

No. 23A\_\_

---

---

**In The  
Supreme Court of the United States**

---

SPECTRUM WT, ET AL.,  
*Applicants,*

v.

WALTER WENDLER, ET AL.,  
*Respondents.*

---

To the Honorable Samuel Alito, Associate Justice  
of the Supreme Court of the United States and Circuit Justice for the Fifth Circuit

---

**APPENDIX OF EXHIBITS — APPLICANTS' EMERGENCY  
APPLICATION FOR INJUNCTION PENDING APPELLATE REVIEW**

---

Adam B. Steinbaugh  
Jeffrey D. Zeman  
FOUNDATION FOR INDIVIDUAL  
RIGHTS AND EXPRESSION  
510 Walnut St.  
Suite 900  
Philadelphia, PA 19106

Robert Corn-Revere  
JT Morris  
*Counsel of Record*  
Conor T. Fitzpatrick  
Joshua T. Bleisch  
FOUNDATION FOR INDIVIDUAL  
RIGHTS AND EXPRESSION  
700 Pennsylvania Ave. SE  
Suite 340  
Washington, DC 20003  
215-717-3473  
jt.morris@thefire.org

*Counsel for Applicants*

## TABLE OF CONTENTS

APPENDIX EXHIBIT A: United States District Court for the Northern District of Texas, Order Denying Preliminary Injunction (Sep. 21, 2023).....	App.3
APPENDIX EXHIBIT B: United States Court of Appeals for the Fifth Circuit, Order Denying Motion to Expedite Appeal (Oct. 11, 2023).....	App.30
APPENDIX EXHIBIT C: United States District Court for the Northern District of Texas, Order Declining to Expedite Motion for an Injunction Pending Appeal (Feb. 5, 2024).....	App.32
APPENDIX EXHIBIT D: United States Court of Appeals for the Fifth Circuit, Order Carrying Motion for an Injunction Pending Appeal with the Case (Feb. 22, 2024).....	App.34
APPENDIX EXHIBIT E: Plaintiffs' First Amended Verified Complaint (Apr. 18, 2023).....	App.37
APPENDIX EXHIBIT F: Appendix to Plaintiffs' Brief in Support of Amended Motion for a Preliminary Injunction (Apr. 20, 2023).....	App.102
APPENDIX EXHIBIT G: Appendix to Plaintiffs' Brief in Support of Rule 62(d) Motion for Injunction Pending Appeal (Jan. 30, 2024).....	App.193
APPENDIX EXHIBIT H: Declaration of Christopher Thomas (Feb. 19, 2024).....	App.234

# Exhibit A

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

SPECTRUM WT, *et al.*,

Plaintiffs,

v.

2:23-CV-048-Z

WALTER WENDLER, *et al.*,

Defendants.

**MEMORANDUM OPINION  
AND ORDER**

Before the Court are Defendant Wendler’s Motion to Dismiss Under Rules 12(b)(1) and 12(b)(6) (“Wendler’s Motion”) (ECF No. 34), Defendants’ Motion to Dismiss (“Defendants’ Motion”) (ECF No. 38), and Plaintiffs’ Amended Motion for Preliminary Injunction (“Amended Motion”) (ECF No. 30). Having considered the motions, briefing, and relevant law, the Court **GRANTS IN PART** Wendler’s Motion and Defendants’ Motion, and **DENIES** Plaintiffs’ Amended Motion.

**BACKGROUND**

Plaintiffs are a recognized student organization (“Spectrum WT”) at West Texas A&M University (“WT”) and two of Spectrum WT’s officers. ECF No. 28 at 5–6. Plaintiff Spectrum WT strives to “provide a safe space for LGBT+ students and allies to come together,” to “raise awareness of the LGBT+ community,” and to “promote diversity, support, and acceptance on campus and in the surrounding community.” *Id.* at 4. In furtherance of that mission, Spectrum WT hosts events such as “Lavender Prom, Queer History Night, and Queer Movie Night.” *Id.* at 5. Plaintiffs also planned a March 2023 fundraiser at a WT “campus event hall” to raise funds for LGBT+ suicide prevention. *Id.* at 1. In papers filed with this Court, Plaintiffs describe the proposed event as a “drag show” open to children accompanied by a parent or guardian. *Id.* at 18.



The proposed event was tentatively scheduled for April 1 and branded “A Fool’s Drag Race.” *Id.* at 15. Due to a scheduling conflict, Spectrum WT agreed to hold the show one day earlier. *Id.* But before WT confirmed the event, Defendant Walter Wendler (“President Wendler”) stated his opposition in a letter dated March 21, 2023: “[WT] will not host a drag show on campus.” ECF No. 28-1 at 2–3. In the letter, President Wendler analogized to another type of “theatrical performance” — “blackface” minstrelsy<sup>1</sup> — to explain his opposition to *any* event exaggerating, stereotyping, mocking, or objectifying a person “based on appearance, bias or predisposition”:

As a performance exaggerating aspects of womanhood (sexuality, femininity, gender), drag shows stereotype women in cartoon-like extremes for the amusement of others and discriminate against womanhood. Any event which diminishes an individual or group through such representation is wrong . . . . Should I let rest misogynistic behavior portraying women as objects?

\* \* \*

Drag shows are derisive, divisive and demoralizing misogyny, no matter the stated intent. Such conduct runs counter to the purpose of WT. A person or group should not attempt to elevate itself or a cause by mocking another person or group.

As a university president, I would not support “blackface” performances on our campus, even if told the performance is a form of free speech or intended as humor. It is wrong. I do not support any show, performance or artistic expression which denigrates others — in this case, women — for any reason . . . .

Mocking or objectifying in any way members of any group based on appearance, bias or predisposition is unacceptable . . . . No one should claim a right to contribute to women’s suffering via a slapstick sideshow that erodes the worth of women. When humor becomes harassment, it has gone too far.

*Id.*

---

<sup>1</sup> “What we call blackface minstrelsy is a specific performance genre that developed in early 19th-century America, with the earliest performance documented in 1830. Featuring characters with names like Jim Crow, Zip Coon and Mammy, these performances comprised skits, monologues, songs and dances that supposedly imitated those of enslaved people or of the recently freed. Blackface is used ‘to mock or ridicule Black people’; it is considered deeply offensive.” *Smith v. Salvation Army*, 2023 WL 2252380, at \*6 (N.D. Ala. Feb. 27, 2023) (citations omitted).

President Wendler averred that “harassment” was inconsistent with WT’s vision statement, the Texas Education Code, and federal workplace rules enforced by the U.S. Equal Employment Opportunity Commission, linking relevant websites. *Id.* at 3–4. Throughout the letter, President Wendler expressed support for the underlying mission and message of the proposed event — *i.e.*, preventing suicide in the LGBT+ community by raising money for The Trevor Project. *See id.* at 4 (“Supporting the Trevor Project is a good idea.”). In closing, President Wendler offered a simple recommendation: “[S]kip the show and send the dough.” *Id.*

Plaintiffs filed and then withdrew their motion for a temporary restraining order after electing to host the event off campus. ECF No. 16. But Plaintiffs still seek injunctive and declaratory relief in addition to damages under 42 U.S.C. § 1983 because their future events are allegedly “in imminent peril due to President Wendler’s edict.” ECF No. 31 at 15. These include “Queer Movie Night,” “Queer History Night,” and a second drag show tentatively set for March 2024. ECF No. 28 at 26.

#### OVERVIEW

Free Speech jurisprudence only intermittently invokes the *historical* analysis applied to other Amendments and Clauses. *See, e.g., N.Y. State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S. Ct. 2111, 2161 (2022) (applying a Second Amendment “text, history, and tradition” test); *Am. Legion v. Am. Humanist Ass’n*, 139 S. Ct. 2067, 2087 (2019) (explaining that Establishment Clause jurisprudence “looks to history for guidance”). Said historical analysis reveals a Free Speech ecosystem drastically different from the “expressive conduct” absolutism of Plaintiffs’ briefing: (1) the Founders focused on “prior restraints” of publication — specifically, political pamphlets, (2) draft Free Speech Clauses focused on protecting the “right to speak, to write, or to publish their sentiments,” (3) Blackstone treatises extolled “freedom of thought” *and* recognized a police power “to censure licentiousness,” (4) the Comstock Act of 1873 prohibited the mailing of “obscene, lewd or



lascivious” materials, and (5) Joseph Story’s *Commentaries* defined the Free Speech Clause as protecting the “right to speak, write, and print . . . opinions upon any subject whatsoever, without any prior restraint,” but *not* the right to “injure any other person in his rights, person, property, or reputation” or “to disturb the public peace.”<sup>2</sup>

As written, ratified, and adjudicated for 150 years, the Free Speech Clause harmonized disparate and competing interests using “text, history, and tradition” as guideposts, sometimes a sliding scale: political speech *versus* commercial speech;<sup>3</sup> pornography *versus* obscenity;<sup>4</sup> viewpoint *versus* content;<sup>5</sup> traditional *versus* designated *versus* limited public forums;<sup>6</sup> thought *versus* speech *versus* conduct,<sup>7</sup> etc. Many Free Speech categories were subject to “reasonable time, place, and manner” restrictions.<sup>8</sup> Beginning in the late 20th Century, Free Speech jurisprudence absorbed “expressive individualism” as the new *sine qua non* of First Amendment analysis. See Jeffrey A. Kaplan, *The Republic of Choice: Law, Authority, and Culture*. 27 HARV. J. ON LEGIS. 613 (1990) (“Expressive individualism” emphasizes “self-expression, that is, cultivating the inner human being, expanding the self, developing the special qualities and uniqueness of each person.”) (citations omitted); see also Carl R. Trueman, *The Rise and Triumph of the Modern Self: Cultural Amnesia, Expressive Individualism, and the Road to Sexual Revolution* 26–80 (2022).

<sup>2</sup> See generally 1 Annals of Cong. 434 (1789); St. George Tucker, *Blackstone's Commentaries*, 1:App. 298–99, 2:App. 12–25, 27–30; Comstock Act of 1873, THE FIRST AMENDMENT ENCYCLOPEDIA, 2009; 3 Joseph Story, *Commentaries on the Constitution of the United States*, § 1874, at 732 (Boston & Co. 1833).

<sup>3</sup> Compare *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943) with *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 758 (1976).

<sup>4</sup> Compare *Paris Adult Theatre I v. Slaton*, 413 U.S. 49, 57 (1973) with *Miller v. California*, 413 U.S. 15, 24 (1973).

<sup>5</sup> Compare *Reed v. Town of Gilbert*, 135 S. Ct. 2218, 2230 (2015) with *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston, Inc.*, 515 U.S. 557, 572 (1995).

<sup>6</sup> Compare *Hague v. Committee for Industrial Organization*, 307 U.S. 496, 515 (1939) with *Christian Legal Soc. Chapter of the Univ. of California, Hastings Coll. of the L. v. Martinez*, 561 U.S. 661, 680 (2010).

<sup>7</sup> Compare *Roberts v. U.S. Jaycees*, 468 U.S. 609, 622 (1984) with *City of L.A. v. Taxpayers for Vincent*, 466 U.S. 789, 812 (1984).

<sup>8</sup> See, e.g., *Hill v. Colorado*, 530 U.S. 703 (2000); *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n of New York*, 447 U.S. 557 (1980); *Perry Educ. Ass'n v. Perry Loc. Educators' Ass'n*, 460 U.S. 37 (1983); *Turner Broad. Sys., Inc. v. F.C.C.*, 512 U.S. 622 (1994).

But the newer cases retained older rules relevant to protests, forums, time, place, and manner — plus an important outer limit on “expressive conduct,” especially *sexualized* “expressive conduct”: When children are involved, the calculation changes.<sup>9</sup> Here, Plaintiffs expressly contemplate and even advertise the involvement of children. ECF No. 28 at 18.

#### APPLICATION

Plaintiffs neither plead a “clearly established right” to host a sexualized drag show on campus, nor that President Wendler’s response was “objectively unreasonable.” And although Plaintiffs recite and repeat “expressive conduct” boilerplate from landmark cases, they elide the constitutional and statutory taxonomies necessary to decide a Free Speech campus case — at least at this MTD Phase. Specifically, Plaintiffs failed to plead adequate facts and arguments in four categories of First Amendment law necessary to overcome qualified immunity protections:

First, if the “fundraiser” features cross-dressing like other theatrical performances, but not an “overtly political” message, does it convey the “intentional and overwhelmingly apparent” message required in the “campus protest” cases applicable to school settings? *See, e.g., Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 504 (1969); *Texas v. Johnson*, 491 U.S. 397, 406 (1989); *Spence v. State of Wash.*, 418 U.S. 405, 409 (1974) (the Court must “determine whether his activity was sufficiently imbued with elements of communication to fall within the scope of the First and Fourteenth Amendments”). Notably, the landmark cases cited by Plaintiffs include a warning to this Court: “We cannot accept the view that an apparently limitless variety of conduct

---

<sup>9</sup> *See Ashcroft v. Free Speech Coal.*, 535 U.S. 234, 245–46 (2002) (“The freedom of speech has its limits; it does not embrace certain categories of speech, including defamation, incitement, obscenity, and pornography produced with real children.”); *Ginsberg v. State of N.Y.*, 390 U.S. 629, 639 (1968) (the state may ban the sale of indecent magazines to minors); *Sable Commc’ns of Cal., Inc. v. F.C.C.*, 492 U.S. 115, 134 (1989) (“To be sure, the Government has a strong interest in protecting children against exposure to pornographic material that might be harmful to them.”) (Breyer, J., concurring in part); *United States v. Am. Libr. Ass’n, Inc.*, 539 U.S. 194, 214 (2003) (upholding requirement that library computers filter out content harmful to minors).



can be labeled ‘speech’ whenever the person engaging in the conduct intends thereby to express an idea.” *United States v. O’Brien*, 391 U.S. 367, 376 (1968). As pled, Plaintiff’s proposed event does not obviously convey or communicate a discernable, protectable message.

Second, using “textbook” as an adjective is no substitute for the forum analysis required in a Free Speech campus case — *i.e.*, the analysis that determines whether the alleged discrimination is “content” or “viewpoint” specific. *See* ECF Nos. 31 at 21 (“That is *textbook* content discrimination.”); 28 at 2 (“Wendler’s edict is *textbook* viewpoint discrimination . . . .”) (emphasis added). Similarly, that Texas Education Code § 51.9315 protects “traditional public forums” in “common outdoor areas” is not necessarily determinative of the question here: Is the relevant WT facility a “traditional public forum,” “designated public forum,” “limited public forum,” or “non-public forum” for purposes of First Amendment analysis? *See* ECF No. 28-3 at 3 (“Examples of traditional public forums include public streets, sidewalks, plazas, lawns, and parks.”). Thus far, Plaintiffs’ forum analysis falls flat.

Third, Plaintiffs acknowledge and attach WT policies stating that “expressive activity” is subject to “reasonable time, place, and manner restrictions,” consistent with First Amendment requirements, but consign the issue and their analysis to a single footnote. ECF No. 28-3 at 2–5; ECF No. 31 at 20 n.3 (“Since [WT] is prohibiting drag shows outright . . . the time, place, or manner test is inapplicable.”). But this Court cannot so easily ignore binding Supreme Court precedent holding that *sexualized conduct* is more regulable under various First Amendment doctrines — especially when children are in the audience. *See, e.g., City of Erie v. Pap’s A.M.*, 529 U.S. 277, 295 (2000) (holding public nudity ban “may place incidental burdens on some protected speech”); *F.C.C. v. Pacifica Found.*, 438 U.S. 726, 732 (1978) (finding FCC may regulate monologue referencing “sexual activities” because “children are in the audience”). Thus, even if

Plaintiffs' proposed event is lawful, WT could arguably regulate the "time, place, and manner" of the show to protect children.

Fourth, President Wendler's letter expressly or impliedly invoked countervailing federal, state, and WT policies relevant to harassment of other protected classes — specifically, women. ECF No. 28-1 at 2–3. Yet Plaintiffs never explain how or if Defendants must reconcile these competing, conflicting legal obligations. *See, e.g.*, 20 U.S.C. § 1681(a); 34 C.F.R. § 106.8(c); *see also* Texas H.B. No. 900, S.B. No. 12. At this MTD Phase, Plaintiffs have not addressed or analyzed President Wendler's arguably reasonable efforts to reconcile binding harassment laws, regulations, and policies with applicable Free Speech standards.

#### **LEGAL STANDARD**

Under Federal Rule of Civil Procedure 12(b)(6), the Court evaluates the pleadings by "accept[ing] 'all well-pleaded facts as true, viewing them in the light most favorable to the plaintiff.'" *Barnett v. Perfect Search Corp.*, No. 3:14-CV-2840-D, 2014 WL 6805529, at \*1 (N.D. Tex. Dec. 3, 2014) (quoting *In re Katrina Canal Breaches Litig.*, 495 F.3d 191, 205 (5th Cir. 2007)). To survive a motion to dismiss, a complaint must allege enough facts "to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A case is properly dismissed for lack of subject matter jurisdiction under Rule 12(b)(1) "when the court lacks the statutory or constitutional power to adjudicate the case." *Home Builders Ass'n of Miss., Inc. v. City of Madison, Miss.*, 143 F.3d 1006, 1010 (5th Cir. 1998). And "a defendant's entitlement to qualified immunity should be determined at the earliest possible stage of the litigation." *Ramirez v. Guadarrama*, 3 F.4th 129, 133 (5th Cir. 2021) (per curiam), *cert. denied*, 142 S. Ct. 2571 (2022).

To be entitled to a preliminary injunction, an applicant must show: (1) a substantial likelihood of success on the merits; (2) a substantial threat of irreparable harm if the injunction is



not granted; (3) the threatened injury outweighs the threatened harm to the party whom he seeks to enjoin; and (4) the granted injunction will not disserve the public interest. *See Bluefield Water Ass'n, Inc. v. City of Starkville*, 577 F.3d 250, 252–53 (5th Cir. 2009). A plaintiff bears the burden on all four factors, and failure on any one of them warrants denial. *Id.* at 253.

## ANALYSIS

### A. President Wendler Is Entitled to Qualified Immunity

Qualified immunity protects government officials acting within their authority from individual liability “when their actions could reasonably have been believed to be legal.” *Morgan v. Swanson*, 659 F.3d 359, 412 (5th Cir. 2011) (“*Morgan I*”). And “[w]here there are no allegations of malice, there exists a ‘presumption in favor of qualified immunity’ for officials in general, and for educators in particular.” *Morgan v. Swanson*, 755 F.3d 757, 760 (5th Cir. 2014) (internal marks omitted). This is especially true “where the area of law is as ‘abstruse’ and ‘complicated’ as First Amendment jurisprudence.” *Id.* at 761 (internal marks omitted).<sup>10</sup> Indeed, because “the nearly universal prohibition against viewpoint discrimination does not inform an official as to what, precisely, constitutes viewpoint discrimination,” “sweeping statements” about the First Amendment “are not sufficient to deprive a teacher of qualified immunity.” *Id.* Thus, “educators are rarely denied immunity from liability arising out of First-Amendment disputes.” *Id.* at 760.

To defeat the presumption in favor of qualified immunity, Plaintiffs must show: (1) the official “violated a statutory or constitutional right”; and (2) the right was “clearly established at the time.” *Bevill v. Fletcher*, 26 F.4th 270, 275 (5th Cir. 2022). However, judges “are free to decide which prong of the qualified immunity analysis to address first.” *Taylor v. LeBlanc*, 68 F.4th 223,

---

<sup>10</sup> *See also Robertson v. Anderson Mill Elementary Sch.*, 989 F.3d 282, 288 (4th Cir. 2021) (in “gray areas” where the law is “unsettled or murky,” qualified immunity protects actions that are “not clearly forbidden”); *B.H. ex rel. Hawk v. Easton Area Sch. Dist.*, 725 F.3d 293, 308 (3d Cir. 2013) (courts “must take into account” that school officials must often act “suddenly and unexpectedly” based on their experience).

227 (5th Cir. 2023). Substantively, a clearly established right is one “sufficiently clear that every reasonable official would have understood that what he is doing violates that right.” *Mullenix v. Luna*, 577 U.S. 7, 11 (2015). And it is the plaintiff’s burden “to find a case in his favor that does not define the law at a high level of generality.” *Rich v. Palko*, 920 F.3d 288, 294 (5th Cir. 2019). That said, there is no requirement that a case be “directly on point for a right to be clearly established,” but existing precedent must “squarely govern[]” the specific facts at issue to place “the statutory or constitutional question beyond debate.” *Kisela v. Hughes*, 138 S. Ct. 1148, 1152 (2018); *Joseph on behalf of Est. of Joseph v. Bartlett*, 981 F.3d 319, 337 (5th Cir. 2020).<sup>11</sup>

Lastly, “[e]ven if the government official’s conduct violates a clearly established right, the official is nonetheless entitled to qualified immunity if his conduct was objectively reasonable.” *Wallace v. Cnty. of Comal*, 400 F.3d 284, 289 (5th Cir. 2005). “In other words, immunity protects all but the plainly incompetent or those who knowingly violate the law.” *Kisela*, 138 S. Ct. at 1152 (citing *White v. Pauly*, 580 U.S. 73, 79 (2017)).

***1. Plaintiffs have not alleged facts sufficient to prove President Wendler violated a “clearly established right” or that his conduct was “objectively unreasonable.”***

Here, there is no dispute that President Wendler’s action was within the scope of his discretionary authority. Thus, Plaintiffs must demonstrate President Wendler violated their “clearly established rights” to overcome the presumption in favor of qualified immunity. At this MTD Phase, Plaintiffs fall short.

---

<sup>11</sup> The Supreme Court has held that “officials can still be on notice that their conduct violates established law even in novel factual circumstances.” *Hope v. Pelzer*, 536 U.S. 730, 741 (2002). But “*Hope*’s holding historically has been applied to only the ‘rare obvious case,’ involving ‘extreme circumstances,’ or ‘particularly egregious’ misconduct.” *Frasier v. Evans*, 992 F.3d 1003, 1021 (10th Cir. 2021), *cert. denied*, 142 S. Ct. 427 (2021); *see also Morgan I*, 659 F.3d at 373 (*Hope* is limited to “a certain category of ‘obvious’ cases”). This is not the sort of “obvious” case that implicates *Hope* and its progeny. *See, e.g., Taylor v. Riojas*, 141 S. Ct. 52, 53 (2020) (denying qualified immunity to correctional officers where inmate “was left to sleep naked in sewage” for six full days).



Plaintiffs’ best case is a non-binding, forty-year-old opinion concerning a male beauty pageant from the Western District of Oklahoma. *See Norma Kristie, Inc. v. City of Okla. City*, 572 F. Supp. 88, 91 (W.D. Okla. 1983). But *Norma Kristie* is distinguishable for at least three reasons. First, it is not a campus case and therefore cannot clearly establish the rights of students on campus beyond debate. *See, e.g., Doe v. Silsbee Indep. Sch. Dist.*, 440 Fed. Appx. 421, 427 (5th Cir. 2011) (per curiam) (“It is also well settled that students’ First Amendment rights are curtailed while in school.”). Second, the defendants in *Norma Kristie* did not produce “a shred of evidence that the pageant includes depictions of sexual conduct” to support their conclusion that the event was “obscene.” *Norma Kristie*, 572 F. Supp at 92. Third, *Norma Kristie*’s holding that the pageant constituted protected “expression” is questionable when applied to the facts of this case. *Id.* at 91.

*a. As presented to President Wendler, the proposed event does not necessarily survive the First Amendment taxonomies that apply in campus settings, where children are in the audience — at least not at this MTD Phase.*

The First Amendment “protects an individual’s right to speak his mind regardless of whether the government considers his speech sensible and well intentioned.” *303 Creative LLC v. Elenis*, 143 S. Ct. 2298, 2312 (2023). Historically, First Amendment jurisprudence countenanced reasonable limits on Free Speech as the alleged expression moved from “thought” to “speech” to “conduct.”<sup>12</sup> Today, First Amendment protection for the latter extends “only to conduct that is inherently expressive.” *Rumsfeld v. F. for Acad. & Institutional Rts., Inc.*, 547 U.S. 47, 66 (2006).<sup>13</sup>

<sup>12</sup> *See, e.g.,* Jud Campbell, *Natural Rights and the First Amendment*, 127 YALE L. J. 246, 256 (2017) (“There is no evidence, for instance, that the Founders denied legislative authority to regulate expressive conduct in promotion of the public good — a principle that runs contrary to countless *modern* decisions.”) (emphasis added); *id.* at 286 n.188; *see also O’Brien*, 391 U.S. at 376 (articulating and applying a four-part test for judging the validity of content-neutral regulations that incidentally impact expression); *Doe v. City of Lafayette, Ind.*, 377 F.3d 757, 765 (7th Cir. 2004) (“[R]egulations aimed at conduct which have only an incidental effect on thought do not violate the First Amendment’s freedom of mind mandate.”).

<sup>13</sup> *See, e.g., Schultz v. City of Cumberland*, 228 F.3d 831, 841 (7th Cir. 2000) (“In most cases, the government may regulate conduct without regard to the First Amendment because most conduct carries no expressive meaning of First Amendment significance.”).

“In deciding whether particular conduct possesses sufficient communicative elements to bring the First Amendment into play,” this Court must ascertain whether “[a]n intent to convey a particularized message was present, and [whether] the likelihood was great that the message would be understood by those who viewed it.” *Johnson*, 491 U.S. at 404. Courts have “considered the context in which it occurred,” and whether “[t]he expressive, overtly political nature of th[e] conduct was both intentional and overwhelmingly apparent.” *Id.* at 405–06. And while “[i]t is possible to find some kernel of expression in almost every activity a person undertakes . . . such a kernel is not sufficient to bring the activity within the protection of the First Amendment.” *City of Dallas v. Stanglin*, 490 U.S. 19, 25 (1989). Accordingly, a party must advance more than a mere “plausible contention” that its conduct is expressive. *Church of Am. Knights of the KKK v. Kerik*, 356 F.3d 197, 205 (2d Cir. 2004) (holding that white masks worn by Klan members have no independent expressive value).<sup>14</sup>

Though apparel and attire “are certainly a way in which people express themselves, clothing as such is not — not normally at any rate — constitutionally protected expression.” *Brandt v. Bd. of Educ. of City of Chi.*, 480 F.3d 460, 465 (7th Cir. 2007) (Posner, J.).<sup>15</sup>

---

<sup>14</sup> Notably, the Supreme Court “did not alter these standards” in subsequent cases. *Kerik*, 356 F.3d at 205 n.6 (“While we are mindful of *Hurley*’s caution against demanding a narrow and specific message before applying the First Amendment, we have interpreted *Hurley* to leave intact the Supreme Court’s test for expressive conduct in *Texas v. Johnson*.”) (citing *Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Bos.*, 515 U.S. 557, 569 (1995)). Importantly, *Hurley* only “disallowed compelled, participatory speech,” and does not extend to circumstances “where a speaker in a public forum seeks only to be heard, not to have his speech included or possibly confused with another’s, and has not violated a valid statute or ordinance.” *Startzell v. City of Phila., Pa.*, 533 F.3d 183, 194 (3d Cir. 2008); *Gathright v. City of Portland, Or.*, 439 F.3d 573, 578 (9th Cir. 2006); see also *Kleinman v. City of San Marcos*, 597 F.3d 323, 327 (5th Cir. 2010) (sharing the Second Circuit’s post-*Hurley* “skepticism that the heavy machinery of the First Amendment is to be deployed in every case involving visual non-speech expression”). It is therefore not the case that “[b]allet, orchestra, paintings, sculptures, saluting, kneeling in prayer, kneeling in protest, photography, and even opera would lack First Amendment protection” if “President Wendler had his way.” ECF No. 45 at 20. Axiomatically, these actions either “convey a particularized message” or are “works of fine art.” *Johnson*, 491 U.S. at 404; *Kleinman*, 597 F.3d at 327.

<sup>15</sup> See also *Blau v. Fort Thomas Pub. Sch. Dist.*, 401 F.3d 381, 390 (6th Cir. 2005) (the First Amendment does not protect “vague and attenuated” notions of self-expression); *Zalewska v. Cnty. of Sullivan, N.Y.*, 316 F.3d 314, 320 (2d Cir. 2003) (“[A] person’s choice of dress or appearance in an ordinary context does not possess the communicative elements necessary to be considered speech-like conduct entitled to First Amendment protection.”); *Canady v. Bossier*



Instead, courts have applied Free Speech protection to manners of dress only when and where the context “establish[es] that an unmistakable communication is being made.” *Edge v. City of Everett*, 929 F.3d 657, 668 (9th Cir. 2019) (“Because wearing pasties and g-strings while working at Quick-Service Facilities is not ‘expressive conduct’ within the meaning of the First Amendment, the Dress Code Ordinance does not burden protected expression.”); *Edge v. City of Everett*, 291 F. Supp. 3d 1201, 1204 (W.D. Wash. 2017). Thus, the Ninth Circuit rejected the argument that scantily clad baristas conveyed a Free Speech-protected message of “fearless body acceptance and freedom from judgment.” *Edge*, 291 F. Supp. 3d at 1204. And consequently, at this point in Free Speech jurisprudence, it is not clearly established that all “drag shows” are categorically “expressive conduct.” *See Edge*, 929 F.3d at 669.

Furthermore, as Plaintiffs admit, some drag shows “are intentionally risqué, some comedic, some outlandish, and some would not give a moment’s pause to a Motion Picture Association reviewer.” ECF No. 28 at 18. Accordingly, an objective viewer observing biological men “performing” while dressed in attire stereotypically associated with women — without accompanying political speech or dialogue — would not necessarily discern an “unmistakable” or “overwhelmingly apparent” communication of “LGBTQ+ rights.” *Id.* at 17.<sup>16</sup> For example, persons viewing “male football players posing in cheerleader skirts” or the drag scene from the 1943 film “This is the Army” are unlikely to discern a political message. *Id.* And even if

---

*Par. Sch. Bd.*, 240 F.3d 437, 440 (5th Cir. 2001) (“[A] male student’s choice of hair length [does] not convey sufficient communicative content to warrant First Amendment coverage.”); *Stephenson v. Davenport Cmty. Sch. Dist.*, 110 F.3d 1303, 1307 n.4 (8th Cir. 1997) (upholding school’s ban on students displaying gang tattoos because the tattoos were “nothing more than ‘self-expression’”); *Star v. Gramley*, 815 F. Supp. 276, 279 (C.D. Ill. 1993) (“[T]he plaintiff has no ‘clearly established’ right to cross-dress . . . .”); *but see A.A. ex rel. Betenbaugh v. Needville Indep. Sch. Dist.*, 701 F. Supp. 2d 863, 882 (S.D. Tex. 2009), *aff’d*, 611 F.3d 248 (5th Cir. 2010) (“A.A.’s braids convey a particularized message of his Native American heritage and religion.”) (emphasis added).

<sup>16</sup> *See Rumsfeld*, 547 U.S. at 66 (“The fact that such explanatory speech is necessary is strong evidence that the conduct at issue here is not so inherently expressive that it warrants protection . . . .”); *Voting for Am., Inc. v. Steen*, 732 F.3d 382, 388 (5th Cir. 2013) (“Conduct does not become speech for First Amendment purposes merely because the person engaging in the conduct intends to express an idea.”).

explanatory speech could aid Plaintiffs, the context of this show does not help. That is because an observer may not discern that the performers' conduct communicates "advocacy in favor of LGBTQ+ rights." *See Tagami v. City of Chi.*, 875 F.3d 375, 378 (7th Cir. 2017) (Sykes, J.) (rejecting argument that a woman's public nudity in the context of "GoTopless Day" communicated a message of political protest against gender-specific standards of public decency because such message was not "overwhelmingly apparent" to onlookers).

Plaintiffs cite *Schacht v. United States* to argue the First Amendment affords protection whenever "people get on stage and perform." 398 U.S. 58, 63 (1970). But *Schacht*'s holding turned on core political speech — specifically, the "right openly to criticize the Government during a dramatic performance." *Id.* There, the "preparation and repeated presentation by amateur actors of a short play designed to create in the audience an understanding of and opposition to our participation in the Vietnam War." *Id.* at 61. Thus, core *political* speech was at issue — not mere expressive conduct and certainly not *sexualized* expressive conduct. Similar facts have not been alleged in this case.

Additionally, the Supreme Court's decision in *Schad v. Borough of Mount Ephraim* is unavailing. 452 U.S. 61, 76 (1981). There, the Court held unconstitutionally overbroad an ordinance banning "all live entertainment, including nonobscene nude dancing . . . otherwise protected by the First Amendment." *Id.* at 76 (emphasis added); *see also Fowler v. Bd. of Educ. of Lincoln Cnty., Ky.*, 819 F.2d 657, 664 n.8 (6th Cir. 1987) ("[I]n determining whether a given type of entertainment is protected by the First Amendment, [courts] look to the kind of entertainment involved and the appropriateness of the entertainment under the circumstances such as the time and place where offered."); *Jones v. Schneiderman*, 974 F. Supp. 2d 322, 334 n.4 (S.D.N.Y. 2013) (*Schad* "did not categorically hold that all 'live entertainment' qualifies for First Amendment



protection.”). Unlike *Schad*, *Fowler*, or *Schneiderman*, there are no overbreadth issues or arguments in this case.

