



## Freedom Of Expression and Use Of UAB Facilities Policy

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**Abstract:**

This policy promotes efficient, responsible, and safe use of University facilities by setting forth institutional priorities to be considered when scheduling events and allocating space, especially for requests from external entities.

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**Category:** Ethics and Integrity

**Policy Owner:** Senior Vice President for Finance and Administration

**Policy Contact:** Executive Director Business Operations

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### INTRODUCTION

As a state institution of higher education, the University of Alabama at Birmingham (UAB) is dedicated to utilizing its resources, including its facilities and property, consistently, efficiently, and effectively to carry out UAB's mission and goals in education, research, and public service. In this context, the University has the right and responsibility to establish policies and procedures regarding use of its facilities and property, including narrowly tailored time, place, and manner requirements that may be appropriate in serving significant institutional interests.

The purpose of this policy is to:

- Promote the safe and orderly use of UAB facilities;
- Prevent disruption, interruption of, or interference with UAB missions, activities, processes, and functions;
- Promote an educational rather than commercial atmosphere on campus;
- Maintain the safety of all members of the UAB community and visitors to campus;
- Ensure compliance with the law and UAB policies; and
- Allocate resources to appropriately accommodate multiple competing needs for UAB facilities.

### SCOPE

This policy applies to all individuals and groups that use UAB Facilities. Access and use of facilities managed by the UAB Health System are addressed elsewhere in UAB Health System policies.

Requirements outlined in this policy apply to all UAB facilities. However, some facilities may have site-specific procedures, which must be consistent with [UAB Events Approval and Scheduling](#). These include but are not limited to:

- Alys Stephens Center, Bartow Arena, and UAB Alumni House;
- Hill Student Center;
- Student Assembly Building
- Campus Recreation Center;
- Athletics facilities, including Marshall Conference Center;
- Campus Green, UAB Mini Park, and other outdoor areas of campus which can be reserved;;
- Academic buildings under the control of academic units; and
- Official student housing and residential life facilities.

Expression through electronic, online, and/or virtual University platforms are described in the [Digital Mass Communications and Content Policy](#) and the [Acceptable Use of Computer and Network Resources](#)

### DEFINITIONS

For purposes of this policy, the following definitions apply:

**Building Administrator:** UAB employee responsible for scheduling use of a particular University facility.

**Campus Community:** UAB's students, administrators, faculty, staff as well as the invited guests of UAB and UAB's student organizations, administrators, faculty, and staff.

**Distribution:** Limited to individuals handing materials to other individuals who may accept them or refrain from receiving them.

**Event:** A planned gathering including, but not limited to, celebrations, dances, lectures, performances, rallies, concerts, speaker presentations, conferences, fund-raisers, races, festivals, and parades. This does not include informal employee or student use of small group study or meeting space reserved according to site-specific procedures or spontaneous expressive activity.

**Expressive Activity:** Speech, expression, or assemblies protected by federal and state law, through any lawful verbal, written, or electronic means, including, but not limited to, all forms of peaceful assembly, protests, counter-protests, demonstrations, rallies, vigils, marches, public speaking, distribution of printed materials or carrying signs, displays, or circulating petitions, and making comments to the media on matters of public concern. Expressive Activity does not include the following:

- Expression that a court has deemed unprotected defamation;
- Unlawful harassment, for purposes of this policy, defined as expression that is so severe, pervasive, and objectively offensive that it effectively denies access to an educational opportunity or benefit;
- True threats, which are defined as statements meant by the speaker to communicate a serious expression of intent to commit an act of unlawful violence to a particular individual or group of individuals;
- An unjustifiable invasion of privacy or confidentiality not involving a matter of public concern;
- An action that materially and substantially disrupts the functioning of the University or that substantially interferes with the protected free expression rights of others;
- Expressive activities that are inconsistent with the reasonable time, place and manner restrictions;
- Speech that interferes with the treatment of patients;
- Expression that relates solely to the economic interests of the speaker and its audience, and proposes an economic transaction, including the promotion, sale, or distribution of any product or service;
- Obscenity, which is defined as speech that meets the following (extremely high) threshold: it (a) appeals to the "prurient" interest in sex, (b) is patently offensive by community standards and (c) lacks literary, scientific or artistic value;
- Child pornography;
- Fighting words, which are defined as speech that is personally or individually abusive and is likely to incite imminent physical retaliation.

