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 15, 2018

SUBJECT: Approval to Adopt New Chapter 516-35 WAC, Use of University Property – Freedom of Expression and Assembly and Amend Chapter 516-36 WAC, Use of University Facilities - Scheduling

PURPOSE: Action Item

Purpose of Submittal:
The manifestation of violence and intimidation observed in on-campus demonstrations in Washington State and across the United States over the past several months necessitate adoption of new chapter 516-35 WAC and amendments to existing chapter 516-36 WAC in order to preserve the integrity of Western Washington University’s educational mission, to protect the health, safety and welfare of students, faculty and staff, and to preserve University property and scarce state resources while at the same time preserving its strong commitment to freedom of expression.

Proposed Motion:
MOVED, that the Board of Trustees of Western Washington University, upon recommendation of the President, approve the adoption of new chapter 516-35 WAC Use of University Property – Freedom of Expression and Assembly and approve the permanent rule change to chapter 516-36 WAC Use of University Facilities - Scheduling as submitted.

Background:
Permanent rule making for chapter 516-36 WAC began in fall 2017 in response to emergency rule adoption by the Board of Trustees in October, 2017. The purpose of the emergency rule change was to immediately, on an interim basis, require all off-campus persons or groups, who desire to use University facilities or property, to have a University sponsor.

Upon adoption of the emergency rule, a revision committee was created to begin the permanent rule making process. The committee agreed that the sponsorship requirement would not be included in the permanent rule; thus, the emergency rule was allowed to expire February 9, 2018.

While in the process of revising chapter 516-36 WAC, the committee determined that using University property for an event, such as a wedding or birthday party, already had established internal procedures that function well and the rule should be amended to reflect the internal process. However, when the committee considered how to incorporate using University property for freedom of expression and assembly into the same process as using University property for events, it was decided that a new WAC chapter should be created.
The development of the new proposed permanent rule and proposed amendments to the existing rule was conducted by Eric Alexander, Associate Dean for Student Engagement and included representatives from the Attorney General’s Office, Risk, Compliance & Policy Services, Public Safety Department, Space Administration, Extended Education, Western Libraries, Government Relations, Office of Student Life, Associated Students, Enrollment and Student Services, and UFWW. The proposed rule was reviewed by the Technical Review Committee and President’s Cabinet and a public hearing was held to solicit community and campus feedback.

New Chapter 516-35 Use of University Property – Freedom of Expression and Assembly is attached for review.

Summary of changes to chapter 516-36 Use of University Facilities – Scheduling are below and the complete chapter is attached for review.

- Change in title from “Use of University Facilities – Scheduling” to Use of University Property – Scheduling and General use"

- Addition of a general policy and purpose statement. WAC 516-36-001

- New section WAC 516-36-004. This section directs readers to chapter 516-35 if looking for rules regarding freedom of expression and assembly.

- New section WAC 516-36-008. This section defines terms used throughout the chapter.

- Amended section WAC 516-36-020. How to request use of university property and who should receive the request.

- New section WAC 516-36-025. This section outlines the duties of the requester and states provisions that may be placed on use of university property.

- Amended section WAC 516-36-030. Amendment includes limitations on use of university property.

- New section WAC 516-36-035. The current rule has a fees section; however, due to organization of the amended chapter it was relocated and a new section was created.

- Amended WAC 516-36-040. This section now states how university property may be used for private or commercial enterprise or charitable use.

- New section WAC 516-36-060. This section states how one could obtain a permit for a parade.

Supporting Information:

Attachment 1 - New Chapter 516-35 WAC Use of University Property – Freedom of Expression and Assembly
Attachment 2 - Chapter 516-36 WAC Use of University Facilities - Scheduling
Attachment 3 - Hearing Officer’s Report with attachments
Attachment 4 - Audio recording of public hearing
NEW SECTION

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 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.

**NEW SECTION**

**WAC 516-35-005 General policy and purpose.** The university believes that freedom of expression and assembly are indispensable qualities of university life, and that active participation in political and social expression both enhances the education of the individual and contributes to the betterment of society. The university is committed to respecting and promoting the rights afforded by the constitutions of the United States and the state of Washington, including the right to free speech, petition, and to peaceably assemble.

