. on any day due to the residential nature of campus.

(5) University employees, student groups, and university-affiliated groups may reserve outdoor space on campus for university-sponsored activities pursuant to chapter 516-36 WAC. If space is reserved for a university-sponsored activity, other persons and groups may be prohibited from engaging in freedom of expression and assembly in the reserved space. In such cases, a university representative may suggest another area on campus for freedom of expression and assembly.

(6) The group or individual utilizing university property for freedom of expression and assembly must return the university property to its original condition after the use and is responsible for the costs of cleanup and the costs to repair damages to the limited public forum area and other university property that arises from such use.

(7) The university will not provide utility connections or hook-ups.

(8) Nonuniversity groups and individuals may not use the interior of any facility for freedom of expression and assembly.

(9) Freedom of expression and assembly must otherwise be conducted in compliance with any other applicable university policies and rules, local ordinances, and state or federal law.

(10) Exception - Open public meetings. Nothing in these rules is intended to interfere with public participation in meetings of the university's governing board or associated student body that are required to be open to the public under the Open Public Meetings Act, chapter 42.30 RCW.
WWU RULE-MAKING REVIEW
Hearing Officer’s Report

Chapter 516-35 WAC, Use of University Property-Freedom of Expression & Assembly
Chapter 516-36 WAC, Use of University Property-Scheduling and General Use
WAC 516-52-020- Weapons and Armaments Prohibited

On May 11, 2022, at 2:05 p.m., in Old Main 340, Western Washington University, Bellingham Washington and virtually on zoom beginning at 2:05 pm a public hearing was held on a proposal to amend Chapter 516-35 WAC, Chapter 516-36 WAC, and WAC 516-52-020. The hearing was conducted by Jennifer Sloan, University Rules Coordinator. The hearing was held pursuant to the authority provided in the Revised Code of Washington, Open Public Meetings Act and Administrative Procedures Act.

The testimony and Hearing Officer’s Report are provided to the university president for consideration. Upon approval, the proposed rules are presented to the Board of Trustees for adoption and are effective 31 days after filing with the Code Reviser’s Office.

Notice of Hearing

Notice of public hearing was published in the April 20, 2022, issue of the Washington State Register (22-08-011). Notice of hearing was also published May 2, 2022, in the university’s online newsletter, Western Today, and published in the campus newspaper, The Front, on April 27, 2022.

Hearing Attendance

The hearing was attended by: Eric Alexander, Executive Director for Student Engagement, Darin Rasmussen, Assistant Vice President for Risk, Ethics, Safety, & Resilience, Melissa Nelson, Senior Counsel, and Ryan Cullup.

Background and Overview

Eric Alexander began the hearing by providing rationale for the amendments made to Chapter 516-35 WAC, Use of University Property – Freedom of Expression and Assembly and Chapter 516-36 WAC, Use of University Property – Scheduling and General Use. Amendments to the rules are necessary due to organizational changes, and to better support our community and clarify questions that have come up.

Alexander summarized the following amendments to Chapter 516-35 WAC, Use of University Property - Freedom of Expression and Assembly:
• Notice to use a limited public forum area by a non-university group or individual must now be provided to the Department of Public Safety only. Requirement to submit notice to the Dean of Students is stricken.
• To address a common question about the use of freestanding objects during freedom of expression or assembly, updates were made to clarify how and when those types of items can be used as well as limitations and required notice.
• Additional amendments to limitations on use were added to communicate how long freedom of expression and assembly may take place on a residential campus to include time, place, and manner restrictions.
• A new section was added to clarify that nothing in the limitations section is intended to interfere with public participation in open public meetings.
• Cross references to other WAC chapters or sections are added throughout this chapter for clarity.

Alexander summarized the following amendments to Chapter 516-36 WAC, Use of University Property – Scheduling and General Use:

• Amendment added regarding post event inspection and ability to assess charges.
• Cross references to Chapter 516-35 WAC are added throughout this chapter for clarity.

Darin Rasmussen provided the rationale for amendments to WAC 516-52-020, Weapons and Armaments Prohibited. Amendments were made due to the COVID 19 pandemic and the need for protective face coverings: Rasmussen summarized the following amendments

• Amendment to section (1)(a) to remove restriction of face masks and clarified language to restrict use of tactical face coverings.
• Amendment to section (7) to update list of permissible items.

The review of stakeholders included the following: University Policy & Rules Review Group, Technical Review Committee, Student Life, Counseling Health & Wellness, VU Facilities, Public Safety, and Facilities Management.

Testimony

The Rules Coordinator reported on written testimony commenting on WAC 516-36-025(8) sent by John Furman. The comment was read into the record.

the language as written infers a facility user is allowed to bring in their own cleaning services or tools – both of which are in conflict with long term precedent with our WFSE bargaining unit. While the user should unquestionably be required to generally clean up any mess they leave, there should not be any inference of taking work from the bargaining unit.

Eric Alexander responded that WAC 516-36-025(8) was amended to address the concern. The section was updated by removing the highlighted language.
(8) When the university grants permission to an individual or organization to use its facilities, it is with the understanding and on the condition that the individual or organization is responsible to clean the facility and leave it in its original condition at the conclusion of its use or event. The facility may be subject to inspection by a representative of the university after the event. Reasonable charges may be assessed against the sponsoring organization for the costs of extraordinary cleanup or for the repair of the damaged property.

The updated language remedied the concern.