Furthermore, Plaintiffs miscite and misread *Se. Promotions, Ltd. v. Conrad*, 420 U.S. 554 (1975). Like *Norma Kristie*, *Conrad* concerned a controversial show on municipal property — not a university campus. *Id.* at 556. And the show was a “rock musical” rather than a “drag show,” or what the Supreme Court characterized as “live drama.” *Id.* at 557. Specifically, the performance entailed “the acting out — or singing out — of the written word,” and “mixe[d] speech with live action or conduct.” *Id.* at 557–58. Lastly, *Conrad* “predate[s] the Supreme Court’s delineation of limited public fora as a distinct type of government property.” *Celebrity Attractions, Inc. v. Okla. City Pub. Prop. Auth.*, 660 Fed. Appx. 600, 604 (10th Cir. 2016).<sup>17</sup> Thus, *Conrad* cannot establish Plaintiffs’ asserted right “beyond debate.” *Kisela v. Hughes*, 138 S. Ct. 1148, 1152 (2018).

Because men dressed in attire stereotypically associated with women is not “overtly political” in a category of performative conduct that runs the gamut of transvestitism — *e.g.*, *onnagata* in kabuki, Sigma Chi fraternity brothers in a distasteful “ugly woman” contest, *jogappa* priests worshiping Yellamma, and Matt Damon depicting a Yale University thespian in *The Good Shepherd* — it is not clearly established that all drag shows are inherently expressive as defined in *Johnson*. 491 U.S. at 406.<sup>18</sup>

---

<sup>17</sup> See also *Fairchild v. Liberty Indep. Sch. Dist.*, 597 F.3d 747, 758 (5th Cir. 2010) (discussing “traditional and designated public forums,” “limited public forums,” and “nonpublic forums”). “Regulation of speech in traditional or designated public forums must pass strict scrutiny with a compelling state interest and narrow tailoring.” *Id.* But the government may restrict speech in *limited* public forums if the regulation “(1) does not discriminate against speech on the basis of viewpoint and (2) is reasonable in light of the purpose served by the forum.” *Id.*

<sup>18</sup> *Norma Kristie* also undermines Plaintiffs’ argument. To the extent the pageant in *Norma Kristie* can be equated with present-day drag shows, the court noted female impersonations by males “may not be necessarily equated with homosexuality.” 572 F. Supp. at 92. Thus, at this MTD Phase, it is unclear how drag shows unmistakably communicate advocacy for LGBT+ rights. See, *e.g.*, GAYS AGAINST GROOMERS, <https://www.gaysagainstgroomers.com/about> (“The overwhelming majority of gay people . . . directly oppose[] the sexualization and indoctrination of children. This includes drag queen story hours [and] drag shows involving children.”).

b. *President Wendler's conduct was not "objectively unreasonable."*

But even if the First Amendment is implicated, President Wendler knew of potential lewdness, which is prohibited under school policy. ECF No. 37 at 7 (prohibiting “[p]ublic behavior that is disruptive, lewd, or indecent”) (alteration in original).<sup>19</sup> And the First Amendment does not prevent school officials from restricting “vulgar and lewd” conduct that would “undermine the school’s basic educational mission” — particularly in settings where children are physically present. *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675, 685 (1986); *Sasser v. Bd. of Regents of Univ. Sys. of Ga.*, No. 21-14433, 2023 WL 2446720, at \*5 (11th Cir. Mar. 10, 2023).<sup>20</sup> Here, Plaintiffs advised President Wendler the event would be open to children. ECF No. 28 at 18. Although Plaintiffs attest the show was rated “PG-13” — a term undefined by Plaintiffs but presumably based on the familiar Motion Picture Association (“MPA”) ratings<sup>21</sup> — contemporaneous media accounts of similarly advertised events reflect a range of highly sexualized content.<sup>22</sup>

---

<sup>19</sup> Sex-specific conduct is often subject to lesser protections under the First Amendment. *See, e.g., City of Erie v. Pap's A.M.*, 529 U.S. 277, 295 (2000) (“[T]here is nothing objectionable about a city passing a general ordinance to ban public nudity even though such a ban may place incidental burdens on some protected speech”) (internal marks omitted); *Miller v. California*, 413 U.S. 15, 26 (1973) (“At a minimum, prurient, patently offensive depiction or description of sexual conduct must have serious literary, artistic, political, or scientific value to merit First Amendment protection.”); *Schultz*, 228 F.3d at 841 (“[A] general prohibition on all public nudity receives intermediate scrutiny, rather than strict scrutiny, when the government offers as its legislative justification the suppression of public nudity’s negative secondary effects.”)

<sup>20</sup> “While the Court ‘made clear that students do not ‘shed their constitutional rights to freedom of speech or expression at the schoolhouse gate,’ the Court also held in *Bethel* that ‘the constitutional rights of students in public school are not automatically coextensive with the rights of adults in other settings.’” *Sasser*, WL 2446720, at \*5 (cleaned up). This makes it “all the more obvious that the law in this area is not so clearly established to put [President Wendler] on notice so as to defeat qualified immunity.” *Sasser*, WL 2446720, at \*5.

<sup>21</sup> The Classification and Ratings Administration brochure published by the predecessor MPAA defines “PG” to include “violence or brief nudity” and the stronger “PG-13” label communicates a “stronger caution for parents” that the content includes “stronger language, extended violence or sexual situations and drug-use.” Kendra Moyses, *What do Movie Ratings Mean?*, MICH. STATE UNIV. EXTENSION (Sept. 27, 2017), [https://www.canr.msu.edu/news/what\\_do\\_movie\\_ratings\\_mean](https://www.canr.msu.edu/news/what_do_movie_ratings_mean). Today, MPA states that “[a] PG-13 motion picture may go beyond the PG rating in theme, violence, nudity, sensuality, language, adult activities or other elements . . . .” *Classification and Rating Rules*, MOTION PICTURE ASS’N INC. 6–7 (July 24, 2020), [https://www.filmratings.com/content/downloads/rating\\_rules.pdf](https://www.filmratings.com/content/downloads/rating_rules.pdf).

<sup>22</sup> *See, e.g., Christopher F. Rufo, The Real Story Behind Drag Queen Story Hour*, CITY J. (Oct. 2022) <https://www.city-journal.org/the-real-story-behind-drag-queen-story-hour> (collecting stories).



Although the Court infers in Plaintiffs' favor that the show would not have been lewd, Plaintiffs do not allege President Wendler was *aware* of their efforts to purge lewdness. *See* ECF No. 28 at 18; *Brown v. Callahan*, 623 F.3d 249, 253 (5th Cir. 2010) (“A qualified immunity defense alters the usual summary judgment burden of proof.”). Additionally, Plaintiffs selected an emcee whose past performances were arguably inappropriate for children of any age: Myss Myka’s performance involved “stimulated stripping (and accepting money from audience members as if he were a stripper), simulated masturbation, bouncing feminine breasts (possibly prosthetic, possibly not), and frequent presentation of his barely covered crotch.” ECF No. 37 at 6.<sup>23</sup>

“[T]here is a compelling interest in protecting the physical and psychological well-being of minors.” *Sable Commc'ns of Ca., Inc. v. F.C.C.*, 492 U.S. 115, 126 (1989); *see also New York v. Ferber*, 458 U.S. 747, 757 (1982) (“The prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance.”). Thus, even if clearly established rights were violated, President Wendler’s decision was still “objectively reasonable.” *Wallace*, 400 F.3d at 289.

*c. Plaintiffs misstate and misapply the remaining First Amendment cases.*

Plaintiffs cite *Papish v. Bd. of Curators of Univ. of Mo.*, which involved a campus newspaper and a political cartoon “depicting policemen raping the Statue of Liberty and the Goddess of Justice.” 410 U.S. 667, 667 (1973). There, the Supreme Court held that “the mere dissemination of ideas — no matter how offensive to good taste — on a state university campus may not be shut off in the name alone of ‘conventions of decency.’” *Id.* at 670. But *Papish* cannot clearly establish Plaintiffs’ asserted right because “[t]he government generally has a freer hand in restricting expressive *conduct* than it has in restricting the written or spoken word.” *Johnson*, 491

---

<sup>23</sup> *See* Elies Baltimore, *Myss Myka Performing 2-24-23*, YouTube (Feb. 27, 2023), <https://www.youtube.com/watch?v=QR9BjFpPeK0>.

U.S. at 406. (emphasis added). That a school newspaper cannot censor political cartoons does not “clearly establish” a right to parade Myss Myka’s “barely covered crotch” before an audience that includes children arrayed in a limited public forum. ECF No. 37 at 6. And it was offensive conduct that President Wendler’s email purported to restrict — not offensive ideas or political messages. In fact, President Wendler expressly supported the “noble cause” of raising funds for LGBT+ suicide prevention. *See* ECF No. 28-1 at 2, 4 (“Supporting The Trevor Project is a good idea. My recommendation is to skip the show and send the dough.”).<sup>24</sup>

Next, Plaintiffs cite *IOTA XI Chapter of Sigma Chi Fraternity v. George Mason Univ.*, 993 F.2d 386 (4th Cir. 1993). But this too did not concern a “drag show.” *Sigma Chi* involved a male fraternity’s “ugly woman contest” — “an exercise of teenage campus excess” with an “obvious sophomoric nature.” *Id.* at 389. In the university’s view, the problem was not the conduct itself. Rather, “the message conveyed” by the contest “ran counter to the views” the university promoted: “racial integration and gender neutrality.” *Id.* at 392–93. Accordingly, the court applied *Johnson* and found a message “likely to be understood” by the audience — “that racial and sexual themes should be treated lightly.” *Id.* at 391–92. Additionally, the school issued sanctions that “included suspension from all activities for the rest of the 1991 spring semester,” “a two-year prohibition on all social activities,” and “required Sigma Chi to plan and implement an educational program addressing cultural differences, diversity, and the concerns of women.” *Id.* at 388. Thus, the question was not whether Sigma Chi had an unqualified constitutional right to dress members in outlandish and stereotypically female attire. *Id.* The question was whether the school could punish

---

<sup>24</sup> For similar reasons, President Wendler’s action does not constitute “viewpoint discrimination” because it does not discriminate based on “the specific motivating ideology or the opinion or perspective of the speaker.” *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995); *see also Robertson*, 989 F.3d at 290 (rejecting argument that school principal’s refusal to include a student’s LGBT-themed essay in a class essay booklet was viewpoint discrimination).



the fraternity “because its boorish *message* had interfered with the described University mission.” *Id.* at 392. But here, Plaintiffs have not been sanctioned by President Wendler. And it is the conduct contained in the fundraiser that President Wendler identified as the problem — not the message. ECF No. 28-1 at 3.

Plaintiffs next turn to the Fourth Circuit case, *Berger v. Battaglia*, 779 F.2d 992 (4th Cir. 1985). There, the issue was whether “the Baltimore Police Department could condition the continued employment of one of its police officers upon his cessation of off-duty public entertainment performances in blackface that members of Baltimore’s black community found offensive.” *Id.* at 993. Hence, *Berger* involved neither drag shows nor campuses, but instead the heavily regulated public employee sector.<sup>25</sup> And indeed, *Berger*’s only real similarity to this case is that it broadly concerned a form of entertainment some members of the community found offensive. But it cannot clearly establish Plaintiffs’ asserted right when it otherwise involved different facts and a different body of First Amendment case law.

Finally, Plaintiffs cite the Supreme Court’s decision in *Widmar v. Vincent*, 454 U.S. 263 (1981). This too misses the mark. *Widmar* only addressed content-based exclusions of religious speech in an “open forum” on campus. *Id.* at 265. It does not clearly establish a right to conduct a drag show on campus in a yet-to-be-determined forum — though First Amendment practitioners rarely miss an opportunity to drop a *Widmar* quote out of context.

Plaintiffs thus fail to clearly establish a First Amendment right to conduct a “PG-13” drag show with performers like Myss Myka at a designated or limited public forum on a university campus in front of children. None of these cases involved drag shows of the type that have become increasingly controversial. And, except for *Conrad*, none involved potentially lewd conduct.

---

<sup>25</sup> See *Adams by & through Kasper v. Sch. Bd. of St. Johns Cnty.*, 57 F.4th 791, 808 (11th Cir. 2022) (“[T]he school is not the workplace.”).

Nor are they especially helpful in addressing the limits of reasonable “time, place, and manner” restrictions on indecent conduct or ways school officials might justify restrictions on protected forms of expression.<sup>26</sup> Critically, even if the lower court cases were directly on point, it would be “insufficient to create a robust consensus” that would clearly establish the asserted constitutional right beyond debate. *Morrow v. Meachum*, 917 F.3d 870, 879–80 (5th Cir. 2019) (recognition of a doctrine in *six circuits* is insufficient).<sup>27</sup>

Plaintiffs lament that President Wendler’s email states he will not allow the drag show “even when the law of the land appears to require it.” *See* ECF No. 28-1 at 4. But for reasons explained, that law is not “clearly established” — if it is indeed the law at all. To the extent President Wendler’s statement conveys a belief that there is a clearly established right and is not an expression of “confusion typical of many Americans” on what the Constitution requires, his statement is incorrect and therefore irrelevant. *See* ECF No. 52 at 8; *Messerschmidt v. Millender*, 565 U.S. 535, 546 (2012) (the inquiry “generally turns on the objective legal reasonableness of the action”) (internal marks omitted).

---

<sup>26</sup> *See, e.g., Littlefield v. Forney Indep. Sch. Dist.*, 268 F.3d 275, 286 (5th Cir. 2001) (assuming without deciding that a school uniform policy restricted “expressive conduct” but finding “little difficulty” in deeming it constitutional).

<sup>27</sup> For the same reasons, two district court cases cannot clearly establish a constitutional right to defeat qualified immunity. And even if they could, these cases established the law *after* President Wendler denied Plaintiffs’ application. *See Porter v. Epps*, 659 F.3d 440, 445 (5th Cir. 2011) (the defendant’s actions must be objectively unreasonable “at the time of the violation”). Plaintiffs first cite a district court’s holding that a Tennessee statute “criminaliz[es] the performance of ‘adult cabaret entertainment’ in ‘any location where the adult cabaret entertainment could be viewed by a person who is not an adult’” is unconstitutional. *Friends of Georges, Inc. v. Mulroy*, No. 2:23-CV-02163-TLP-TMP, 2023 WL 3790583, at \*1 (W.D. Tenn. June 2, 2023). The court mentioned *Johnson* but otherwise provided no analysis on why restrictions on drag shows necessarily restrict “expressive conduct.” *Id.* at \*18. Additionally, *Mulroy* is distinguishable because it: (1) involved restrictions on “indecent but not obscene” conduct (*i.e.*, erotic dancing), whereas Plaintiffs’ show was purportedly non-lewd; (2) is not a school campus case; and (3) was decided on vagueness and overbreadth grounds. *Id.* at \*19. Likewise, *S. Utah Drag Stars v. City of St. George* is distinguishable for similar reasons. No. 4:23-CV-00044-DN-PK, 2023 WL 4053395, at \*2 (D. Utah June 16, 2023). There, the court held that drag shows are “indisputably protected speech” but did not explain why. *Id.* at \*20. Instead, the court boldly declared contrary arguments “do not merit discussion.” *Id.*



For the foregoing reasons, President Wendler did not violate Plaintiffs' clearly established rights and is therefore entitled to qualified immunity.<sup>28</sup> Accordingly, Plaintiffs' damages claim against President Wendler in his individual capacity must be dismissed.

**B. Sovereign Immunity Does Not Bar Plaintiffs' Claims for Prospective Relief Against President Wendler in His Official Capacity**

Qualified immunity is “an immunity from suit rather than a mere defense to liability.” *Pearson v. Callahan*, 555 U.S. 223, 237 (2009). Still, the defense is not available “where injunctive relief is sought instead of or in addition to damages.” *Id.* at 242. However, the Eleventh Amendment generally bars federal courts from telling state officials “‘how to conform their conduct to state law’ — for one can hardly imagine ‘a greater intrusion on state sovereignty.’” *Planned Parenthood Gulf Coast, Inc. v. Phillips*, 24 F.4th 442, 450 (5th Cir. 2022) (citing *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 106 (1984)).

One exception to sovereign immunity is where a lawsuit against a state official in his official capacity “seeks prospective relief to redress an ongoing violation of federal law.” *Id.* at 451 (citing *Williams ex rel. J.E. v. Reeves*, 954 F.3d 729, 736 (5th Cir. 2020)). For *Ex parte Young* to apply, three criteria must be satisfied: (1) a plaintiff must name individual state officials as defendants in their official capacities; (2) the plaintiff must allege an ongoing violation of federal law; and (3) the relief sought must be properly characterized as prospective. *Id.*

“[A] complaint must allege that the defendant *is violating* federal law, not simply that the defendant has done so.” *NiGen Biotech, L.L.C. v. Paxton*, 804 F.3d 389, 394 (5th Cir. 2015). “This requirement is similar but not identical to the Article III minimum for standing to request an

---

<sup>28</sup> See *Radwan v. Manuel*, 55 F.4th 101, 122 (2d Cir. 2022) (“In light of the absence of a decision by the Supreme Court or this Court on the application of the First Amendment . . . as well as the lack of any consensus among other courts on this issue, we conclude that the defendants are entitled to qualified immunity.”); *Abbott v. Pastides*, 900 F.3d 160, 175 (4th Cir. 2018) (“At a minimum, the University defendants were not on clear notice . . .”).

injunction, which requires ongoing harm or a threat of imminent harm.” *Id.* at 394 n.5 (citing *City of L.A. v. Lyons*, 461 U.S. 95, 105 (1983)); see also *Air Evac EMS, Inc. v. Tex. Dep’t of Ins. Div. of Workers’ Comp.*, 851 F.3d 507, 513–14 (5th Cir. 2017) (“[T]here is significant overlap between standing and *Ex parte Young*’s applicability.”). Accordingly, “when there is no ongoing or impending violation of federal law, a federal court may not issue declaratory or ‘notice’ relief, even though that relief would be ‘prospective’ and would not require payments from the state treasury.” *Watkins v. Blinzinger*, 789 F.2d 474, 484 (7th Cir. 1986) (Easterbrook, J.). Lastly, in determining whether *Ex parte Young* applies, a court need only conduct a “straightforward inquiry into whether the complaint alleges an ongoing violation of federal law and seeks relief properly characterized as prospective.” *Phillips*, 24 F.4th at 451 (cleaned up).

The Court need not accept allegations of ongoing harm at face value; the allegations must be plausible.<sup>29</sup> Here, a plausible reading of the facts might suggest Plaintiffs’ only evidence of harm is a single letter distributed via email. And because Plaintiffs’ other requests have been approved since President Wendler’s denial — including drag show practice — there are arguably no “ongoing consequences of past violations of federal rights.” *Rep. of Paraguay v. Allen*, 134 F.3d 622, 628 (4th Cir. 1998); ECF No. 39-1 at 4. However, the Court at this stage must view the facts in a light most favorable to Plaintiffs. And President Wendler’s email unequivocally declares the university “will not” host a drag show because a harmless drag show is “[n]ot possible.” ECF

---

<sup>29</sup> See, e.g., *Allen v. Cooper*, 895 F.3d 337, 354 (4th Cir. 2018), *aff’d*, 140 S. Ct. 994 (2020) (suggesting the possibility of future infringement “does not plausibly allege the existence of an ongoing violation of federal law”); *Cantu Servs., Inc. v. Roberie*, 535 Fed. Appx. 342, 345 (5th Cir. 2013) (“Despite its facial pleading, the question remains whether Cantu alleged an ongoing federal law violation.”); *DeBauche v. Trani*, 191 F.3d 499, 505 (4th Cir. 1999) (Allegations that the plaintiff “will be excluded from future debates do not, as a matter of law, allege an ongoing violation of federally-protected rights. Instead, they amount to conjecture regarding discrete future events. Mere conjecture is insufficient to transform a one-time event into a continuing governmental practice or an ongoing violation.”); *Stanley v. Gallegos*, No. CV 11-1108 GBW/JHR, 2018 WL 3801247, at \*6 (D.N.M. Aug. 9, 2018) (“The so-called ‘straightforward inquiry’ into whether Plaintiff has alleged an ongoing violation of federal law is in fact quite a thorny question in practice . . .”).



No. 28-1 at 2, 4. Thus, Plaintiffs' allegations are sufficient to satisfy the "ongoing violation" prong of the *Ex parte Young* inquiry. See *Freedom from Religion Found. v. Abbott*, 955 F.3d 417, 424–25 (5th Cir. 2020) (holding the plaintiff alleged an "ongoing violation" of federal law where defendants sent a letter to plaintiffs stating any future applications will be denied). Therefore, Plaintiffs' claims for injunctive relief against President Wendler in his official capacity are not barred by sovereign immunity. Accordingly, the Court **DENIES** Wendler's Motion **IN PART** and turns to Defendants' Motion.

### **C. Plaintiffs Lack Standing Against the Board of Regent Defendants**

The judicial power of federal courts is limited to certain "Cases" and "Controversies." U.S. CONST. art. III, § 2. This case-or-controversy requirement requires a plaintiff to establish he has standing to sue. *Cibolo Waste, Inc. v. City of San Antonio*, 718 F.3d 469, 473 (5th Cir. 2013). To have standing, the party invoking federal jurisdiction must show: "(i) that he suffered an injury in fact that is concrete, particularized, and actual or imminent; (ii) that the injury was likely caused by the defendant; and (iii) that the injury would likely be redressed by judicial relief." *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2203 (2021). Courts should assess whether the alleged injury to the plaintiff has a "close relationship" to harm "traditionally" recognized as providing a basis for a lawsuit in American courts. *Id.* at 2204. "[S]tanding is not dispensed in gross; rather, plaintiffs must demonstrate standing for each claim that they press and for each form of relief that they seek (for example, injunctive relief and damages)." *Id.* at 2208. And because vicarious liability is inapplicable to § 1983 suits, "a plaintiff must plead that each Government-official defendant, through the official's own individual actions, has violated the Constitution." *Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009).

Aside from President Wendler, Plaintiffs also sued Vice President of Student Affairs Christopher Thomas (“Dr. Thomas”), Chancellor John Sharp, and each member of the Board of Regents (“Board Defendants”) (collectively, “WT Defendants”). ECF No. 28 at 6–8. Here, parties quarrel over whether WT Defendants: (1) had any part in President Wendler’s decision; (2) have any authority — individually or collectively — to overrule that decision; and (3) are imminently likely to prevent a second drag show. The Court finds that Plaintiffs have standing against Dr. Thomas and Chancellor Sharp but not against the Board Defendants.

To begin, Plaintiffs allege Dr. Thomas enforced President Wendler’s directive and is likely to enforce any future directives. *See* ECF No. 28 at 32; *Speech First, Inc. v. Fenves*, 979 F.3d 319, 336 (5th Cir. 2020) (“Past enforcement of speech-related policies can assure standing . . .”). Likewise, President Wendler is “[s]ubject to, and under the general authority of” Chancellor Sharp. TEX. A&M UNIV. SYS., SYS. POL’Y 02.05. Chancellor Sharp is responsible for “supervis[ing] the implementation” of “basic policies,” making recommendations for policies to the Board, and has been “delegated authority to do all things necessary to fulfill such responsibility.” TEX. A&M UNIV. SYS., SYS. POL’Y 02.02. Chancellor Sharp has a “history of involving himself in university free speech matters,” ECF No. 45 at 36, but as Plaintiffs note, he did not override or “even denounce[]” President Wendler’s letter. ECF No. 45 at 35. Thus, Plaintiffs persuasively plead an apparent disconnect in university policy: under Chancellor Sharp’s leadership, the Texas A&M University System is a national leader in LGBT advocacy, with the College Station flagship hosting “Lavender Graduation,” “Coming Out Monologues,” and “Draggieland” events at its LGBTQ+ Pride Center; yet affiliate WT charts a different course — at least in this case.<sup>30</sup>

---

<sup>30</sup> *See generally* Student Life, *LGBTQ+ Pride Center*, TEX. A&M UNIV., [@draggieland](https://studentlife.tamu.edu/lgbtq;draggieland), INSTAGRAM, [www.instagram.com/draggieland/](https://www.instagram.com/draggieland/) (last viewed on Sept. 15, 2023).



“At earlier stages of litigation,” the “manner and degree of evidence required to show standing is less than at later stages.” *Fenves*, 979 F.3d at 329. It does not “appear[] certain” at this MTD Phase that Plaintiffs “cannot prove any set of facts” in support of their claim that would entitle them to relief. *Home Builders Ass’n*, 143 F.3d at 1010. In other words, “it is plausible” that Chancellor Sharp and Dr. Thomas have some connection to President Wendler’s edict. *Haverkamp v. Linthicum*, 6 F.4th 662, 671 (5th Cir. 2021).<sup>31</sup> While the Court understands Chancellor Sharp’s contention that he did not make the decision to cancel the previously scheduled drag show, he does hold the authority to permit or deny future ones. And because neither side has adequately shown that Chancellor Sharp and Dr. Thomas have no role in this case, the Court declines to exclude them at this point. The Court therefore **DENIES** Defendants’ Motion **IN PART**.

The analysis changes for the Board Defendants. Plaintiffs rely exclusively on the fact that the government of the university is “vested” in the Board, which has the power to “make bylaws, rules, and regulations it deems necessary and proper for the government of the university system and its institutions, agencies, and services.” TEX. EDUC. CODE ANN. §§ 85.11, 85.21. But “absent any allegations tying” the Board “to the specific decisions at issue, it cannot be plausibly inferred that” the Board “played any role in the decisions” Plaintiffs challenge as unconstitutional. *Haverkamp*, 6 F.4th at 671.<sup>32</sup> Therefore, Plaintiffs lack standing against the Board Defendants. The Court **GRANTS** Defendants’ Motion **IN PART**.

---

<sup>31</sup> For the same reasons, Chancellor Sharp and Dr. Thomas are not shielded by sovereign immunity from Plaintiffs’ claims for prospective relief. *City of Austin v. Paxton*, 943 F.3d 993, 1002 (5th Cir. 2019) (“[A] finding of standing tends toward a finding that the *Young* exception applies to the state official(s) in question.”).

<sup>32</sup> See also *Schwarzer v. Wainwright*, No. 6:18-CV-00034, 2023 WL 2950639, at \*19 (S.D. Tex. Jan. 17, 2023), *report and recommendation adopted*, No. 6:18-CV-00034, 2023 WL 2645538 (S.D. Tex. Mar. 27, 2023) (“Plaintiff does not allege that any of the Board member defendants participated personally in the decision . . .”).

**D. Plaintiffs' Request for Injunctive Relief Should Be Denied**

To be entitled to a preliminary injunction, Plaintiffs must show “a substantial likelihood of success on the merits,” which is one of the “most significant factors.” *Sells v. Livingston*, 561 Fed. Appx. 342, 343 (5th Cir. 2014); *Louisiana v. Becerra*, 20 F.4th at 262 (5th Cir. 2021). And Plaintiffs must also demonstrate irreparable harm, which is “[p]erhaps the single most important prerequisite for the issuance of a preliminary injunction.” 11A C. Wright, A. Miller, & M. Kane, *Federal Practice and Procedure* § 2948.1 (3d ed.).

Here, Plaintiffs have not demonstrated they are substantially likely to succeed for the same reasons that President Wendler is entitled to qualified immunity. *See Pearson*, 555 U.S. at 236 (“In some cases, a discussion of why the relevant facts do not violate clearly established law may make it apparent that in fact the relevant facts do not make out a constitutional violation at all.”). Even if the denial of the drag show does implicate the First Amendment, Plaintiffs have not demonstrated that the university’s *policy* on drag shows is incapable of surviving intermediate or strict scrutiny. And because Plaintiffs’ irreparable harm argument is predicated on a “clearly established” First Amendment violation, their argument for that factor must fail as well. In any case, Plaintiffs’ second show is not scheduled until March 2024. It is therefore doubtful that Plaintiffs will suffer irreparable harm in the coming months while this issue is litigated.

At this stage of litigation, Plaintiffs cannot prevail by invoking the word “expression,” as if the Free Speech Clause obliterated all logical distinctions separating (1) thought, speech, and conduct, (2) “time, place, and manner,” and (3) children from sexualized conduct. It does not. Of course, Plaintiffs may still ultimately prevail on their request for declaratory relief, but that is a matter for another day. And because these factors are not satisfied, the Court need not reach the other factors requisite for injunctive relief. *See Bluefield*, 577 F.3d at 252–53.



**CONCLUSION**

For the foregoing reasons, the Court **GRANTS** Wendler's Motion and Defendants' Motion **IN PART** and **DENIES** Plaintiffs' Amended Motion.

**SO ORDERED.**

September 21, 2023



---

MATTHEW J. KACSMARYK  
UNITED STATES DISTRICT JUDGE

# Exhibit B

United States Court of Appeals  
for the Fifth Circuit

---

No. 23-10994

---

SPECTRUM WT; BARRETT BRIGHT; LAUREN STOVALL,

*Plaintiffs—Appellants,*

*versus*

WALTER WENDLER; DR. CHRISTOPHER THOMAS; JOHN SHARP;  
ROBERT L. ALBRITTON; JAMES R. BROOKS; JAY GRAHAM; TIM  
LEACH; BILL MAHOMES; ELAINE MENDOZA; MICHAEL J.  
PLANK; CLIFF THOMAS; DEMETRIUS L. HARRELL, JR.;  
MICHAEL A. HERNANDEZ, III,

*Defendants—Appellees.*

---

Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 2:23-CV-48

---

UNPUBLISHED ORDER

Before STEWART, CLEMENT, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:

IT IS ORDERED that Appellants' opposed motion to expedite the appeal is DENIED.

# Exhibit C

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

SPECTRUM WT, *et al.*,

Plaintiffs,

v.

2:23-CV-048-Z

WALTER WENDLER, *et al.*,

Defendants.

**NOTICE**

On January 31, 2024, Plaintiffs moved for an injunction pending appeal (“Plaintiffs’ Motion”) (ECF No. 82). And they further requested that the Court “expedite consideration of this motion for resolution by February 9, 2024.” *Id.* at 2. Defendants oppose the motion and its request for expedited consideration. ECF No. 84.

Pursuant to the Northern District of Texas’s Local Civil Rule 7.1(e), “[a] response and brief to an opposed motion must be filed *within 21 days* from the date the motion is filed.” (emphasis added). That is a longstanding norm and the Court declines to alter it here. Accordingly, Defendants shall respond to Plaintiffs’ Motion **on or before February 21, 2024**.

The Court issues notice accordingly.

February 5, 2024

  
\_\_\_\_\_  
MATTHEW J. KACSMARYK  
UNITED STATES DISTRICT JUDGE

# Exhibit D

***United States Court of Appeals***

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

February 22, 2024

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 23-10994      Spectrum WT v. Wendler  
USDC No. 2:23-CV-48

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk

*Lisa E. Ferrara*

By: \_\_\_\_\_  
Lisa E. Ferrara, Deputy Clerk  
504-310-7675

Mrs. Allison Marie Collins  
Mr. Conor T. Fitzpatrick  
Mr. Samuel Troxell Grover  
Mr. Brian Klosterboer  
Mr. Thomas S. Leatherbury  
Mr. Joseph N. Mazzara  
Mr. JT Morris  
Mr. Peter Steffensen  
Mr. Adam Steinbaugh  
Mr. Jeffrey Daniel Zeman

United States Court of Appeals  
for the Fifth Circuit

---

No. 23-10994

---

SPECTRUM WT; BARRETT BRIGHT; LAUREN STOVALL,

*Plaintiffs—Appellants,*

*versus*

WALTER WENDLER; DR. CHRISTOPHER THOMAS; JOHN SHARP;  
ROBERT L. ALBRITTON; JAMES R. BROOKS; JAY GRAHAM; TIM  
LEACH; BILL MAHOMES; ELAINE MENDOZA; MICHAEL J.  
PLANK; CLIFF THOMAS; DEMETRIUS L. HARRELL, JR.;  
MICHAEL A. HERNANDEZ, III,

*Defendants—Appellees.*

---

Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 2:23-CV-48

---

UNPUBLISHED ORDER

Before JONES, SMITH, and DENNIS, *Circuit Judges.*

PER CURIAM:

IT IS ORDERED that Appellants' opposed motion for injunction pending appeal is CARRIED WITH THE CASE.



# Exhibit E

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION**

SPECTRUM WT, BARRETT BRIGHT,  
and LAUREN STOVALL,

Plaintiffs,

v.

WALTER WENDLER, in his individual  
capacity and his official capacity as the  
President of West Texas A&M University,

CHRISTOPHER THOMAS, in his official  
capacity as Vice President for Student  
Affairs at West Texas A&M University,

JOHN SHARP, in his official capacity as  
Chancellor of the Texas A&M University  
System,

ROBERT L. ALBRITTON, JAMES R.  
BROOKS, JAY GRAHAM, MICHAEL A.  
HERNANDEZ III, TIM LEACH, BILL  
MAHOMES, ELAINE MENDOZA,  
MICHAEL J. PLANK, CLIFF THOMAS,  
and DEMETRIUS L. HARRELL, JR., in  
their official capacities as members of the  
Board of Regents of the Texas A&M  
University System,

Defendants.