University property is intended for use by students, faculty, and staff in support of the university's mission of teaching, research, and public service. Individuals, groups, or organizations may use university property in accordance with university rules and regulations.

To achieve the objectives of this chapter, it is essential that free expression be accomplished in a manner that allows for the orderly function of normal university operations. Thus, the purpose of the time, place, and manner regulations set forth in this chapter are to:

(1) Promote opportunities for exercise of the rights protected by the constitutions of the United States and the state of Washington on the university campus.

(2) Ensure that these activities do not interfere with the furtherance of the university's mission-related responsibilities for which the university's property is dedicated by the state of Washington.

**NEW SECTION**

**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 university police department and to the dean of students not less than fifteen business days prior to use.
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.

(3) Submitted notices may 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; and
   (e) Other information as may be reasonably requested.

NEW SECTION

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.

NEW SECTION

WAC 516-35-030 Use of university property—Exceptions and termination of use. 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 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.

NEW SECTION

WAC 516-35-040 Unscheduled expression and assembly—University affiliates or a university group or individual. Protecting impromptu and spontaneous peaceable assembly for the purposes of expression, protest, and dissent is essential to fulfilling the university's commitment to freedom of expression and assembly. Thus, the lack of notice to use university property by university affiliates or a university group or individual is not necessarily a sole basis for terminating any expressive activity, including impromptu activities, unless the protest or assembly conflicts with a previously scheduled event in the same location or is in violation of law and/or university policy including, but not limited to, WAC 516-24-130 and 516-52-020.

To ensure space is available for expression or assembly, university affiliates or a university group or individuals are encouraged to provide notice.
Chapter 516-36 WAC

USE OF UNIVERSITY ((FACILITIES)) PROPERTY—SCHEDULING AND GENERAL USE

AMENDATORY SECTION (Amending WSR 90-10-042, filed 4/27/90, effective 5/1/90)

WAC 516-36-001 Use of university ((facilities by off-campus persons or groups—Requests)) property—General policy and purpose. (Any person who is not affiliated with the university and who desires to use university facilities on a temporary basis for purposes other than assigned university activities shall submit a request for use of university facilities to the president or his designee.) 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.

NEW SECTION

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.

NEW SECTION

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

[ 1 ]

OTS-9556.1
(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, 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. Limited public forum areas do not include property such as:

(a) Classrooms or academic buildings conducting 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 90-10-042, filed 4/27/90, effective 5/1/90)

**WAC 516-36-020 Use of university property—Requests.**

((1) The president, or the president's designee, shall have the authority to accept or reject, in whole or in part, a request submitted pursuant to WAC 516-36-001.

(2) In evaluating a request submitted pursuant to WAC 516-36-001, the president shall consider the following factors:

(a) Whether the facilities requested are to be used in connection with a regularly scheduled university program.

(b) Whether the intended use of the university's facilities is compatible with the educational mission and objectives of the university.

(c) Whether the intended use might cause a disruption of the university's relationship with the local community by conflicting with services provided by private enterprise within the Bellingham area.

(d) The capabilities, qualifications, experience, and financial stability of the individual, organization, or group submitting the request.

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

(1) Requests for rental or use of university property must be directed to the space approval authority.

(2) Requests for leasing of university property must be directed to the vice president for business and financial affairs, the university president, or the president's designee, and governed by chapter 516-34 WAC.

(3) If a requestor is uncertain where to direct a request to use university property, or if the approving authority for a particular university property is not on the university list, the requestor should address the request to the vice president for business and financial affairs or designee.
NEW SECTION

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. 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.

AMENDATORY SECTION  (Amending WSR 90-10-042, filed 4/27/90, effective 5/1/90)

WAC 516-36-030 Limitations on use ((of university facilities by off-campus persons or groups—Assessment of fees)). (((1) The president, or the president's designee, shall have authority to establish a schedule of fees to govern the use of university facilities by persons who are not affiliated with the university, and to alter or modify the fee schedule whenever such action is deemed to be necessary or appropriate or in the best interests of the university. The fee for each campus facility shall be sufficient to insure the recovery by the university of all direct and indirect costs associated with the use of the facility, including all direct and indirect costs of goods or
services furnished by the university in connection with the use of the facility.