Audience Comments and Questions

Before the meeting concluded, Ryan Cullup joined the meeting for comment.

Cullup’s comments were regarding WAC 516-36-025(8). Specifically, the language that the individual or organization is responsible to clean the facility. Concerns included what type of cleaning product would be used and would it be in alignment with the university’s mission in terms of sustainability.

Alexander updated Cullup that a comment had been received previously about the same section and a revision was made. Alexander shared the revision with Cullup. Cullup responded that the revision remedied the concern.

The hearing adjourned at 2:23 p.m.

Conclusion

Considering the thorough review process the amended rules received and considering the comments and testimony received, I recommend the following:

- That President Randhawa approves amendments to Washington Administrative Code, Chapter 516-35 WAC, Use of University Property – Freedom of Expression and Assembly; Chapter 516-36 WAC, Use of University Property – Scheduling and General Use.; and WAC 516-52-020, Weapons and Armaments Prohibited; and further, that the proposed rule changes be brought before the Board of Trustees for consideration at the meeting on June 10, 2022.

Respectfully submitted,

Jennifer Sloan
Rules Coordinator
JS

Attachments:

Chapter 516-35 WAC – Current rule
Chapter 516-35 WAC – Final Draft of Proposed Rule

Chapter 516-36 WAC – Current rule
Chapter 516-36 WAC – Final Draft of Proposed Rule

WAC 516-52-020 – Current rule
WAC 516-52-020 – Final Draft of Proposed Rule
WESTERN WASHINGTON UNIVERSITY
ITEM SUBMITTED TO THE BOARD OF TRUSTEES

TO: Members of the Board of Trustees

FROM: President Sabah Randhawa on behalf of:
Melynda Huskey, Vice President for Enrollment and Student Services

DATE: June 10, 2022

SUBJECT: Approval of Proposed Amendments to Chapter 516-35 WAC, Use of University Property – Freedom of Expression and Assembly; Chapter 516-36 WAC, Use of University Property – Scheduling and General Use; and WAC 516-52-020, Weapons and Armaments Prohibited

PURPOSE: Action Item

Purpose of Submittal:

To obtain approval from the Board of Trustees to adopt proposed amendments to Chapter 516-35 WAC, Use of University Property – Freedom of Expression and Assembly; Chapter 516-36 WAC, Use of University Property – Scheduling and General Use; and WAC 516-52-020, Weapons and Armaments Prohibited.

Proposed Motion:

MOVED, that the Board of Trustees of Western Washington University, upon recommendation of the President, approve the permanent rule changes to Chapter 516-35 WAC, Use of University Property – Freedom of Expression and Assembly; Chapter 516-36 WAC, Use of University Property – Scheduling and General Use; and WAC 516-52-020 Weapons and Armaments Prohibited as submitted.

Background:

Permanent rulemaking began in fall of 2021 and included representatives from the Attorney General’s Office; Counseling, Health, and Wellbeing; Viking Union Facilities and Services; Space Planning and Administration; Student Life; Public Safety; and University Police. The proposed rules were reviewed by stakeholder groups, the Technical Review Committee, and University Policy and Rules Review Group. A public hearing was held to solicit community and campus feedback.

Amendments to Chapter 516-35 WAC, Use of University Property - Freedom of Expression and Assembly are summarized below:

- Notice to use a limited public forum area by a non-university group or individual must now be provided to the Department of Public Safety only. Requirement to submit notice to the Dean of Students is stricken.
- Added amendment to include use of freestanding objects during freedom of expression or assembly and how and when those types of items can be used as well as limitations and required notice.
- Additional amendments to limitations on use to communicate how long freedom of expression and assembly may take place on a residential campus to include time, place, and manner restrictions.
- A new section added to clarify that nothing in the limitations section is intended to interfere with public participation in open public meetings.
- Cross reference to other WAC chapters or sections are included throughout this chapter for clarity.

Amendments to Chapter 516-36 WAC, *Use of University Property – Scheduling and General Use* include:
- New section added for post event inspection and ability to assess charges.
- Cross reference to Chapter 516-35 WAC added throughout this chapter for clarity.

Amendments to WAC 516-52-020, *Weapons and Armaments Prohibited* include:
- Remove restriction of face masks and clarify language to restrict use of tactical face coverings
- Update to the list of permissible items.

A written comment was submitted prior to the public hearing and was read into the record. One public comment was provided during the public hearing. Details are included in the Hearing Officer’s Report.

**Supporting Information:**

Attachment 1 - Hearing Officer’s Report
Attachment 2 - Chapter 516-35 WAC – Final Draft of Proposed Rule
Attachment 3 – Chapter 516-36 WAC – Final Draft of Proposed Rule
Attachment 4 - WAC 516-52-020 – Final Draft of Proposed Rule
AMENDATORY SECTION  (Amending WSR 18-13-073, filed 6/15/18, effective 7/16/18)

WAC 516-35-001  Definitions. As used in this chapter, the following words and phrases mean:

(1) **Business day.** Any day, Monday through Friday (excluding holidays), during which university offices are open.