Case No.: 2:23-cv-00048

**FIRST AMENDED VERIFIED  
COMPLAINT FOR CIVIL RIGHTS  
VIOLATIONS**

**JURY TRIAL DEMANDED**

**INTRODUCTION**

1. Walter Wendler, President of West Texas A&M University, is openly defying the Constitution. In a published edict, President Wendler barred a recognized student group, Spectrum WT, from exercising its clear First Amendment right to put on a PG-13 charity drag show at a campus event hall with the aim of raising funds for LGBTQ+ suicide prevention. In his edict, President Wendler confessed he is censoring Spectrum WT based on his personal views, and unabashedly admitted that doing so violates the Constitution: “A harmless drag show? Not possible. I will not

appear to condone the diminishment of any group at the expense of impertinent gestures toward another group for any reason, *even when the law of the land appears to require it.*<sup>1</sup>

2. That “law of the land” is the First Amendment to the United States Constitution. And our Constitution prohibits public officials, including public university presidents, from silencing Americans because a public official dislikes certain points of view. Whether students gather on campus to study the Bible, host a political talk, or put on a drag show for charity, the First Amendment prohibits public university officials from suppressing the students’ expression simply because the administrator (or anyone else) finds the message offensive. *Papish v. Bd. of Curators of Univ. of Mo.*, 410 U.S. 667, 670 (1973).

3. President Wendler’s edict is textbook viewpoint discrimination and a prior restraint on student expression. Of course, as a private citizen, President Wendler enjoys the First Amendment right to criticize expression he finds offensive, distasteful, or immoral. But as a public official, he cannot bar Spectrum WT and its members from exercising their First Amendment rights merely because he believes his personal opinions override the Constitution. They don’t. The notion that universities “do not endorse everything they fail to censor is not complicated.” *Bd. of Educ. of Westside Cmty. Schs. v. Mergens ex rel. Mergens*, 496 U.S. 226, 250 (1990) (plurality opinion).

---

<sup>1</sup> A true and correct copy of President Wendler’s edict emailed to the campus is attached to this First Amended Verified Complaint as **Exhibit A** (emphasis added).

4. President Wendler’s betrayal of the First Amendment has caused and continues to cause Spectrum WT and its members irreparable harm. Not only did President Wendler block Spectrum WT’s charity drag show just eleven days before its March 31 scheduled date—after Spectrum WT carefully followed the University’s requirements for campus events—but his edict also makes clear: “West Texas A&M University will not host a drag show on campus.”

5. Not only does the First Amendment prohibit President Wendler’s censorship, so too does the State of Texas, which mandates that a university not “deny [a student] organization any benefit generally available to other student organizations at the institution,” on the basis of the “political, religious, philosophical, ideological, or academic viewpoint expressed by the organization or of any expressive activities of the organization.” Tex. Educ. Code § 51.9315(g).

6. Without injunctive relief from the Court, Spectrum WT will continue to suffer irreparable harm to its First Amendment right to use campus facilities for expressive activity just like other student groups do. The group wishes to proceed with specific events it has planned to hold on campus—including finally holding a charity drag show on campus—that convey a political, ideological, or academic message.

7. But because President Wendler has not rescinded his edict, Plaintiffs cannot organize and host a drag show in campus venues open to recognized student groups or engage in similar expression on campus that Wendler personally deems

offensive or inappropriate. In effect, President Wendler's edict has locked Plaintiffs out of a public forum.

8. And President Wendler's superiors, including the Texas A&M University System Board of Regents and its Chancellor, John Sharp, have not stopped President Wendler from continuing to spurn the First Amendment.

9. Section 1983 empowers federal courts to bring brazen constitutional violations like President Wendler's to a swift end. Plaintiffs file this lawsuit under Section 1983 to protect their expressive freedoms, enjoin Defendants from violating those freedoms, and remedy the constitutional harm Plaintiffs have endured and continue to endure.

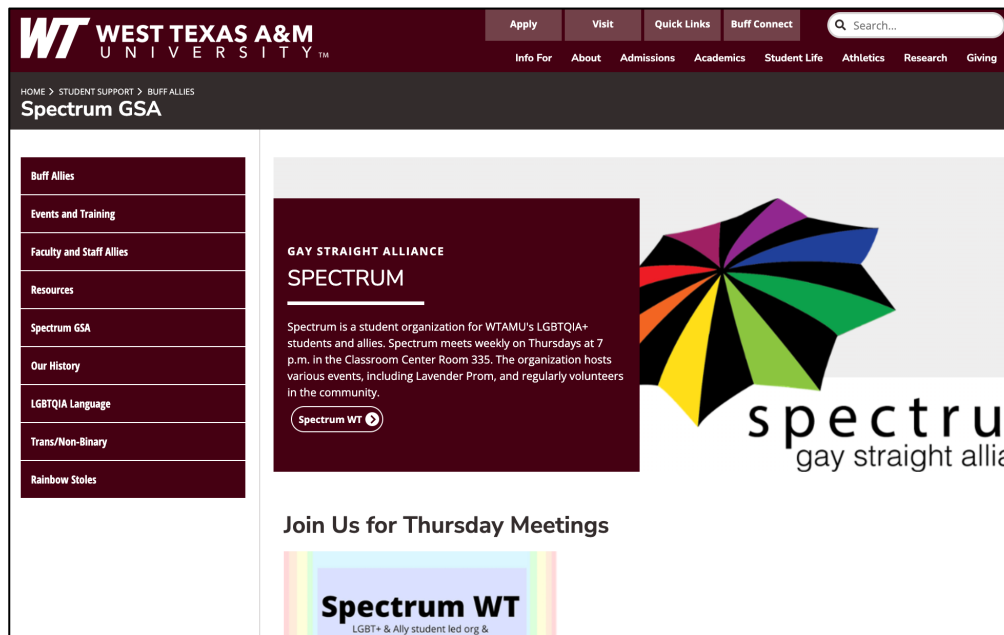
## **PARTIES**

### **The Plaintiffs**

10. Plaintiff Spectrum WT is a recognized student organization in good standing at West Texas A&M University (West Texas A&M). Spectrum WT has around 20 members who are undergraduates and graduate students enrolled at West Texas A&M and has existed since around 2009.

11. Spectrum WT's mission is to "provide a safe space for LGBT+ students and allies to come together," to "raise awareness of the LGBT+ community," and to "promote diversity, support, and acceptance on campus and in the surrounding community."

12. As the West Texas A&M website notes, Spectrum WT is a recognized student organization:<sup>2</sup>



13. In furtherance of its mission, Spectrum WT hosts periodic events, including Lavender Prom, Queer History Night, and Queer Movie Night. In November 2022, Spectrum WT began planning a drag show to raise funds for an LGBTQ+ charity, scheduled for March 31, 2023, which Defendants have now banned from the West Texas A&M campus.

14. Plaintiff Barrett “Bear” Bright, an undergraduate student enrolled at West Texas A&M, is the President of Spectrum WT and thus is the principal student organizer of the charity drag show that West Texas A&M is censoring. Bear intends to participate in future Spectrum WT events, including charity drag shows and other

<sup>2</sup> W. Tex. A&M Univ., *Spectrum GSA*, <https://www.wtamu.edu/student-support/buff-allies/spectrum-gsa.html> [<https://perma.cc/E3P9-792Q>].

events where participants express messaging consistent with Spectrum WT's mission.

15. Plaintiff Lauren "Laur" Stovall is an undergraduate student enrolled at West Texas A&M. Stovall is the Vice President of Spectrum WT and a primary organizer of the charity drag show that West Texas A&M is censoring. Stovall also intends to participate in future Spectrum WT events, including charity drag shows and other events in which participants express messaging consistent with Spectrum's mission.

### **The Defendants**

16. Defendant Walter Wendler is the President of West Texas A&M, a governmental entity under the laws of the State of Texas and governed by the Board of Regents of the Texas A&M University System. As President, Wendler is responsible for administering West Texas A&M and supervising all student programs and services.<sup>3</sup> Wendler has held this post since 2016. Plaintiffs sue President Wendler in his individual capacity only as to Plaintiffs' Fourth Cause of Action for damages. Plaintiffs sue President Wendler in his official capacity as President of West Texas A&M as to the rest of Plaintiffs' claims.

17. Defendant Christopher Thomas is the Vice President of Student Affairs at West Texas A&M. As Vice President, Thomas is the principal authority for the administration of student conduct. In his capacity as Vice President of Student

---

<sup>3</sup> Tex. A&M Univ. Sys., Sys. Pol'y 02.05, *Presidents of Sys. Member Univs.* (Aug. 26, 2021), <https://policies.tamus.edu/02-05.pdf> [<https://perma.cc/M73K-SDTL>].

Affairs, Thomas implemented President Wendler's directive canceling Plaintiffs' event and on-campus drag shows generally. Plaintiffs sue Vice President Thomas in his official capacity as Vice President of Student Affairs at West Texas A&M.

18. Defendant John Sharp is the Chancellor of the Texas A&M University System, a governmental entity under the laws of the State of Texas. As Chancellor, Sharp is the chief executive officer of the Texas A&M University System, endowed with the authority to "do all the things necessary" to ensure the "general management and success of the system," including delegating such duties to subordinate system members. In that role, he is President Wendler's superior and has the power and duty to stop President Wendler from continuing to violate Plaintiffs' constitutional rights, yet he has not done so. Plaintiffs sue Chancellor Sharp in his official capacity as Chancellor of the Texas A&M University System.

19. The Board of Regents of the Texas A&M University System is empowered to make "bylaws, rules, and regulations it deems necessary and proper for the government of the university system and its institutions, agencies, and services." Tex. Educ. Code § 85.21(a). In that role, the Board has the power and duty to stop President Wendler from continuing to violate Plaintiffs' constitutional rights, yet it has not done so.

20. Defendant Tim Leach is Chairman, presiding officer, and a member of the Board of Regents of the Texas A&M University System. Plaintiffs sue Defendant Leach in his official capacity.



21. Defendant Bill Mahomes is Vice Chairman and a member of the Board of Regents of the Texas A&M University System. Plaintiffs sue Defendant Mahomes in his official capacity.

22. Defendants Robert L. Albritton, James R. Brooks, Jay Graham, Michael A. Hernandez III, Elaine Mendoza, Michael J. Plank, Cliff Thomas, and Demetrius L. Harrell, Jr., are the remaining members of the Board of Regents of the Texas A&M University System. Plaintiffs sue each of these members in their official capacities.

23. At all times relevant to the actions in the Complaint, Defendants acted under color of state law.

### **JURISDICTION AND VENUE**

24. This action arises under the First and Fourteenth Amendments to the United States Constitution, 42 U.S.C. § 1983, and the Declaratory Judgments Act, 28 U.S.C. §§ 2201–2202. Thus, this Court has subject matter jurisdiction over these federal causes of action under 28 U.S.C. §§ 1331, 1343.

25. This Court has personal jurisdiction over all defendants because they reside in the State of Texas.

26. Venue is proper in this Court under 28 U.S.C. § 1391(b) because the acts and injuries alleged occurred in and continue to occur in this judicial district, at least one defendant resides in this district, and all defendants are residents of the State of Texas.

## FACTUAL ALLEGATIONS

***West Texas A&M provides venues, funding, and resources to recognized student organizations.***

27. West Texas A&M has established a system for the formal recognition of student organizations.

28. Recognized student organizations are entitled to use university facilities, organizational funds, and administrative support.

29. These facilities include the Jack B. Kelley Student Center (“JBK Student Center”), “the heart of campus life” at West Texas A&M and a “gathering place for students” and student events.<sup>4</sup>

30. West Texas A&M represents that the “venue spaces” in the JBK Student Center are for “student-centered programs and services.”<sup>5</sup>

31. The university also holds out these spaces as “ideal for events, large and small,” including “wedding ceremonies and receptions, rehearsal dinners, milestone celebrations, corporate receptions and conferences, holiday parties, board meetings, and much more.”<sup>6</sup>

---

<sup>4</sup> W. Tex. A&M Univ., *Jack B. Kelley Student Ctr.*, <https://www.wtamu.edu/student-life/jbk-student-center/index.html> [<https://perma.cc/L9UR-H5MB>].

<sup>5</sup> W. Tex. A&M Univ., *Mission Statement*, <https://www.wtamu.edu/student-life/jbk-student-center/jbk-about-us.html> [<https://perma.cc/W8WJ-MRTS>].

<sup>6</sup> W. Tex. A&M Univ., *Events at WTAMU*, <https://www.wtamu.edu/student-life/jbk-student-center/jbk-events.html> [<https://perma.cc/GX9F-EKG9>].

32. To facilitate student and public events in these spaces, West Texas A&M provides resources like audio-visual support, including “light programming, concert sound and more” for “events like[] concerts, press conferences, proms and weddings.”<sup>7</sup>

33. Among the JBK Student Center venue spaces available for use by student organizations (or rental by members of the public) is Legacy Hall, a “multi-purpose room capable of seating” 700 people for theatrical performances.<sup>8</sup>

34. West Texas A&M holds Legacy Hall out as “great for events with bands or live music” or to otherwise “entertain” others.<sup>9</sup>

35. JBK Student Center venue spaces also include the Legends Club, which the university makes available for performances and other events and is “perfect for events open to the public and larger receptions.”<sup>10</sup>

36. In reserving space in the JBK Student Center, student organizations are presented with a list of the “type” of event to be held in this space.

37. According to the list, the types of events that may be held in these spaces include banquets, camps, competitions, concerts, dances, demonstrations, parties,

---

<sup>7</sup> W. Tex. A&M Univ., *Production Servs.*, <https://www.wtamu.edu/student-life/jbk-student-center/JBK%20Production%20Services.html> [<https://perma.cc/V897-DMLB>].

<sup>8</sup> *Mission Statement*, *supra* note 5.

<sup>9</sup> W. Tex. A&M Univ., *Events at WTAMU*, <https://www.wtamu.edu/student-life/jbk-student-center/jbk-events.html> [<https://perma.cc/RK7N-BU9M>].

<sup>10</sup> W. Tex. A&M Univ., *Meeting and Conference Rooms*, <https://www.wtamu.edu/student-life/jbk-student-center/meeting-rooms.html>. [<https://perma.cc/PW4U-K6G5>].

performances, press conferences, programs, receptions, recitals, rehearsals, seminars, and socials.

38. West Texas A&M Policy No. 24.01.01.W0.01 (“Facility Use Request Procedure”) makes the JBK Student Center venue spaces available for “any special event,” including “social gatherings or functions.” A true and correct copy of the policy is attached to this First Amended Verified Complaint as **Exhibit B**.

39. As suggested by the university’s description, student organizations and members of the public use the JBK Student Center spaces, with West Texas A&M’s approval, for a variety of events and expressive activity, including beauty pageants, weddings, church services, concerts, galas, and political events.

40. For example:

- a) Until the pandemic, “University Sing,” a choreographed song-and-dance competition among student organizations, took place each spring semester in Legacy Hall;
- b) Each January, the Randall County Junior Livestock show hosts a fundraising animal auction in Legacy Hall;
- c) In January 2017, a West Texas A&M fraternity held its annual “Miss Black & Gold Scholarship Pageant,” featuring “seven beautiful contestants” competing on stage in Legacy Hall;
- d) In April 2019 and February 2020, a local high school, Ascension Academy, held a “Friendly Feud Gala” in Legacy Hall, featuring a cocktail reception, live auction, and gameshow-style competition;
- e) In May 2019, four local churches held a communal “Community Night of Worship and Prayer,” featuring a live band, in Legacy Hall;
- f) In September 2019, “ONE Marriage & Family Ministries,” a local (non-student) organization which promotes marriage as “a



Covenant between one man and one woman under God,” used Legacy Hall for a ministry event;

- g) In September 2020, the student government at West Texas A&M hosted separate “Congressional Candidate Forum” events in Legacy Hall, featuring speaking engagements by now-Representative Ronny Jackson and Gus Trujillo;
- h) In August 2022, Legacy Hall featured a concert by “The Band Monarch,” a local rock and country music group;
- i) In October 2022, a sorority held “Big Man on Campus,” a “male beauty pageant” onstage in Legacy Hall;
- j) On November 8, 2022, a student organization held a “Yule Ball” banquet in Legacy Hall;
- k) On November 15, 2022, Ceta Canyon—a Christian camp and retreat center that promotes a traditional view of marriage—hosted a fundraiser dinner in Legacy Hall, as it does annually;
- l) On January 28, 2023, an opera singer performed in Legacy Hall as part of a gala fundraiser for the university’s opera program;
- m) On February 25, 2023, Canyon High School hosted its spring dance, featuring a “Casino Night” theme, in Legacy Hall;
- n) On March 18, 2023, a nonprofit organization held a “Shine for Autism” fundraiser gala in Legacy Hall, featuring live entertainment, dinner, and speeches; and
- o) On March 23, 2023, a magician and illusionist performed “jaw-dropping magic and comedy” in Legacy Hall.

41. JBK Student Center spaces have even been used with approval by West Texas A&M for charity drag shows. For example:

- a) In March 2012, a student organization held a charitable “cross-dressing fashion show,” limited to male participants and entitled “Buff-A-Whoa Drag Show,” in the JBK Student Center’s commons area “to raise money for Relay for Life”; and
- b) In April 2019, an academic fraternity at West Texas A&M held a fundraising drag pageant in Legacy Hall, promoting it as the “3rd consecutive Mr. & Miss West Texas Drag Show” and

featuring a performance by drag performer Ivy Tran Kenney-Monroe.

42. The JBK Student Center permits student organizations to co-sponsor events with off-campus organizations, recognizing that student organizations' missions may differ from that of the university administration.

43. The JBK Student Center's "maintenance and operations" are funded "entirely" through a "University Center Fee" paid by West Texas A&M students.

44. General revenue funding from the State of Texas does not fund the JBK Student Center or any of its operations.<sup>11</sup>

45. As required by Texas state law, West Texas A&M policy prohibits the university from "deny[ing a student] organization any benefit generally available to other student organizations at the institution," including use of university facilities, based on the "political, religious, philosophical, ideological, or academic viewpoint expressed by the organization or any expressive activities of the organization." W. Tex. A&M Policy No. 08.99.99.W1 ("Expressive Activity on Campus Policy"), Rule 1.3; Tex. Educ. Code § 51.9315(g). A true and correct copy of this policy is attached to this First Amended Verified Complaint as **Exhibit C**.

46. West Texas A&M's Expressive Activity on Campus policy, consistent with Texas state law, provides that any person may "engage in expressive activities" on "campus," including in "all land and buildings owned or leased by the university,"

---

<sup>11</sup> *Id.*; see also Tex. Educ. Code § 54.521(a) (authorizing "a regular, fixed student fee" for "operating" and "maintaining" a center for "activities . . . financed in whole or in part by the student center facility fee").

subject only to “reasonable time, place, and manner restrictions.” Ex. C, W. Tex. A&M Policy No. 08.99.99.W1, Rule 1.1 and Definitions 2 & 5.

47. West Texas A&M’s Expressive Activity on Campus policy’s protection of “expressive activities” encompasses “any speech or expressive conduct protected by the First Amendment.” Ex. C, W. Tex. A&M Policy No. 08.99.99.W1, Definition 5; Tex. Educ. Code § 51.9315(a)(2).

48. West Texas A&M makes the spaces in the JBK Student Center, including Legacy Hall, available for use by student organizations for free, and for use by members of the public for a fee.

49. West Texas A&M’s Expressive Activity on Campus policy prohibits the university from considering anything other than “content-neutral and viewpoint-neutral criteria” in “determining the amount of a fee to be charged for use of the university’s facilities” for expressive activities. Exhibit C, W. Tex. A&M Policy No. 08.99.99.W1, Rule 1.2; Tex. Educ. Code § 51.9315(h).

50. West Texas A&M’s Expressive Activity on Campus policy specifically forbids the university from considering “any anticipated controversy” in determining the amount of the fee to be charged. Ex. C, W. Tex. A&M Policy No. 08.99.99.W1, Rule 1.2; Tex. Educ. Code § 51.9315(h)(2).

***Spectrum WT plans “A Fool’s Drag Race” for March 31, 2023.***

51. As a recognized student organization, Spectrum WT and its members are within the class of persons or groups for which West Texas A&M makes the event spaces in the JBK Student Center available.

52. In November 2022, Spectrum WT began to plan a charity drag show event, aiming to hold the show on April Fool's Day (April 1, 2023), calling it "A Fool's Drag Race."

53. But because the university was holding an event on April 1, Spectrum WT agreed to hold the charity drag show one day earlier.

54. Spectrum WT intended to use the facilities and resources available to all recognized student groups for expressive activities.

55. So, Spectrum WT reserved Legacy Hall for the evening of Friday, March 31, 2023.

56. Spectrum WT's intended use of Legacy Hall was consistent with Legacy Hall's past uses and the uses for which West Texas A&M makes the space available.

57. Spectrum WT's planned event, to be held on a Friday evening, would not have been disruptive to the operations or educational functions of West Texas A&M.

58. According to a statement issued by the West Texas A&M University Police Department, West Texas A&M did not receive any threats concerning Spectrum WT's planned event.

59. The West Texas A&M University Police Department lauded students who demonstrated against Wendler's actions, explaining in a public statement that the students "have exercised their First Amendment rights the proper way" and "have shown that you can exercise your rights with decorum."



60. From the time in January 2023 that Spectrum WT applied to use Legacy Hall, West Texas A&M's administration and staff knew that Spectrum WT intended to host a drag show.

61. To Plaintiffs' knowledge, West Texas A&M did not maintain any written policy purporting to limit the persons or groups who may utilize these event spaces (including Legacy Hall), or the subject matter for which they can use them.

***Spectrum WT's planned drag show follows a long history of drag as performance art.***

62. Drag performances encompass a range of expressive conduct taking different forms depending on the relevant audience, venue, or performer.

63. Individual drag performers make unique choices concerning their attire, makeup, choreography, music, and prefatory or concluding remarks, all of which convey artistic, theatric, and/or personal perspectives on gender, sex, and individuality.

64. Drag is often performed as entertainment, through some combination of singing, dancing, lip-synching, comedy, or spoken-word.

65. With origins at least as old as Shakespearean-era theater—when only men were permitted to perform onstage—drag has since been a recurring genre of theatrical performance.

66. During the Vaudeville era, famed actor Julian Eltinge used drag not to comedic effect, but as illusion, seeking to convince his audience that he was in fact a woman.

67. During the Second World War, military personnel staged drag shows as a form of entertainment. “This Is The Army,” a 1943 film starring Ronald Reagan and raising money for the Army Emergency Relief fund, prominently featured military performers in drag.

68. Drag has also been a feature of campus life. Indeed, West Texas A&M currently displays on the wall inside Legends Club a photograph of a “Powderpuff Football Game Cheerleaders,” depicting male football players posing in cheerleader skirts.

69. Today, drag has become a mainstream form of performance art and a commentary on identity. “RuPaul’s Drag Race,” a competitive television series on MTV, is now in its 15th season and has spawned spin-offs and international adaptations on at least three continents.

70. Over the past half-century, the public has come to associate drag with advocacy in favor of LGBTQ+ rights.

71. Drag performances carry an ideological message of support and acceptance for the LGBTQ+ community.

72. Drag performances have, in the current political climate, taken on a renewed political tone, offering counter-messaging against efforts to ban or regulate expression relating to gender or sexual identity.

73. These and related messages are part and parcel of Spectrum WT’s other expressive activities, including (a) its planned Queer Movie Night, during which they will exhibit and perform alongside the cult-classic film “Rocky Horror Picture Show”;

(b) its annual celebration of National Coming Out Day each October; and (c) Queer History Night, during which students discuss political, social, and historical issues concerning the LGBTQ+ community.

74. For Spectrum WT, putting on a charity drag show is important to convey messages advocating for and showing support for the LGBTQ+ community. The proceeds from the March 2023 drag show are earmarked for donation to an LGBTQ+ suicide-prevention group.

75. Some drag performances are intentionally risqué, some comedic, some outlandish, and some would not give a moment's pause to a Motion Picture Association reviewer.

76. Spectrum WT planned and intended its March 2023 charity drag show to be "PG-13."

77. Spectrum WT informed West Texas A&M's administration and staff that the planned March 2023 drag show would be "PG-13."

78. West Texas A&M's administration and staff understood that Spectrum WT planned and intended a "PG-13" drag show.

79. Consistent with its commitment to a "PG-13" show, Spectrum WT instructed performers not to engage in any "lewd" conduct.

80. Even so, Spectrum WT forbade anyone under 18 from attending the event unless accompanied by a parent or guardian (intended for family members of students who want to come with students' parents to show their support). And Spectrum WT remained committed to having an alcohol-free event.

81. Spectrum WT went so far as to instruct performers not to use music containing profanity at the planned event.

82. Indeed, on Friday, March 17, nearly two weeks before the planned show, Spectrum WT submitted a list of planned songs to West Texas A&M's administration.

83. Spectrum intends to make the same requirements for any future drag events it holds on campus.

***Spectrum WT navigates the event approval process with help from West Texas A&M staff.***

84. West Texas A&M's "Campus Organizations Handbook" informs student groups that the campus event approval process encompasses three stages: (1) the "Request," during which spaces are temporarily reserved; (2) the "Tentative Confirmation," during which the significant logistics requirements (such as time, date, location, and audio-visual requirements) are arranged; and (3) Confirmed, which reflects that all details have been confirmed for the event[.]"

85. Plaintiffs submitted a formal request to reserve Legacy Hall on or about January 27, 2023, identifying the event as "A Fool's Drag Race."

86. Throughout the planning of the event, West Texas A&M's administration expressed support for the planning of the charity drag show and helped Plaintiffs navigate the logistical hurdles needed for the event to receive approval.

87. On February 21, Dr. Shawn M. Fouts, a senior staff director at the JBK Student Center, praised Bright's work in an email, writing, "I appreciate your



attention to the event as you navigate everything else a college student has going on. We want to help ensure you have a great event.”

88. The following day, Dr. Fouts shared again that the university was eager to “get this event through all the approval processes,” thanking Bright for “leading the event process.”

89. Under West Texas A&M policy, an event receives a “Tentative Confirmation” only after the university has confirmed logistical details, including the time, date, and audio-visual needs, and the event has passed a risk assessment.

90. To move the approval process along, Bright also agreed that student participants would be required to sign a waiver, provided by West Texas A&M, acknowledging that their participation was voluntary, that they could avoid any risks by simply not participating, and that their participation would in no way hinder their ability to obtain educational benefits from the Texas A&M University System.

91. On February 27, staff from the JBK Student Center issued Spectrum WT a “Tentative Confirmation” that the event was ready to move forward.

92. Only after an event’s organizer receives a “Tentative Confirmation” can they begin advertising for the event.

93. An event is moved into a final “Confirmed” status once all details have been confirmed for the event.

94. During the first week of March, West Texas A&M staff helped Bright and other event organizers put together flyers to promote the event:



95. Soon, Spectrum WT put up posters in the JBK Student Center and shared the poster on Instagram.

96. Spectrum WT also set up an Eventbrite page where attendees could purchase tickets and tables for the charity drag show.

97. Spectrum WT began selling tickets through Eventbrite.

98. Eventbrite charges organizers like Spectrum WT a service fee for each ticket sold.

99. On March 14, Dr. Fouts informed Bright the event was “scheduled and approved as ‘Tentative’ as we await your performance verification and music.”

100. On March 17, Bright emailed Dr. Fouts with a list of planned songs and drag performers' stage names. Dr. Fouts did not object to any song on the list, and instead, encouraged Bright to share the list of songs with the staff member in charge of helping groups present performances at Legacy Hall.

101. On information and belief, the "performance verification" refers to a final list of anticipated performers. Spectrum WT was prepared to provide that list.

102. But President Wendler prevented Spectrum WT from completing that final step needed to hold the charity drag show at Legacy Hall, when he issued his edict banning drag shows at West Texas A&M.

***President Wendler spurns the approval process, cancelling and condemning the charity drag show.***

103. Shortly after noon on March 20, Bright received an email from Vice President for Student Affairs Thomas, asking to "meet with you and discuss your upcoming event."

104. Bright met with Dr. Thomas at approximately 4:15 p.m. Dr. Thomas told Bright that West Texas A&M was cancelling the charity drag show. When Bright asked why, Dr. Thomas said President Wendler believed that drag shows discriminated against women.

105. Half an hour later, President Wendler sent an email to West Texas A&M's students, faculty, and staff announcing that West Texas A&M "will not host a drag show on campus." Wendler's email denounced drag as "divisive and demoralizing misogyny" for, in his view, "portraying women as objects," and

condemned any group that would “elevate itself or a cause by mocking another person or group.” (Ex. A, Wendler Email).

106. President Wendler also posted the announcement on his personal blog.

107. President Wendler’s statement is unambiguous that he cancelled the charity drag show because he personally opposes Plaintiffs’ expression. For instance, Wendler opined that drag shows are contrary to the “basis of Natural Law,” which “declared the Creator’s origin as the foundational fiber in the fabric of our nation,” because “every human being is created in the image of God and, therefore, a person of dignity.” (*Id.*)

108. President Wendler also claimed that drag shows are a form of humor (a “slapstick sideshow”) that “becomes harassment” because, in his view, it is “sexism” and results in “[m]ocking or objectifying in any way members of any group.” (*Id.*)

109. Finally, President Wendler acknowledged that “the law of the land appears to require” him not to censor the charity drag show. (*Id.*)

110. President Wendler’s statement asserted that allowing the event would create the appearance that he personally “condone[s] the diminishment” of women. (*Id.*)

111. Upon information and belief, West Texas A&M had not received any formal or informal complaints from students or staff that a drag show would constitute harassment of any individual or group.

112. Indeed, between 2012 and 2019 at the latest, West Texas A&M students hosted drag shows in the JBK Student Center.



113. When President Wendler sent the email canceling the event, Spectrum WT had completed, or was prepared to complete, all necessary steps for the event to move forward as planned.

114. Other than the assertions made in President Wendler's March 20 statement, neither President Wendler, the other Defendants, nor any other staff member at West Texas A&M, offered an explanation or rationale for canceling the charity drag show.

115. At no time did President Wendler—or any other West Texas A&M employee or Defendant—indicate Spectrum WT had failed to comply with university policy or any other condition necessary to proceed with the event.

116. On March 21, the Foundation for Individual Rights and Expression (FIRE), which now represents Plaintiffs, sent a letter to President Wendler, explaining that his conduct violated the First Amendment and calling on West Texas A&M to confirm that it would reinstate the event.

117. The same day, President Wendler acknowledged the letter, copying the general counsel for the Texas A&M University System.

118. But neither President Wendler, West Texas A&M, nor the Texas A&M University System responded substantively to FIRE's letter.

119. President Wendler has not rescinded his edict.

120. No other Defendant has disavowed Wendler's edict.

121. By issuing and maintaining his edict, President Wendler is claiming he can cancel events he deems "inappropriate" or personally offensive at will, imposing

a viewpoint- and content-based restriction on the university's events registration process for campus facilities available for expressive activity.

***After President Wendler exiled the first drag show from campus, Plaintiffs' planned future events are in jeopardy.***

122. Because Plaintiffs were unable to plan for both the on-campus event and an alternative off-campus event, they had to commit to an alternative venue.

123. In order to hold their event in an alternative venue, Plaintiffs were required to spend \$2,130.13 from funds donated by members of the public in order to rent a stage in a public park and hire off-duty police officers to provide security.

124. The \$2,130.13 would otherwise have been contributed to the Trevor Project, an LGBTQ+ charity dedicated to suicide prevention, as part of Plaintiffs' fundraising efforts.

125. Because of President Wendler's cancellation of the event, Plaintiffs were unable to sell tickets purchased through Eventbrite, as there was no way to create a ticketed event by restricting entrance to a public park.

126. As a result of President Wendler's cancellation, Plaintiffs paid or owe Eventbrite \$30.54 for fees for tickets that could not be used.

127. Plaintiffs intend to organize and put on drag shows and similar events on campus in the near future.

128. But even if university staff again determine that Plaintiffs' planned events meet the criteria for use of university facilities, Wendler claims an unfettered right to cancel those events at the last moment based on his personal views.

129. The risk posed by President Wendler’s edict is exacerbated by the JBK Student Center’s procedures and guidelines, which purport to authorize staff to “cancel, interrupt, or terminate any event” if it might “be viewed as inappropriate.”