(2) The president, or the president's designee, may waive all or part of the normal fee for use of a particular facility by persons not affiliated with the university under the following circumstances:
   (a) Members of the university community will receive a substantial benefit from the intended use of the facility and no person or group will derive profit from the intended use of the facility; or
   (b) The group requesting the use of the university's facility is an agency of the State of Washington.) The following limitations apply to all uses of any university property, unless specifically permitted 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 interfere 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 controlled 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 campaigning regarding a ballot proposition or by, for, or against candidates who have filed for public office, except that:
       (a) This provision does not apply to candidates for Western Washington University student offices or student ballot propositions;
       (b) University groups may sponsor candidate forums as well as 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 extent 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 procedures 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 scheduling procedures of WAC 516-36-025 and applicable university policy.

   (4) University property may not be used in ways that create safety 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 activities 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 create a hazard or result in damage to university property.

   (8) University property may not be used where such use would create 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 cover-
(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.

NEW SECTION

WAC 516-36-035 University property rental/use fees. (1) The president or the president's designee shall have authority to establish a schedule of fees to govern the use of university property and to alter or modify the fee schedule whenever such action is deemed to be necessary or appropriate or in the best interests of the university. The fee for use of university property shall be sufficient to ensure the recovery by the university of all direct and indirect costs
associated with the use of the university property, including all direct and indirect costs of goods or services furnished by the university in connection with the use of the property.

(2) The president or the president's designee may waive all or part of the normal fee for use of a particular university property by persons not affiliated with the university under the following circumstances:

(a) Members of the university community will receive a substantial benefit from the intended use of the university property and no person or group will derive profit from the intended use of the property; or

(b) The group requesting the use of the university's property is a subdivision or agency of the state of Washington; or

(c) The intended use of the property is transient and would not cause a cost to the university.

(3) In the event that the fee for the use of particular university property has not been placed on the fee schedule, and if the university determines to allow the use of the property, the university will assess a fee based upon the full cost, direct and indirect, of using the property.

(4) The president or the president's designee reserves the right to create differential fee schedules for use of university property by university groups and university affiliates.

AMENDATORY SECTION (Amending WSR 90-10-042, filed 4/27/90, effective 5/1/90)

WAC 516-36-040 (Use of facilities by persons or groups affiliated with the university — Authority to develop policies.) Private or commercial enterprise or charitable use.

(1) University property may not be used for private or commercial gain, including: Commercial advertising; solicitation and merchandising of any food, goods, wares, service, company, organization, or merchandise of any nature whatsoever; or any other form of sales or promotional activity; except that commercial activity is allowable:

(a) If the president or the president's designee has determined that the private or commercial enterprise or charitable use will serve an educational or public service purpose related to the university's mission;

(b) By special permission granted by the university president or the president's designee if an agreement, lease, or other formal arrangement is entered into between the university and the person, corporation, or other entity desiring to engage in private, commercial or charitable activity;

(c) To the extent it represents the regular advertising, promotional, or sponsorship activities carried on, by, or in any university media, university bookstore, university athletic events, or other university authorized event, agent, or contractor;

(d) If the university purchasing department has authorized vendor representatives to solicit university departments, colleges, or busi-
ness units, and where those representatives have appropriate university identification.

(2) University property may not be used by faculty, staff, or students to assist or promote a private or third-party commercial enterprise, with the following exceptions:

(a) Faculty, staff, or students may use university property that is generally available to the public on the same basis, including payment of the same fees, as may other private citizens; and

(b) Faculty may make use of university property to encourage basic and applied research in accordance with the provisions of the university policy adopted pursuant to RCW 42.52.220.

(3) University property may not be used to benefit a charitable organization, with the following exceptions:

(a) Charities that are licensed in the state of Washington may use university property that is generally available to the public on the same basis, including payment of the same fees, as may private citizens;

(b) Charities that are licensed in the state of Washington may use university property without charge by special permission granted by the university president or the president's designee where the university has determined that the charitable activity or use will serve an educational or public service purpose related to the university's mission and an agreement, lease, or other formal arrangement is entered into between the university and the person, corporation, or other entity desiring to engage in a charitable event; and

(c) Recognized student organizations may use university property to conduct fund-raising activities for charitable purposes pursuant to university policies, procedures and all scheduling requirements.