(2) **Freedom of expression and assembly.** Any activity protected by the first amendment to the Constitution of the United States and Article I, sections 4 and 5 of the Washington state Constitution. Such activities may include, but are not limited to, informational picketing, petition circulation, distribution of information leaflets or pamphlets, speech-making, demonstrations, rallies, noncontracted appearances of speakers, protests, meetings to display group feelings or sentiments, and other types of constitutionally protected assemblies to share information, perspective, or viewpoints. (Freedom of expression or assembly that involves the placement of any furniture, hardware, prop, vehicle, display, sound amplification, or audio-visual device or other object on university property requires prior approved space reservation. To reserve use of university property, refer to chapter 516-36 WAC.)

(3) **Limited public forum areas.** Areas of campus available as spaces for freedom of expression and peaceful assembly as protected by the Constitution of the United States and the Washington state Constitution, subject to reasonable time, place, and manner restrictions. Limited public forum areas do not include:

(a) Classrooms or academic buildings (conducting) utilized for scheduled educational programming with the exception that nothing herein shall be read to interfere between or with the academic freedom of the instructor and enrolled students to engage in educational programs;

(b) Reservable or scheduled property subject to the provisions of chapter 516-36 WAC;

(c) Private administrative or academic offices;

(d) Lavatory or maintenance facilities;

(e) Roadways or sidewalks necessary to permit the free flow of pedestrian, vehicular, emergency responder, or maintenance traffic; or

(f) Any other university property, on a case-by-case basis, where the reasonable application of time, place, and manner restrictions render the location inappropriate for expressive activities.

(4) **Nonuniversity group or individual.** An individual or a collection of individuals who do not have a formal relationship with the university. The term also includes members of these groups who are individually affiliated with the university who desire to use university property for personal, private, or nonuniversity group related activities.

(5) **Time, place, and manner.** Reasonable limitations on the exercise of expressive rights that are neutral as to the content of expression and leave open alternative channels of expression.

(6) **University.** Western Washington University.

(7) **University affiliate.** An entity that has a formal relationship with the university and also encompasses such entity's officers, agents, and employees. The term includes, but is not limited to, the office of the attorney general, contracted agencies, and 501 (c)(3) organizations with formal relationships to the university.
University group or individual. An individual or collection of individuals that has a formal relationship with the university, such as a recognized employee group of the university, a registered student group or organization or an individual acting on behalf of the group or organization as well as an individual who is a currently enrolled student or current employee.

University property. All buildings, grounds, or assets owned or controlled by the university and the streets, sidewalks, plazas, parking lots, and roadways within the boundaries of property owned or controlled by the university.

AMENDATORY SECTION (Amending WSR 18-13-073, filed 6/15/18, effective 7/16/18)

WAC 516-35-010 Use of university property—Notice. (1) Any non-university group or individual who desires to use a limited public forum area on a temporary basis for freedom of expression or assembly must submit notice of planned use to the Western Washington University department of public safety not less than five business days prior to use, subject to limitations set forth in WAC 516-35-030. However, use may be permitted with less notice so long as the use does not interfere with any other function or university operations.

(2) University affiliates or university groups or individuals who desire to use university property or a limited public forum area on a temporary basis for freedom of expression or assembly must adhere to applicable policies and laws and are requested to provide notice to the Western Washington University department of public safety. If university affiliates or university groups or individuals intend to set up free-standing objects on university property, notice must be given as directed in WAC 516-35-030 (3) and (4).

(3) Submitted notices shall include, but are not limited to, the following:
   (a) The contact information for the persons or organizations, including the organization's name and its contact person's name, person's name, address, email address, and telephone number;
   (b) The date, time, and location requested for use;
   (c) The nature and purpose of the use;
   (d) The estimated number of people expected to be involved, including participants, spectators, supporters, and detractors or others;
   (e) A description and intended use of any object, free-standing or otherwise, that will be placed on university property including, but not limited to, furniture, hardware, props, vehicle, displays, sound amplification device, audio-visual device, or other objects; and
   (f) Other information as may be reasonably requested.
AMENDATORY SECTION (Amending WSR 18-13-073, filed 6/15/18, effective 7/16/18)

WAC 516-35-020 Use of university property—Evaluation. (1) The president, or the president's designee, shall have the authority to accept, modify, or reject, in whole or in part, the planned use outlined or described in the notice submitted pursuant to this chapter.

(2) In evaluating a notice submitted pursuant to this chapter, the president, or the president's designee, may consider a variety of factors including, but not limited to, the following:
   (a) Whether a university program or activity is scheduled at the location requested. First priority shall be given to the university program or scheduled activity;
   (b) Whether the use is in connection with a university program or activity;
   (c) Whether the intended use is compatible with the educational mission and objectives of the university.

(3) The president, or the president's designee, may specify reasonable fire, safety, law enforcement, sanitation, cleanup, insurance, and other risk- or impact-mitigating requirements for the use of university property. Charges may be applied in the event any of these requirements are deemed to have costs associated with them. (The university will not provide utility connections or hookups.)

(4) Whenever the president, or the president's designee, rejects, either in whole or in part, a request for use of university property, the reasons for such rejection shall be stated in writing.

AMENDATORY SECTION (Amending WSR 18-13-073, filed 6/15/18, effective 7/16/18)

WAC 516-35-030 Use of university property—Exceptions, limitations, and termination of use. (1) The president, or the president's designee, may apply time, place, and manner exceptions to limit, relocate, reschedule, terminate, cancel, or prohibit the use of university property for freedom of expression activities to protect persons or property from harm and/or to prevent the disruption of university operations including, but not limited to, violations of WAC 516-24-130, 516-52-020, or other laws or university policies.