130. The planned events include:

- a) Queer Movie Night, held by Spectrum WT several times annually, during which members watch and discuss films with LGBTQ+ themes. Plaintiffs have submitted a reservation for use of Legends Club, a venue in the JBK Student Center. On Halloween 2023. Plaintiffs intend to exhibit “The Rocky Horror Picture Show,” a cult-classic 1975 film, popular in the LGBTQ+ community, starring Tim Curry, who is adorned in corset and fishnets. Because viewings of the film traditionally involve audience participation, Plaintiffs expect that participants will dress as Curry’s gender non-conforming character. Plaintiffs’ intended use of the Legends Club is consistent with the uses for which West Texas A&M holds out this venue. However, Plaintiffs’ event will violate President Wendler’s ban on drag shows and will express viewpoints Wendler disapproves of in his edict.
- b) A second-annual drag show, entitled “Don’t Be A Drag Drag Show.” Plaintiffs have submitted a reservation for use of Legacy Hall on the evening of Friday, March 22, 2024. This event violates President Wendler’s ban on campus drag shows.
- c) Queer History Night, a program Spectrum WT holds several times a year, during which its members and panelists from the campus and local community discuss LGBTQ+ history, political, and social issues. Plaintiffs’ event will express viewpoints Wendler disapproves of in his edict.

### **INJURIES TO PLAINTIFFS**

131. Plaintiffs are injured by President Wendler and West Texas A&M canceling the planned March 31, 2023, charity drag show—and all similar events—based on his personal disagreement with the messaging he believes drag shows convey. Viewpoint discrimination violates the First Amendment, and “loss of First

Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

132. In addition, Plaintiffs Bright and Stovall are West Texas A&M students. They pay tuition and student fees to West Texas A&M, which promises—as does the State of Texas<sup>12</sup>—Plaintiffs the ability to use venues on campus for expressive activities. Indeed, the JBK Student Center—the venue where Plaintiffs had been tentatively approved to host “A Fool’s Drag Race”—is funded by fees paid by Plaintiffs Bright, Stovall, the members of Spectrum WT, and other West Texas A&M students.

133. Thus, Defendants’ drag show ban has also injured Plaintiffs because they cannot use campus venues for First Amendment expressive activity, despite those promises.

134. President Wendler’s ongoing edict works two harms to Plaintiffs’ future expressive activity. First, it expressly prohibits any “drag show” at West Texas A&M, including the show students are planning for March 22, 2024 at Legacy Hall. Second, it imposes a viewpoint- and content-based restraint over the university’s event registration process, indicating that if staff do not refuse or cancel an event that meets President Wendler’s criteria for “inappropriate” expression, then Wendler will cancel it himself.

135. Left in place, President Wendler’s edict will continue to infringe and chill Plaintiffs’ right to engage in planned expressive activity in campus spaces they

---

<sup>12</sup> Tex. Educ. Code § 51.9315(g).



have a right to use, because their expression meets Wendler’s criteria for “derisive,” “demeaning,” “inappropriate,” or is otherwise incompatible with Wendler’s edict.

136. Plaintiffs, then, are injured in their ability to exercise their First Amendment rights by holding the scheduled October 2023 “Queer Movie Night,” the scheduled March 2024 drag show, the planned “Queer History Nights,” and similar events in the future.

137. There is a concrete and imminent danger that university administrators and staff will deny Plaintiffs access to university facilities for those upcoming events on the belief that President Wendler will find the expressive content and messaging of Plaintiffs’ events inappropriate.

138. There is also a concrete and imminent danger that President Wendler will unilaterally deny Plaintiffs access to university facilities for those upcoming events because he will declare the expressive content and messaging of Plaintiffs’ events inappropriate.

139. Moreover, any student participant in Plaintiffs’ future events—including, for example, its annual prom events—could dress in a manner President Wendler deems to be “drag,” or otherwise engage in expression that President Wendler personally finds “inappropriate.”

140. Plaintiffs are also injured because they invested substantial time and organizational resources into planning and promoting the March 31 charity drag show and obtaining approval for the event from West Texas A&M staff, following the university’s approval procedures.

141. But for the ban against drag shows, Spectrum WT would have put on their March 31, 2023, charity drag show on West Texas A&M's campus. West Texas A&M staff provided Spectrum WT with "Tentative Confirmation" for the event, and just hours before President Wendler vetoed the event, Spectrum WT had submitted the final details that university staff confirmed were necessary for the event to be moved to the "Confirmed" stage.

142. Thus, Plaintiffs have been injured because President Wendler's refusal to permit the event to move forward defied the First Amendment, Texas state law, and West Texas A&M campus policy, depriving Plaintiffs of the benefits the Constitution, state law, and university policy confer to all student groups.

143. Plaintiffs, including Bright and Stovall, have been injured because they were not able to exercise their First Amendment right to engage in protected expression by performing at the charity drag show event at West Texas A&M—the focal point of Spectrum WT's advocacy.

144. Although Plaintiffs were able to locate, on short notice, an alternative venue, President Wendler's abrupt veto of their event and edict banning drag shows on campus has injured—and will continue to injure—Plaintiffs. For example:

- a) Spectrum WT's mission is to help LGBTQ+ students feel welcome at West Texas A&M, as well as to promote diversity and acceptance on campus. Exiling Plaintiffs' expressive activities to off-campus locations both burdens the students' ability to reach their intended audience and sends the message—as President Wendler intends—that their message is unwelcome.
- b) The new venue cost \$1,000, a significant amount of money for a local student organization largely composed of undergraduate students. The expenses incurred by diverting donations that would otherwise have gone to Plaintiffs' charitable purposes are costs that would not have been

incurred but for President Wendler's denial of access to the facilities made available at no cost to student organizations whose message he approves.

- c) Because Wendler cancelled Plaintiffs' event in its final stages of preparation, Plaintiffs were required to make efforts to again locate a venue and other requirements to put on a show. As a result, the time, energy, and resources required of Plaintiffs were multiplied by President Wendler.
- d) To organize a new event off-campus, where they would not have the security of West Texas A&M's on-campus police force, Plaintiffs were forced to retain private security at their own expense, spending \$1130.13.

145. Further, Plaintiff Bear has experienced anxiety, stress, and doubt about whether he or Spectrum WT should plan further events because of the likelihood that President Wendler will again censor those events and cause Spectrum WT to again spend time, energy, and organizational resources on events that will not happen.

### **FIRST CAUSE OF ACTION**

**First Amendment Violation (Injunctive and Declaratory Relief)**

**Freedom of Speech - Viewpoint Discrimination**

**(42 U.S.C. § 1983)**

**(All Plaintiffs against all Defendants in their official capacities)**

146. Plaintiffs re-allege and re-incorporate paragraphs 1–145 as though fully set forth herein.

147. The First Amendment protects expressive conduct, including performance theater (like drag shows), whether held in high regard by supporters or low esteem by detractors. *Se. Promotions, Ltd. v. Conrad*, 420 U.S. 546, 557–58 (1975) (stage performance); *Texas v. Johnson*, 491 U.S. 397, 404 (1989) (burning the American flag); *W. Va. Bd. of Educ. v. Barnette*, 319 U.S. 624, 633–34 (1943) (saluting or refusing to salute the American flag); *Iota Xi Chapter of Sigma Chi Fraternity v.*

*George Mason Univ.*, 993 F.2d 386, 387 (4th Cir. 1993) (university fraternity’s “ugly woman” contest).

148. Expression by students and student organizations at public universities is entitled to robust protection under the First Amendment, which applies with no “less force on college campuses than in the community at large.” *Healy v. James*, 408 U.S. 169, 180 (1972).

149. An official acting under the color of state law cannot censor or restrict speech based on “its message” or the viewpoint expressed. *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 828–30 (1995).

150. It is “well settled that viewpoint discrimination is a clearly established violation of the First Amendment in any forum.” *Chiu v. Plano Indep. Sch. Dist.*, 260 F.3d 330, 350 (5th Cir. 2001).

151. University officials cannot suppress student expression at public universities because they or others find it derisive, “no matter how offensive” others might find that expression. *Papish*, 410 U.S. at 670.

152. Plaintiffs sought and are seeking to exercise their First Amendment right to engage in on-campus expression but were prevented from doing so—and cannot do so now—because of President Wendler’s personal objections to their message.

153. President Wendler engaged in unconstitutional viewpoint discrimination by prohibiting Plaintiffs from putting on a charity drag show because



Wendler disagrees with the expressive message of the show and believes it is offensive.

154. President Wendler’s subjective evaluation about what expression is offensive, inappropriate, or objectionable is not a viewpoint-neutral basis to restrict student expression.

155. To the contrary, “censorship based on a state actor’s subjective judgment that the content of protected speech is offensive or inappropriate is viewpoint discrimination.” *Robinson v. Hunt Cnty.*, 921 F.3d 440, 447 (5th Cir. 2019) (citing *Matal v. Tam*, 137 S. Ct. 1744, 1763 (2017)).

156. President Wendler’s condemnation of drag shows makes clear that he understands drag shows convey a particularized message, as he identifies them as “artistic expression which denigrates others—in this case, women” and which amount to “ridicule.” (Ex. A, Wendler Email.)

157. Vice President Thomas engaged in unconstitutional viewpoint discrimination by enforcing President Wendler’s viewpoint-driven directive.

158. By not putting an end to President Wendler’s actions, the Board of Regents and Chancellor Sharp evidence an intent to let Wendler’s viewpoint discrimination against on-campus drag shows continue.

159. In addition to the harm to Plaintiffs’ expressive freedoms caused by President Wendler’s cancellation of the March 31 charity drag show, the general harm of the policy remaining in place continues to have a chilling effect on Plaintiffs’ expressive freedoms.

160. President Wendler’s promise to ignore “the law of the land” and his establishment of a policy that “West Texas A&M University will not host a drag show on campus” is chilling and will continue to chill Plaintiffs’ ability to organize similar events—whether or not styled as a “drag show”—if they convey a political, ideological, or academic message that President Wendler believes to be demeaning.

161. These include Plaintiffs’ intended future drag shows, including one Plaintiffs are planning for March 24, 2024, and events Plaintiffs are planning for the fall semester, including an October 31, 2023 “Queer Movie Night” production of “The Rocky Horror Picture Show.”

162. Plaintiffs have no adequate legal, administrative, or other remedy by which to prevent or minimize the immediate, irreparable, and ongoing harm to their First Amendment rights from Defendants’ unconstitutional viewpoint discrimination.

163. Thus, Plaintiffs require preliminary injunctive relief, permanent injunctive relief, and declaratory relief to protect their fundamental expressive rights from ongoing harm.

164. Absent injunctive and declaratory relief upholding Plaintiffs’ First Amendment rights and returning President Wendler’s focus to his constitutional obligations, President Wendler’s pledge to continue to violate the constitutional rights of West Texas A&M’s students will have ongoing chilling effects on Plaintiffs’ protected expression.

165. Plaintiffs are likely to succeed on the merits of their claims. Moreover, there is substantial public interest in ensuring Defendants cease engaging in viewpoint-based restriction and censorship of speech on Texas’s college campuses, where “the vigilant protection of constitutional freedoms is nowhere more vital[.]” *Healy*, 408 U.S. at 180 (quoting *Shelton v. Tucker*, 364 U.S. 479, 487 (1960)).

166. Recognizing this vital public interest, the Texas Legislature has codified the First Amendment’s prohibition on viewpoint discrimination, barring public universities from “tak[ing] action against a student organization or deny[ing] the organization any benefit generally available to other student organizations at the institution on the basis of a political, religious, philosophical, ideological, or academic viewpoint expressed by the organization or of any expressive activities of the organization.” Tex. Educ. Code § 51.9315(g).

167. Because a justiciable controversy exists over Defendants’ viewpoint-based discrimination against Plaintiffs’ protected expression, Plaintiffs also seek declaratory relief against Defendants. A declaratory judgment will further resolve and clarify the parties’ legal relationship.

**SECOND CAUSE OF ACTION**

**First Amendment Violation (Injunctive and Declaratory Relief)  
Freedom of Speech—Exclusion from a Public Forum  
(42 U.S.C. § 1983)  
(All Plaintiffs against all Defendants in their official capacities)**

168. Plaintiffs re-allege and re-incorporate paragraphs 1–167 as though fully set forth herein.

169. West Texas A&M routinely provides facilities, funding, and resources for expressive activities of registered student organizations like Spectrum WT.

170. By recognizing student organizations and providing them facilities, funding, and resources, West Texas A&M has created a public forum. *Widmar v. Vincent*, 454 U.S. 263, 267–70 (1981).

171. Legacy Hall and other JBK Student Center spaces are designated public fora.

172. Legacy Hall and other JBK Student Center spaces are held out by West Texas A&M as designated public fora, made available to student organizations and the general public.

173. Legacy Hall, Legends Hall, and other JBK Student Center spaces are established as designated public fora by Tex. Educ. Code § 51.9315.

174. Legacy Hall and other JBK Student Center spaces are established as designated public fora by West Texas A&M Policy Nos. 24.01.01.W0.01 (“Facility Use Request Procedure”) and 08.99.99.W1 (“Expressive Activity on Campus”).

175. The existence of alternative venues, even if those venues were adequate, is not a basis to deny Plaintiffs access to the designated public fora at West Texas A&M. “[One] is not to have the exercise of his liberty of expression in appropriate place abridged on the plea that it may be exercised in some other place.” *Se. Promotions, Ltd. v. Conrad*, 420 U.S. 546, 556 (1975) (quoting *Schneider v. New Jersey*, 308 U.S. 147, 163 (1939)).



176. President Wendler’s prohibition on student organizations’ “drag shows” in university facilities is a content-based and viewpoint-based restriction.

177. Because West Texas A&M’s content- and viewpoint-based restrictions on drag shows do not satisfy strict scrutiny—*i.e.*, “necessary to serve a compelling state interest and that it is narrowly drawn to achieve that end”—they are unconstitutional restrictions on speech in public forums. *Widmar*, 454 U.S. at 270.

178. President Wendler’s prohibition on student drag shows in campus public forums does not serve a compelling state interest nor is it the least restrictive means of achieving such an interest.

179. President Wendler’s prohibition on student drag shows in campus public forums is not narrowly drawn to achieve a compelling state interest.

180. President Wendler’s claim that his drag show ban prevents the appearance that he, or the university he shepherds, endorses that expressive activity is not a legitimate state interest, let alone a compelling one. *Id.* at 274 (a public university’s “open forum . . . does not confer any imprimatur of state approval” on expression occurring within that forum).

181. President Wendler’s claim that the drag show ban is necessary to prevent the creation of a hostile environment is not narrowly drawn because it is a prohibition on expressive activity voluntarily encountered in enclosed spaces and because President Wendler had no evidence suggesting Plaintiffs’ charity drag show would create a “hostile environment.”

182. Nor is the prohibition on drag shows reasonably related to the purpose of campus forums like Legacy Hall, which West Texas A&M holds out as available for a wide range of events, like weddings, parties, concerts, press conferences, and entertainment.

183. The content-based and viewpoint-based prohibition, reflected in President Wendler's edict, excludes Plaintiffs from engaging in protected First Amendment activity in on-campus public forums, violating their First Amendment rights.

184. Vice President Thomas also violated Plaintiffs' First Amendment rights by enforcing President Wendler's content- and viewpoint-based prohibition on student groups that would hold drag shows in campus public forums.

185. By not putting an end to President Wendler's actions, the Board of Regents and Chancellor Sharp evidence an intent to let the unconstitutional prohibition against student groups holding drag shows in campus forums continue.

186. President Wendler's edict reflects an ongoing ban against present and future drag shows on campus as well as similar events if they convey a political, ideological, or academic content that President Wendler believes to be demeaning, offensive, or otherwise objectionable. These include Plaintiffs' planned events for the Fall 2023 semester and intended future drag shows, including one Plaintiffs are planning for spring 2024.

187. Plaintiffs have no adequate legal, administrative, or other remedy by which to prevent or minimize the continuing irreparable harm to their First Amendment right to use campus forums for First Amendment activity.

188. Thus, Plaintiffs require preliminary injunctive relief, permanent injunctive relief, and declaratory relief to protect their fundamental expressive rights from ongoing harm.

189. Absent injunctive relief and declaratory relief enjoining Defendants from excluding Plaintiffs from campus forums based on the content and viewpoints of their protected expression, the public university will continue to violate the constitutional rights of West Texas A&M's students, including Spectrum WT and its members.

190. Plaintiffs are likely to succeed on the merits of their claims. Moreover, there is substantial public interest in ensuring Defendants cease engaging in content-based restrictions and censorship of speech on Texas' college campuses. *Healy*, 408 U.S. at 181; Tex. Educ. Code § 51.9315(g).

191. Because a justiciable controversy exists over Plaintiffs' inability to use campus public forums for First Amendment expressive activity, Plaintiffs also seek declaratory relief against Defendants. A declaratory judgment will further resolve and clarify the parties' legal relationship.

**THIRD CAUSE OF ACTION**

**First Amendment Violation (Injunctive and Declaratory Relief)  
Prior Restraint on Freedom of Speech**

**(42 U.S.C. § 1983)**

**(All Plaintiffs against All Defendants in their Official Capacities)**

192. Plaintiffs re-allege and re-incorporate paragraphs 1–191 as though fully set forth herein.

193. Government actions making “speech contingent on the will of an official . . . are unconstitutional burdens on speech classified as prior restraints.” *Chiu v. Plano Indep. Sch. Dist.*, 339 F.3d 273, 280 (5th Cir. 2003).

194. With his edict banning drag shows and “inappropriate” student expression based on content and viewpoint, President Wendler has created an unconstitutional prior restraint on speech against Spectrum WT, and effectively against any other student group seeking the benefit of using campus facilities.

195. In making campus spaces available for use by student organizations, West Texas A&M requires student organizations to pre-register the event with campus officials.

196. In addition to providing logistical details, student organizations registering planned events must provide a “full description” of the event.

197. Student organizations are also required to identify certain “risks,” including “damage to [West Texas A&M’s] reputation” or “negative publicity for” West Texas A&M.

198. By establishing a system requiring prior registration of an event in order to engage in expressive activity in designated public fora, West Texas A&M has established a system of prior restraints.

199. Prior restraints are presumptively unconstitutional. *Org. for a Better Austin v. Keefe*, 402 U.S. 415, 419 (1971).

200. A university administrator may not restrict student expression before it occurs based on his prediction of its content and consequences. *Gay Student Servs. v. Tex. A&M Univ.*, 737 F.2d 1317, 1325 (5th Cir. 1984).

201. President Wendler’s edict does not provide “narrow, objective, and definite standards to guide” administrators in granting or denying access. *Shuttlesworth v. City of Birmingham*, 394 U.S. 147, 151 (1969).

202. Instead, President Wendler’s blanket ban on “drag shows” at West Texas A&M is a viewpoint- and content-based prior restraint on speech.

203. President Wendler’s edict also effectively requires event registration staff and administrators to consider if an event is “inappropriate” because it is “divisive,” “harmful,” “demeaning,” “objectifying,” “diminish[es]” others, “denigrate[s]” others, or “stereotype[s]” others.

204. Examining a student organization event’s anticipated content or message to determine whether to grant that organization access to public fora on campus is an unconstitutional prior restraint.

205. These prior restraints infringe on and chill Plaintiffs’ right to schedule, plan, and hold expressive events and activities on campus.



206. These viewpoint- and content-based prior restraints deny Plaintiffs access to a designated public forum.

207. Even if these spaces are “limited” or “nonpublic forums,” a prior restraint that lacks “neutral criteria to [e]nsure that the licensing decision is not based on the content or viewpoint of the speech being considered” violates the First Amendment. *Freedom from Religion Found., Inc. v. Abbott*, 955 F.3d 417, 427–29 (5th Cir. 2020).

208. Even if these spaces were limited or nonpublic fora, President Wendler’s edict amounts to viewpoint discrimination, which is prohibited in every forum.

209. West Texas A&M also provides no procedural safeguards, such as providing student organizations with an administrative avenue of appeal or some means by which student organizations may contest a decision to deny expressive activity based on its content or message.

210. Faced with this prior restraint, Plaintiffs face a no-win choice: Alter their expression to meet the pre-registration requirements and access the benefit of a campus public forum, or risk losing that benefit at Wendler’s whim.

211. Plaintiffs have no adequate legal, administrative, or other remedy by which to prevent or minimize the continuing irreparable harm to their First Amendment right to use campus forums for First Amendment activity.

212. Prior restraints on speech “are the most serious and the least tolerable infringement on First Amendment rights,” *Nebraska Press Ass’n v. Stuart*, 427 U.S.

539, 559 (1976). But Defendants have taken no steps to remove the ongoing prior restraint on Plaintiffs' expressive rights.

213. Thus, Plaintiffs require preliminary injunctive relief, permanent injunctive relief, and declaratory relief to protect their fundamental expressive rights from ongoing harm.

214. Absent injunctive relief and declaratory relief enjoining Defendants from imposing an impermissible prior restraint on speech, the public university will continue to violate the constitutional rights of West Texas A&M's students, including Spectrum WT and its members.

215. Plaintiffs are likely to succeed on the merits of their claims. Moreover, there is substantial public interest in ensuring Defendants cease engaging in viewpoint- and content-based prior restraints on speech.

216. Because a justiciable controversy exists over Defendants imposing a prior restraint on Plaintiffs' ability to use campus public forums for First Amendment expressive activity, Plaintiffs also seek declaratory relief against Defendants. A declaratory judgment will further resolve and clarify the parties' legal relationship.

**FOURTH CAUSE OF ACTION**

**First Amendment Violation (Damages)**

**Direct and Retaliatory Infringements of Freedom of Speech**

**(42 U.S.C. § 1983)**

**(All Plaintiffs against President Wendler in his individual capacity)**

217. Plaintiffs re-allege and re-incorporate paragraphs 1–216 as though fully set forth herein.

218. By barring Plaintiffs from organizing and putting on a charity drag show on campus based on his personal disagreement with Plaintiffs' viewpoints and message, President Wendler directly deprived Plaintiffs of their First Amendment rights.

219. By continuing to ban Plaintiffs from organizing and putting on a charity drag show on campus based on his personal disagreement with Plaintiffs' viewpoints and message, President Wendler is directly depriving Plaintiffs of their First Amendment rights.

220. President Wendler also retaliated and is continuing to retaliate against Plaintiffs because of their protected expression.

221. Plaintiffs engaged in expression protected by the First and Fourteenth Amendments, including promoting, publishing, and organizing messaging about drag shows.

222. At all relevant times, Plaintiffs have intended to engage in expression protected by the First and Fourteenth Amendments, including organizing and putting on charity drag shows and similar expressive events.

223. President Wendler knew the Constitution protected Plaintiffs' expression and prohibited his actions.

224. Plaintiffs' message was the motivating factor in President Wendler's decision to take retaliatory action against Plaintiffs.

225. President Wendler's retaliatory actions in response to Plaintiffs' message include:

- a) Abruptly canceling Plaintiffs' March 31 charity drag show event;
- b) Imposing a reactive, viewpoint- and content-based restriction on the expression of all students at West Texas A&M;
- c) Prohibiting future student expressive activity, including events organized by Plaintiffs and their right to use campus forums for First Amendment activity; and
- d) Declaring that Plaintiffs' expression, protected by the First Amendment, violates university policy on harassment.

226. President Wendler's actions in response to Plaintiffs' message are sufficient to deter a person of ordinary firmness from continuing to engage in expressive activity.

227. President Wendler's actions have caused Spectrum WT fear that the organization's good standing will be jeopardized when West Texas A&M, in conformity with President Wendler's assertion that "drag" expression violates university policy, enforces against Spectrum WT or its members the harassment policies maintained by West Texas A&M or the Texas A&M System.

228. President Wendler's actions have chilled the expression of individual members of Spectrum WT as they relate to drag, sexual orientation, and gender identity.

229. At the time of the events in question, it was clearly established that the Constitution prohibited President Wendler's actions. *See supra* paragraphs 147–51, 155, 170, 175, 177, 193, 199–201, 207, and 212.

230. At the time of the events in question, it was clearly established that the First Amendment protects stage performances, including drag shows, and the viewpoints those performances convey.

231. At the time of the events in question, it was clearly established that the First Amendment prohibits university administrators from censoring student expression based on its viewpoint.

232. At the time of the events in question, it was clearly established the First Amendment prohibits university administrations from censoring viewpoints some might find offensive or demeaning, including viewpoints conveyed through performances and similar expressive conduct.

233. At the time of the events in question, it was clearly established that the First Amendment prohibits university administrators from censoring student expression in any public forum based on its viewpoint, even if the administrator perceives the viewpoint as offensive.

234. At the time of the events in question, it was clearly established that the First Amendment prohibits university administrators from denying a student group access to any public forum based on the group's viewpoint, even if the administrator perceives the viewpoint as offensive.

235. As the time of the events in question, it was clearly established that Texas law prohibits university administrators from denying student groups access to or use of university facilities generally available to other student organizations at the school, based on the political, religious, philosophical, ideological, or academic



viewpoint expressed by the organization or any expressive activities of the organization.

236. At the time of the events in question, it was clearly established the First Amendment prohibits campus speakers from imposing prior restraints or other unconstitutional limits on the use of campus forums for First Amendment activity.

237. At the time of the events in question, it was clearly established that viewpoint-based prior restraints presumptively violate the First Amendment.

238. At the time of the events in question, it was clearly established that the First Amendment bars university administrators from restricting student expression before it occurs based on a prediction of its content and consequences.

239. At the time of the events in question, it was clearly established that the First Amendment prohibits an individual acting under color of state law from retaliating against speakers based on the viewpoint expressed.

240. A reasonable public university administrator would have had fair warning that the First Amendment prohibited banning Plaintiffs from hosting drag shows in a public forum on campus because of the viewpoints that a show conveyed or that the administrator perceived, even if the administrator believed the viewpoint to be offensive or demeaning to others.

241. It would have been obvious to any reasonable public university administrator that President Wendler's viewpoint-driven edict banning Plaintiffs' March 31 drag show violated the First Amendment.

242. It would be obvious to any reasonable public university administrator that President Wendler's ongoing and viewpoint-driven edict banning drag shows on campus violates the First Amendment.

243. No reasonable public university administrator would have suppressed Plaintiffs' expression like President Wendler did and continues to do.

244. Plaintiffs are entitled to compensatory and nominal damages against President Wendler in his individual capacity for violating Plaintiffs' clearly established First Amendment rights.

245. Plaintiffs are also entitled to punitive damages against President Wendler in his individual capacity.

246. President Wendler knew that the First Amendment, as the "law of the land," prohibits him from censoring student expression, including censorship based on any personal disagreement he has with a speaker's message or viewpoint.

247. Due to his personal opposition to Plaintiffs' messages, President Wendler has deliberately violated Plaintiffs' First Amendment rights and his duty as a public official to avoid violating the First Amendment.

248. President Wendler's deliberate defiance of the Constitution was and remains malicious, oppressive, and in reckless and callous disregard of Plaintiffs' well-established rights.

249. Accordingly, punitive damages against President Wendler are appropriate and necessary to punish President Wendler for violating Plaintiffs' First Amendment rights and to deter similar violations in the future.

**JURY DEMAND**

Under Fed. R. Civ. P. 38, Plaintiffs demand a jury trial on all issues triable to a jury.

**PRAYER FOR RELIEF**

Plaintiffs request that the Court enter judgment against all Defendants and award the following relief:

1. Preliminary and permanent injunctive relief enjoining Defendants and their employees, agents, servants, officers, and persons in concert with Defendants, from enforcing President Wendler’s prohibition on “drag shows” in campus facilities generally available for student group use;

2. Preliminary and permanent injunctive relief enjoining Defendants and their employees, agents, servants, officers, and persons in concert with Defendants, from enforcing the viewpoint- and content-discriminatory prohibitions on expressive activity contained in Wendler’s March 20, 2023 edict, when making West Texas A&M University facilities or spaces available to Plaintiffs or other student organizations;

3. A declaratory judgment that President Wendler’s cancellation of the March 31 charity drag show, and his pledge to prevent similar expressive activity at West Texas A&M, violated the First Amendment to the United States Constitution;

4. Compensatory and nominal damages against President Wendler in his individual capacity in such amount as may be found, or as otherwise permitted by law;

5. Punitive damages against President Wendler in his individual capacity in such amount as may be found, or as otherwise permitted by law, for his retaliatory

and oppressive intent toward Plaintiffs in reckless and callous disregard for their clearly established constitutional rights;

6. Plaintiffs' attorneys' fees under 42 U.S.C. § 1988;
7. Plaintiffs' costs; and
8. Any other and further relief as the Court may deem just and proper.

Dated: April 18, 2023

Respectfully submitted,

/s/ JT Morris

JT MORRIS

TX Bar No. 24094444

FOUNDATION FOR INDIVIDUAL RIGHTS  
AND EXPRESSION

700 Pennsylvania Ave., SE; Ste. 340

Washington, DC 20003

Tel: (215) 717-3473

Fax: (267) 573-3073

jt.morris@thefire.org

CONOR T. FITZPATRICK\*

MI Bar No. P78981

ADAM B. STEINBAUGH\*

CA Bar No. 304829

JEFFREY D. ZEMAN\*

MI Bar No. P76610

FOUNDATION FOR INDIVIDUAL RIGHTS  
AND EXPRESSION

510 Walnut St.; Ste. 1250

Philadelphia, PA 19106

Tel: (215) 717-3473

Fax: (267) 573-3073

conor.fitzpatrick@thefire.org

adam@thefire.org

jeff.zeman@thefire.org

\* Admitted *Pro Hac Vice*

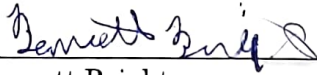
*Counsel for Plaintiffs*

VERIFICATION OF BARRETT BRIGHT

Pursuant to 28 U.S.C. § 1746, I, BARRETT BRIGHT, declare as follows:

1. I am a Plaintiff in the present case and a citizen of the United States of America.
2. I am the President of Spectrum WT, a plaintiff in the present case.
3. I have read the foregoing First Amended Verified Complaint for Civil Rights Violations.
4. I have personal knowledge of the factual allegations in paragraphs 10–14, 27–37, 48, 51–57, 60–61, 68, 73–74, 76–83, 85–88, 90–92, 94–106, 111, 113–115, 119, 122–127, 130, 130(a), 130(b), 130(c), 133, 136, 139–141, 143–144, 144(a), 144(b), 144(c), 144(d), 145, and 196–197 of the First Amended Verified Complaint and know them to be true.
5. I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on 04/17/2023

  
\_\_\_\_\_  
Barrett Bright



**VERIFICATION OF LAUREN STOVALL**

Pursuant to 28 U.S.C. § 1746, I, LAUREN STOVALL, declare as follows:

1. I am a Plaintiff in the present case and a citizen of the United States of America.

2. I am the Vice President of Spectrum WT, a plaintiff in the present case.

3. I have read the foregoing First Amended Verified Complaint for Civil Rights Violations.

4. I have personal knowledge of the factual allegations in paragraphs 10–13, 15, 27–37, 48, 51–55, 57, 60–61, 68, 73–74, 76–83, 85, 94–96, 105–106, 111, 113–115, 119, 122–125, 127, 130, 130(a), 130(b), 130(c), 133, 136, 139–140, 143–144, 144(a), 144(b), 144(c), 144(d), and 196–197 of the First Amended Verified Complaint and know them to be true.

5. I also have personal knowledge of Exhibit A to the First Amended Verified Complaint. Exhibit A is a true and correct copy of an email I received on March 30, 2023 from President Wendler.

6. I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on 4/18/23

  
Lauren Stovall

**CERTIFICATE OF SERVICE**

I hereby certify that on April 18, 2023, a true and correct copy of the foregoing document was transmitted via using the CM/ECF system, which automatically sends notice and a copy of the filing to all counsel of record.

/s/ JT Morris

JT Morris

FOUNDATION FOR INDIVIDUAL  
RIGHTS AND EXPRESSION

*Spectrum WT, et al., v. Wendler, et al.*

**Exhibit A**  
**to First Amended Verified**  
**Complaint for Civil Rights**  
**Violations**

**From:** President Walter V. Wendler  
**Sent:** Monday, March 20, 2023 4:47 PM  
**To:** CURRENT\_STUDENT@LISTS.WTAMU.EDU  
**Subject:** Message from President Wendler: A Harmless Drag Show? No Such Thing.



## Office of the President

*visio | veritas | valor*

**To:** Students, Faculty and Staff  
**From:** Walter V. Wendler, President  
**Date:** March 20, 2023  
**RE:** A Harmless Drag Show? No Such Thing.

West Texas A&M University will not host a drag show on campus. It was advertised for March 31, 2023, as an effort to raise money for [The Trevor Project](#). The nonprofit organization focuses on suicide prevention—a noble cause—in the LGBTQ community. Any person considering self-harm for any reason is tragic.

I believe every human being is created in the image of God and, therefore, a person of [dignity](#). Being created in [God's image](#) is the basis of Natural Law. James Madison and Thomas Jefferson, prisoners of the culture of their time as are we, declared the Creator's origin as the [foundational fiber](#) in the fabric of our nation as they breathed life into it.

Does a drag show preserve a single thread of human dignity? I think not. As a performance exaggerating aspects of womanhood (sexuality, femininity, gender), drag shows stereotype women in cartoon-like extremes for the amusement of others and discriminate against womanhood. Any event which diminishes an individual or group through such representation is wrong. I registered a similar concern on campus when individuals [debased Latinas](#)

regarding a quinceañera celebration. Should I let rest misogynistic behavior portraying women as objects? While I am not a woman, my best friend I have been married to for over a half-century is. I am also blessed to have daughters-in-law and granddaughters. Demeaning any demeans all. This is not an intellectual abstraction but a stark reality.