**External Individuals/Organizations:** Individuals or organizations unaffiliated with UAB and over which UAB does not have control, nor do they have the primary purpose of supporting UAB's mission. This may be UAB employees, students, or alumni who are acting outside of the scope of their employment or status. Examples include, but are not limited to, for-profit groups, non-profit groups (such as professional organizations or societies), governmental organizations, other universities, or political groups.

**Internal Organizations:** Organizations officially constituted within UAB, staffed by UAB employees, or funded/sponsored by UAB. These include official academic or administrative units, recognized student organizations, and affiliated groups supporting UAB activities (e.g., UAB Alumni Association).

**Materially and Substantially Disrupt:** A disruption that occurs when a person (a) significantly hinders the protected activity of another person or group, prevents the communication of a message of another person or group or prevents the transaction of the business or a lawful meeting, gathering or procession by fighting, violence or other unlawful behavior, or (b) physically blocks or uses threats of violence to prevent another person from attending, listening to, viewing, or participating in protected expressive activity. It does not include conduct that is protected by the U.S. Constitution, Alabama Constitution, or state law.

**Outdoor Areas of Campus:** Generally accessible areas of the University's campus in which members of the campus community are commonly allowed, including grassy areas, walkways, or other similar common areas. The term does not include outdoor areas of campus to which access is restricted. Outdoor areas of campus specifically do not include any buildings, surfaces associated with or connected to a University building or other indoor or outdoor facilities as defined in these definitions. Some areas, such as UAB Mini Park and the Campus Green may be reserved and are then considered in this policy as an Outdoor Facility; otherwise, these areas when unscheduled are considered Outdoor Areas.

**Spontaneous Expressive Activity:** Expressive activity that is (a) prompted by news or affairs coming into public knowledge within seventy-two hours (72) hours prior to such activity, and (b) not planned more than twenty-four (24) hours prior to such activity.

**UAB Facilities (University Buildings and Outdoor Facilities):** Buildings and structures, grounds, sidewalks, recreation areas, and any other indoor or outdoor facilities owned and managed/controlled by the University. University buildings including their outside surfaces and surfaces associated with or connected to a University building. This excludes facilities owned by UAB but managed/controlled by UAB Health System or third-party contractors. This excludes Outdoor Areas of Campus as defined in these definitions.

**UAB Sponsoring Internal Individual/Organization:** Faculty, staff, administrators, academic or administrative units, recognized student organizations, and affiliated groups supporting UAB activities within UAB that serve as the point of contact for events involving external individuals/organizations to be scheduled within UAB facilities.

## **POLICY STATEMENT**

The University is committed to free and open inquiry and expression for members of its community - faculty, staff, students, and registered student organizations. The University is dedicated to the promotion of lively and fearless freedom of debate and deliberation, but also to the protection of that freedom when others attempt to restrict it. Except as limitations on that freedom are appropriate to the functioning of the University and permissible under the First Amendment, the University respects and supports the freedom of all members of the campus community to engage in free, robust, and uninhibited debate and deliberation.

The University has a significant interest in protecting the educational experience of its students, in ensuring for the entire campus community health, safety, and order on its campus, in regulating competing uses of its facilities and grounds, and in protecting the safety and wellbeing of those with the right to use its facilities and grounds to engage in protected speech, among other significant interests. Consistent with the First Amendment and state law, many areas of the University property are not open for general public use. Therefore, all persons on University property must abide by all applicable laws and regulations as well as University policies in order to further the missions of the University and for the protection of the students, faculty members, staff employees and guests of the University. Thus, the University may deny or condition entrance onto or into University property or remove from the same, any person whose conduct or activities substantially interferes with or materially and substantially disrupts the institution's missions, including interfering with or disrupting classroom environments, laboratory or research environments, or patient care environments, or any person who violates or refuses to comply with any UAB policy or applicable law or regulation. Under no circumstances shall University property be utilized to carry out unlawful activity.

To protect these significant interests, as outlined herein, the University may reasonably regulate the time, place, and manner of expression in a viewpoint-neutral manner to ensure that these interests are protected, and that expression does not substantially disrupt the ordinary activities of the institution. The University, however, will not use these exceptions in a manner that is inconsistent with its commitment to a free and open discussion of ideas among its campus community.