(2) The use of university property for freedom of expression and assembly must comply with all requirements and limitations set forth in WAC 516-24-001 and 516-36-030.

(3) Any activity that involves the placement of furniture, hardware, prop, vehicle, display, sound amplification device, audio-visual device, or other free-standing object on university property for freedom of expression and assembly requires notice pursuant to WAC 516-35-010.

(a) Placed or free-standing objects that are not generally moveable or are of a size or nature that they may pose a personal safety risk, a risk to property, or block egress and traffic flow must have prior approval through a space reservation. To reserve university property, refer to chapter 516-36 WAC.
Objects that are small, moveable by a single person, not permanent or do not need to be secured, and are lightweight; for example, small displays less than four feet in any dimension, folding tables, easels, or other similar object do not require a reservation to place on university property for a limited time and may be subject to other university imposed time, place, or manner restrictions.

(c) At least one person must be present at all times to attend to any placed object for the duration of use until completion of activity pursuant to subsection (6) of this section.

(4) In order to allow for the expression of a wide range of viewpoints and to allow the utilization of university property for a wide range of purposes, the use of university property for freedom of expression and assembly may be limited in duration to the following:

(a) Activities may not continue for longer than five calendar days from start to finish; and

(b) Activities are limited to 7:00 a.m. to 10:00 p.m. on any day due to the residential nature of campus.

(5) University employees, student groups, and university-affiliated groups may reserve outdoor space on campus for university-sponsored activities pursuant to chapter 516-36 WAC. If space is reserved for a university-sponsored activity, other persons and groups may be prohibited from engaging in freedom of expression and assembly in the reserved space. In such cases, a university representative may suggest another area on campus for freedom of expression and assembly.

(6) The group or individual utilizing university property for freedom of expression and assembly must return the university property to its original condition after the use and is responsible for the costs of cleanup and the costs to repair damages to the limited public forum area and other university property that arises from such use.

(7) The university will not provide utility connections or hook-ups.

(8) Nonuniversity groups and individuals may not use the interior of any facility for freedom of expression and assembly.

(9) Freedom of expression and assembly must otherwise be conducted in compliance with any other applicable university policies and rules, local ordinances, and state or federal law.

(10) Exception - Open public meetings. Nothing in these rules is intended to interfere with public participation in meetings of the university's governing board or associated student body that are required to be open to the public under the Open Public Meetings Act, chapter 42.30 RCW.
WAC 516-36-001 Use of university property—General policy and purpose. Western Washington University is an educational institution provided and maintained by the people of the state of Washington in order to carry out its broad missions of teaching, research, and public service. A state agency is under no obligation to make its public property available to the community for private purposes, and the university generally reserves its property, buildings, and grounds for its mission-related activities, including: Instruction, research, assembly, student activities, and recreational activities related to education. However, the university makes property available for a variety of uses that are of benefit to the general public under the conditions set forth in these regulations if such general uses substantially relate to, or do not interfere with, university missions.

The purpose of these regulations is to establish procedures and reasonable controls for the use of university property by nonuniversity groups or individuals, university affiliates, university groups or individuals, or students, faculty, or staff who desire to use university property for personal, private, or nonuniversity group related activity.

Reasonable conditions may be imposed to regulate the timeliness of requests, to determine the appropriateness of space assigned, time of use, and to ensure the proper maintenance of the property.

WAC 516-36-004 Freedom of expression and assembly activities not covered. Use of university property for freedom of expression and assembly activities is governed by rules set forth in chapter 516-35 WAC. This chapter does not apply to those individuals or groups using university property for freedom of expression and assembly activities except where directed by chapter 516.35 WAC.

WAC 516-36-008 Definitions. As used in this chapter, the following words and phrases mean:

(1) Business day. Any day, Monday through Friday (excluding holidays), during which university offices are open.

(2) Freedom of expression and assembly. Any activity protected by the first amendment to the Constitution of the United States and Article I, sections 4 and 5 of the Washington state Constitution. Such activities may include, but are not limited to, informational picketing, petition circulation, distribution of information leaflets or pam-
phlets, speechmaking, demonstrations, rallies, noncontracted appearances of speakers, protests, meetings to display group feelings or sentiments, and other types of constitutionally protected assemblies to share information, perspective, or viewpoints.

(3) **Limited public forum areas.** Areas of campus available as spaces for freedom of expression and peaceable assembly as protected by the Constitution of the United States and the Washington state Constitution, subject to reasonable time, place, and manner restrictions. The use of limited public forum areas for freedom of expression and peaceable assembly activities is governed by chapter 516-35 WAC except for those activities identified in that chapter that require reservations. Limited public forum areas are identified in WAC 516-35-001. Limited public forum areas do not include property such as:

(a) Classrooms or academic buildings utilized for scheduled educational programming with the exception that nothing herein shall be read to interfere between or with the academic freedom of the instructor and enrolled students to engage in educational programs;

(b) Reservable or scheduled property subject to the provisions of this chapter;

(c) Private administrative or academic offices;

(d) Lavatory or maintenance facilities;

(e) Roadways or sidewalks necessary to permit the free flow of pedestrian, vehicular, emergency responder, or maintenance traffic; or

(f) Any other university property, on a case-by-case basis, where the reasonable application of time, place, and manner restrictions render the location inappropriate for expressive activities.

(4) **Nonuniversity group or individual.** An individual or a collection of individuals who do not have a formal relationship with the university. The term also includes members of these groups who are individually affiliated with the university who desire to use university property for personal, private, or nonuniversity group related activities.