WT endeavors to treat all [people equally](#). Drag shows are derisive, divisive and demoralizing misogyny, no matter the stated intent. Such conduct runs counter to the purpose of WT. A person or group should not attempt to elevate itself or a cause by mocking another person or group. As a university president, I would not support "[blackface](#)" performances on our campus, even if told the performance is a form of free speech or intended as humor. It is wrong. I do not support any show, performance or artistic expression which denigrates others—in this case, women—for any reason. WT intends to provide fair opportunities to all based on academic performance. [Ideas, not ideology](#), are the coin of our realm. A university campus, [charged by the state](#) of Texas to treat each individual fairly, should elevate students based on achievement and capability, performance in a word, without regard to group membership—an implacable and exacting standard based on educational mission and service to all, sanctioned by the legislature, the governor and numerous elected and appointed officials.

The WT community should live by the Golden Rule. As a Christian, I personally learned this in the book of [Matthew](#), *"So in everything, do to others what you would have them do to you, for this sums up the Law and the Prophets."* Buddhism expresses it this way: "Hurt not others with that which pains yourself." Judaism states, "What you yourself hate, do to no man." The law of reciprocity is at work in every known religion and society on the planet. Colloquially speaking, it is a manifestation of [Newton's](#) Third Law of Motion, "For every action, there is an equal and opposite reaction."

Mocking or objectifying in any way members of any group based on appearance, bias or predisposition is unacceptable. Forward-thinking women and men have worked together for nearly two centuries to eliminate [sexism](#). Women have fought valiantly, seeking equality in the voting booth, marketplace and court of public opinion. No one should claim a right to contribute to women's suffering via a slapstick sideshow that erodes the worth of women.

When humor becomes harassment, it has gone too far. Any reading of the [U.S. Equal Employment Opportunity Commission's](#) purpose, coupled with common

sense, affirms that acts of prejudice in the workplace and our campus is a workplace, even when not criminal, are harmful and wholly inappropriate. No amount of fancy rhetorical footwork or legal wordsmithing eludes the fact that drag shows denigrate and demean women—noble goals notwithstanding.

A harmless drag show? Not possible. I will not appear to condone the diminishment of any group at the expense of impertinent gestures toward another group for any reason, even when the law of the land appears to require it. Supporting The Trevor Project is a good idea. My recommendation is to skip the show and send the dough.

Offering respect, not ridicule, is the order of the day for fair play and is the WT way. And equally important, it is the West Texas way.

**Walter V. Wendler**

**President**

806.651.2100

[president@wtamu.edu](mailto:president@wtamu.edu)

If you need email content or attachments in alternate formats for accessibility, please send your contact information and the details of your request to [accessibility@wtamu.edu](mailto:accessibility@wtamu.edu).

#####



*Spectrum WT, et al., v. Wendler, et al.*

**Exhibit B**  
**to First Amended Verified**  
**Complaint for Civil Rights**  
**Violations**



## **24.01.01.W0.01 Facility Use Request Procedure**

Revised: March 1, 2017

Approved: December 1, 2013

Supplements WTAMU Rule #24.02.02.W1, Visitor Safety Access Control

---

### **Procedure Statement**

The purpose of this procedure is to outline the process to reserve and use West Texas A&M University (WTAMU) campus spaces, rooms, buildings and facilities. This procedure is for any special event (i.e. fundraising activity, social gatherings or functions, or advisory groups), including third party requests. WTAMU reserves the right to cancel an event and immediately remove access to campus if an event violates the policies and regulations of the Texas A&M University System, the rules and procedures of WTAMU, or if an event is deemed to be unsafe.

---

### **Responsibilities**

The request for facility use must be initiated by the department and/or event requestor, with a charge account number required if necessary, using the previously approved request-for-space reservation request site found at: <https://reservations.wtamu.edu/>

The request form must be routed to the specific departments responsible for event activities, including but not limited to:

- a. The designated reservation coordinator for final reservation confirmation. Room and key access will be determined in coordination with the Lock Shop and the building coordinators. The following facilities have a designated reservation coordinator:  
  
Academic Classroom Spaces, Activities Center, Ag Education, Amarillo Center, Athletics, Electronic Learning Center, Fine Arts, Jack B. Kelley Student Center, and Library.
- b. University Police Department (UPD) for event security charges. Event requestor(s) and campus departments are responsible for all charges associated with required security.
- c. Event Services staff for all concealed carry signage requirements (please refer to Rule #34.06.02.W1, Carrying Concealed Handguns on Campus).

Event requestor(s) and campus departments are responsible for all charges associated with required concealed carry signage, including start and end times designated on the request for timely signage removal.

- d. The Physical Plant Director for accessible utilities (i.e. heating and air) and custodial services for clean-up.
- e. The Food Services Director for approval, if the event includes food not provided by the approved campus caterer.
- f. The Risk Management Office for required insurances, programs-for-minors requirements, and event risk reviews.

Alcohol is only allowed in previously approved and designated locations on campus. If alcohol is to be served, the requestor must route the request to the University President's Office to be approved before the event. The President's Office will then return the form to the event requestor. The approval form can be found at: <http://www.wtamu.edu/home/faculty-staff.aspx>

Campus visitors are not allowed in the designated academic classroom lab areas unless pre-approved by Environmental Health and Safety Office:  
[http://www.wtamu.edu/environmental\\_safety/academic-research-environmental-safety.aspx](http://www.wtamu.edu/environmental_safety/academic-research-environmental-safety.aspx)

## **PARKING**

For events involving large buses, including commercial and school buses, the buses can only access parking lots interior to campus for drop-off purposes only. Parked or standing buses are only allowed at the Event Center parking lot, the Sports Complex north parking lot, or other pre-approved event site, until they are ready for passenger pickup.

---

### **Contact Office**

Director of the JBK Student Center  
(806) 651-2394

---

### **Approval**



President/CEO

05.17.17

Date

*Spectrum WT, et al., v. Wendler, et al.*

**Exhibit C**  
**to First Amended Verified**  
**Complaint for Civil Rights**  
**Violations**



## 08.99.99.W1 Expressive Activity on Campus

Approved May 14, 2020

Next Scheduled Review: May 14, 2025

### Rule Summary

In 2019, the 86<sup>th</sup> Texas Legislature passed Senate Bill 18, addressing the protection of campus expressive activities. This new law adds Texas Education Code Section 51.935, which requires that each public institution of higher education “adopt a policy detailing student’s rights and responsibilities regarding expressive activities” on its campus.

As stated in the Preamble to the bill: Freedom of expression is of critical importance and requires each public institution of higher education to ensure free, robust, and uninhibited debate and deliberations by students enrolled at the institution, regardless of whether the students are on or off campus. It is a matter of statewide concern that all public institutions of higher education officially recognize freedom of speech as a fundamental right. Freedom of speech and assembly is central to the mission of institutions of higher education and persons should be permitted to assemble peaceably on the campuses of institutions of higher education for expressive activities, including to listen to or observe the expressive activities of others.

### Definitions

Definitions of terms used in this rule. The definition includes both the singular and plural version of the term:

1. **Benefit** means recognition by or registration with the university, the use of the university’s facilities for meetings or speaking purposes, the use of channels of communication controlled by the university, and funding sources made generally available to student organizations at the university.
2. **Campus** means all land and buildings owned or leased by the university.
3. **Common outdoor areas** means places located outside a building or facility that are accessible to the public, such as streets, sidewalks, plazas, lawns, and parks, unless closed by the university for a special event. This term does not include areas immediately adjacent to a private residence.
4. **Employee** means an individual employed by the university.
5. **Expressive activity** means any speech or expressive conduct protected by the First Amendment to the United States Constitution or by Section 8, Article I, Texas Constitution, and includes assemblies, protests, speeches, the distribution of written material, the carrying of signs, and the circulation of petitions. The term does not include commercial speech.
6. **Faculty** means any full or part-time employee of the university holding an academic appointment.

7. **Materially and substantially disrupt** means interrupting a program or activity in a significant and consequential manner.
  8. **Person** means students, faculty, staff, student organizations, and third-parties.
  9. **Reasonable time, place, and manner restrictions** means limitations that: (1) are narrowly tailored to serve a significant institutional interest; (2) employ clear, published, content-neutral, and viewpoint-neutral criteria; (3) provide for ample alternative means of expression.
  10. **Staff** means an employee of the university that is not a faculty member.
  11. **Student** means an individual currently enrolled at the university, full or part-time, pursuing undergraduate, graduate, or professional studies, including students who were enrolled the previous semester and registered for a future semester.
  12. **Student Organization** means any organization that is composed mostly of students enrolled at an institution of higher education and that receives a benefit from the institution.
  13. **Third-party (External Client)** means an individual or entity that is not a student, student organization, or employee of the university.
  14. **Traditional public forum** means a place, widely recognized in law, which has been intended for the use of the public, and has been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions when the principal function of the location would not be disrupted by expressive activity. Examples of traditional public forums include public streets, sidewalks, plazas, lawns, and parks.
- 

## Rule

---

### 1. EXPRESSIVE ACTIVITY RIGHTS

- 1.1. Any person is allowed, subject to reasonable time, place, and manner restrictions, to engage in expressive activities on campus, including by responding to the expressive activities of others.
- 1.2. Student organizations and employees are allowed to invite speakers to speak on campus. In determining the amount of a fee to be charged for use of the university's facilities for purposes of engaging in expressive activities, the university may consider only content-neutral and viewpoint-neutral criteria related to the requirements of the event, such as the proposed venue and the expected size of the audience, any anticipated need for campus security, any necessary accommodations, and any relevant history of compliance or noncompliance by the requesting student organization or employee with this rule and other relevant rules. The university may not consider any anticipated controversy related to the event.
- 1.3. The university may not take action against a student organization or deny the organization any benefit generally available to other student organizations at the university on the basis of a political, religious, philosophical, ideological, or academic viewpoint expressed by the organization or of any expressive activities of the organization.
- 1.4. The common outdoor areas of the university's campus are deemed traditional public forums. Any person is permitted to engage in expressive activities in these areas freely, as long as the person's conduct: (a) is not unlawful; and (b) does not materially and



substantially disrupt the functioning of the institution. Members of the university community are allowed to assemble or distribute written material in common outdoor areas without a permit or other permission from the institution.

- 1.5. Nothing in this rule should be interpreted as prohibiting faculty members from maintaining order in the classroom.

## 2. COMPLAINT PROCEDURE

- 2.1. Any person who believes that their campus expressive activity rights, as recognized by this rule, have been unduly interfered with by a student, student organization, or employee has the right to file a complaint.
- 2.2. Complaints should be filed on the university's online complaint form, found at [www.wtamu.edu/complaint](http://www.wtamu.edu/complaint).
- 2.3. A student, student organization, or employee who is found to have unduly interfered with another person's expressive activity rights, as recognized by this rule, is subject to disciplinary action in accordance with the university's applicable rules and procedures. All complaints will be administered by the university complaint process found on the complaint website: [www.wtamu.edu/complaint](http://www.wtamu.edu/complaint). If a violation of this rule was found to occur the report will be referred to the appropriate office for further action. The referral office will be determined by the status of the offending individual. Complaints concerning (a) faculty will be referred to the Office of the Provost; (b) student will be referred to the Student Conduct Office; and (c) complaints concerning staff and third-parties will be referred to Human Resources.

## 3. IMPLEMENTATION

- 3.1. A copy of this rule will be included in any university published Code of Student Life.
- 3.2. A copy of this rule will be distributed each semester when the Code of Student Life is normally distributed electronically.
- 3.3. A copy of this rule will be posted to the university's website.

## 4. EXTERNAL CLIENT EVENTS

Events organized by an external party and held on campus must be sponsored by a recognized student organization, university academic or administrative unit, or an A&M System member.

---

## Related Statutes, Policies, or Requirements

---

[Texas Education Code § 51.9315](#)

---

## Contact Office

---

WTAMU Compliance Office

# Exhibit F

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION**

SPECTRUM WT, BARRETT BRIGHT,  
and LAUREN STOVALL,

Plaintiffs,

v.

WALTER WENDLER, in his individual  
capacity and his official capacity as the  
President of West Texas A&M University,

CHRISTOPHER THOMAS, in his official  
capacity as Vice President for Student  
Affairs at West Texas A&M University,

JOHN SHARP, in his official capacity as  
Chancellor of the Texas A&M University  
System,

ROBERT L. ALBRITTON, JAMES R.  
BROOKS, JAY GRAHAM, MICHAEL A.  
HERNANDEZ III, TIM LEACH, BILL  
MAHOMES, ELAINE MENDOZA,  
MICHAEL J. PLANK, CLIFF THOMAS,  
and DEMETRIUS L. HARRELL JR., in  
their official capacities as members of the  
Board of Regents of the Texas A&M  
University System,

Defendants.

Case No.: 2:23-cv-00048-Z

Hon. Matthew J. Kacsmaryk

**APPENDIX TO PLAINTIFFS’ BRIEF IN SUPPORT OF  
AMENDED MOTION FOR PRELIMINARY INJUNCTION**

**Page(s):**

1.	Declaration of Adam Steinbaugh in Support of Plaintiffs’ Amended Motion for Preliminary Injunction .....	1–10
2.	Exhibit 1 – 24.01.01.W0.01 Facility Use Request Procedure .....	11–13
3.	Exhibit 2 – 08.99.99.W1 Expressive Activity on Campus.....	14–18
4.	Exhibit 3 – October 17, 2022 “Big Man on Campus male beauty pageant” Facebook post by “Zeta Tau Alpha at West Texas A&M” .....	19–20
5.	Exhibit 4 – October 20, 2022 Facebook post “at West Texas A&M Legacy Hall” including photos of “Big Man On Campus” .....	21–22

6.	Exhibit 5 – January 27, 2017 Facebook post about the “Miss Black & Gold Scholarship Pageant 2017” to be held in “Legacy Hall” .....	23–24
7.	Exhibit 6 – January 29, 2016 Instagram post about the “2016 Miss Black & Gold Scholarship Pageant” at “Jack B. Kelley Legacy Hall” .....	25–26
8.	Exhibit 7 – March 20, 2012 article entitled “Men in dresses work to cure cancer in style” in the West Texas A&M student newspaper, <i>The Prairie</i> .....	27–28
9.	Exhibit 8 – March 27, 2012 article entitled “Herdsman Hearts hosts Buff-A-Whoa drag show” in <i>The Prairie</i> .....	29–30
10.	Exhibit 9 – Facebook event page about an April 18, 2019 “3rd consecutive Mr & Ms West Texas Drag Show” at “West Texas A&M Legacy Hall” hosted by Kappa Kappa Psi and Tau Beta Sigma .....	31–32
11.	Exhibit 10 – Photos posted by “Alpha Psi Chapter of Kappa Kappa Psi” on April 21, 2019 .....	33–34
12.	Exhibit 11 – April 30, 2017 Facebook post by “Alpha Psi Chapter of Kappa Kappa Psi” about “Miss West Texas” .....	35–36
13.	Exhibit 12 – April 27, 2020 article in West Texas A&M’s yearbook, <i>Eternal Flame</i> , about the “University SING” event held in Legacy Hall .....	37–41
14.	Exhibit 13 – February 19, 2018 post to Facebook by West Texas A&M’s Office of Student Engagement and Leadership about “University SING . . . in Legacy Hall” .....	42–43
15.	Exhibit 14 – April 14, 2019 article from KAMR reporting that Ascension Academy “hosted its Friend Feud Gala . . . at Legacy Hall on West Texas A&M’s campus” .....	44–45
16.	Exhibit 15 – May 5, 2019 “Community Night of Worship and Prayer . . . at the WTAMU Legacy Hall” .....	46–47
17.	Exhibit 16 – Facebook photo posted on May 5, 2019, from “Community Night of Worship and Prayer at West Texas A&M Legacy Hall” depicting a live band on stage .....	48–49

18. Exhibit 17– Facebook event page created by West Texas A&M University about a September 28, 2020 “forum in Legacy Hall” featuring Dr. Ronny Jackson..... 50–51

19. Exhibit 18 – Event Page on West Texas A&M’s website promoting a September 24, 2020 “Congressional Candidate Forum” featuring “Congressional Candidate Gus Trujilo . . . in Legacy Hall” ..... 52–53

20. Exhibit 19 – August 17, 2022 Facebook post by the West Texas A&M JBK Student Center about a “FREE concert in Legacy Hall” featuring “The Band Monarch” ..... 54–55

21. Exhibit 20 – October 4, 2022 Facebook post by the Ceta Canyon Camp & Retreat Center about a “special dinner” at “WTAMU – JBK Legacy Hall” ..... 56–57

22. Exhibit 21 – January 13, 2023 article by KAMR about an “upcoming fundraising gala” with “a performer with the Metropolitan Opera . . . in Legacy Hall at the Jack B. Kelley Student Center” ..... 58–61

23. Exhibit 22 – February 22, 2023 Facebook post by Canyon High School about a February 25, 2023 “Casino Night” dance at “Legacy Hall at WTAMU in the JBK” ..... 62–63

24. Exhibit 23 – March 3, 2023 article from KAMR about a “Shine for Autism’ Sapphire Gala” to be held “at the Jack B. Kelley Legacy Hall” ..... 64–68

25. Exhibit 24 – January 12, 2015 article from KAMR about the 67th Annual Randall County Junior Livestock Show held in “WTAMU LEGACY HALL” ..... 69–73

26. Exhibit 25 – January 8, 2022 article from KAMR about the 74th Randall County Junior Livestock Show “with a premium sale” at “WTAMU Legacy Hall in Canyon” ..... 74–78

27. Exhibit 26 – Event page on the West Texas A&M website about a March 23, 2023 appearance by “Jack Kelley the Magician” performing “jaw-dropping magic and comedy” in Legacy Hall..... 79–80

28. Exhibit 27 – March 24, 2023 article published by KAMR ..... 81–85



Dated: April 20, 2023

Respectfully submitted,

/s/ JT Morris  
JT MORRIS  
TX Bar No. 24094444  
FOUNDATION FOR INDIVIDUAL  
RIGHTS AND EXPRESSION  
700 Pennsylvania Ave., SE  
Ste. 340  
Washington, DC 20003  
Tel: (215) 717-3473  
Fax: (267) 573-3073  
jt.morris@thefire.org

CONOR T. FITZPATRICK\*  
MI Bar No. P78981  
ADAM B. STEINBAUGH\*  
PA Bar No. 326475  
JEFFREY D. ZEMAN\*  
Pa. Bar No. 328570  
FOUNDATION FOR INDIVIDUAL  
RIGHTS AND EXPRESSION  
510 Walnut St.; Ste. 1250  
Philadelphia, PA 19106  
Tel: (215) 717-3473  
Fax: (267) 573-3073  
conor.fitzpatrick@thefire.org  
adam@thefire.org  
jeff.zeman@thefire.org

\* Admitted *Pro Hac Vice*

*Attorneys for Plaintiffs  
Spectrum WT, Barrett Bright,  
and Lauren Stovall*

**CERTIFICATE OF SERVICE**

I hereby certify that on April 20, 2023, a true and correct copy of the foregoing document was transmitted via using the CM/ECF system, which automatically sends notice and a copy of the filing to all counsel of record.

/s/ JT Morris

JT Morris

FOUNDATION FOR INDIVIDUAL  
RIGHTS AND EXPRESSION

# **DECLARATION OF ADAM STEINBAUGH**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

SPECTRUM WT, BARRETT BRIGHT,  
and LAUREN STOVALL,

Plaintiffs,

v.

WALTER WENDLER, in his individual  
capacity and his official capacity as the  
President of West Texas A&M University,  
*et al.*,

Defendants.

Case No.: 2:23-cv-00048

**DECLARATION OF ADAM  
STEINBAUGH IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

Under 28 U.S.C. § 1746, I, Adam Steinbaugh, declare as follows:

1. I am over the age of 18 and have personal knowledge of the facts in this declaration.

2. I am an attorney with the Foundation for Individual Rights and Expression, counsel for Plaintiffs in this action. I am admitted to the bars of the State of California and the Commonwealth of Pennsylvania. I have been granted leave to appear *pro hac vice* as co-counsel for Plaintiffs. Doc. No. 27.

3. The sole purpose of this declaration is to offer documentary evidence in support of Plaintiffs' amended motion for a preliminary injunction.

4. A true and correct copy of West Texas A&M Policy No. 24.01.01.W0.01, entitled "Facility Use Request Procedure," is attached as **Exhibit 1**. This policy document is available on the West Texas A&M University website at

[https://www.wtamu.edu/webres/File/About/Administration/Rules/Procedure%20No%2024\\_01\\_01\\_W0\\_01.pdf](https://www.wtamu.edu/webres/File/About/Administration/Rules/Procedure%20No%2024_01_01_W0_01.pdf) and archived at <https://perma.cc/59ZV-7UEH>.

5. A true and correct copy of West Texas A&M Policy No. 08.99.99.W1, entitled “Expressive Activity On Campus,” is attached as **Exhibit 2**. This policy document is available on the West Texas A&M University website at [https://www.wtamu.edu/webres/File/About/Administration/Rules/08.99.99.w1\\_final\\_200514.pdf](https://www.wtamu.edu/webres/File/About/Administration/Rules/08.99.99.w1_final_200514.pdf) and archived at <https://perma.cc/W3SU-SCZD>.

### ***Uses of JBK Student Center Spaces***

6. **Big Man On Campus male beauty pageant**

- a) A true and correct copy of an October 17, 2022 Facebook post by “Zeta Tau Alpha at West Texas A&M” about a “Big Man on Campus male beauty pageant is attached as **Exhibit 3**. The Facebook post is also *available at* <https://www.facebook.com/wtzta/posts/pfbid0uTHg6zWKnCEUxyTCZhBQys6DD3ogu5DXEiuXHy98AxxvMoyh8vJStDQxf0ZfMjV8fl>.
- b) A true and correct copy of an October 20, 2022 Facebook post “at West Texas A&M Legacy Hall” including photos of “Big Man On Campus” is attached as **Exhibit 4**. The Facebook post is also *available at* <https://www.facebook.com/Wasssuuppp/posts/pfbid02eFJhfnjAzne8JJS8uBVxaGmUp24w4Hsi9uBKbMQnRqC1zmnEhJVxtHXr6mpySaK5l> and *archived at* <https://perma.cc/KLK8-UFK6>.

7. **Miss Black & Gold Scholarship Pageant**

- a) A true and correct copy of a January 27, 2017 Facebook post about the “Miss Black & Gold Scholarship Pageant 2017” to be held in “Legacy Hall” is attached as **Exhibit 5**. The Facebook post is also *available at* <https://www.facebook.com/RhoMuMBG17/photos/a.1807799329434532/1829499373931194>.
- b) A true and correct copy of a January 29, 2016 Instagram post about the “2016 Miss Black & Gold Scholarship Pageant” at “Jack B. Kelley Legacy Hall” is attached as **Exhibit 6**. The Instagram post is also *available at* <https://www.instagram.com/p/BBI934IPC6Q>.

8. **Buff-A-Whoa Drag Show**

- a) A true and correct copy of a March 20, 2012 article entitled “Men in dresses work to cure cancer in style” in the West Texas A&M student newspaper, *The Prairie*, is attached as **Exhibit 7**. The March 20, 2012 edition of *The Prairie* is also *available at* [https://issuu.com/theprairienews/docs/everything\\_march\\_20](https://issuu.com/theprairienews/docs/everything_march_20).
- b) A true and correct copy of a March 27, 2012 article entitled “Herdsman Hearts hosts Buff-A-Whoa drag show” in *The Prairie* is attached as **Exhibit 8**. The March 27, 2012 edition of *The Prairie* is also *available at* <https://issuu.com/theprairienews/docs/3.27.11>.

9. **Mr & Miss West Texas drag show**

- a) A true and correct copy of a Facebook event page about an April 18, 2019 “3rd consecutive Mr & Ms West Texas Drag Show” at “West Texas A&M Legacy Hall” hosted by Kappa Kappa Psi and



Tau Beta Sigma is attached as **Exhibit 9**. The Facebook post is also *available at* <https://www.facebook.com/events/2194529927279411> and *archived at* <https://perma.cc/D6UE-WAQX>.

- b) A true and correct copy of an exemplar photo from photos posted by “Alpha Psi Chapter of Kappa Kappa Psi” on April 21, 2019 is attached as **Exhibit 10**. The photos are also *available at* <https://www.facebook.com/kkpsialphapsi/photos/a.1363553363785616/1363558923785060>.
- c) A true and correct copy of an April 30, 2017 Facebook post by “Alpha Psi Chapter of Kappa Kappa Psi” about “Miss West Texas” is attached as **Exhibit 11**. The Facebook post is also *available at* <https://www.facebook.com/photo/?fbid=891036867703937&set=a.570750233065937> and *archived at* <https://perma.cc/EW9Q-BGY9>.

10. **University Sing**

- a) A true and correct copy of an April 27, 2020 article in West Texas A&M’s yearbook, *Eternal Flame*, about the “University SING” event held in Legacy Hall is attached as **Exhibit 12**. The article is also available at <https://www.wteternalflame.com/post/wt-s-university-sing> and *archived at* <https://perma.cc/5WVD-6QJJ>.
- b) A true and correct copy of a February 19, 2018 post to Facebook by West Texas A&M’s Office of Student Engagement and Leadership about “University SING . . . in Legacy Hall” is attached as **Exhibit 13**. The post is also *available at*

<https://www.facebook.com/wtamuosel/photos/a.412576765469716/1666489360078444>.

11. **Ascension Academy's Friendly Feud Gala**

- a) A true and correct copy of an April 14, 2019 article from KAMR reporting that Ascension Academy “hosted its Friendly Feud Gala . . . at Legacy Hall on West Texas A&M’s campus” is attached as **Exhibit 14**. The article is also *available at* <https://www.myhighplains.com/news/ascension-academy-hosts-friendly-feud-gala/amp> and *archived at* <https://perma.cc/5GNK-CPAD>.

12. **Community Night of Worship and Prayer**

- a) A true and correct copy of a Facebook event page about a May 5, 2019 “Community Night of Worship and Prayer . . . at the WTAMU Legacy Hall” is attached as **Exhibit 15**. The Facebook event page is also *available at* <https://www.facebook.com/events/284705745550014> and *archived at* <https://perma.cc/SZE3-TQJH>.
- b) A true and correct copy of a Facebook photo posted on May 5, 2019 from “Community Night of Worship and Prayer at West Texas A&M Legacy Hall” depicting a live band on stage is attached as **Exhibit 16**. The Facebook photo is also *available at* <https://www.facebook.com/janae.gadberry/posts/pfbid0aHCf1E3JC5MmXmfLmB967JNRgwgEqDG6qQ5psfg97SojjvHk3g5D7xm5JpeEkDv8l>.

13. **Congressional Candidate Forums**

- a) A true and correct copy of a Facebook event page created by West Texas A&M University about a September 28, 2020 “forum in Legacy Hall” featuring Dr. Ronny Jackson is attached as **Exhibit 17**. The Facebook event page is also *available at* <https://www.facebook.com/events/west-texas-am-jbk-student-center/congressional-candidate-forum-with-dr-ronny-jackson/4655948491096904> and *archived at* <https://perma.cc/2KSF-V8WU>.
- b) A true and correct copy of an event page on West Texas A&M’s website promoting a September 24, 2020 “Congressional Candidate Forum” featuring “Congressional Candidate Gus Trujilo . . . in Legacy Hall” is attached as **Exhibit 18**. The event page is also *available at* <https://www.wtamu.edu/student-life/calendar/index.html?trumbaEmbed=view%3Devent%26eventid%3D148063728> and *archived at* <https://perma.cc/XUK5-N2FP>.

14. **The Band Monarch**

- a) A true and correct copy of an August 17, 2022 Facebook post by the West Texas A&M JBK Student Center about a “FREE concert in Legacy Hall” featuring “The Band Monarch” is attached as **Exhibit 19**. The Facebook post is also *available at* <https://www.facebook.com/WTAMUJBK/posts/pfbid084n7bgcwRwr1g9XEb6DwRjBCyt2PHPjTvJjzXECECpdaGi5HyWCVUibwgXv8Vk3sl>.

15. **Ceta Canyon Camp & Retreat Center dinner**

- a) A true and correct copy of an October 4, 2022 Facebook post by the Ceta Canyon Camp & Retreat Center about a “special dinner” at “WTAMU – JBK Legacy Hall” is attached as **Exhibit 20**. The Facebook post is also *available at* <https://www.facebook.com/cetacanyon/posts/pfbid02VLXP7EbqdZBi8vmvjQuVntGbch9tiHpAdMFSiAd8A1SMjvDBnnw4euKdWwNb5zMpl>.

16. **Metropolitan Opera singer gala and performance**

- a) A true and correct copy of a January 13, 2023 article by KAMR about an “upcoming fundraising gala” with “a performer with the Metropolitan Opera . . . in Legacy Hall at the Jack B. Kelley Student Center” is attached as **Exhibit 21**. The article is also *available at* <https://www.myhighplains.com/entertainment-news/wt-opera-to-host-fundraising-gala-with-met-opera-performer> and *archived at* <https://perma.cc/98K2-DCKP>.

17. **Canyon High School Spring Dance 2023: Casino Night**

- a) A true and correct copy of a February 22, 2023 Facebook post by Canyon High School about a February 25, 2023 “Casino Night” dance at “Legacy Hall at WTAMU in the JBK” is attached as **Exhibit 22**. The Facebook post is also *available at* <https://www.facebook.com/cisdcanonhs/posts/pfbid02N4Y5x8JgQmDQEF1qRYB83ieXxdXeszrp4qxsWqMCWbke3dkuQPJiTWWJE5tFTWGXI> and *archived at* <https://perma.cc/XY9W-WRXZ>.

18. **Shine for Autism gala**

- a) A true and correct copy of a March 3, 2023 article from KAMR about a “Shine for Autism’ Sapphire Gala” to be held “at the Jack B. Kelley Legacy Hall” is attached as **Exhibit 23**. The article is also *available at* <https://www.myhighplains.com/news/heart-of-the-high-plains/braydens-gift-set-to-host-shine-for-autism-gala> and *archived at* <https://perma.cc/DJH2-JNHK>.

19. **Randall County Junior Livestock Show**

- a) A true and correct copy of a January 12, 2015 article from KAMR about the 67th Annual Randall County Junior Livestock Show held in “WTAMU LEGACY HALL” is attached as **Exhibit 24**. The article is also *available at* <https://www.myhighplains.com/news/studio-4/randall-county-hosts-its-67th-annual-junior-livestock-show/161081758> and *archived at* <https://perma.cc/3DB7-XYHW>.
- b) A true and correct copy of a January 8, 2022 article from KAMR about the 74th Randall County Junior Livestock Show “with a premium sale” at “WTAMU Legacy Hall in Canyon” is attached as **Exhibit 25**. The article is also *available at* <https://www.myhighplains.com/news/local-news/weeklong-randall-county-stock-show-is-underway> and *archived at* <https://perma.cc/VRR9-AMGM>.

20. **Jack Kelley The Magician**

- a) A true and correct copy of an event page on the West Texas A&M website about a March 23, 2023 appearance by “Jack Kelley the Magician” performing “jaw-dropping magic and

comedy” in Legacy Hall is attached as **Exhibit 26**. The event page is also *available at* <https://www.wtamu.edu/student-life/calendar/index.html?trumbaEmbed=view%3Devent%26eventid%3D165030094> and *archived at* <https://perma.cc/E49Z-US2M>.

***Events following the cancellation of Spectrum WT’s drag show.***

21. A true and correct copy of a March 24, 2023 article published by KAMR is attached as **Exhibit 27**. The article is also *available at* <https://www.myhighplains.com/news/local-news/wtamu-police-canyon-police-said-no-credible-threats-have-been-made-in-wake-of-drag-related-letter-from-wendler> and *archived at* <https://perma.cc/684K-G7YD>.

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge.

Dated: April 19, 2023

/s/ Adam Steinbaugh  
Adam Steinbaugh



*Spectrum WT, et al., v. Wendler, et al.*

# **Exhibit 1**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**



## 24.01.01.W0.01

### Facility Use Request Procedure

Revised: March 1, 2017

Approved: December 1, 2013

Supplements WTAMU Rule #24.02.02.W1, Visitor Safety Access Control

---

#### Procedure Statement

The purpose of this procedure is to outline the process to reserve and use West Texas A&M University (WTAMU) campus spaces, rooms, buildings and facilities. This procedure is for any special event (i.e. fundraising activity, social gatherings or functions, or advisory groups), including third party requests. WTAMU reserves the right to cancel an event and immediately remove access to campus if an event violates the policies and regulations of the Texas A&M University System, the rules and procedures of WTAMU, or if an event is deemed to be unsafe.