This policy supersedes and nullifies any provision in any University policy or procedures that improperly restricts speech and is, therefore, inconsistent with this policy. UAB facilities are intended for the use of its students, faculty, staff, and invited guests participating in approved programs or activities, sponsored by or under the direction of the University or one of its units. Use of UAB facilities by external organizations is restricted to those activities in which the public interest is readily and safely accommodated and that do not conflict with UAB priorities. Any use of UAB facilities not authorized herein is prohibited.

University's Role in Public Policy Controversies

The University's role in supporting and encouraging freedom of inquiry requires assuring opportunities for the expression of differing views regarding many issues in multiple areas of study, research, and debate, including current political and social issues. The University serves an essential role in encouraging and broadly protecting freedom of thought and expression. In support of the essential role universities hold, the University may not take action, as an institution, on the public policy controversies of the day in such a way as to require students, faculty, or administrators to publicly express a given view of social policy.

### Scheduling Priorities

Priority for UAB facilities use is primarily for scheduled functions. Scheduling of UAB facilities is based on the following priorities:

- 1) First Priority: Use by UAB departments for UAB activities consistent with the intended purpose and design of the specific space, such as use of classrooms for teaching and instructional programs for academic credit or laboratories and other facilities for research.
- 2) Second Priority: Use by UAB departments for UAB activities other than education and research, including but not limited to, administration, scholarship, fundraising, training, or departmental programming and outreach.
- 3) Third Priority: Use by internal organizations that are in good standing with UAB at the time of scheduling and also on the date(s) of the event.
- 4) Fourth Priority: Use by external organizations that have a current, authorized contractual relationship with UAB conducting UAB mission-related programs.

The President or designee may override scheduling in any UAB facility for response, protection, or management of criminal investigations; critical incidents; unplanned events that may have an impact on UAB operations; or scheduled events (including athletic events) that involve dedicated emergency resources.

### Approval Requirements

Use of any UAB facility for events covered by this policy requires prior written approval of a location reservation by the Senior Vice President for Finance and Administration or his/her designee according to [UAB Events Approval and Scheduling](#) or by the respective building administrator according to site-specific procedures, where applicable. All student events are registered through Engage. Such written approval must be requested in writing at least ten (10) days prior to use for an indoor facility and five (5) days prior to use for an outdoor facility except for outdoor areas of campus. Location reservation requests submitted within shorter timeframes, may be considered at the discretion of the Senior Vice President for Finance and Administration or his/her designee or of the respective building administrator according to site-specific procedures, where applicable, based on availability and whether such event can be managed in a safe and compliant manner that does not interfere with regular programs and routine operations as described in the scheduling priorities above. The person requesting use of UAB facilities or property must be present throughout the proposed event and must be able to produce proper personal identification and a copy of the approved reservation form. Use may not be continued beyond the approved end time or outside of the approved location. The applicant shall not transfer control of the event for which the facilities were reserved to any other individual or organization.

All events involving an external individual/organization must have a UAB sponsoring internal individual/organization, which serves as the primary point of contact for the external individual/organization. The UAB sponsoring internal individual/organization must be familiar with the requesting external individual/organization. Having a UAB sponsoring internal individual/organization does not guarantee that space will be made available or that University approval will be given for the event. Granting of approval to use UAB facilities shall not constitute UAB endorsement or sponsorship of the event or endorsement or approval of the activities or purposes of the external individual/organization.

As described in [Policy Concerning Use of UAB Resources by External Entities](#), external individual/organizations must execute a Guest Speaker Contract and/or formal Facilities Use Agreement specifying terms and conditions of facility use, including charges and assurance of financial responsibility to UAB through the purchase of commercial insurance. Charges and costs resulting from damages incidental to the use of a facility shall be borne by the requesting individual or organization.

Dates on which significant UAB events are scheduled will be unavailable for other facility use. Such dates may include, but are not limited to, freshman move-in, first day of classes, final examinations, and commencement.

UAB reserves the right to cancel or postpone activities scheduled to occur in a UAB facility and to change, alter, or modify any scheduling request as outlined in the Event Scheduling for UAB Facilities Procedures (in development) or site-specific procedures, as applicable. UAB shall not be responsible for any costs incurred by the organizer or any individual resulting from the cancellation, postponement, or other modification of any event. In all events, UAB reserves the right to take appropriate measures in compliance with the law to ensure safety and end disruption.