(5) **Space administrator.** A university employee, appointed by the president, or the president's designee, who has the authority and responsibility for a designated subset of university property to create and enforce policies and procedures for space use, delegate space approval authority, and are responsible for university space being used in accordance with this chapter, chapter 516-35 WAC, and the university mission.

(6) **Space approval authority.** A university employee who has the authority, consistent with these regulations and approved campus policies and procedures, to review, approve, amend, or deny requests for rental or use of university property.

(a) The university shall maintain a list of the approving authorities.

(b) Requests for approval to lease space shall be governed by chapter 516-34 WAC.

(7) **Time, place, and manner.** Reasonable limitations on the exercise of expressive rights that are neutral as to the content of expression and leave open alternative channels of expression.

(8) **University.** Western Washington University.

(9) **University affiliate.** An entity that has a formal relationship with the university and also encompasses such entity's officers, agents, and employees. The term includes, but is not limited to, the office of the attorney general, contracted agencies, and 501 (c)(3) organizations with formal relationships to the university.
(10) **University group or individual.** An individual or collection of individuals that has a formal relationship with the university, such as a recognized employee group of the university, a recognized student group or organization, or an individual acting on behalf of the group or organization as well as an individual who is a currently enrolled student or current employee.

(11) **University property.** All buildings, grounds, or assets owned or controlled by the university and the streets, sidewalks, plazas, parking lots, and roadways within the boundaries of property owned or controlled by the university.

**AMENDATORY SECTION** (Amending WSR 18-13-073, filed 6/15/18, effective 7/16/18)

**WAC 516-36-025 Scheduling and reservation practices—Duties of requestor.** (1) The primary purpose of university property is to serve the university's instructional, research, and public service activities. However, when not required for scheduled university use, property may be available for rental by nonuniversity groups or individuals in accordance with current fee schedules and other relevant terms and conditions.

(2) No university property may be used by individuals or groups unless the property, including buildings, equipment, and land, have been reserved except as provided in chapter 516-35 WAC. Reservations may not be required in limited public forum areas if the intended use of the property would not cause cost to the university or impact scheduled university activity.

(3) Requests to use university property are made to the space approval authority, as defined in WAC 516-36-008(6) and in accordance with WAC 516-36-020.

(4) The space approval authority may deny the request to use university property when such use would violate any of the limitations set forth in WAC 516-36-030 or where the requestor is unwilling to comply with university requirements for the use of property, as authorized by this chapter.

(5) The university may require an individual or organization to make an advance deposit, post a bond or obtain insurance to protect the university against cost or other liability as a condition to allowing use of any university property.

(6) When the university grants permission to an individual or organization to use its property it is with the understanding and on the condition that the individual or organization assumes full responsibility for any loss or damage resulting from such use and agrees to hold harmless and indemnify the university against any loss or damage claim arising out of such use.

(7) The university and/or government authorities may specify fire, safety, sanitation, and special regulations for activities occurring in, on or with university property. It is the responsibility of the user to obey those regulations, as well as to comply with other applicable university policies, procedures, rules, regulations, and state, local, and federal laws.

(8) When the university grants permission to an individual or organization to use its facilities, the facility may be subject to in-
spection by a representative of the university after the event. Rea-
sonable charges may be assessed against the sponsoring organization
for the costs of extraordinary cleanup or for the repair of the dam-
aged property.

AMENDATORY SECTION (Amending WSR 18-13-073, filed 6/15/18, effective
7/16/18)

WAC 516-36-030 Limitations on use. The following limitations
apply to all uses of any university property, unless specifically per-
mitted by the university for special events:

1. University property may not be used in ways which obstruct
vehicular, bicycle, pedestrian, or other traffic or otherwise inter-
fere with ingress or egress to the university, any university building
or facility, or that obstruct or interfere with educational activities
or other lawful activities on university grounds, university control-
led property, or at university sponsored events unless approved by the
president, or the president's designee.

2. University property may not be used in ways that interfere
with educational, research, or public service activities inside or
outside any university building or otherwise prevent the university
from fulfilling its mission and achieving its primary purpose.

3. University property may not be used for the purpose of cam-
paigning regarding a ballot proposition or by, for, or against candi-
dates who have filed for public office, except that:

(a) This provision does not apply to candidates for Western Wash-
ington University student offices or student ballot propositions;

(b) University groups may sponsor candidate forums as well as is-
issue forums regarding ballot propositions;

(c) Candidates for office and proponents or opponents of ballot
propositions may rent university property as a nonuniversity group or
individual on a short-term basis for campaign purposes to the same ex-
tent and on the same basis as may other individuals or groups;

(d) Candidates for office and proponents or opponents of ballot
propositions may use the limited public forum areas using the proce-
dures of chapter 516-35 WAC to the same extent and on the same basis
as may other individuals or groups; and

(e) For informational purposes, a university group may invite a
candidate or another political speaker to one of the meetings of its
membership on university property, if it has complied with the sched-
uling procedures of WAC 516-36-025 and applicable university policy.

4. University property may not be used in ways that create safe-
ity hazards or pose unreasonable safety risks to students, employees,
invitees, or guests.

5. University property may not be used for commercial purposes,
including: Advertising, commercial solicitation, sales, or other ac-
tivities to promote a product, except as allowed under WAC 516-36-040.