---

#### Responsibilities

The request for facility use must be initiated by the department and/or event requestor, with a charge account number required if necessary, using the previously approved request-for-space reservation request site found at: <https://reservations.wtamu.edu/>

The request form must be routed to the specific departments responsible for event activities, including but not limited to:

- a. The designated reservation coordinator for final reservation confirmation. Room and key access will be determined in coordination with the Lock Shop and the building coordinators. The following facilities have a designated reservation coordinator:  

Academic Classroom Spaces, Activities Center, Ag Education, Amarillo Center, Athletics, Electronic Learning Center, Fine Arts, Jack B. Kelley Student Center, and Library.
- b. University Police Department (UPD) for event security charges. Event requestor(s) and campus departments are responsible for all charges associated with required security.
- c. Event Services staff for all concealed carry signage requirements (please refer to Rule #34.06.02.W1, Carrying Concealed Handguns on Campus).

Event requestor(s) and campus departments are responsible for all charges associated with required concealed carry signage, including start and end times designated on the request for timely signage removal.

- d. The Physical Plant Director for accessible utilities (i.e. heating and air) and custodial services for clean-up.
- e. The Food Services Director for approval, if the event includes food not provided by the approved campus caterer.
- f. The Risk Management Office for required insurances, programs-for-minors requirements, and event risk reviews.

Alcohol is only allowed in previously approved and designated locations on campus. If alcohol is to be served, the requestor must route the request to the University President's Office to be approved before the event. The President's Office will then return the form to the event requestor. The approval form can be found at: <http://www.wtamu.edu/home/faculty-staff.aspx>

Campus visitors are not allowed in the designated academic classroom lab areas unless pre-approved by Environmental Health and Safety Office:  
[http://www.wtamu.edu/environmental\\_safety/academic-research-environmental-safety.aspx](http://www.wtamu.edu/environmental_safety/academic-research-environmental-safety.aspx)

## **PARKING**

For events involving large buses, including commercial and school buses, the buses can only access parking lots interior to campus for drop-off purposes only. Parked or standing buses are only allowed at the Event Center parking lot, the Sports Complex north parking lot, or other pre-approved event site, until they are ready for passenger pickup.

---

### **Contact Office**

Director of the JBK Student Center  
(806) 651-2394

---

### **Approval**



President/CEO

05.17.17

Date

*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 2**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**



## 08.99.99.W1 Expressive Activity on Campus

Approved May 14, 2020  
Next Scheduled Review: May 14, 2025

---

### Rule Summary

In 2019, the 86<sup>th</sup> Texas Legislature passed Senate Bill 18, addressing the protection of campus expressive activities. This new law adds Texas Education Code Section 51.935, which requires that each public institution of higher education “adopt a policy detailing student’s rights and responsibilities regarding expressive activities” on its campus.

As stated in the Preamble to the bill: Freedom of expression is of critical importance and requires each public institution of higher education to ensure free, robust, and uninhibited debate and deliberations by students enrolled at the institution, regardless of whether the students are on or off campus. It is a matter of statewide concern that all public institutions of higher education officially recognize freedom of speech as a fundamental right. Freedom of speech and assembly is central to the mission of institutions of higher education and persons should be permitted to assemble peaceably on the campuses of institutions of higher education for expressive activities, including to listen to or observe the expressive activities of others.

---

### Definitions

Definitions of terms used in this rule. The definition includes both the singular and plural version of the term:

1. **Benefit** means recognition by or registration with the university, the use of the university’s facilities for meetings or speaking purposes, the use of channels of communication controlled by the university, and funding sources made generally available to student organizations at the university.
2. **Campus** means all land and buildings owned or leased by the university.
3. **Common outdoor areas** means places located outside a building or facility that are accessible to the public, such as streets, sidewalks, plazas, lawns, and parks, unless closed by the university for a special event. This term does not include areas immediately adjacent to a private residence.
4. **Employee** means an individual employed by the university.
5. **Expressive activity** means any speech or expressive conduct protected by the First Amendment to the United States Constitution or by Section 8, Article I, Texas Constitution, and includes assemblies, protests, speeches, the distribution of written material, the carrying of signs, and the circulation of petitions. The term does not include commercial speech.
6. **Faculty** means any full or part-time employee of the university holding an academic appointment.

7. **Materially and substantially disrupt** means interrupting a program or activity in a significant and consequential manner.
8. **Person** means students, faculty, staff, student organizations, and third-parties.
9. **Reasonable time, place, and manner restrictions** means limitations that: (1) are narrowly tailored to serve a significant institutional interest; (2) employ clear, published, content-neutral, and viewpoint-neutral criteria; (3) provide for ample alternative means of expression.
10. **Staff** means an employee of the university that is not a faculty member.
11. **Student** means an individual currently enrolled at the university, full or part-time, pursuing undergraduate, graduate, or professional studies, including students who were enrolled the previous semester and registered for a future semester.
12. **Student Organization** means any organization that is composed mostly of students enrolled at an institution of higher education and that receives a benefit from the institution.
13. **Third-party (External Client)** means an individual or entity that is not a student, student organization, or employee of the university.
14. **Traditional public forum** means a place, widely recognized in law, which has been intended for the use of the public, and has been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions when the principal function of the location would not be disrupted by expressive activity. Examples of traditional public forums include public streets, sidewalks, plazas, lawns, and parks.

---

## Rule

---

### 1. EXPRESSIVE ACTIVITY RIGHTS

- 1.1. Any person is allowed, subject to reasonable time, place, and manner restrictions, to engage in expressive activities on campus, including by responding to the expressive activities of others.
- 1.2. Student organizations and employees are allowed to invite speakers to speak on campus. In determining the amount of a fee to be charged for use of the university's facilities for purposes of engaging in expressive activities, the university may consider only content-neutral and viewpoint-neutral criteria related to the requirements of the event, such as the proposed venue and the expected size of the audience, any anticipated need for campus security, any necessary accommodations, and any relevant history of compliance or noncompliance by the requesting student organization or employee with this rule and other relevant rules. The university may not consider any anticipated controversy related to the event.
- 1.3. The university may not take action against a student organization or deny the organization any benefit generally available to other student organizations at the university on the basis of a political, religious, philosophical, ideological, or academic viewpoint expressed by the organization or of any expressive activities of the organization.
- 1.4. The common outdoor areas of the university's campus are deemed traditional public forums. Any person is permitted to engage in expressive activities in these areas freely, as long as the person's conduct: (a) is not unlawful; and (b) does not materially and



substantially disrupt the functioning of the institution. Members of the university community are allowed to assemble or distribute written material in common outdoor areas without a permit or other permission from the institution.

- 1.5. Nothing in this rule should be interpreted as prohibiting faculty members from maintaining order in the classroom.

## 2. COMPLAINT PROCEDURE

- 2.1. Any person who believes that their campus expressive activity rights, as recognized by this rule, have been unduly interfered with by a student, student organization, or employee has the right to file a complaint.
- 2.2. Complaints should be filed on the university's online complaint form, found at [www.wtamu.edu/complaint](http://www.wtamu.edu/complaint).
- 2.3. A student, student organization, or employee who is found to have unduly interfered with another person's expressive activity rights, as recognized by this rule, is subject to disciplinary action in accordance with the university's applicable rules and procedures. All complaints will be administered by the university complaint process found on the complaint website: [www.wtamu.edu/complaint](http://www.wtamu.edu/complaint). If a violation of this rule was found to occur the report will be referred to the appropriate office for further action. The referral office will be determined by the status of the offending individual. Complaints concerning (a) faculty will be referred to the Office of the Provost; (b) student will be referred to the Student Conduct Office; and (c) complaints concerning staff and third-parties will be referred to Human Resources.

## 3. IMPLEMENTATION

- 3.1. A copy of this rule will be included in any university published Code of Student Life.
- 3.2. A copy of this rule will be distributed each semester when the Code of Student Life is normally distributed electronically.
- 3.3. A copy of this rule will be posted to the university's website.

## 4. EXTERNAL CLIENT EVENTS

Events organized by an external party and held on campus must be sponsored by a recognized student organization, university academic or administrative unit, or an A&M System member.

---

## **Related Statutes, Policies, or Requirements**

---

[Texas Education Code § 51.9315](#)

---

## Contact Office

---

WTAMU Compliance Office

*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 3**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**



**Zeta Tau Alpha at West Texas A&M** is in Canyon, TX ...  
 October 17, 2022 · 🌐

Now introducing..... Zeta Tau Alpha's next Big Man On Campus contestants!

Here are a few of our guys for this year's pageant!

Thank you to the organizations below for your participation in our Big Man On Campus male beauty pageant this year!

@maroonplatoonwt  
 @wt\_sigma.nu  
 @wtamu\_rogersleadwt  
 @wtamuphidelt  
 @wtamu\_football  
 @wtamu.ato  
 @wtamu\_choir  
 @wtamakappaalphaorder

We cannot wait to meet our next Big Man On Campus!

Be on the lookout for the last half of the guys signed up for the pageant tomorrow!

ZLAM! 🍷

#wtamu #bigmanoncampus #zta #zetataualpha #pinkweek #breastcancerawarenessmonth #ztathinkpink



👍❤️ 27      1 💬 1 ↻

👍 Like    💬 Comment    ↻ Share    🌐

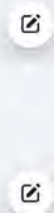
Most relevant ▾

Write a comment... 🗨️ 📷 📧 📧 📧

**Top of Texas Alumnae Chapter of Zeta Tau Alpha** Follow

This year's BMOC will be amazing! Shout out to Ridleigh Glaze for the awesome Wanted posters and Rebecca Glaze and her committee for all their hard word on BMOC this year!

Like Reply 26w      🍷❤️ 3



*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 4**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**

facebook



Rebecca Glaze is at West Texas A&M Legacy Hall.



October 20, 2022 · Canyon, TX · 🌐

another Big Man On Campus in the books! 🥳 so grateful for how everything turned out and to have such an amazing support system! THINK PINK THINK ZETA 🍷 🍷 🍷



👍❤️ 17

💬 2

👍 Like

💬 Comment

➦ Share



Keith Brown  
Excellent job! 👍

Like Reply 25w

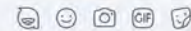


Vicki Marie Glaze  
You worked so hard!! Proud of you, Sweetie!!! 🍷 🍷 🍷

Like Reply 25w



Write a comment...





*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 5**


**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**



facebook



 **Miss Black & Gold Scholarship Pageant 2017** ...  
January 27, 2017 · 

Tonight, a queen will be crowned! Come out to Legacy Hall and see who Miss Black & Gold 2017 will be. Doors open at 6:30 pm. Program starts at 7:06 pm.

 2  3  
 Like  Comment  Share 

 Write a comment...  


*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 6**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**

Instagram

- Home
- Search
- Explore
- Reels
- Messages
- Notifications
- Create
- Profile

More



wtalphas • Follow

wtalphas Just hours left before the first annual Miss Black and Gold Scholarship Pageant. Can't wait to see you there. Tickets will be sold at the door

376w

16 likes  
JANUARY 29, 2016

Add a comment...

More posts from wtalphas



Meta About Blog Jobs Help API Privacy Terms Top Accounts Locations Instagram Lite Contact Uploading & Non-Users Meta Verified

English @ 2023 Instagram from Meta

*Spectrum WT, et al., v. Wendler, et al.*

# **Exhibit 7**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**



## Circle K helps raise money for tetanus vaccines

RYAN SCHAAP  
STAFF WRITER

Circle K will be raising money for tetanus vaccines through an event called 'The Race to Eliminate,' which will take place on March 24.

"It's a disease that is present in third world countries that kills a child every nine seconds," said Abby Walker, President of Circle K. "The vaccinations are provided for people in the United States, but those in third world countries do not have this privilege."

It costs \$1.80 to provide a mother with three doses of the vaccination which will give her and her children a safe living environment. Kwanzaa International, the organization which houses Circle K, is planning to raise \$115 million by 2015.

"Circle K is trying to get the community and campus involved with the 5K run or one mile walk," said Walker. "We want students to be involved and spread awareness to which all funds will go to the Elimination project. Anybody can sign to run or walk and even give a

donation."

Another goal of the project besides raising funds is to raise awareness.

"We want to get the name of the project out there," said Logan Edigar, Department Chair of Marketing for Circle K. "The amount of money we raise will depend on how many people show up. If we have 200 people show, that could supply 1,900 mothers with the vaccinations which will protect the lives of all their children."

Getting students and the community involved is important for Circle K. 5K runners from around the area have

decided to get involved to help this cause.

Will Walker, committee chair of Circle K, is involved with a group called Friends In Training [FIT].

"We have run multiple 5K's and enjoy running for a good cause. The Race to Eliminate is something our group is really interested in," said Walker.

A table will be in the JBK to sign up for the race on March 21. Prizes will be given away for groups who have the most participants and first place finishers.

## SGC raises funds for UNICEF Men in dresses work to cure cancer in style

DANIELA FIERRO  
STAFF WRITER

Students for Global Connections will have a booth in the JBK to raise awareness and help raise funds for UNICEF Tap Project March 19-25.

President Olivia Trabysch said they will be recruiting restaurants such as the Big Texan, Sakura, Macaroni Joe's and El Patio in Canyon and many more.

"Students will have to go to restaurants that we are recruiting and order a glass of water,"

said Trabysch. "The restaurants will then proceed to donate either water or money."

This is the first time Student for Global Connections is helping out UNICEF and it is the first group in the Panhandle to be associated with the organization.

"Vietnam and Cameroon will revive money for water," said Trabysch. "The panhandle is very sheltered so this is a way to raise awareness and help out."

Trabysch said UNICEF is the main premise of the event and they plan to do this project next year as well.

"We also are planning to do other projects UNICEF has every few months," she said. "And we will definitely try to do the big projects."

History major Tori Trela is part of Students for Global Connections and said something as little as a dollar can help the cause.

"We as Americans have concerns about health because we can do something about curing diseases," said Trela. "But these countries can't and something as clean water can be beneficial to them."

Trela added that she will speak to her friend who owns a restaurant to see if they would want to help out and what other restaurants could help as well.

"It's a great opportunity to help out if you're in one of the restaurants," said Trela. "It's a simple idea yet monumental."

Text "TAP" to 864-233 to make a one-time donation of \$10 or visit one of the many restaurants that will be listed when the organization's table is set up in the JBK.

JESSICA CHANDOS  
STAFF WRITER

The Herdsmen Hearts are putting on a cross-dressing fashion show to raise money for Relay for Life. The event will take place on March 20 at 6 p.m. in the JBK commons.

There will be a maximum of 20 male contestants in the show, each required to pay a \$10 entry fee to be donated to the cause. Each contestant is responsible for trying to get as many of his friends to support him by donating money for Relay for Life.

"[We] set it up in a way so you could eat your dinner while watching the fun," Herdsman Hearts Public Relations Official Madelyn Melchoirs said.

This is to be the Herdsmen Hearts' spring philanthropy event.

"We're hoping this is going to be a lot of fun for people to watch and want to participate in," said Melchoirs.

There will be an evening dress, sports wear, and group dance round.

"It would be really fun to go to and watch. Plus who doesn't like helping to find a cure for cancer?" Jo Ann Ross, English, philosophy and modern languages secretary, asked.

Not many students know the event will be going on, as there was a "mix up on the flyers" with the wrong date, Melchoirs said.

One of these students is JBK staffer Rochelle Parchment.

"A drag show? No, never heard of it," she said.

"We're hoping that people will read the table tents when they get back from spring break," said Melchoirs.

### TEXAS ROADHOUSE

#### NOW HIRING SERVERS

GREAT PAY  
FLEXIBLE SCHEDULES  
APPLY IN PERSON AT 2805 W I-40 IN AMARILLO  
MONDAY-THURSDAY BETWEEN 3 AND 5

THE PRAIRIE will be giving out free popcorn with each newspaper April 30 in the JBK starting at 11:30.



*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 8**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**

# Herdsmen Hearts hosts Buff-A-Whoa drag show

JESSICA CHANDOS  
STAFF WRITER

**O**n March 20 the Herdsmen Hearts put on a drag show event, Buff-A-Whoa to raise money for Relay for Life. There were four categories for judging: evening gown, sports event, talent, and group dance. The winner of Buff-A-Whoa was Calamity Suzie Cutesy.



Calamity Suzie Cutesy sings "Friday."



In their dance wear, the contestants show their talents dancing to the Wobble.



Calamity Suzie Cutesy wins the Buff-A-Whoa drag show.



Spunky Sandy in her purple gown.



Calamity Suzie Cutesy in her boa slinky dress.



Sassy Pants Cassandra shows off for the cameras.



Allota Virginia during the evening gown event.

*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 9**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**

**Events**

Search Events

Home

Your Events

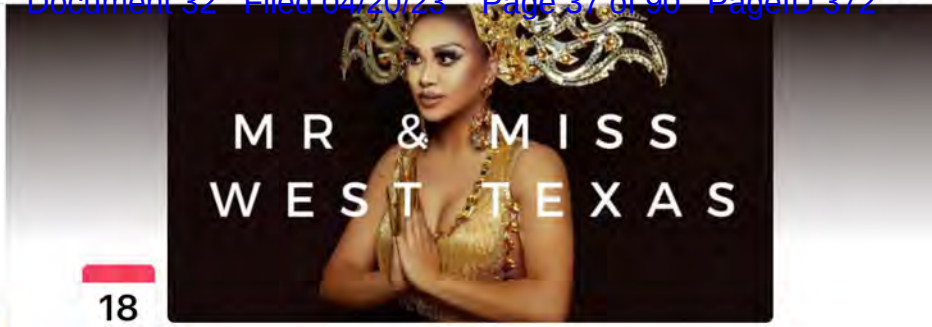
Birthdays

Notifications

+ Create new event

**Recommended Events** [See All](#)

- Today at 6 PM - 8:30 PM  
**DIFFERENT STAGES of BIBLICAL DISCIPLESHIP - Bible Study &...**
- Today at 8 PM - 10 PM  
**'Grand Central Terminal and the Secrets Within' Webinar**
- Today at 6 PM - 10 PM  
**'Grand Central Terminal and the Secrets Within' Webinar**



**18**

THURSDAY, APRIL 18, 2019 AT 9:30 PM EDT

**Mr & Miss West Texas**

West Texas A&M Legacy Hall

About Discussion

**Mr & Miss West Texas**

43 people responded

Event by Malik Boyd

West Texas A&M Legacy Hall

Public · Anyone on or off Facebook

Kappa Kappa Psi and Tau Beta Sigma are hosting the 3rd consecutive Mr & Ms West Texas Drag Show. Special guest Ivy Tran Kinney-Monroe. \$3 Dollar Entry fee! All the proceeds are going towards Band Camp Scholarships! See less

Canyon, Texas

**Meet Your Host**



**Malik Boyd**  
3 past events

Add Friend

- Interested**
- THIS SUNDAY AT 11 AM**  
**StrEAT Food Festival**  
Main Street Manayunk  
William and Zachary are interested
- Interested**
- FRI, APR 28 AT 7 PM**  
**Built To Spill at Union Transfer - Philadelphia 4/28**  
Union Transfer  
William is interested
- Interested**
- SAT, JUN 10 AT 7 PM**  
**Sneaker Gala**  
The Merion  
Stephen is interested
- Interested**

*Spectrum WT, et al., v. Wendler, et al.*

# **Exhibit 10**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**



facebook



Alpha Psi Chapter of Kappa Kappa Psi

April 21, 2019 · Canyon, TX · 🌐

— at West Texas A&M University.

👍 Like    💬 Comment    ➦ Share    🌐

Write a comment...  
🗨️ 😊 📷 🧠 🗑️ ➦

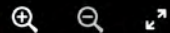


*Spectrum WT, et al., v. Wendler, et al.*

# **Exhibit 11**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**

facebook



Alpha Psi Chapter of Kappa Kappa Psi

April 30, 2017 · 🌐

Tonight we held an event called Miss West Texas. We hosted this event to fund raise money for scholarships for the WTAMU Band Camp. Thank you to all of you who came out and supported us. We can't wait to do this again next year!

AEA.

— with Krystal Munoz and 5 others.

👍❤️😄 18

1 💬 1 ↗

👍 Like 💬 Comment ↗ Share 🌐

Most relevant ▾

Tracy Curtis See  
Ivy Tran Kinney-Monroe... 😊  
Like Reply 5v 3 👍

Write a comment...  
🗨️ 😊 📷 GIF 🗨️

*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 12**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**



Eternal Flame 🏰 Apr 27, 2020 5 min read

## WT's University Sing

Once upon a time, in a land not so far away, there stood a little university in the middle of nowhere, otherwise known as the Panhandle of Texas. This university was called West Texas A&M and was a wonderful place of community, learning and most of all: competition. Our story takes place minutes after the annual "University Sing". This epic event is hosted by the Office of Student Engagement and Leadership on Saturday, March 7 from in Legacy Hall. Although University Sing has been a typical university event for years and years now, WTAMU has been putting theirs on since 1980. The theme this year; Fairytales with a twist.



"It's not your normal fairy tale of what you've always grown up with, like a classic story with [...] a mythical or magical element [to] it," says Sabrina Pugh, this year's event planner for Sing, "but then with [...] a unique creation to a fairytale, whether that be completely rewriting a brand new story or taking a normal story and adding something unique to it."

This year 6 groups competed with a total of 11 organizations, meaning some organizations team up with others to strengthen their odds of winning. After all, the motivation is high when the team to place first wins a total of \$300. Sabrina Pugh, top event planner this year, actually participated in Sing the last two years and had this to say about her experience:

"I love being in Sing. It was actually one of my favorite things to do. Just being able to be a part of something so big and

something so involving was amazing. I loved seeing S.A.G.E. interact with other organizations. Something that we're all doing together and healthy competition."

This year I participated in Sing with the on-campus organization S.A.G.E. as well, which stands for Students Assisting in Good Endeavors. This is the groups 3rd year to enter in Sing. So far S.A.G.E. has managed to place second every year. In 2020 however, our goal was to win the \$300, despite some members wanting second just for the fun of it.

When asked, Nathan Solomon, the head of the Sing committee for S.A.G.E said:

"I think S.A.G.E. is definitely ready. We have practiced three to four times a week for the past two weeks, of course we have some stuff to work on, but we're getting really close to tying it up. And we're all having a lot of fun"



This year the judges are looking for several different aspects. One being the "singing, because that's the main point of it; Can you hear them? Are they sounding somewhat musical? Then another aspect [are] their dances creative and fun? Projection and creativity, and overall just involvement of their organization [is very important. And finally,] did they stick with the theme?" said Pugh.

But it is not all fun and games. There is a lot more to it than just coming up with choreography to popular songs, and a fun script. There are plenty of rules and guidelines that must be followed closely. It is important that each organization keeps the normal student conduct. As well as being "present at rehearsal and meetings, so that [they] know the information and that we can be able to practice and rehearse with you as an office." - The OSEL office that is.

"Major offenses could mean an organization is up for disqualification, but if it is a minor offense, it could be up to a five-point deduction" said Pugh. One of these main rules "is that we don't have any food or drink available to come in from

outside. That just being that we've had problems in years past of maybe alcohol consumption"

This may seem strict, but it is certainly justifiable when you consider the shenanigans that went down the last years, with organizations bringing alcoholic drinks to the event and getting on stage buzzed and even drunk. In fact, this is not the only drama that goes down during Sing. Since the prize for first place and even second, which is \$200, and third, \$100, the level of competition is extremely high. Organizations have to keep their ideas, scripts, choreography and even their chosen songs secret. Sing even just as a conversation topic is kept off limits, and the OSEL office makes sure everything related to the subject is kept in the shadows until the day of. This makes for a fun month of secretive meetings and talking in code. However, it is also the cause of, yet again, more drama. Organizations try incredibly hard to find loopholes in the rules and policies, and even try to get



other organizations in trouble in order to bring their competition down. If you put this aside though, you are left with a fun event that not only brings individual organizations members together as they rehearse for weeks straight, but also brings organizations together as they experience this healthy competition with each other. It even brings the campus together as it is an event that is looked forward to by many. In fact, this is how I got to know S.A.G.E. and decided to join a



“The day of the performance was similar to previous years. Nerves start to settle in right before the performance and it is important to remember we are here to have fun. While on stage adrenaline kicks in and time flies by,” said Solomon, “but after the performance we were all so proud of each other and the work we put in. That night is so fun for the audience and every performer. It's an awesome event to be a part of. I was so proud of S.A.G.E. and their accomplishments. We practiced for so many hours and it definitely paid off. We had our best performance the night of and couldn't have done better. Everyone did their part and we all had so much fun.”



After every group had finished performing it was time for the award ceremony. This might have been the tensest few minutes of the entire night.

“I thought that it was really close between Kappa Kappa psi and S.A.G.E., it could have gone either way,” Said audience member Jairo Vazquez, “but S.A.G.E. in my opinion edged them out with their performance, flow and comedic timing.”

That's right! S.A.G.E. received first place for the first time ever. The whole group went wild on stage when we heard our name. Some audience members even decided to give us a standing ovation, and our night ended with a traditional celebration at IHop.

“Winning was very rewarding to everyone in S.A.G.E.” Solomon said “All our members deserved recognition for the time they each put in and how

much effort they gave in order for our performance to be great. Plus, it was our first time winning! It was a great accomplishment ”

- And everyone lived happily ever after.

Ashlyn Dietz  
Staff Writer





*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 13**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**

facebook

Office of Student Engagement and Leadership  
February 19, 2018

University SING is back! Saturday, March 3rd at 7pm in Legacy Hall we will be saying "Goodbye to the 90s" Organizations from all across campus have been preparing for months to be the 2018 SING champion. You won't want to miss this. Tickets will be sold at the door. For more information about University SING, contact the Office of Student Engagement and Leadership 806-651-2313 or come by JBK 103

11 likes 24 shares

Like Comment Share

Write a comment...

**UNIVERSITY SING**

**Goodbye to the 90's**  
**7 p.m.**  
**JBK Legacy Hall**

Tickets sold at the door  
WT Students: Free with Buff ID  
Adults: \$5  
Kids: \$2

**MARCH 3, 2018**

For more information, call (806) 651-2313

West Texas A&M UNIVERSITY  
STUDENT ENGAGEMENT AND LEADERSHIP

*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 14**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**



## Ascension Academy hosts Friendly Feud Gala

Kylee Douglass

4 years ago



Ascension Academy hosted its Friendly Feud Gala on Saturday, April 13 at Legacy Hall on West Texas A&M's campus.

This fundraising event was hosted by Amarillo Little Theater's Jason Crespin.

Six teams competed to raise money for different school programs at Ascension Academy.

The teams that competed and what they were playing for:

- Happy State Bank playing for the Student Leadership Programs.
- AIG playing for the STEM programs.
- Ascension Alumni, sponsored by Amarillo Pathology Group & Texas Breast Specialists, playing for the Fine Arts Program.
- Ascension Teachers, sponsored by Amarillo Heart Group, playing for the Humanities Programs.
- DataFlow & Susan's Embroidery playing for the Athletic Programs.
- Austin Hose playing for the Scholarship Programs.

Voting was made through donations and the willing team will receive 50% of the voting income that will go towards what they were playing for. The other remaining 50% will go be split between the other teams.

The Gala included a cocktail reception sponsored by Mission Dairy, dinner, coffee bar, photo booth and a silent and live auction.

Categories: [Local News](#), [News](#), [Top Stories](#)

Tags: [Aig](#), [Amarillo Little Theater](#), [Ascension Academy](#), [Ascension Alumni](#), [Ascension Teachers](#), [Austin Hose](#), [Dataflow & Susan's Embroidery](#), [Friendly Feud Gala](#), [Happy State Bank](#), [Jason Crespin](#), [Legacy Hall](#), [Mission Dairy](#), [West Texas A&M](#)

*Spectrum WT, et al., v. Wendler, et al.*

# **Exhibit 15**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**



**Events**

Search Events

Home

Your Events

Birthdays

Notifications

+ Create new event

**Recommended Events** [See All](#)

- Today at 6 PM - 8:30 PM  
**DIFFERENT STAGES OF BIBLICAL DISCIPLESHIP - Bible Study &...**
- Today at 8 PM - 10 PM  
**'Grand Central Terminal and the Secrets Within' Webinar**
- Today at 6 PM - 10 PM  
**'Grand Central Terminal and the Secrets Within' Webinar**



**5**

SUNDAY, MAY 5, 2019 AT 7 PM - 9 PM EDT

**Community Night of Worship and Prayer**

West Texas A&M Legacy Hall

**About** Discussion

**Community Night of worship and Prayer**

403 people responded

Event by Your Summit Church, Freedom Fellowship Church of Canyon and I Heart Canyon

West Texas A&M Legacy Hall

Duration: 2 hr

Public · Anyone on or off Facebook

One Church.....One Voice.....coming together in unity to worship. Join us and our sponsoring churches ( Summit Church, Freedom Fellowship, First United Methodist of Canyon, and Hillside Church of Canyon) as we come together to worship and pray at the WTAMU Legacy Hall, May 5th from 6p.m - 8p.m. EVERYONE FROM THE COMMUNITY IS INVITED AND WELCOME TO BE A PART. [See less](#)

Canyon, Texas

- Interested**
- THIS SUNDAY AT 11 AM  
**StrEAT Food Festival**  
Main Street Manayunk  
William and Zachary are interested
- Interested**
- FRI, APR 28 AT 7 PM  
**Built To Spill at Union Transfer - Philadelphia 4/28**  
Union Transfer  
William is interested
- Interested**
- SAT, JUN 10 AT 7 PM  
**Sneaker Gala**  
The Merion  
Stephen is interested
- Interested**

**Meet Your Hosts**

**Your Summit Church**  
226 past events · Page · Religious organization

We are located at 2008 12th Ave in Canyon Tx. Please join us for our Worship Experience Sunday at 10:

[Learn More](#)

**Freedom Fellowship Church**  
19 past events · Page · Religious organization

Our desire is that you E... FAMILY & DISCOVER YC...

[Cor](#)

*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 16**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**

facebook



 **Janae Gadberry** is <sup>14</sup> attending **Community Night of Worship and Prayer at West Texas A&M Legacy Hall.** ...  
May 5, 2019 · Canyon, TX · 🌐

👏👏 getting ready. Come on out.



👍❤️ 19 1 ↗

👍 Like ↗ Share



*Spectrum WT, et al., v. Wendler, et al.*

# **Exhibit 17**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**

**Events**

Search Events

Home

Your Events

Birthdays

Notifications

+ Create new event

**Recommended Events** See All

- Today at 6 PM - 8:30 PM  
**DIFFERENT STAGES of BIBLICAL DISCIPLESHIP - Bible Study &...**
- Today at 6 PM - 10 PM  
**'Grand Central Terminal and the Secrets Within' Webinar**  
Today at 6 PM - 10 PM
- Today at 6 PM - 10 PM  
**'Grand Central Terminal and the Secrets Within' Webinar**



**28**

MONDAY, SEPTEMBER 28, 2020 AT 5 PM - 6 PM EDT

**Congressional Candidate Forum with Dr. Ronny Jackson**

West Texas A&M J&K Student Center

About Discussion

Congressional Candidate Forum with Dr. Ronny Jackson

23 people responded

Event by West Texas A&M University

West Texas A&M J&K Student Center

Duration: 1 hr

Public · Anyone on or off Facebook

Texas' 13th Congressional District Republican candidate Dr. Ronny Jackson will answer questions from students and community members in a Sept. 28 forum in Legacy Hall in the Jack B. Kelley Student Center.

Democratic candidate Gus Trujillo will be on campus Sept. 24.

Both visits are sponsored by WT's Student Government Association.

The forum is free, and social distancing protocols will be in place. Seating is limited, but 100 seats are available for students by reservation on Bufflink. An additional 25 are available for community members; seats are first-come, first-served.

Face coverings are required in all WT buildings.

See less

Canyon, Texas

**Meet Your Host**

**West Texas A&M University**  
72 past events · Page · College & university

Information for everyone from future Buffs to WT alumni! Go Buffs!

Message

- Interested
- THIS SATURDAY AT 6 PM  
**15th Annual MEN WHO COOK**  
Warsaw Park  
Whitney is interested.
- Interested
- THIS SUNDAY AT 11 AM  
**StrEAT Food Festival**  
Main Street Manayunk  
William and Zachary are interested
- Interested
- FRI, APR 28 AT 7 PM  
**Built To Spill at Union Transfer - Philadelphia 4/28**  
Union Transfer  
William is interested
- Interested
- SAT, JUN 10 AT 7 PM  
**Sneaker Gala**  
The Merion  
Stephen is interested.
- Interested

Privacy · Terms · Advertising · Ad Choices · Cookies · More · Meta © 2023



*Spectrum WT, et al., v. Wendler, et al.*

# **Exhibit 18**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**



[UNIVERSITY](#) [ACADEMICS](#) [STUDENT EVENTS](#) [FINE ARTS](#) [ATHLETICS](#) [CORNETTE LIBRARY](#) [MUSEUM](#)

Search

**Pop In Resume Reviews**  
Tuesday, April 18, 2023, 8am – 4pm  
Classroom Center  
[More...](#)



[Table](#) [List](#) [Month](#)

[Submit Your Student Event](#)

**Congressional Candidate Forum** THURSDAY, SEPTEMBER 24, 2020, 4 – 5PM

Congressional Candidate Gus Trujillo will speak in Legacy Hall on Sept. 24th from 4 - 5pm regarding his campaign. There are 100 seats reserved for students and 25 for community members.  
Register on [Buff Link](#). First come, first served!