### Security

UAB seeks to ensure the safety of all persons on campus, and to protect all facilities on campus from damage. Proposed events can create a substantial, non-speculative concern about the safety of attendees, the UAB community, and/or the general public, or a substantial, non-speculative concern about potential damage to UAB property. If UAB determines an event to have significant security needs, the UAB Police Department may require a meeting with the host/organizer. For registered student organizations, UAB PD will request a security consultation through the event registration process, based on the event description provided on the event registration form (see "Security Consultations" in the Student Organization Handbook). This determination may be made at any time prior to the event based upon developing information. Failure to comply with the request for a meeting or with resulting additional security requirements may result in cancellation. UAB shall make reasonable efforts to make resources available to make the event safe for the campus community. For student and registered student organization events, UAB may, at its own cost, provide security services for campus events. For all other events, UAB will charge the Event sponsor or Event organizer security costs to be based on neutral, objective criteria. Criteria that shall not be used in the determination of security costs to be charged to the event sponsor include: (a) any viewpoint(s) expected to be expressed at the event; or (b) any reaction expected in response to the viewpoints expressed. Event sponsors or organizers also may request security at an event, but it is not required.

In the event the University is unable to provide security to reasonably ensure the safety of event attendees, the UAB community, the general public, and/or UAB property, even if the security is to be paid for by the event organizer, the University may decline a request or terminate an event. Event organizers may appeal this determination in accordance with this policy.

### Outdoor Areas

Outdoor Areas of campus are available for non-amplified spontaneous expressive activity by students, administrators, faculty, and staff at any time without the need for reservations or prior approval, unless the space is already reserved. Students, staff, and faculty shall be permitted to assemble and engage in spontaneous expressive activity as long as such activity is lawful and does not materially and substantially disrupt the functioning of the University. Although not required, to further the effectiveness of the unscheduled use of outdoor areas of campus, students, staff, and faculty are encouraged to contact Office of the Senior Vice President for Finance and Administration or respective building manager for the requested space and provide notification about the activity. Advance notification enables the University to help ensure that the activity does not conflict with a reserved or

scheduled use, takes place in a constructive manner, the event is effective, to safeguard the participants' safety, and to assist organizers in seeing that the activity does not disrupt the University's educational activities and essential processes and operations.

#### Interference or Disruption to UAB Activities and Operations

Use of UAB facilities must not interfere with or disrupt UAB activities and operations. Behaviors considered to be disruptive include, but are not limited to:

- Endangerment of others' personal safety;
- Violence or incitement of violence;
- Damage to property;
- Threats of violence or damage to property;
- Unapproved use of an area or location and/or use of an area or location that is inconsistent with the stated reason and request for use;
- Persistent noise at a level materially and substantially disruptive of classes, research, administrative business, study, etc.;
- Use of temporary structures, including tents, poles, tarps, and any associated components such as sleeping bags, bedding, cots, or any temporary outdoor shelter, unless authorized in advance by UAB leadership; or
- Obstruction of the entrance/exit to any facility, including, but not limited to, hospital or other health-care facilities, any outdoor space, or obstruction or interference of the free movement of vehicular or pedestrian traffic along or through any campus sidewalk, walkway, street, or alley.

Generally, picketing, distributing literature, silent or symbolic protests (e.g., holding signs, wearing certain clothing, standing, etc.), or short and spontaneous verbal reactions to a speaker are acceptable forms of protest and dissent, as long as they do not block, obstruct, or impede, among other things, access to a meeting or activity, passage of persons or vehicles, the audience's view or ability to pay attention, and/or the speaker's communication or ability to speak. However, demonstrations or dissent that obstructs or disrupts teaching, administration, University procedures and activities, or other authorized activities on University premises, including programs, events, meetings, or speakers hosted by student organizations, departments, offices, or other entities, is prohibited.

#### Substantial Interference of Protected Free Expression

Any University student, faculty member, or staff employee who is found to have substantially interfered with the protected free expression rights of others may be subject to a full range of disciplinary sanctions as described in the Noncompliance section below.

Any guest or other individual on the campus who is alleged to have substantially interfered with the protected free expression rights of others may be temporarily or permanently barred from all or part of the campus along with facing any other criminal charges, as determined by appropriate law enforcement authorities.