6. University property may not be used in furtherance of or in
connection with illegal activity.

7. University property may not be used in such manner as to cre-
ate a hazard or result in damage to university property.

8. University property may not be used where such use would cre-
ate undue stress on university resources (e.g., a request for a major
event may be denied if another major event is already scheduled for
the same time period, because of demands for parking, security coverage, etc.); use of limited public forum areas for freedom of expression and assembly must be in accordance with chapter 516-35 WAC and this chapter if applicable.

(9) Use of audio amplifying equipment or sound generation is permitted only in locations and at times that will not disturb the normal conduct of university operations. Advance permission by the president, or the president's designee, is required to use audio amplifying equipment or generate sound that may disturb the normal conduct of university operations.

(10) Alcoholic beverages may be served only as allowed under university policies. It is the responsibility of the event sponsor to obtain all necessary licenses from the Washington state liquor and cannabis board and adhere to their regulations, as well as all local ordinances, university rules, and regulations.

(11) No person may erect a tent or other shelter on university property or remain overnight on university property, including in a vehicle, trailer, tent, or other shelter, with the following exceptions:

(a) The use and occupancy of university housing in accordance with chapter 516-56 WAC;
(b) The use of property by a university employee or agent who remains overnight to fulfill the responsibilities of their position;
(c) The use of property by a university student who remains overnight to fulfill the responsibilities of their course of study;
(d) The use of property where overnight stays are specifically permitted in identified locations for attendees at special events designated by the university.
(e) The use of property during a university, local, state or federal declaration of an emergency as determined by the president, or the president's designee.

(12) Signs and posters and visual displays may be placed only at those locations authorized under, and in accordance with university policies.

(13) Handbills, leaflets, pamphlets, flyers, and similar materials may be distributed only in relation to university sanctioned activities or for purposes of freedom of expression. Materials may not be distributed in a manner that results in littering or requires university resources for disposal.

(14) Animals are only allowed on university property in accordance with WAC 516-52-010 and university policies.

(15) Smoking is not allowed in or on university property, except in accordance with chapter 70.160 RCW.

(16) Mopeds, Segways, skateboards, roller skates, roller blades, bicycles, and similar personal transportation devices may be used on campus in accordance with chapters 516-13 and 516-15 WAC.
AMENDATORY SECTION (Amending WSR 18-13-073, filed 6/15/18, effective 7/16/18)

WAC 516-35-001 Definitions. As used in this chapter, the following words and phrases mean:

(1) **Business day.** Any day, Monday through Friday (excluding holidays), during which university offices are open.

(2) **Freedom of expression and assembly.** Any activity protected by the first amendment to the Constitution of the United States and Article I, sections 4 and 5 of the Washington state Constitution. Such activities may include, but are not limited to, informational picketing, petition circulation, distribution of information leaflets or pamphlets, speech-making, demonstrations, rallies, noncontracted appearances of speakers, protests, meetings to display group feelings or sentiments, and other types of constitutionally protected assemblies to share information, perspective, or viewpoints. *(Freedom of expression or assembly that involves the placement of any furniture, hardware, prop, vehicle, display, sound amplification, or audio-visual device or other object on university property requires prior approved space reservation. To reserve use of university property, refer to chapter 516-36 WAC.)*

(3) **Limited public forum areas.** Areas of campus available as spaces for freedom of expression and peaceable assembly as protected by the Constitution of the United States and the Washington state Constitution, subject to reasonable time, place, and manner restrictions. Limited public forum areas do not include:

(a) Classrooms or academic buildings *(conducting)* utilized for scheduled educational programming with the exception that nothing herein shall be read to interfere between or with the academic freedom of the instructor and enrolled students to engage in educational programs;

(b) Reservable or scheduled property subject to the provisions of chapter 516-36 WAC;

(c) Private administrative or academic offices;

(d) Lavatory or maintenance facilities;

(e) Roadways or sidewalks necessary to permit the free flow of pedestrian, vehicular, emergency responder, or maintenance traffic; or

(f) Any other university property, on a case-by-case basis, where the reasonable application of time, place, and manner restrictions render the location inappropriate for expressive activities.

(4) **Nonuniversity group or individual.** An individual or a collection of individuals who do not have a formal relationship with the university. The term also includes members of these groups who are individually affiliated with the university who desire to use university property for personal, private, or nonuniversity group related activities.

(5) **Time, place, and manner.** Reasonable limitations on the exercise of expressive rights that are neutral as to the content of expression and leave open alternative channels of expression.

(6) **University.** Western Washington University.

(7) **University affiliate.** An entity that has a formal relationship with the university and also encompasses such entity's officers, agents, and employees. The term includes, but is not limited to, the office of the attorney general, contracted agencies, and 501 (c)(3) organizations with formal relationships to the university.
(8) **University group or individual.** An individual or collection of individuals that has a formal relationship with the university, such as a recognized employee group of the university, a registered student group or organization or an individual acting on behalf of the group or organization as well as an individual who is a currently enrolled student or current employee.

(9) **University property.** All buildings, grounds, or assets owned or controlled by the university and the streets, sidewalks, plazas, parking lots, and roadways within the boundaries of property owned or controlled by the university.