NEW SECTION

WAC 516-36-060 Parades or other street and road activity. Permits for parades, street/road runs, marches, or other events on university streets and roads may be obtained upon approval of the university chief of police.

Such events must be scheduled so as not to interfere with major traffic arterials or with university events or activities. For use of city streets on and adjacent to campus, permits must be obtained through the city of Bellingham.
New Chapter 516-35 WAC, Use of University Property – Freedom of Expression and Assembly

and

Chapter 516-36 WAC, Use of University Facilities - Scheduling

On May 22, 2018, at 12:15 p.m., in Old Main 340, a public hearing was held on a proposal to adopt new chapter 516-35 WAC Use of University Property – Freedom of Expression and Assembly and amend chapter 516-36 WAC Use of University Facilities – Scheduling. The hearing was conducted by Jennifer Sloan, 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 Hearing Officer’s Report is provided to President Sabah Randhawa for consideration of adoption of a new WAC chapter (chapter 516-35 WAC) and a permanent rule change to an existing WAC chapter (chapter 516-36 WAC). Upon approval, the proposed new chapter and the proposed amendments to the existing chapter will be 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 May 2, 2018 issue of the Washington State Register (18-09-062). Notice of hearing was also published May 2, 2018 on the University’s online newsletter, Western Today, in the campus newspaper, Western Front, and on the rules coordinator’s website.

Hearing Attendance

The hearing was attended by: Eric Alexander, Associate Dean of Student Engagement / Director of the Viking Union; Paul Mueller, Director, Risk, Compliance & Policy Services; Sara Wilson, Special Assistant to the Vice President for Enrollment and Student Services; and Rob Olson, Assistant Attorney General. A copy of the sign-in roster is attached.

Background and Overview

Eric Alexander read from a prepared summary statement that provided the background and an overview of the rule making process. Mr. Alexander stated the following:

Permanent rule making for chapter 516-36 WAC began in fall 2017 in response to emergency rule adoption by the Board of Trustees in October, 2017. The purpose of the emergency rule change was to immediately, on an interim basis, require all off-campus persons or groups, who desire to use University facilities or property, to have a University sponsor.
Since the emergency rule’s adoption, a revision committee was created to begin the permanent rule making process. The committee agreed that the sponsorship requirement would not be included in the permanent rule; thus, the emergency rule was allowed to expire February 9, 2018.

While in the process of revising chapter 516-36 WAC, the committee determined that using University property for an event, such as a wedding or birthday party, already had established internal procedures that function well and the rule should be amended to reflect the internal process. However, when the committee considered how to incorporate using University property for freedom of expression or assembly into the same process as using University property for events, it was decided that a new WAC chapter should be created.

The rule revision committee included representatives from the following:

Viking Union
Space Administration
Western Libraries
UFWW
Campus Recreation
Facilities
University Police
Office of Student Life
Associated Students
Risk, Compliance & Policy Services
Enrollment and Student Services

Additionally, the Assistant Attorney General, Technical Review Committee, and President’s Cabinet provided review.

Mr. Alexander explained that new chapter 516-35 WAC Use of University Property – Freedom of Expression and Assembly is a new chapter that was formed in order to provide better support for those engaging in freedom of expression activities.

Mr. Alexander provided a summary of changes to chapter 516-36 WAC Use of University Facilities – Scheduling.

- Change in title from Use of University Facilities – Scheduling to Use of University Property – Scheduling and General use.

- Addition of a general policy and purpose statement. WAC 516-36-001
• New section WAC 516-36-004. This section directs readers to chapter 516-35 WAC if looking for rules regarding freedom of expression and assembly.

• New section WAC 516-36-008. This section defines terms used throughout the chapter.

• Amended section WAC 516-36-020. How to request use of university property and who should receive the request.

• New section WAC 516-36-025. This section outlines the duties of the requester and states provisions that may be placed on use of university property.