**Building** Jack B. Kelley Student Center  
**Map Link** [map.wtamu.edu...](#)  
**Contact Name** Seth Rodriguez  
**Contact Phone** 8066512386  
**Contact Email** [prodriguez@wtamu.edu](mailto:prodriguez@wtamu.edu)

[Add to My Calendar](#) [Forward To Friends](#) [More Event Actions](#)

[Back to Previous View](#)

[Print](#) [Permalink](#)  
Events calendar powered by Trumba

April 2023

S	M	T	W	T	F	S
25	27	28	29	30	31	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	1	2	3	4	5	6

[Accessibility](#)  
[Accreditation](#)  
[Consumer Information](#)  
[Contact WT](#)  
[Counseling & Mental Health Services \(HB2895\)](#)

[Emergency Information](#)  
[Energy Management Report \(PDF\)](#)  
[Equal Opportunity & Nondiscrimination](#)  
[Family Educational Rights and Privacy Act](#)  
[Form Policy](#)  
[GDPR](#)

[House Bill 2504](#)  
[Legislative Appropriation Request](#)  
[Link Policy and Privacy Statement](#)  
[Online Institutional Resumes](#)  
[Open Records/ Public Information Act](#)  
[Risk, Fraud and Misconduct Hotline](#)

[SB18 Report](#)  
[Staff Compensation Report](#)  
[State of Texas](#)  
[Statewide Search](#)  
[Texas CREWS](#)  
[Texas Homeland Security](#)

[Texas Veterans Portal](#)  
[University Directory](#)  
[University Organizational Chart \(PDF\)](#)  
[Title IX](#)  
[Virtual Tour](#)

© West Texas A&M University | All Rights Reserved  
Canyon, TX 79016 | 806-651-0000



Español

*Spectrum WT, et al., v. Wendler, et al.*

# **Exhibit 19**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**

facebook



West Texas A&M JBK Student Center



August 17, 2022 · 🌐

WTAMU BSM Presents:  
The Band Monarch

August 24th, the The Band Monarch will be having a FREE concert in Legacy Hall as part of our welcome week events!

The concert begins at 8:30 p.m.



1



4

Like

Comment

Share



Write a comment...



*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 20**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**

facebook



Ceta Canyon Camp & Retreat Center

October 4, 2022 · 🌐

Friends of Ceta! Join us for a special dinner!

Northern Panhandle Area:

When: Sunday, November 6th - 5:00 p.m. appetizers, 5:30 meal

Where: The Vault, 424 Main, Gruver, TX

Amarillo Area:

When: Tuesday, November 15th - 6:30 p.m. Appetizers, 7:00 p.m.

Dinner

Where: WTAMU – JBK Legacy Hall, 203 Victory Dr., Canyon, TX.

PLEASE RSVP by November 1st. Send to [kathy@cetacanyon.org](mailto:kathy@cetacanyon.org).

★ Donate Online at [bit.ly/CetaDonate](https://bit.ly/CetaDonate)

[#FriendsOfCeta](#) [#CetaCanyon](#) [#Give](#) [#Donate](#) [#Partners](#)  
[#GodsCountry](#) [#GodsOasis](#) [#Camp](#) [#ChurchCamp](#) [#Ministry](#)



👍 4

🗨️ 1

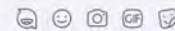
👍 Like

💬 Comment

🔗 Share



Write a comment...



*Spectrum WT, et al., v. Wendler, et al.*

# **Exhibit 21**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**





SIGN UP

87° AMARILLO

News Video Weather Sports Studio 4 Find It Fast Marketplace Contests More Search

WEATHER ALERT

Red Flag Warning: Armstrong County, Bailey County, Briscoe County, Carson County, Castro County, Cimarron County, Dallam County, Deaf Smith County, ...

1 MORE ALERTS

AD

ENTERTAINMENT

# WT Opera to host fundraising gala with Met Opera performer

by: David Gay  
Posted: Jan 13, 2023 / 09:52 AM CST  
Updated: Jan 13, 2023 / 09:53 AM CST



CANYON, Texas (KAMR/KCIT) — As part of an upcoming fundraising gala for West Texas A&M University's Opera program, Hugo Vera, a performer with the Metropolitan Opera, will headline the gala, along with providing a masterclass for West Texas A&M students.

According to a news release from the university, Vera is expected to perform alongside WT Opera students and School of Music faculty at the gala, scheduled for 6 p.m. on Jan. 28 in Legacy Hall at the Jack B. Kelley Student Center on the university's Canyon campus.

### Amarillo Police provides more info on Thursday afternoon incident

"We are beyond thrilled that Hugo will join us for our first-ever WT Opera Gala," Sarah Beckham-Turner, an assistant professor of music and WT Opera director, said in the release. "We wanted an artist from Texas who had extensive operatic experience and someone who has a passion for working with the next generation of opera professionals. Hugo fit the bill perfectly. This gala is all about supporting our students and giving them the opportunity to realize their dreams."

According to the release, Vera has also performed with the New York City Opera, the Nashville Opera, the Minnesota Opera and the Aspen Music Festival. Vera has been described as having a "truly heroic voice" that is both "beautiful and brilliant."

Tickets for the event are \$100, the release said, and tables of eight are available for \$1,000, \$2,500 and \$5,000.

### Ready for their close-up.

Edit pet photos with Photoshop Lightroom.

Join now



Photo by Elbe Vegetang

### AMARILLO WEATHER

Current <b>87°</b> 	Tonight <b>50°</b> 	Tomorrow <b>86°</b> 
Sunny/Wind	Mostly Clear Precip: 0%	Mostly Sunny & Breezy Precip: 0%

Copyright 2023 Nexstar Media Inc. All rights reserved. This material may not be published, broadcast, rewritten, or redistributed.

### BESTREVIEWS



#### Super Mario Bros. theme lands on the National Recording ...

BESTREVIEWS / 4 Hours Ago

BestReviews is reader-supported and may earn an affiliate commission. Details. 25 more recordings have been deemed worthy of preservation. Last year, the Library of Congress added music from Wu-Tang Clan, Queen, Alicia Keys and 22 other recordings ...



#### Best flowers to buy for your mom on Mother's Day ...

DECOR / 4 Hours Ago

Mother's Day is a great occasion to buy your mom flowers. Check out the best flowers you can buy to make her day special.

SUBSCRIBE NOW

### Today On The High Plains

Your email

SIGN UP NOW



**How to get rid of 900 mosquitos**  
INSECT & PEST CONTROL / 4 Hours Ago  
The best way to be rid of these pests is to prevent them from entering your home. When you do spot them inside, you can use simple tools to get rid of them.

[View All BestReviews >](#)

**TOP STORIES >**



**Lawmakers hear more than a dozen firearm safety bills**



**Sherman County celebrates courthouse 100th anniversary**



**Amarillo woman reappointed to Funeral Commission**



**Clovis FD: Fire truck starts multiple Monday grassfires**

[Top Stories >](#)

AD **PLAN YOUR VISIT FROM \$44 TODAY** THE EMPIRE STATE BUILDING GET TICKETS

**MORE STORIES >**

**Fox News and Dominion reach last-minute settlement**

**Last Day to File Taxes**

**Lawmakers hear more than a dozen firearm safety bills**

**Sherman County celebrates courthouse 100th anniversary**

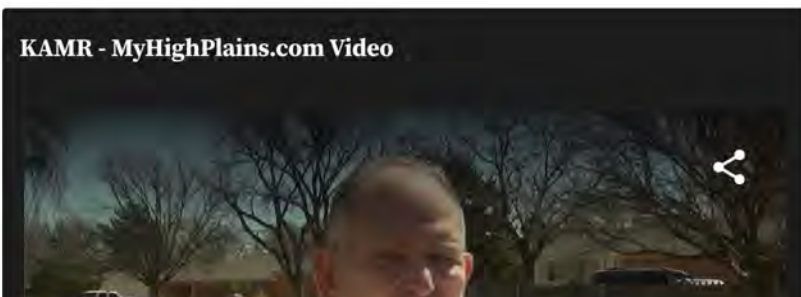
**How animal shelters are addressing overcrowding**

**Amarillo woman reappointed to Funeral Commission**

**Clovis FD: Fire truck starts multiple Monday grassfires**

**California teen missing for months found alive**

[More Stories >](#)



**CAL WEATHER LEADER SEVERE OUTLOOK**  
Forecast 7 mins ago  
Early summertime heat followed by another cool down

**TRENDING STORIES**

- 1 3 arrested after recent Amarillo Police sting operation
- 2 \$250,000 winning Texas Lottery ticket sold in Canyon
- 3 WT faculty take no-confidence vote on President Wendler
- 4 2024 AQHA world championships coming to Amarillo
- 5 APD seeking suspect in Guitars and Cadillacs shooting

**DON'T MISS**

**12 of the most famous athletes born in Amarillo**

**How many states require vehicle inspections?**

**Laugh-out-loud fast-food chain Twitter beefs**

**Angel Reese leads all college bball players in NIL ...**

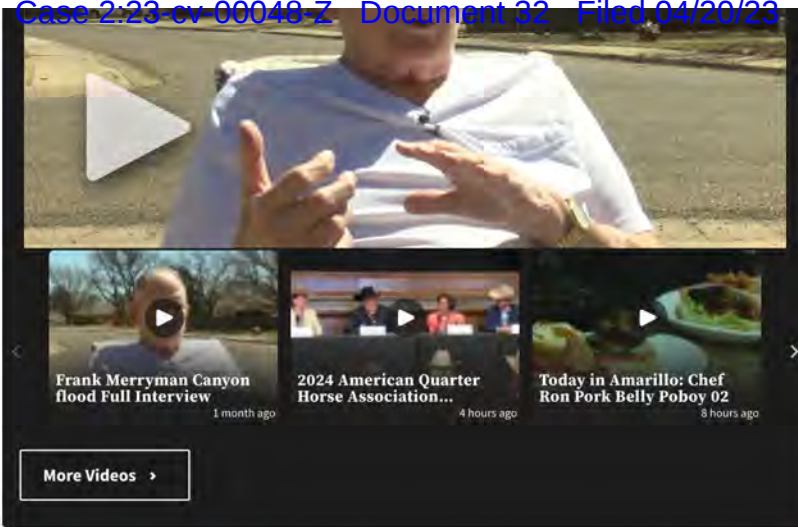
**You can now stock your fridge with The Pink Drink ...**

**WHAT DO YOU THINK?**

How much responsibility do you personally believe Rupert Murdoch and Fox News, in general, bears for the spread of the conspiracy theory that the 2020 presidential election was rigged?

- A lot of responsibility
- Some responsibility
- Not much responsibility at all
- Other / No opinion





AD

AD




**Book your pet's staycay!**  
Play all day, stay all night  
in our comfy accommodations.

[Request reservation](#)

AD




**Bond with your new pup!**  
Our trainers teach new skills  
& help address unwanted behaviors.

[Enroll now](#)



[Mission FCC Applications](#)

[KAMR: FCC Public File](#)

[About Us](#)

[KCIT: FCC Public File](#)

[EEO Report](#)

[TV Guide](#)

[KAMR: Children's TV Programming](#)

[KCIT: Children's TV Programming](#)

[Terms of Use](#)

[Privacy Policy](#)

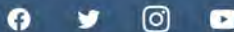
Get News App



Get Weather App



Stay Connected



[Privacy Policy](#)

[Terms Of Use](#)

[Covers](#)

[FCC Applications](#)

[Public File Assistance Contact](#)

[The Hill](#)

[NewsNation](#)

[BestReviews](#)

[Content Licensing](#)

[Nexstar Digital](#)

[Journalistic Integrity](#)

[Do Not Sell or Share My Personal Information](#)

*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 22**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**

facebook



**Canyon High School**  
February 22 · 🌐

**CHS SPRING DANCE 2023  
CASINO NIGHT**

**Date:** February 25th, 2023  
**Time:** 7:00 PM -10:00 PM  
**Location:** Legacy Hall at WTAMU in the JBK

Tickets can be purchased on MyPaymentsPlus! Advanced tickets - \$12.00  
Tickets at the door - \$15.00.  
Outside dates are permitted with completed guest form (located in front office).

👍 16      3 💬 6 ➦

👍 Like    💬 Comment    ➦ Share    🌐

Most relevant ▾

Write a comment...    🗨️ 😊 🎁 📷

**Kyle Smith**  
Good luck  
Like Reply 7w

**Ashley Baca Colston**  
Are the Advanced tickets no longer available?  
Like Reply 7w



*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 23**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**





SIGN UP

87° AMARILLO

News Video Weather Sports Studio 4 Find It Fast Marketplace Contests More Search

WEATHER ALERT

Red Flag Warning: Armstrong County, Bailey County, Briscoe County, Carson County, Castro County, Cimarron County, Dallam County, Deaf Smith County, ...

1 MORE ALERTS

HEART OF THE HIGH PLAINS

# Brayden's Gift set to host 'Shine for Autism' Gala

by: Mari Ferrel  
Posted: Mar 3, 2023 / 10:10 AM CST  
Updated: Mar 3, 2023 / 11:11 AM CST

AMARILLO, Texas (KAMR/KCIT) —The local non-profit organization, Brayden's Gift and Barnes Jewelry are hosting the "Shine for Autism" Sapphire Gala. This one of a kind event is making a difference in the community.

Here is the information for the "Shine for Autism" Sapphire Gala:

- Saturday, March 18 at the Jack B. Kelley Legacy Hall at West Texas A&M University;
- VIP Cocktail Party at 6:00 p.m.;
- Sapphire Gala following at 6:30 p.m.;
- Tickets: \$125 per person, Table: \$1,250;
- RSVP by March 13.

The event will include an open bar, elegant dinner, live entertainment, and the chance to hear amazing stories on how lives have been changed due to Brayden's Gift.

### Heart of the High Plains: Girl Scouts

President and Founder of Brayden's Gift Shay Morath says the inspiration behind the organization was her son, Brayden. Brayden was diagnosed with autism at the age of three and the Morath's tried different therapies for their son but none seemed to work, until they met with Amarillo ABA Executive Director Amy Simpson.

"We moved from Perryton to Amarillo, just for her clinic," said Morath. "This life changing therapy, it blew us away, it changed his whole life."

Amarillo ABA is an outpatient therapy facility which does applied behavior analysis therapy. Simpson said, "We take and design individualized programs for each individual create goals, we monitor their goals very closely, whether we're working on behavioral, like reducing maladaptive behaviors and increasing language skills, play skills, social skills."

With seeing Brayden's progress, the Morath's wanted to help raise autism awareness in the community along with help alleviate the financial burdens on families dealing with therapy for their autistic child.

"It varies because the child has different needs. But for Brayden, this ABA therapy is \$60,000 a year out of pocket, if you don't have insurance, and insurance is a hit or miss with a lot of these families," said Morath. "[That's] depending on the severity of the child. Braden is severe, he's nonverbal, and so some of those needs are a little higher."

### Primrose students, families donate books, supplies to Martha's Home



Sunny/Wind



Mostly Clear  
Precip: 0%



Mostly Sunny & Breezy  
Precip: 0%



### VIDEO FORECAST



### TRENDING STORIES

- 1 3 arrested after recent Amarillo Police sting operation
- 2 WT faculty take no-confidence vote on President Wendler
- 3 \$250,000 winning Texas Lottery ticket sold in Canyon
- 4 Sherman County celebrates

Simpson said ABA therapy is the most evidence-based treatment for children with autism adding, "We get to spend a lot more time with our kids than other therapies. Our kids are usually in clinic about anywhere from like two hours to six hours a day."

Amarillo ABA has been helping families for over ten years. Morath said Amarillo ABA has helped Brayden eat a variety of foods he didn't before and to communicate. "To communicate on this tablet was pretty phenomenal", said Morath. "Because we couldn't, we didn't know how we were going to communicate with our son for a long time. And even still, it's quite a barrier."

"We need more professionals like to be able to give a diagnosis," added Simpson. "So that our parents aren't waiting years to get you know, a diagnosis and to start treatment, because they do have to have that diagnostic in order to receive you know, ABA therapy."

This leads to the hassle of traveling over a few hours to bigger cities, such as Dallas or Houston, to get a diagnostic from specialists.

Amarillo ABA has been a small local business helping the community of Amarillo. Simpson said, "We've been here for over 10 years, still supporting children with autism." She continued to say the City of Amarillo has done a better job at diagnosing. "We would get eight year old's, nine year old's, 10 year old's, and now we're getting kids at 18 months, or two years old," said Simpson.

Morath said one-hundred percent of funds go back to the community to help children with autism.

Interested individuals can donate or gain information on any upcoming events by visiting [Brayden's Gift](#) website or [Brayden's Gift Facebook](#) page. For more information on ABA therapy, visit [Amarillo ABA's](#) website.

**For the latest Amarillo news and regional updates, check with [MyHighPlains.com](#) and tune in to KAMR Local 4 News at 5:00, 6:00, and 10:00 p.m. and Fox 14 News at 9:00 p.m. CST.**

Copyright 2023 Nexstar Media Inc. All rights reserved. This material may not be published, broadcast, rewritten, or redistributed.



**BESTREVIEWS**



**Super Mario Bros. theme lands on the National Recording ...**

BESTREVIEWS / 4 Hours Ago

BestReviews is reader-supported and may earn an affiliate commission. Details. 25 more recordings have been deemed worthy of preservation Last year, the Library of Congress added music from Wu-Tang Clan, Queen, Alicia Keys and 22 other recordings ...



**Best flowers to buy for your mom on Mother's Day ...**

DECOR / 4 Hours Ago

Mother's Day is a great occasion to buy your mom flowers. Check out the best flowers you can buy to make her day special.



**How to get rid of stink bugs**

INSECT & PEST CONTROL / 4 Hours Ago

The best way to be rid of these pests is to prevent them from entering your home. When you do spot them inside, you can use simple tools to get rid of them.

[View All BestReviews >](#)

**5 WT President comments on canceling on-campus drag ...**

**DON'T MISS**



**How many states require vehicle inspections?**

**Laugh-out-loud fast-food chain Twitter beefs**

**Angel Reese leads all college bball players in NIL ...**

**You can now stock your fridge with The Pink Drink ...**

**WHAT DO YOU THINK?**

To what extent do you support or oppose the expansion of federal funding for child care and home care services?

- Strongly support
- Somewhat support
- Somewhat oppose
- Strongly oppose
- Other / No opinion

**NEXT**

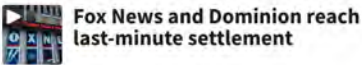






Top Stories >

MORE STORIES >



Fox News and Dominion reach last-minute settlement



Last Day to File Taxes



Lawmakers hear more than a dozen firearm safety bills



Sherman County celebrates courthouse 100th anniversary



How animal shelters are addressing overcrowding



Amarillo woman reappointed to Funeral Commission



Clovis FD: Fire truck starts multiple Monday grassfires



California teen missing for months found alive

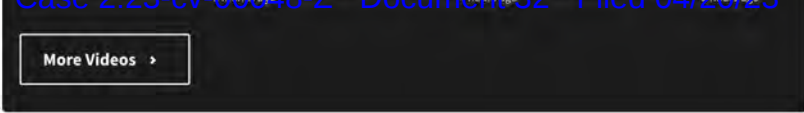
More Stories >

KAMR - MyHighPlains.com Video

Frank Merryman Canyon flood Full Interview

2024 American Quarter Horse Association...

Today in Amarillo: Chef Ron Pork Belly Poboy 02



[Mission FCC Applications](#)

[KAMR: FCC Public File](#)

[About Us](#)

[KCIT: FCC Public File](#)

[EEO Report](#)

[TV Guide](#)

[KAMR: Children's TV Programming](#)

[KCIT: Children's TV Programming](#)

[Terms of Use](#)

[Privacy Policy](#)

**Get News App**



**Get Weather App**



**Stay Connected**



[Privacy Policy](#)

[Terms Of Use](#)

[Covers](#)

[FCC Applications](#)

[Public File Assistance Contact](#)

[The Hill](#)

[NewsNation](#)

[BestReviews](#)

[Content Licensing](#)

[Nexstar Digital](#)

[Journalistic Integrity](#)

[Do Not Sell or Share My Personal Information](#)

*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 24**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**



SIGN UP

87° AMARILLO

- News
- Video
- Weather
- Sports
- Studio 4
- Find It Fast
- Marketplace
- Contests
- More

Search

WEATHER ALERT

Fire Weather Watch: Armstrong County, Bailey County, Beaver County, Briscoe County, Carson County, Castro County, Childress County, Cimarron County, ...

1 MORE ALERTS

STUDIO 4

# Randall County Hosts Its 67th Annual Junior Livestock Show

by: Staff  
Posted: Jan 12, 2015 / 02:04 PM CST  
Updated: Jan 12, 2015 / 05:08 PM CST

The 67th Annual Randall County Junior Livestock Show will be on Friday, January 16 and Saturday, January 17. It will be in a new facility- Randall County's Happy State Bank Event Center located at 1111 Loop 335 (the former Courts of Amarillo building). There have been a record number of entries and a record number of new exhibitors.

Organizers are hosting a peanut butter drive for Canyon Snack Pak 4 Kids at the show. They encourage everyone to bring a jar of peanut butter to support the organization.

The Ford pickup raffle winner will be announced after the dedication ceremony at noon on Saturday. There are still a few tickets available. All proceeds go toward furnishing the new facility with show rings, animal pens and bleachers. For info, contact the Extension Office at 468-5543.

### RANDALL COUNTY JUNIOR LIVESTOCK SHOW

- JANUARY 16TH AT 5 P.M.
- JANUARY 17TH AT 8 A.M.
- HAPPY STATE BANK EVENT CENTER
- WWW.RANDALL.AGRILIFE.ORG

### PREMIUM SALE

- MONDAY, JANUARY 19TH
- WTAMU LEGACY HALL
- 5:30 P.M.
- WWW.RANDALL.AGRILIFE.ORG

Sunny/Wind	Mostly Clear Precip: 0%	Mostly Sunny & Breezy Precip: 0%

SUBSCRIBE NOW

## Today On The High Plains

Your email

SIGN UP NOW

### VIDEO FORECAST

CAL WEATHER LEADER

### SEVERE OUTLOOK

Early summertime heat followed by another cool down

Forecast 14 mins ago

### TRENDING STORIES

- 3 arrested after recent Amarillo Police sting operation
- WT faculty take no-confidence vote on President Wendler
- \$250,000 winning Texas Lottery ticket sold in Canyon
- 2024 AOHA world championship

Copyright 2023 Nexstar Media Inc. All rights reserved. This material may not be published, broadcast, rewritten, or redistributed.

### BEST REVIEWS

Super Mario Bros. theme lands on the National Recording ...

App.177





BestReviews is reader-supported and may earn an affiliate commission. Details. 25 more recordings have been deemed worthy of preservation. Last year, the Library of Congress added music from Wu-Tang Clan, Queen, Alicia Keys and 22 other recordings ...



**Best flowers to buy for your mom on Mother's Day ...**

DECOR / 4 Hours Ago

Mother's Day is a great occasion to buy your mom flowers. Check out the best flowers you can buy to make her day special.



**How to get rid of stink bugs**

INSECT & PEST CONTROL / 4 Hours Ago

The best way to be rid of these pests is to prevent them from entering your home. When you do spot them inside, you can use simple tools to get rid of them.

[View All BestReviews >](#)

**TOP STORIES >**



**Lawmakers hear more than a dozen firearm safety bills**



**Sherman County celebrates courthouse 100th anniversary**



**Amarillo woman reappointed to Funeral Commission**



**Clovis FD: Fire truck starts multiple Monday grassfires**

[Top Stories >](#)

AD



**Book your pet's staycay!**

Play all day, stay all night in our comfy accommodations.

[Request reservation](#)

**MORE STORIES >**



**Fox News and Dominion reach last-minute settlement**



**Last Day to File Taxes**



**Lawmakers hear more than a dozen firearm safety bills**



**Sherman County celebrates courthouse 100th anniversary**



**How animal shelters are addressing overcrowding**



**Amarillo woman reappointed to Funeral Commission**



**Clovis FD: Fire truck starts multiple Monday grassfires**



**California teen missing for months found alive**

[More Stories >](#)

coming to Amarillo

**5 Woman tries flirting with DPS before smuggling arrest**

**DON'T MISS**



**12 of the most famous athletes born in Amarillo**

**How many states require vehicle inspections?**

**Laugh-out-loud fast-food chain Twitter beefs**

**Angel Reese leads all college bball players in NIL ...**

**You can now stock your fridge with The Pink Drink ...**

AD

**Waterdrop**  
Ultraviolet sterilization

Waterdrop LED UY Ultraviolet Water Steril...  
★★★★★ 37  
\$129.99 prime [Add to Cart](#)

**WHAT DO YOU THINK?**

How concerned are you, if at all, about the insolvency of the Federal Reserve?

- Very concerned
- Somewhat concerned
- Not at all concerned
- Other / No opinion

[NEXT](#)



**KAMR - MyHighPlains.com Video**

Frank Merryman Canyon flood Full Interview 1 month ago

2024 American Quarter Horse Association... 4 hours ago

Today in Amarillo: Chef Ron Pork Belly Poboy 02 8 hours ago

[More Videos >](#)



[Mission FCC Applications](#)

[KAMR: FCC Public File](#)

[About Us](#)

[KCIT: FCC Public File](#)

[EEO Report](#)

[TV Guide](#)

[KAMR: Children's TV Programming](#)

[KCIT: Children's TV Programming](#)

[Terms of Use](#)

[Privacy Policy](#)

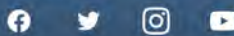
**Get News App**



**Get Weather App**



**Stay Connected**



[Privacy Policy](#)

[Terms Of Use](#)

[Covers](#)

[FCC Applications](#)

[Public File Assistance Contact](#)

[The Hill](#)

[NewsNation](#)

[BestReviews](#)

[Content Licensing](#)

[Nexstar Digital](#)

[Journalistic Integrity](#)

Do Not Sell or Share My Personal Information

© 1998 - 2023 Nexstar Media Inc. | All Rights Reserved.

*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 25**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**



WEATHER ALERT

Fire Weather Watch: Armstrong County, Bailey County, Beaver County, Briscoe County, Carson County, Castro County, Childress County, Cimarron County, ...

1 MORE ALERTS

LOCAL NEWS

# Weeklong Randall County Stock Show is underway

by: Maya Nascimento  
Posted: Jan 8, 2022 / 01:02 PM CST  
Updated: Jan 9, 2022 / 01:06 PM CST



AMARILLO, Texas (KAMR/KCIT) — The 74th Randall County Junior Livestock Show announced the event will now last a whole week. The show kicked off on the morning of Saturday, Jan. 8, and will run until Thursday, Jan. 13. Most activities will happen at the Happy State Bank Event Center at 1111 Loop 335, except for the cattle show on Jan. 10, which will be held at the WT Ag Complex.

A release stated that on each day of the show, kids will prepare or exhibit their animal projects raised for competition. There are 207 students participating in the show, which accounts for more than 500 animal entries.

[Wildorado High School student athlete makes school history >](#)



ENJOY FREE OVERNIGHT PARKING & UP TO \$222 IN PERKS

BOOK NOW

The event is open to the public and admission is free. Here's a list of days and activities, according to the release:

- Saturday, Jan. 8, 10 a.m. – rabbits
- Monday, Jan. 10, 12 p.m. (at WT) – cattle
- Tuesday, Jan. 11, 12 p.m. – goats and sheep
- Wednesday, Jan. 12, 12 p.m. – broilers
- Thursday, Jan. 13, 9 a.m. – gilts, then all-day barrow show
- Saturday, Jan. 15, 6:30 p.m. (at WTAMU Legacy Hall in Canyon) – activities will end with a premium sale.

AMARILLO WEATHER

Current 87° 	Tonight 50° 	Tomorrow 86° 
Sunny/Wind	Mostly Clear/Wind Precip: 0%	Mostly Sunny & Breezy Precip: 0%

SUBSCRIBE NOW

## Today On The High Plains

Your email

SIGN UP NOW >

Copyright 2023 Nexstar Media Inc. All rights reserved. This material may not be published, broadcast, rewritten, or redistributed.

BESTREVIEWS

Super Mario Bros. theme lands on the National Recording ...





**BestReviews** is reader-supported and may earn an affiliate commission. Details. 25 more recordings have been deemed worthy of preservation. Last year, the Library of Congress added music from Wu-Tang Clan, Queen, Alicia Keys and 22 other recordings ...



**Best flowers to buy for your mom on Mother's Day ...**

DECOR / 4 Hours Ago

Mother's Day is a great occasion to buy your mom flowers. Check out the best flowers you can buy to make her day special.



**How to get rid of stink bugs**

INSECT & PEST CONTROL / 4 Hours Ago

The best way to be rid of these pests is to prevent them from entering your home. When you do spot them inside, you can use simple tools to get rid of them.

[View All BestReviews >](#)

**TOP STORIES >**



**Lawmakers hear more than a dozen firearm safety bills**



**Sherman County celebrates courthouse 100th anniversary**



**Amarillo woman reappointed to Funeral Commission**



**Clovis FD: Fire truck starts multiple Monday grassfires**

[Top Stories >](#)

**MORE STORIES >**



**Fox News and Dominion reach last-minute settlement**



**Last Day to File Taxes**



**Lawmakers hear more than a dozen firearm safety bills**



**Sherman County celebrates courthouse 100th anniversary**



**How animal shelters are addressing overcrowding**



**Amarillo woman reappointed to Funeral Commission**



**Clovis FD: Fire truck starts multiple Monday grassfires**



**California teen missing for months found alive**

[More Stories >](#)



**TRENDING STORIES**

- 1 3 arrested after recent Amarillo Police sting operation
- 2 WT faculty take no-confidence vote on President Wendler
- 3 \$250,000 winning Texas Lottery ticket sold in Canyon
- 4 2024 AQHA world championships coming to Amarillo
- 5 Woman tries flirting with DPS before smuggling arrest

**DON'T MISS**



**12 of the most famous athletes born in Amarillo**

How many states require vehicle inspections?

Laugh-out-loud fast-food chain Twitter beefs

Angel Reese leads all college bball players in NIL ...

You can now stock your fridge with The Pink Drink ...







To what extent do you support or oppose the use of executive orders to enact policy?

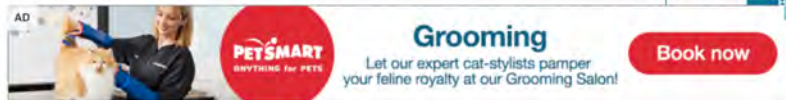
- Strongly support
- Somewhat support
- Somewhat oppose
- Strongly oppose
- Other / No opinion

NEXT



ENJOY FREE OVERNIGHT PARKING & UP TO \$222 IN PERKS

BOOK NOW



Mission FCC Applications

KAMR: FCC Public File

About Us

KCIT: FCC Public File

EEO Report

TV Guide

KAMR: Children's TV Programming

KCIT: Children's TV Programming

Terms of Use

Privacy Policy

Get News App



Get Weather App



Stay Connected



Privacy Policy

Terms Of Use

Covers

FCC Applications

Public File Assistance Contact

[The Hill](#)

[NewsNation](#)

[BestReviews](#)

[Content Licensing](#)

[Nexstar Digital](#)

[Journalistic Integrity](#)

[Do Not Sell or Share My Personal Information](#)

*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 26**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**

**Student Event Calendar**

UNIVERSITY ACADEMICS STUDENT EVENTS FINE ARTS ATHLETICS CORNETTE LIBRARY MUSEUM

Search



**Free Lunch On Wednesday (FLOW)**

Wednesday, April 19, 2023, 12 – 1:40pm

More...

Table List Month

**Jack Kelly The Magician** THURSDAY, MARCH 23, 2023, 7 – 8PM

Enjoy a magical night in JBK Legacy Hall with the magician, Jack Kelley!

Presenter(s) OSEL

Building Jack B. Kelley Student Center

Map Link map.wtamu.edu...

Room Legacy hall

Contact Name Andrea Wagner

Contact Phone 8066512323

Contact Email awagner@wtamu.edu

Add to My Calendar Forward To Friends More Event Actions

Back to Previous View

Submit Your Student Event

April 2023

S	M	T	W	T	F	S
26	27	28	29	30	31	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	1	2	3	4	5	6



Print Permalink

Events calendar powered by Trumba

Accessibility

Accreditation

Consumer Information

Contact WT

Counseling & Mental Health Services (HB2895)

Emergency Information

Energy Management Report (PDF)

Equal Opportunity & Nondiscrimination

Family Educational Rights and Privacy Act

Form Policy

GDPR

House Bill 2504

Legislative Appropriation Request

Link Policy and Privacy Statement

Online Institutional Resumes

Open Records/ Public Information Act

Risk, Fraud and Misconduct Hotline

SB18 Report

Staff Compensation Report

State of Texas

Statewide Search

Texas CREWS

Texas Homeland Security

Texas Veterans Portal

University Directory

University Organizational Chart (PDF)

Title IX

Virtual Tour

*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 27**

**to Declaration of Adam  
Steinbaugh in Support of  
Plaintiffs' Amended Motion for  
Preliminary Injunction**





SIGN UP

87° AMARILLO

- News
- Video
- Weather
- Sports
- Studio 4
- Find It Fast
- Marketplace
- Contests
- More

Search

WEATHER ALERT

Fire Weather Watch: Armstrong County, Bailey County, Beaver County, Briscoe County, Carson County, Castro County, Childress County, Cimarron County, ...