**AMENDATORY SECTION** (Amending WSR 18-13-073, filed 6/15/18, effective 7/16/18)

**WAC 516-35-010 Use of university property—Notice.** (1) Any non-university group or individual who desires to use a limited public forum area on a temporary basis for freedom of expression ((or)) and assembly ((in which more than fifty people are likely to assemble,)) must submit notice of planned use to the ((university police department and to the dean of students)) Western Washington University department of public safety not less than ((fifteen)) five business days prior to use, subject to limitations set forth in WAC 516-35-030. However, use may be permitted with less notice so long as the use does not interfere with any other function or university operations.

(2) University affiliates or university groups or individuals who desire to use university property or a limited public forum area on a temporary basis for freedom of expression or assembly must adhere to applicable policies and laws and are requested to provide notice to the ((university police department and dean of students)) Western Washington University department of public safety. If university affiliates or university groups or individuals intend to set up free-standing objects on university property, notice must be given as directed in WAC 516-35-030 (3) and (4).

(3) Submitted notices ((may)) shall include, but are not limited to, the following:

(a) The contact information for the persons or organizations, including the organization's name and its contact person's name, person's name, address, email address, and telephone number;

(b) The date, time, and location requested for use;

(c) The nature and purpose of the use;

(d) The estimated number of people expected to be involved, including participants, spectators, supporters, and detractors or others;

(e) A description and intended use of any object, free-standing or otherwise, that will be placed on university property including, but not limited to, furniture, hardware, props, vehicle, displays, sound amplification device, audio-visual device, or other objects; and

(f) Other information as may be reasonably requested.
AMENDATORY SECTION (Amending WSR 18-13-073, filed 6/15/18, effective 7/16/18)

WAC 516-35-020 Use of university property—Evaluation. (1) The president, or the president's designee, shall have the authority to accept, modify, or reject, in whole or in part, the planned use outlined or described in the notice submitted pursuant to this chapter.

(2) In evaluating a notice submitted pursuant to this chapter, the president, or the president's designee, may consider a variety of factors including, but not limited to, the following:
   (a) Whether a university program or activity is scheduled at the location requested. First priority shall be given to the university program or scheduled activity;
   (b) Whether the use is in connection with a university program or activity;
   (c) Whether the intended use is compatible with the educational mission and objectives of the university.

(3) The president, or the president's designee, may specify reasonable fire, safety, law enforcement, sanitation, cleanup, insurance, and other risk- or impact-mitigating requirements for the use of university property. Charges may be applied in the event any of these requirements are deemed to have costs associated with them. (The university will not provide utility connections or hookups.)

(4) Whenever the president, or the president's designee, rejects, either in whole or in part, a request for use of university property, the reasons for such rejection shall be stated in writing.

WAC 516-35-030 Use of university property—Exceptions, limitations, and termination of use. (1) The president, or the president's designee, may apply time, place, and manner exceptions to limit, relocate, reschedule, terminate, cancel, or prohibit the use of university property for freedom of expression activities to protect persons or property from harm and/or to prevent the disruption of university operations including, but not limited to, violations of WAC 516-24-130, 516-52-020, or other laws or university policies.

(2) The use of university property for freedom of expression and assembly must comply with all requirements and limitations set forth in WAC 516-24-001 and 516-36-030.

(3) Any activity that involves the placement of furniture, hardware, prop, vehicle, display, sound amplification device, audio-visual device, or other free-standing object on university property for freedom of expression and assembly requires notice pursuant to WAC 516-35-010.

(a) Placed or free-standing objects that are not generally moveable or are of a size or nature that they may pose a personal safety risk, a risk to property, or block egress and traffic flow must have prior approval through a space reservation. To reserve university property, refer to chapter 516-36 WAC.
(b) Objects that are small, moveable by a single person, not permanent or do not need to be secured, and are lightweight; for example, small displays less than four feet in any dimension, folding tables, easels, or other similar object do not require a reservation to place on university property for a limited time and may be subject to other university imposed time, place, or manner restrictions.

(c) At least one person must be present at all times to attend to any placed object for the duration of use until completion of activity pursuant to subsection (6) of this section.

(4) In order to allow for the expression of a wide range of viewpoints and to allow the utilization of university property for a wide range of purposes, the use of university property for freedom of expression and assembly may be limited in duration to the following:

(a) Activities may not continue for longer than five calendar days from start to finish; and

(b) Activities are limited to 7:00 a.m. to 10:00 p.m. on any day due to the residential nature of campus.

(5) University employees, student groups, and university-affiliated groups may reserve outdoor space on campus for university-sponsored activities pursuant to chapter 516-36 WAC. If space is reserved for a university-sponsored activity, other persons and groups may be prohibited from engaging in freedom of expression and assembly in the reserved space. In such cases, a university representative may suggest another area on campus for freedom of expression and assembly.

(6) The group or individual utilizing university property for freedom of expression and assembly must return the university property to its original condition after the use and is responsible for the costs of cleanup and the costs to repair damages to the limited public forum area and other university property that arises from such use.

(7) The university will not provide utility connections or hook-ups.

(8) Nonuniversity groups and individuals may not use the interior of any facility for freedom of expression and assembly.

(9) Freedom of expression and assembly must otherwise be conducted in compliance with any other applicable university policies and rules, local ordinances, and state or federal law.