• Amended section WAC 516-36-030. Amendment includes limitations on use of university property.

• New section WAC 516-36-035. The current rule has a fees section; however, due to organization of the amended chapter it was relocated and a new section was created.

• Amended WAC 516-36-040. This section now states how university property may be used for private or commercial enterprise or charitable use.

• New section WAC 516-36-060. This section states how one could obtain a permit for a parade.

Testimony

The Rules Coordinator reported that no written testimony was received.

Audience Comments and Questions

There were no audience comments and no further testimony was given.

The hearing adjourned at 12:22 p.m.

Conclusion

Considering the thorough review process by campus constituents and because the public hearing allowed for an open forum of the campus community, I recommend the following:

➢ That President Randhawa approve the adoption of new chapter 516-35 WAC and approve the revisions to existing chapter 516-36 WAC; and further, that the proposed
new chapter and the proposed revisions to the existing chapter be brought before the Board of Trustees for consideration.

Respectfully submitted,

Jennifer Sloan
Rules Coordinator

JS

Attachments:
- Public Hearing Sign-In Sheet
- Audio Recording of Public Hearing
- Chapter 516-35 WAC – Final Draft of Proposed New Rule
- Chapter 516-36 WAC – Current rule
- Chapter 516-36 WAC – Final Draft of Proposed Existing Rule
**PUBLIC HEARING SIGN-IN SHEET**

**Subject:** New chapter 516-35 WAC, Use of University Property – Freedom of Expression and Assembly
Chapter 516-36 WAC, Use of University Facilities – Scheduling

**Date:** May 22, 2018  
**Time:** 12:15 p.m.  
**Location:** Old Main 340

**Hearing Officer:** Jennifer Sloan, Rules Coordinator

<table>
<thead>
<tr>
<th>Name (please print)</th>
<th>Representing</th>
<th>Do you wish to testify at today's hearing?</th>
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<tbody>
<tr>
<td>Sara Wilson</td>
<td>ESS</td>
<td>No</td>
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<tr>
<td>Paul Mueller</td>
<td>ACPS</td>
<td>No</td>
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<tr>
<td>Eric Alexander</td>
<td>DOS/IVU</td>
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<td>Rob Olson</td>
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Chapter 516-35 WAC

USE OF UNIVERSITY PROPERTY—FREEDOM OF EXPRESSION AND ASSEMBLY

NEW SECTION

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, hard ware, 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 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.

**NEW SECTION**

**WAC 516-35-005 General policy and purpose.** The university believes that freedom of expression and assembly are indispensable qualities of university life, and that active participation in political and social expression both enhances the education of the individual and contributes to the betterment of society. The university is committed to respecting and promoting the rights afforded by the constitutions of the United States and the state of Washington, including the right to free speech, petition, and to peaceably assemble.

University property is intended for use by students, faculty, and staff in support of the university's mission of teaching, research, and public service. Individuals, groups, or organizations may use university property in accordance with university rules and regulations.

To achieve the objectives of this chapter, it is essential that free expression be accomplished in a manner that allows for the orderly function of normal university operations. Thus, the purpose of the time, place, and manner regulations set forth in this chapter are to:

(1) Promote opportunities for exercise of the rights protected by the constitutions of the United States and the state of Washington on the university campus.

(2) Ensure that these activities do not interfere with the furtherance of the university's mission-related responsibilities for which the university's property is dedicated by the state of Washington.

**NEW SECTION**

**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 university police department and to the dean of students not less than fifteen business days prior to use.
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.

(3) Submitted notices may 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; and
   (e) Other information as may be reasonably requested.

NEW SECTION

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.

NEW SECTION

WAC 516-35-030 Use of university property—Exceptions and termination of use. 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 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.

**NEW SECTION**

**WAC 516-35-040 Unscheduled expression and assembly—University affiliates or a university group or individual.** Protecting impromptu and spontaneous peaceable assembly for the purposes of expression, protest, and dissent is essential to fulfilling the university's commitment to freedom of expression and assembly. Thus, the lack of notice to use university property by university affiliates or a university group or individual is not necessarily a sole basis for terminating any expressive activity, including impromptu activities, unless the protest or assembly conflicts with a previously scheduled event in the same location or is in violation of law and/or university policy including, but not limited to, WAC 516-24-130 and 516-52-020.