#### Special Guidelines for Non-UAB Material Distribution and Solicitation (e.g., distribution of leaflets, pamphlets, written materials, etc.)

Individuals distributing materials are expected to refrain from littering and to encourage the same from others. An individual's right to privacy must be respected. Thus, no person may attempt to threaten, intimidate, or badger another individual into viewing or accepting a copy of any material. Further, no person may persist in requesting or demanding the attention of another individual who has attempted to walk away or has clearly expressed no interest in the material. For purposes of this section, leaving materials unattended on a surface to be picked up is considered littering, not distribution.

Materials may not be distributed door to door in residence halls or academic buildings. Further, materials may not be affixed to the outside of University buildings/structures, placed on motor vehicles, or posted on trees. Additionally, equipment, such as tables, tents, and chairs, may not be used as part of any distribution activity under this section.

Non-commercial pamphlets, handbills, circulars, newspapers, magazines and other written materials may be distributed on a person-to-person basis only in outdoor, publicly accessible areas of campus. HR Policy 629 Solicitation Protection covers the distribution of commercial materials and publications.

No individual shall enter any UAB facility to engage in any forms of commercial expression, distribution, or speech unrelated to UAB, including all manner of solicitation, canvassing, vending, or peddling. Employees who are in any UAB facility to perform their jobs shall not engage in commercial solicitation or vending. This includes selling, delivering, or collecting for products, insurance, etc. Neither should UAB telephones, digital resources, or other equipment be used for these activities.

Restrictions on commercial activities do not apply to those authorized by UAB involving the sale of goods or services (such as student stores, job fairs, benefit fairs, or by invitation for special events), UAB-authorized entrepreneurial spin-outs, spin-ins, and joint ventures, or those conducted in facilities under written lease from the UAB.

#### Appeals

Appeals of UAB's decisions regarding the use of facilities, including denials or limitations on requests for event scheduling, may be made to the Appeals Committee in accordance with Event Scheduling for UAB Facilities Procedures (in development) or site-specific procedures, as applicable.

### **NONCOMPLIANCE**

Confirmed violations of this policy will result in consequences commensurate with the offense, up to and including termination of employment, appointment, student status, or other relationships with UAB. Individuals present in UAB facilities who engage in unlawful or disruptive conduct or violate UAB policy may be asked by a UAB official to leave the property. Failure to comply with such request constitutes trespassing and may lead to arrest, criminal prosecution, or being barred from campus. Unauthorized use of temporary or unauthorized structures will result in such structures being disassembled, disposed of, and/or removed. If students engage in unlawful or disruptive conduct or violate UAB policy, the [Student Conduct Code](#) will also apply.

Nothing in this policy shall be construed as prohibiting the University from imposing measures that do not violate First Amendment rights guaranteed by federal and state law such as:

- Constitutional time, place, and manner restrictions;
- Reasonable and viewpoint-neutral restrictions in nonpublic forums;
- Restricting the use of University property to protect the free speech rights of students and faculty and preserve the uses of the property for the advancement of the University's mission;
- Prohibiting or limiting speech, expression, or assemblies that are not protected by the First Amendment to the U.S. Constitution, the Alabama Constitution, or Alabama law; or
- Content restrictions on speech that are reasonably related to a legitimate pedagogical purpose, such as rules enacted by faculty.

## IMPLEMENTATION

The Senior Vice President for Finance and Administration is responsible for implementation of this policy.

### **Related Policies and Resources**

[UAB Enterprise Code of Conduct](#)

[UAB Events Approval and Scheduling](#)

[Equal Opportunity and Discriminatory Harassment Policy](#)

[Digital Mass Communications and Content Policy](#)

[Acceptable Use of Computer and Network Resources](#)

[Faculty Handbook - Section 3.2 Academic Freedom](#)

[Student Conduct Code](#)

[Duty to Report and Non-retaliation Policy](#)

[Title IX Sex Discrimination, Sexual Harassment, and Sexual Violence Policy](#)

[Procedures for Title IX Sex Discrimination Complaints \(non-harassment\) Against Students](#)

[Procedures for Title IX Sexual Harassment and Sexual Violence Complaints](#)

[Procedures for Title IX Sexual Discrimination Complaints\(non-harassment\) Against Faculty, Staff, Affiliates and Non Affiliates](#)

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