(10) Exception - Open public meetings. Nothing in these rules is intended to interfere with public participation in meetings of the university's governing board or associated student body that are required to be open to the public under the Open Public Meetings Act, chapter 42.30 RCW.
On May 11, 2022, at 2:05 p.m., in Old Main 340, Western Washington University, Bellingham Washington and virtually on zoom beginning at 2:05 pm a public hearing was held on a proposal to amend Chapter 516-35 WAC, Chapter 516-36 WAC, and WAC 516-52-020. The hearing was conducted by Jennifer Sloan, University Rules Coordinator. The hearing was held pursuant to the authority provided in the Revised Code of Washington, Open Public Meetings Act and Administrative Procedures Act.

The testimony and Hearing Officer’s Report are provided to the university president for consideration. Upon approval, the proposed rules are presented to the Board of Trustees for adoption and are effective 31 days after filing with the Code Reviser’s Office.

Notice of Hearing

Notice of public hearing was published in the April 20, 2022, issue of the Washington State Register (22-08-011). Notice of hearing was also published May 2, 2022, in the university’s online newsletter, Western Today, and published in the campus newspaper, The Front, on April 27, 2022.

Hearing Attendance

The hearing was attended by: Eric Alexander, Executive Director for Student Engagement, Darin Rasmussen, Assistant Vice President for Risk, Ethics, Safety, & Resilience, Melissa Nelson, Senior Counsel, and Ryan Cullup.

Background and Overview

Eric Alexander began the hearing by providing rationale for the amendments made to Chapter 516-35 WAC, Use of University Property – Freedom of Expression and Assembly and Chapter 516-36 WAC, Use of University Property – Scheduling and General Use. Amendments to the rules are necessary due to organizational changes, and to better support our community and clarify questions that have come up.

Alexander summarized the following amendments to Chapter 516-35 WAC, Use of University Property - Freedom of Expression and Assembly:
Notice to use a limited public forum area by a non-university group or individual must now be provided to the Department of Public Safety only. Requirement to submit notice to the Dean of Students is stricken.

To address a common question about the use of freestanding objects during freedom of expression or assembly, updates were made to clarify how and when those types of items can be used as well as limitations and required notice.

Additional amendments to limitations on use were added to communicate how long freedom of expression and assembly may take place on a residential campus to include time, place, and manner restrictions.

A new section was added to clarify that nothing in the limitations section is intended to interfere with public participation in open public meetings.

Cross references to other WAC chapters or sections are added throughout this chapter for clarity.

Alexander summarized the following amendments to Chapter 516-36 WAC, Use of University Property – Scheduling and General Use:

- Amendment added regarding post event inspection and ability to assess charges.
- Cross references to Chapter 516-35 WAC are added throughout this chapter for clarity.

Darin Rasmussen provided the rationale for amendments to WAC 516-52-020, Weapons and Armaments Prohibited. Amendments were made due to the COVID 19 pandemic and the need for protective face coverings: Rasmussen summarized the following amendments

- Amendment to section (1)(a) to remove restriction of face masks and clarified language to restrict use of tactical face coverings.
- Amendment to section (7) to update list of permissible items.

The review of stakeholders included the following: University Policy & Rules Review Group, Technical Review Committee, Student Life, Counseling Health & Wellness, VU Facilities, Public Safety, and Facilities Management.

Testimony

The Rules Coordinator reported on written testimony commenting on WAC 516-36-025(8) sent by John Furman. The comment was read into the record.

the language as written infers a facility user is allowed to bring in their own cleaning services or tools – both of which are in conflict with long term precedent with our WFSE bargaining unit. While the user should unquestionably be required to generally clean up any mess they leave, there should not be any inference of taking work from the bargaining unit.

Eric Alexander responded that WAC 516-36-025(8) was amended to address the concern. The section was updated by removing the highlighted language.
(8) When the university grants permission to an individual or organization to use its facilities, it is with the understanding and on the condition that the individual or organization is responsible to clean the facility and leave it in its original condition at the conclusion of its use or event. The facility may be subject to inspection by a representative of the university after the event. Reasonable charges may be assessed against the sponsoring organization for the costs of extraordinary cleanup or for the repair of the damaged property.

The updated language remedied the concern.

**Audience Comments and Questions**

Before the meeting concluded, Ryan Cullup joined the meeting for comment.

Cullup’s comments were regarding WAC 516-36-025(8). Specifically, the language that the individual or organization is responsible to clean the facility. Concerns included what type of cleaning product would be used and would it be in alignment with the university’s mission in terms of sustainability.

Alexander updated Cullup that a comment had been received previously about the same section and a revision was made. Alexander shared the revision with Cullup. Cullup responded that the revision remedied the concern.

The hearing adjourned at 2:23 p.m.

**Conclusion**

Considering the thorough review process the amended rules received and considering the comments and testimony received, I recommend the following:

- That President Randhawa approves amendments to Washington Administrative Code, Chapter 516-35 WAC, Use of University Property – Freedom of Expression and Assembly; Chapter 516-36 WAC, Use of University Property – Scheduling and General Use.; and WAC 516-52-020, Weapons and Armaments Prohibited; and further, that the proposed rule changes be brought before the Board of Trustees for consideration at the meeting on June 10, 2022.

Respectfully submitted,

Jennifer Sloan
Rules Coordinator
JS

Attachments:

Chapter 516-35 WAC – Current rule
Chapter 516-35 WAC – Final Draft of Proposed Rule

Chapter 516-36 WAC – Current rule
Chapter 516-36 WAC – Final Draft of Proposed Rule

WAC 516-52-020 – Current rule
WAC 516-52-020 – Final Draft of Proposed Rule