To ensure space is available for expression or assembly, university affiliates or a university group or individuals are encouraged to provide notice.
Chapter 516-36 WAC

USE OF UNIVERSITY FACILITIES—SCHEDULING

Last Update: 4/27/90

WAC

516-36-001 Use of university facilities by off-campus persons or groups—Requests.

516-36-020 Use of university facilities by off-campus persons or groups—Evaluation of request for use.

516-36-030 Use of university facilities by off-campus persons or groups—Assessment of fees.

516-36-040 Use of facilities by persons or groups affiliated with the university—Authority to develop policies.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

516-36-005 Office of space and schedules. [Order 72-10, § 516-36-005, filed 11/17/72.] Repealed by Order 75-10, filed 11/10/75.

516-36-010 Auditoria. [Order 72-10, § 516-36-010, filed 11/17/72.] Repealed by Order 75-10, filed 11/10/75.

WAC 516-36-001 Use of university facilities by off-campus persons or groups—Requests. Any person who is not affiliated with the university and who desires to use university facilities on a temporary basis for purposes other than assigned university activities shall submit a
request for use of university facilities to the president or his designee.

[Statutory Authority: RCW 28B.35.120(12), 34.05.220 (1)(b), 34.05.250, 28B.15.600, 42.17.310, 42.30.070 – 42.30.075, chapters 69.41 and 43.21C RCW. WSR 90-10-042, § 516-36-001, filed 4/27/90, effective 5/1/90; Order 75-10, § 516-36-001, filed 11/10/75; Order 72-10, § 516-36-001, filed 11/17/72.]

**WAC 516-36-020 Use of university facilities by off-campus persons or groups—Evaluation of request for use.**  (1) The president, or the president's designee, shall have the authority to accept or reject, in whole or in part, a request submitted pursuant to WAC 516-36-001.

(2) In evaluating a request submitted pursuant to WAC 516-36-001, the president shall consider the following factors:

(a) Whether the facilities requested are to be used in connection with a regularly scheduled university program.

(b) Whether the intended use of the university's facilities is compatible with the educational mission and objectives of the university.
(c) Whether the intended use might cause a disruption of the university's relationship with the local community by conflicting with services provided by private enterprise within the Bellingham area.

(d) The capabilities, qualifications, experience, and financial stability of the individual, organization, or group submitting the request.

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

[Statutory Authority: RCW 28B.35.120(12), 34.05.220 (1)(b), 34.05.250, 28B.15.600, 42.17.310, 42.30.070 - 42.30.075, chapters 69.41 and 43.21C RCW. WSR 90-10-042, § 516-36-020, filed 4/27/90, effective 5/1/90; Order 75-10, § 516-36-020, filed 11/10/75.]

WAC 516-36-030 Use of university facilities by off-campus persons or groups—Assessment of fees. (1) The president, or the president's designee, shall have authority to establish a schedule of fees to govern the use of university facilities by persons who are not affiliated with the university, and to alter or modify the fee schedule whenever such action is deemed to be necessary or appropriate or in the best interests of the university. The fee for each campus facility shall be
sufficient to insure the recovery by the university of all direct and indirect costs associated with the use of the facility, including all direct and indirect costs of goods or services furnished by the university in connection with the use of the facility.

(2) The president, or the president's designee, may waive all or part of the normal fee for use of a particular facility by persons not affiliated with the university under the following circumstances:

(a) Members of the university community will receive a substantial benefit from the intended use of the facility and no person or group will derive profit from the intended use of the facility; or

(b) The group requesting the use of the university's facility is an agency of the state of Washington.

[Statutory Authority: RCW 28B.35.120(12), 34.05.220 (1)(b), 34.05.250, 28B.15.600, 42.17.310, 42.30.070 - 42.30.075, chapters 69.41 and 43.21C RCW. WSR 90-10-042, § 516-36-030, filed 4/27/90, effective 5/1/90; Order 75-10, § 516-36-030, filed 11/10/75.]

WAC 516-36-040 Use of facilities by persons or groups affiliated with the university—Authority to develop policies. The president, or the president's designee, shall have authority to develop and imple-
ment policies relating to the use of university facilities by persons or groups affiliated with the university.

[Statutory Authority: RCW 28B.35.120(12), 34.05.220 (1)(b), 34.05.250, 28B.15.600, 42.17.310, 42.30.070 - 42.30.075, chapters 69.41 and 43.21C RCW. WSR 90-10-042, § 516-36-040, filed 4/27/90, effective 5/1/90; Order 75-10, § 516-36-040, filed 11/10/75.]
Chapter 516-36 WAC
USE OF UNIVERSITY (FACILITIES) PROPERTY—SCHEDULING AND GENERAL USE

AMENDATORY SECTION (Amending WSR 90-10-042, filed 4/27/90, effective 5/1/90)

WAC 516-36-001 Use of university (facilities by off-campus persons or groups—Requests) property—General policy and purpose. Any person who is not affiliated with the university and who desires to use university facilities on a temporary basis for purposes other than assigned university activities shall submit a request for use of university facilities to the president or his designee.) 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.

NEW SECTION

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.

NEW SECTION

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

[ 1 ] OTS-9556.1
(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, 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. 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 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 90-10-042, filed 4/27/90, effective 5/1/90)

**WAC 516-36-020 Use of university (facilities by off-campus persons or groups) Evaluation of request for use—Requests.**

(1) The president, or the president's designee, shall have the authority to accept or reject, in whole or in part, a request submitted pursuant to WAC 516-36-001.

(2) In evaluating a request submitted pursuant to WAC 516-36-001, the president shall consider the following factors:

(a) Whether the facilities requested are to be used in connection with a regularly scheduled university program.

(b) Whether the intended use of the university's facilities is compatible with the educational mission and objectives of the university.

(c) Whether the intended use might cause a disruption of the university's relationship with the local community by conflicting with services provided by private enterprise within the Bellingham area.

(d) The capabilities, qualifications, experience, and financial stability of the individual, organization, or group submitting the request.

(3) Whenever the president (or the president's designee) rejects, either in whole or in part, a request for use of university facilities, the reasons for such rejection shall be stated in writing.) (1) Requests for rental or use of university property must be directed to the space approval authority.

(2) Requests for leasing of university property must be directed to the vice president for business and financial affairs, the university president, or the president's designee, and governed by chapter 516-34 WAC.

(3) If a requestor is uncertain where to direct a request to use university property, or if the approving authority for a particular university property is not on the university list, the requestor should address the request to the vice president for business and financial affairs or designee.
**NEW SECTION**

**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. 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.

**AMENDATORY SECTION** (Amending WSR 90-10-042, filed 4/27/90, effective 5/1/90)

**WAC 516-36-030  Limitations on use ((of university facilities by off-campus persons or groups—Assessment of fees)).**  (1) The president, or the president's designee, shall have authority to establish a schedule of fees to govern the use of university facilities by persons who are not affiliated with the university, and to alter or modify the fee schedule whenever such action is deemed to be necessary or appropriate or in the best interests of the university. The fee for each campus facility shall be sufficient to insure the recovery by the university of all direct and indirect costs associated with the use of the facility, including all direct and indirect costs of goods or
services furnished by the university in connection with the use of the facility.

(2) The president, or the president's designee, may waive all or part of the normal fee for use of a particular facility by persons not affiliated with the university under the following circumstances:

(a) Members of the university community will receive a substantial benefit from the intended use of the facility and no person or group will derive profit from the intended use of the facility; or

(b) The group requesting the use of the university's facility is an agency of the state of Washington.) The following limitations apply to all uses of any university property, unless specifically permitted 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 interfere 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 controlled 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 campaigning regarding a ballot proposition or by, for, or against candidates who have filed for public office, except that:

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

(b) University groups may sponsor candidate forums as well as 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 extent 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 procedures of chapter 516-35 WAC to the same extent and on the same basis as may other individuals or groups;

(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 scheduling procedures of WAC 516-36-025 and applicable university policy.

(4) University property may not be used in ways that create safety 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 activities 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 create a hazard or result in damage to university property.

(8) University property may not be used where such use would create 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 cover-
age, etc.); use of limited public forum areas for freedom of expression and assembly must be in accordance with chapter 516-35 WAC.

(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.

NEW SECTION

WAC 516-36-035 University property rental/use fees. (1) The president or the president's designee shall have authority to establish a schedule of fees to govern the use of university property and to alter or modify the fee schedule whenever such action is deemed to be necessary or appropriate or in the best interests of the university. The fee for use of university property shall be sufficient to ensure the recovery by the university of all direct and indirect costs
associated with the use of the university property, including all direct and indirect costs of goods or services furnished by the university in connection with the use of the property.

(2) The president or the president's designee may waive all or part of the normal fee for use of a particular university property by persons not affiliated with the university under the following circumstances:

(a) Members of the university community will receive a substantial benefit from the intended use of the university property and no person or group will derive profit from the intended use of the property; or

(b) The group requesting the use of the university's property is a subdivision or agency of the state of Washington; or

(c) The intended use of the property is transient and would not cause a cost to the university.

(3) In the event that the fee for the use of particular university property has not been placed on the fee schedule, and if the university determines to allow the use of the property, the university will assess a fee based upon the full cost, direct and indirect, of using the property.

(4) The president or the president's designee reserves the right to create differential fee schedules for use of university property by university groups and university affiliates.

**AMENDATORY SECTION** (Amending WSR 90-10-042, filed 4/27/90, effective 5/1/90)

**WAC 516-36-040** (Use of facilities by persons or groups affiliated with the university — Authority to develop policies.) Private or commercial enterprise or charitable use.

(1) University property may not be used for private or commercial gain, including: Commercial advertising; solicitation and merchandising of any food, goods, wares, service, company, organization, or merchandise of any nature whatsoever; or any other form of sales or promotional activity; except that commercial activity is allowable:

(a) If the president or the president's designee has determined that the private or commercial enterprise or charitable use will serve an educational or public service purpose related to the university's mission;

(b) By special permission granted by the university president or the president's designee if an agreement, lease, or other formal arrangement is entered into between the university and the person, corporation, or other entity desiring to engage in private, commercial or charitable activity;

(c) To the extent it represents the regular advertising, promotional, or sponsorship activities carried on, by, or in any university media, university bookstore, university athletic events, or other university authorized event, agent, or contractor;

(d) If the university purchasing department has authorized vendor representatives to solicit university departments, colleges, or busi-
ness units, and where those representatives have appropriate universi-
ty identification.

(2) University property may not be used by faculty, staff, or
students to assist or promote a private or third-party commercial en-
terprise, with the following exceptions:

(a) Faculty, staff, or students may use university property that
is generally available to the public on the same basis, including pay-
ment of the same fees, as may other private citizens; and

(b) Faculty may make use of university property to encourage ba-
sic and applied research in accordance with the provisions of the uni-
versity policy adopted pursuant to RCW 42.52.220.

(3) University property may not be used to benefit a charitable
organization, with the following exceptions:

(a) Charities that are licensed in the state of Washington may
use university property that is generally available to the public on
the same basis, including payment of the same fees, as may private
citizens;

(b) Charities that are licensed in the state of Washington may
use university property without charge by special permission granted
by the university president or the president's designee where the uni-
versity has determined that the charitable activity or use will serve
an educational or public service purpose related to the university's
mission and an agreement, lease, or other formal arrangement is en-
tered into between the university and the person, corporation, or oth-
er entity desiring to engage in a charitable event; and

(c) Recognized student organizations may use university property
to conduct fund-raising activities for charitable purposes pursuant to
university policies, procedures and all scheduling requirements.

NEW SECTION

WAC 516-36-060 Parades or other street and road activity. Per-
mits for parades, street/road runs, marches, or other events on uni-
versity streets and roads may be obtained upon approval of the univer-
sity chief of police.

Such events must be scheduled so as not to interfere with major
traffic arterials or with university events or activities. For use of
city streets on and adjacent to campus, permits must be obtained
through the city of Bellingham.