1 MORE ALERTS

LOCAL NEWS

# WTAMU Police, Canyon Police said no 'credible' threats have been made in wake of drag-related letter from Wendler

SHARE



AMARILLO WEATHER

Current 87° Sunny/Wind	Tonight 50° Mostly Clear/Wind Precip: 0%	Tomorrow 86° Mostly Sunny & Breezy Precip: 0%
------------------------------	---	--

CANYON, Texas (KAMR/KCIT) — Officials with the West Texas A&M University Police Department said that out of the messages related to WTAMU President Walter Wendler's cancellation of the drag show, no "credible" threats have been made.

This comes after Wendler published a letter explaining his reasons for canceling a planned drag show fundraiser for March 31. Since that letter was published on Monday, protests have occurred on campus, a number of WTAMU alumni have withdrawn financial support, petitions have been published and a lawsuit has been filed in Amarillo Federal Court.

### West Texas A&M University student group files lawsuit against WT, Texas A&M University System officials over drag show cancellation

According to a statement from the department, the university's President's Office has received more than 600 messages in relation to the cancellation of the event, some of which "have been inflammatory in nature."

"There have been no credible threats to the President, or anyone affiliated with the University, at this time," the statement read. "We continue to monitor messages and social media posts and will take necessary action if needed."

Officials with the Canyon Police Department said that the department has not been made aware of any threats made towards staff at the university.

### Amarillo police report possible child abduction investigation in east Amarillo

Canyon Police went on to say that the protests in relation to Wendler's letter have "been contained to campus" and that the department has been working with the West Texas A&M University Police Department on campus during the "peaceful protests... to ensure everyone's safety."

Regarding the protests, officials with the West Texas A&M University Police Department said:

"Regardless (of) how you feel about the issue at hand, the group of students that organized the protest have exercised their First Amendment rights the proper way," the statement read. "The University Police Department is available for any group who wishes to exercise their First Amendment rights and wants guidance on how to do it properly. So far, we have not had to take any police action this week and the protestors have shown that you can exercise your rights with decorum."

SUBSCRIBE NOW

## Today On The High Plains

Your email

SIGN UP NOW

VIDEO FORECAST



TRENDING STORIES

- \$250,000 winning Texas Lottery ticket sold in Canyon
- 3 arrested after recent Amarillo Police sting operation



The Canyon Police Department stressed that any WT staff member who has received threats should call the department at 806-655-5005.

For the latest Amarillo news and regional updates, check with [MyHighPlains.com](http://MyHighPlains.com) and tune in to KAMR Local 4 News at 5:00, 6:00, and 10:00 p.m. and Fox 14 News at 9:00 p.m. CST.

Copyright 2023 Nexstar Media Inc. All rights reserved. This material may not be published, broadcast, rewritten, or redistributed.

**BESTREVIEWS**



**Super Mario Bros. theme lands on the National Recording ...**

BESTREVIEWS / 4 Hours Ago

BestReviews is reader-supported and may earn an affiliate commission. Details. 25 more recordings have been deemed worthy of preservation. Last year, the Library of Congress added music from Wu-Tang Clan, Queen, Alicia Keys and 22 other recordings ...



**Best flowers to buy for your mom on Mother's Day ...**

DECOR / 4 Hours Ago

Mother's Day is a great occasion to buy your mom flowers. Check out the best flowers you can buy to make her day special.



**How to get rid of stink bugs**

INSECT & PEST CONTROL / 4 Hours Ago

The best way to be rid of these pests is to prevent them from entering your home. When you do spot them inside, you can use simple tools to get rid of them.

[View All BestReviews >](#)

**TOP STORIES >**



**Lawmakers hear more than a dozen firearm safety bills**



**Sherman County celebrates courthouse 100th anniversary**



**Amarillo woman reappointed to Funeral Commission**



**Clovis FD: Fire truck starts multiple Monday grassfires**

[Top Stories >](#)

**MORE STORIES >**



**Fox News and Dominion reach last-minute \$787 million ...**



**Last Day to File Taxes**



**Lawmakers hear more than a dozen firearm safety bills**



**Sherman County celebrates courthouse 100th anniversary**

**4 Woman tries flirting with DPS before smuggling arrest**

**5 TWDB: El Niño brings optimism for Panhandle drought**

**DON'T MISS**



**How many states require vehicle inspections?**

**Laugh-out-loud fast-food chain Twitter beefs**

**Angel Reese leads all college bball players in NIL ...**

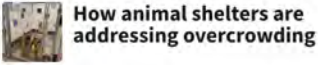
**You can now stock your fridge with The Pink Drink ...**

**WHAT DO YOU THINK?**

To what extent do you approve or disapprove of Florida Gov. Ron DeSantis's approach to governing?

- Strongly approve
- Somewhat approve
- Somewhat disapprove
- Strongly disapprove
- Other / No opinion

**NEXT**



How animal shelters are addressing overcrowding



Amarillo woman reappointed to Funeral Commission



Clovis FD: Fire truck starts multiple Monday grassfires



California teen missing for months found alive

More Stories >

KAMR - MyHighPlains.com Video

Frank Merryman Canyon flood Full Interview  
1 month ago

2024 American Quarter Horse Association...  
4 hours ago

Today in Amarillo: Chef Ron Pork Belly Poboy 02  
8 hours ago

More Videos >

[FCC Applications](#)

[Public File Assistance Contact](#)

[The Hill](#)

[NewsNation](#)

[BestReviews](#)

[Content Licensing](#)

[Nexstar Digital](#)

[Journalistic Integrity](#)

[Do Not Sell or Share My Personal Information](#)

# Exhibit G

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION**

SPECTRUM WT, BARRETT BRIGHT,  
and LAUREN STOVALL,

Plaintiffs,

v.

WALTER WENDLER, in his individual  
capacity and his official capacity as the  
President of West Texas A&M University,

CHRISTOPHER THOMAS, in his official  
capacity as Vice President for Student  
Affairs at West Texas A&M University,

JOHN SHARP, in his official capacity as  
Chancellor of the Texas A&M University  
System,

ROBERT L. ALBRITTON, JAMES R.  
BROOKS, JAY GRAHAM, MICHAEL A.  
HERNANDEZ III, TIM LEACH, BILL  
MAHOMES, ELAINE MENDOZA,  
MICHAEL J. PLANK, CLIFF THOMAS,  
and DEMETRIUS L. HARRELL JR., in  
their official capacities as members of the  
Board of Regents of the Texas A&M  
University System,

Defendants.

Case No.: 2:23-cv-00048-Z

Hon. Matthew J. Kacsmaryk

**APPENDIX TO PLAINTIFFS’ BRIEF IN SUPPORT OF  
RULE 62(d) MOTION FOR INJUNCTION PENDING APPEAL**

**Page(s):**

1.	Declaration of Barrett Bright in Support of Plaintiffs’ Motion for Injunction Pending Appeal.....	1–8
2.	Exhibit 1 – West Texas A&M University Campus Organizations Handbook .....	9–32
3.	Exhibit 2 – April 11, 2023 Reservation Confirmation Email .....	33–34
4.	Exhibit 3 – January 2024 Correspondence from Richard C. Smith to Plaintiffs Regarding Risk Assessment and Plaintiffs’ Risk Assessment Submission .....	35–37

Dated: January 31, 2024

Respectfully submitted,

/s/ JT Morris

JT MORRIS

TX Bar No. 24094444

CONOR T. FITZPATRICK\*

MI Bar No. P78981

FOUNDATION FOR INDIVIDUAL

RIGHTS AND EXPRESSION

700 Pennsylvania Ave., SE

Ste. 340

Washington, DC 20003

Tel: (215) 717-3473

Fax: (267) 573-3073

jt.morris@thefire.org

conor.fitzpatrick@thefire.org

ADAM B. STEINBAUGH\*

PA Bar No. 326475

JEFFREY D. ZEMAN\*

Pa. Bar No. 328570

FOUNDATION FOR INDIVIDUAL

RIGHTS AND EXPRESSION

510 Walnut St.; Ste. 900

Philadelphia, PA 19106

Tel: (215) 717-3473

Fax: (267) 573-3073

adam@thefire.org

jeff.zeman@thefire.org

\* Admitted *Pro Hac Vice*

*Attorneys for Plaintiffs*

*Spectrum WT, Barrett Bright,*

*and Lauren Stovall*



**CERTIFICATE OF SERVICE**

I hereby certify that on January 31, 2024, a true and correct copy of the foregoing document was transmitted via using the CM/ECF system, which automatically sends notice and a copy of the filing to all counsel of record.

/s/ JT Morris

JT Morris

FOUNDATION FOR INDIVIDUAL  
RIGHTS AND EXPRESSION

# **DECLARATION OF BARRETT BRIGHT**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

SPECTRUM WT, BARRETT BRIGHT,  
and LAUREN STOVALL,

Plaintiffs,

v.

WALTER WENDLER, in his individual  
capacity and his official capacity as the  
President of West Texas A&M University,  
*et al.*,

Defendants.

Case No.: 2:23-cv-00048

**DECLARATION OF BARRETT  
BRIGHT IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
INJUNCTION PENDING APPEAL**

Under 28 U.S.C. § 1746, I, Barrett Bright, declare as follows:

1. I am over the age of 18 and have personal knowledge of the facts in this declaration.
2. I am a Plaintiff in the present case and a citizen of the United States of America.
3. I am an undergraduate student enrolled at West Texas A&M University ("West Texas A&M"). I am a civil engineering major taking a 10-credit course load to finish my degree. My academic work occupies a significant amount of my time and focus.
4. I am also the President of Spectrum WT, a plaintiff in the present case.
5. Spectrum WT is a recognized student organization in good standing at West Texas A&M. It has around 20 members who are undergraduate or graduate students enrolled at West Texas A&M. It has existed since around 2009.

6. Spectrum WT's mission is to provide a safe space for LGBTQ+ students and allies to come together, to raise awareness for the LGBTQ+ community, and to promote diversity, support, and acceptance on campus and in the surrounding community.

7. Spectrum WT sought to hold its first annual drag show in Legacy Hall at West Texas A&M on March 31, 2023. We planned our show to avoid risqué types of performances, even going so far as to require performers to avoid using music with profanity. Our show was to be held in Legacy Hall, an event space the university holds out as suitable—and frequently used—for stage performances. Because it is an enclosed venue, only people who bought tickets to see the performance would be in attendance.

8. To organize the March 2023 event, our organization followed the policies, procedures, and practices identified by West Texas A&M, including the Facility Use Request Procedure and the Campus Organizations Handbook.

9. Our March 2023 event proceeded to the “Tentative Confirmation” stage, had passed the university’s risk assessment protocol, and university staff had helped us design the event flyers.

10. On March 14, 2023, a university administrator informed us our event was “scheduled and approved as “Tentative” while waiting for the list of performers and their songs—the final step necessary to move to “Confirmed” status.

11. On March 20, 2023, President Wendler canceled the performance. I first learned that he was doing so when Vice President Christopher Thomas told me that

President Wendler was canceling it because Wendler believed that drag shows discriminate against women.

12. That day, President Wendler distributed an email to all students, faculty, and staff pledging that there would be no drag show on the university's campus, as it was "not possible" to have a "harmless" drag show and drag shows were discriminatory.

13. West Texas A&M provides a "Campus Organizations Handbook" identifying the stages for approval of campus events. As president of a registered student organization, I am familiar with the Handbook. A true and correct copy of West Texas A&M's Campus Organizations Handbook is attached as **Exhibit 1**. This document is available on the West Texas A&M University website at <https://www.wtamu.edu/files/docs/Campus%20Org%20Handbook.pdf>.

14. The stages for reservation of university facilities are:

- a. **Virtual EMS Request (HOLD):** A request to reserve a space, allowing staff to "ensure there are no other conflicting events in that space."
- b. **Tentative Approval:** After JBK Event Services staff confirm details concerning the date, time, and audio-visual needs for the event. At this point, organizers are permitted to begin advertising the event. Tentative approval is supposed to occur within three days of a request.
- c. **Confirmed Status:** All details have been confirmed. This is supposed to happen at least five weeks before the event.

15. Organizers are also required to submit a risk assessment and a risk assessment matrix at least two weeks before the event.

16. Organizers who do not wish to use the university's food vendor are required to submit a catering exemption form.

17. On April 11, 2023, I submitted a request to use the Alumni Banquet Facility for a "Buff-a-Woah Drag Show," to be held on March 22, 2024. A true and correct copy of the Virtual EMS Request is attached as **Exhibit 2**.

18. Spectrum has since renamed the event to the "Don't be a Drag, Drag Show" and changed the requested location from the ABH Dr. Hazel Kelley Wilson Banquet Hall to Legacy Hall.

19. Like the March 2023 performance that President Wendler cancelled, Spectrum WT intends that the March, 22 2024 drag show be PG-13; free of alcohol and music with profanities and closed to minors unless accompanied by a parent or guardian, chiefly to allow younger brothers or sisters to support student performers. To ensure compliance, Spectrum will check identification at the entrance to the event.

20. We are also required to submit a risk assessment and a risk assessment matrix at least two weeks before the event. I submitted the risk assessment form on January 5, 2024 and intend to submit an amended risk assessment form on January 31, 2024.

21. The risk assessment matrix is substantially similar to the one submitted for the March 2023 event, and approved by West Texas A&M's risk assessment administrators in 2023.

22. On January 5, 2024, Spectrum received an emailed response from Richard C. Smith, Assistant Vice President, Risk and Compliance, of West Texas



A&M University. A true and correct copy of Vice President Smith's email is attached as **Exhibit 3**.

23. Vice President Smith's email stated that the March 2024 event was at the "TENTATIVE" stage. His email indicated that West Texas A&M University "will review your request and get back to you within the next two weeks."

24. That two-week period lapsed on January 19, 2024. Risk Assessment wrote Spectrum and thanked Spectrum "for being so responsive."

25. I monitor the Student Events calendar and, although many other events have been added to the Student Events Calendar for the days and weeks after March 22, 2024, our event has not been added as of today.

26. Each participant in the March 2024 performance will be required to sign a Release Form.

27. Before the event, Spectrum intends to submit the required paperwork regarding catering.

28. Spectrum is working on designing promotional material for the event and will work with University staff to that end.

29. I am a principal student organizer of the March 22, 2024, performance. I intend to participate in it. I also know of specific other members of Spectrum WT and other students who also intend to perform. And I know of specific other members of Spectrum WT—and other students who are not members—who intend to attend the performance.

30. I believe that President Wendler will cancel the event again because:

- a. In his March 20, 2023, cancellation of our drag show, Wendler said that “West Texas A&M University will not host a drag show on campus” and that a “harmless drag show” was “[n]ot possible.”
- b. I am aware that in a television news interview about a month after we filed this lawsuit, President Wendler said he “wouldn’t have done anything differently.”
- c. I am aware that President Wendler has said in his December 28, 2023, brief in the United States Court of Appeals for the Fifth Circuit that he referenced the “rejection of future drag shows,” claimed that drag performances are not protected by the First Amendment, and insisted that “officials” need to screen the content of events.

31. Spectrum intends to hold the drag show because it believes that it is an effective way to express ourselves and reach others on campus. Each performance is unique, collectively celebrating the diversity of the LGBTQ+ community.

32. As a recognized student organization, cancellation of our event will harm our ability to express ourselves and to reach our intended audience. Our organization’s mission seeks to promote LGTBQ+ diversity, support, and acceptance on campus. If our events cannot be held on campus, it hinders our ability for our organization and its members to reach fellow students.

33. Cancellation also deprives us of facilities that we pay for with our student fees. Each semester, each of our members pays a fee that funds the Jack B. Kelley Student Center.

34. And if President Wendler cancels our performance again, we will have lost the resources we have expended on preparing for this performance. These include the time that I and other members have spent planning the event, coordinating with other students and organizations, and preparing publicity.

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge.

Dated: January 30, 2024

  
Barrett Bright

*Spectrum WT, et al., v. Wendler, et al.*

# **Exhibit 1**

**to Declaration of Barrett Bright in  
Support of Plaintiffs' Rule 62(d)  
Motion for Injunction Pending  
Appeal**

# Campus Organizations HANDBOOK

Provided by the Student Engagement and Leadership Office  
Jack B. Kelley Student Center, Suite 103  
806.651.2313  
[www.wtamu.campuslabs.com](http://www.wtamu.campuslabs.com)

## Why Does Your Group Need to Register?

Becoming a registered campus organization is a required process at West Texas A&M University. It provides a terrific opportunity to serve the campus community, develop skills within a large group and have a good time in the process. A WTAMU registration involves privileges and responsibilities as listed below.

## Privileges

- Access to campus facilities
- Access to Campus Organization Funds (COFC)
- Support from the Office of Student Engagement and Leadership (OSEL)
- Listing in the Buff Link Directory
- Use of West Texas A&M University name to signify campus affiliation
- Involvement opportunities such as; NSO Org Fairs, Buff Branding events, Join the Herd 2.0, etc.
- Check-out equipment such as; yard games, popcorn machine, karaoke machine, etc.

## Responsibilities

- Abide by procedures and regulations pertaining to campus organizations found in the current *Student Handbook* and *Campus Organizations Handbook* and to state and federal laws
- Attend Org Rally each semester
- Re-register **EVERY** fall and spring semester in Buff Link by the announced deadlines
- Complete the Risk Management process **EVERY** spring semester

## How To Re-Register an Existing Organization

- Existing organizations **MUST** re-register every semester.
- Access your organization in Buff Link (Buff Connect > Buff Link > Sign In > click on your org icon circle on the left hand side of the page > Manage Home > click the blue Re-Registration button
  - If the above steps don't work it is possible that you don't have access to your organization because you are not listed on the current roster. You can come to the OSEL for help.
  - You will have an opportunity to update the org profile, roster (must include all members), and org profile.

- Make sure to check your email. You will receive an approval if all things were done correctly or you will receive a denial if you need to make any corrections.
- **Constitution and By-Laws.** Every campus organization must have an up-to-date constitution or by-laws (cannot be older than 3 years) uploaded in BuffLink.
- Once the registration process is complete, the campus organization is eligible for all the privileges afforded to registered campus organizations at WTAMU.

## How To Register a New Organization

If there is not already an organization on campus that meets your needs, the Office of Student Engagement and Leadership can help you through the process required to create a new one.

- These are the items you will need to collect and prepare prior to registering:
  - Constitution and By-Laws. Every campus organization must have an up-to-date constitution and/or by-laws. This will help in the development of a new organization and in the stability of an existing one. Important things to remember about the constitution are (1) it must be voted on and approved by the general membership, and (2) it must be uploaded into Buff Link at the time of registration and anytime it is changed. You can find a sample constitution [here](#).
  - Secure an advisor for the organization. University regulations require each campus organization to have at least one advisor. The advisor must be a full-time faculty or staff member at WTAMU. (You will need their WT email address.)
  - Secure eight (8) WT students to be added to the organization roster. (You will need each members' WT email address.). Always, include all members on the roster.
  - Of the above members you will need to elect 4 officers: president, vice president, secretary and treasurer.
- When the above items are available you can register your new organization in Buff Link. (Buff Connect > Buff Link icon > Sign In > Organization icon (symbol of two people) > Register an Organization > Scroll down to the bottom of this page and you will see the blue Register a New Organization button)
  - Make sure to check your email. You will receive an approval if all things were done correctly or you will receive a denial if you are missing any of the pieces.
- Become familiar with WTAMU policies concerning campus organizations.
- As soon as the organization is registered, it can begin operating and meeting. A representative of the organization, preferably the president, **MUST** attend Org Rally each semester.
- The president or advisor (depending on the semester) **MUST** also complete the two step Risk Management process.
  - Online training – the link is on the home page of BuffLink
  - Risk Management statement – a hard copy can be pick up in the OSEL, JBK 103.

## Advisor Selection and Responsibilities

Current University regulations require each campus organization to have a primary advisor who is a full-time WTAMU faculty or staff member. It is in the organization's best interest to have a secondary advisor



if your primary advisor is frequently unavailable. We hope the following will help you select an advisor, as well as understand his/her function in your organization.

### **The Role of the Advisor**

An advisor adds to the continuity of your organization by making sure that successive officers of the organization understand the responsibility they share with the officers, as well as explaining to the officers the policies established for campus organizations.

### **Duties of an Advisor**

- To be aware of and have an understanding of those rules pertaining to organizations at WTAMU as well as rules and procedures governing WTAMU students.
- To be aware of liability issues (i.e. hazing, alcohol, etc.) and advise the organization to make reasonable and prudent decisions regarding these issues in planning activities.
- To attend meetings of the organization whenever possible.
- To be available to the officers and members of the organization on a regular basis for advice and consultation.
- Take all necessary trainings that are required by the state of Texas.

### **Hints for Recruiting an Advisor**

- Before making a selection, keep in mind the following:
  - Find someone who will have the time to devote to your organization.
  - Find someone who will take the role willingly and seriously.
- When approaching your potential advisor for the first time, make certain that he/she has a clear understanding of your organization's purpose as well as what will be required of him/her in their role, duties and time commitment.
- Allow the person a reasonable length of time to consider his/her decision.
- If possible, choose someone who shares some of the same interests of your organization, and someone with which members are in contact.
- When starting a departmental club or organization, find someone in that department to be an advisor.

### **How to Work With Your Advisor**

- It is best to meet with your advisor at least one day before your meetings to go over the agenda and topics to be discussed.
- Be open to suggestions and criticisms from your advisor. His/her knowledge and experience will help in solutions and organizational procedures.
- If an advisor cannot attend all your meetings, be sure to meet with him/her after the meeting to brief him/her on what happened.

### **Grade Point Release Form**

(Required only for groups that have grades checked.)

The release of student grades to other students is prohibited unless written permission is obtained from each student, as indicated on the Grade Point Release Form. Grade reports are compiled by the Office of Student Engagement and Leadership at the end of each semester. Groups submitting the Grade Point Release Form must do so by the established deadlines (**Fall: December 1; Spring: May 1**).

Grades will not be disclosed in any fashion unless the release section of the form is signed. Grades will only be released to the organization president, advisor and national office, as needed, to complete national reports, provide academic assistance, and recognize academic excellence. Grade reports released to organization president, advisor and national office may not be released to any other students.

### **Org Rally**

#### **Mission**

The mission of the Org Rally is to enhance the quality of campus life and provide support to campus organizations. A representative, preferably the org president, and advisor of all registered campus

organizations are encouraged to attend Org Rally. A workshop for all organizations that will be held at the beginning of each semester.

**Goals and Objectives**

- To provide a network for organizations to support and promote themselves and other organizations.
- To market major campus events and promote joint programming efforts among organizations.
- To provide leadership training.
- To promote community awareness.
- To increase communication flow to organizations.
- To guide and direct through the *Campus Organizations Handbook*

**Reserving University Facilities**

[reservations.wtamu.edu](http://reservations.wtamu.edu)

Directions to make a reservation can be found on the home page once you are logged in and your name is in the top right corner.

**Event Process Timeline**

Virtual EMS Request (HOLD)	When you submit your reservation (starting April 1 of each academic year), it is only a request. It will remain in Virtual EMS (HOLD) status until we ensure there are no other conflicting events in that space.
Tentative	Once we receive your request, a JBK Event Services Assistants will reach out to confirm details regarding the date, time, and your A/V needs. After these have been confirmed, we will send a tentative confirmation. At this point your group is allowed to advertise the event. We prefer to move all events from hold to tentative within 3 business days of submission into the system.
Confirmed	Once all details have been confirmed for the event, the reservation will be moved into Confirmed status. We prefer this to happen five weeks prior to the event, so please be diligent in submitting your reservations a minimum of two months prior. Keep an eye on your email for updates and/or questions regarding the event.

**Student Org/Department/Individual Details**

Student Org/Department/Individual Details

Student Org/Department/Individual \*

Contact

Contact Name \*

Contact Phone \* Contact Fax

Contact Email Address \*

Please be sure to put your organization, not your name. If you cannot select your organization, please contact us at [jbk@wtamu.edu](mailto:jbk@wtamu.edu) or 806-651-2337 to have that organization added to your account.

**Contact**

Please list two contacts, this should be you, the event organizer, and/or the Advisor, President or VP of the organization.

**REMINDER:** No glitter, confetti, helium tanks, or tape (on walls or fixtures) are allowed in WTAMU facilities.



## Posting Marketing Guidelines

### Any University Facility

- Materials may not be racist or sexist in content; contain obscene words; promote alcohol or other drug usage or any unlawful activity; or violate University rules, Texas A&M University System policies, or local/state/federal laws.
- Your marketing, if applicable, should comply with university graphic standards and should contain the name of the sponsoring organization/department and the name, date and place of the event and contact information.
- Post your marketing, one per event, on the open bulletin board with a thumbtack (no staples, glue guns, tape, etc.). Do not post on doors, windows, ceilings, walls, etc., in any building.
- Please remove your marketing the day after the publicized event.
- Be aware of the posting guidelines in each building. Not all buildings allow you to post your marketing.
- Use this link, <https://www.wtamu.edu/SEESMarketing>, or click [here](#) for more resources and places to post your marketing.

## University Graphics Standards

The University's image – a sum of beliefs, ideas and impressions – is extremely important to the continued growth and development of West Texas A&M University. We want to be seen as a quality institution that emphasizes teaching, research and community service. In order to convey that image to our external constituents, we must present a unified and consistent message. To accomplish this goal, we must rely heavily on coordinated visual materials that comply with published graphics standards.

The Office of Communication and Marketing has the primary responsibility for all campus design work that uses the University seal, logo or word mark, and any printed piece that bears these University "signatures" must be cleared for publication through the Office of Communication and Marketing.

Camera-ready artwork of the University seal and logo is available at <https://www.wtamu.edu/graphicstandards> or click [here](#).

If you would like more information or if you have questions about how you can promote and market your event, contact: Evelyn Montoya, Marketing Coordinator for Student Success and Engagement and

Jack B. Kelley Student Center, Suite 102  
WTAMU Box 60775  
Canyon, Texas 79016-0001  
Phone: 806-651-2051  
Fax: 806-651-2926  
[emontoya@wtamu.edu](mailto:emontoya@wtamu.edu)

## Food Services/Catering

By contract, ARAMARK Food Services shall provide, or provide and serve, all food items on the WTAMU campus. Student groups are not allowed to sell or distribute any food item on the campus unless written permission has been granted by the Director of Food Services (whose office is located in the Dining Hall). The On Campus Catering Exemption Form can be found at <https://www.wtamu.edu/webres/File/Purchasing/On%20Campus%20Catering%20Exemption%20Form.pdf> or click [here](#).

Arrangements for food and beverage requirements are to be made with the Catering Manager, Michael Ives, in the Dining Hall, at 651-2707 or [mives@wtamu.edu](mailto:mives@wtamu.edu). The complete catering guide for student organizations, including menus and rates, is available from the Catering Manager.

## Organizational Risk Management

It is important that leaders of all campus organizations do everything they can to minimize the possibility of accidents and injuries while planning and programming events. Advisors and officers are responsible but there are many practical, common-sense things that your organization can do to minimize the possibilities of problems arising.

There is not a substitute for good planning. If the time is taken to think through a certain event logistically from start to finish, you will discover that just a little planning will make a big difference in how things go and you could discover pitfalls which can be planned for rather than destroy your event.

All groups, for social interaction, may plan a skating party or a ski trip, go to a member's farm to ride horses or impulsively decide to take a swim. You certainly cannot anticipate everything, but just thinking about how accidents and injuries may occur will lead to some good risk management practices.

### West Texas A&M University Risk Management and Insurance Matrix

Exposure To Be Reviewed: \_\_\_\_\_

**Instructions:** **Step 1** - List all event activities and be as inclusive as possible. **Step 2** - Honestly identify risks associated with each activity. **Step 3** - Use the matrix below to assess your activities. Tally the severity and probability scores for evaluation. **Step 4** - Brainstorm methods to manage risks. See if you can reduce the probability or severity of something going wrong. **Step 5** - Submit the Risk Management and Insurance Matrix Form with your Risk Assessment Form for further review. If you have questions, please contact Richard Smith via email at [rcsmith@wtamu.edu](mailto:rcsmith@wtamu.edu).

List of Activities to Occur	Associated Risks*	Severity	Probability	Method to Manage Risks**

\*Possible risks include: medical emergencies, food poisoning/allergens, damage to WTAMU reputation, accidents, injuries, and/or death

\*\*Methods to manage risks include: insuring risk, arranging for security, use of administrative procedures, and/or use of PPE or safety devices

<p style="text-align: center;"><b>Severity</b></p> <p><b>I: May result in death</b></p> <p><b>II: May cause severe injury, major property damage, significant financial loss, and/or result in negative publicity for WTAMU</b></p> <p><b>III: May cause a moderate illness, injury, property damage, financial loss, and/or result in negative publicity for WTAMU</b></p> <p><b>IV: Presents a minimal threat to safety, property, operations, or reputation</b></p>	<p><b>Risk Matrix</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2"></th> <th colspan="4"><b>Probability</b></th> </tr> <tr> <th><b>Severity</b></th> <th></th> <th><b>A</b></th> <th><b>B</b></th> <th><b>C</b></th> <th><b>D</b></th> </tr> </thead> <tbody> <tr> <td>I</td> <td></td> <td style="background-color: red; color: white;">High Risk</td> <td style="background-color: red; color: white;">High Risk</td> <td style="background-color: red; color: white;">High Risk</td> <td style="background-color: yellow;">Medium Risk</td> </tr> <tr> <td>II</td> <td></td> <td style="background-color: red; color: white;">High Risk</td> <td style="background-color: red; color: white;">High Risk</td> <td style="background-color: yellow;">Medium Risk</td> <td style="background-color: yellow;">Medium Risk</td> </tr> <tr> <td>III</td> <td></td> <td style="background-color: yellow;">Medium Risk</td> <td style="background-color: yellow;">Medium Risk</td> <td style="background-color: yellow;">Medium Risk</td> <td style="background-color: lightgreen;">Low Risk</td> </tr> <tr> <td>IV</td> <td></td> <td style="background-color: yellow;">Medium Risk</td> <td style="background-color: yellow;">Medium Risk</td> <td style="background-color: lightgreen;">Low Risk</td> <td style="background-color: lightgreen;">Low Risk</td> </tr> </tbody> </table> <p style="font-size: small;">High risk areas may be sent to System Risk Management for additional review. Although insurance procurement may not be the answer, discussions should occur regarding self-retention so all parties are aware of the risks associated with the activity.</p>			<b>Probability</b>				<b>Severity</b>		<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	I		High Risk	High Risk	High Risk	Medium Risk	II		High Risk	High Risk	Medium Risk	Medium Risk	III		Medium Risk	Medium Risk	Medium Risk	Low Risk	IV		Medium Risk	Medium Risk	Low Risk	Low Risk	<p style="text-align: center;"><b>Probability</b></p> <p><b>A: Likely to occur immediately or in a short period of time (6&lt;months); expected to occur frequently</b></p> <p><b>B: Likely to occur in the near future (6 months – 1 year); expected to occur periodically over a relatively short timeframe; expected to occur over the life of an event or project</b></p> <p><b>C: May occur if given enough time; probability of occurrence is equal to it not occurring</b></p> <p><b>D: Unlikely to occur at any point</b></p>
		<b>Probability</b>																																				
<b>Severity</b>		<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>																																	
I		High Risk	High Risk	High Risk	Medium Risk																																	
II		High Risk	High Risk	Medium Risk	Medium Risk																																	
III		Medium Risk	Medium Risk	Medium Risk	Low Risk																																	
IV		Medium Risk	Medium Risk	Low Risk	Low Risk																																	

Form Updated 07/22/22



giving away a faulty product. Make sure your supplier is reliable and use common sense when deciding what products with which you may want to involve your group.

## **Hazing/Harassment**

Preventing hazing and sexual or racial harassment are not usually considered in the context of risk management, but your organization can suffer great consequences if hazing and harassment occur. This is something this University simply will not tolerate. Please read the section carefully. The Student Handbook states this about hazing: HAZING:

Intentional, knowing, or reckless act directed against a student by one person acting alone or by more than one person occurring on or off university premises that endangers the mental or physical health or safety of a student for the purpose of pledging or associating with, being initiated into, affiliating with, holding office in, seeking and/or maintaining membership in any organization or program whose membership consists of students. Consent and/or acquiescence by a student or students subjected to hazing is not a reasonable defense in a disciplinary proceeding. Hazing includes, but is not limited to:

a. Any type of physical brutality, such as whipping, beating, using a harmful substance on the body or similar activity.

b. Any type of physical activity that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of a student, such as sleep deprivation, exposure to the elements, confinement in a small space, or calisthenics.

c. Any activity involving consumption of a food, liquid, alcoholic beverage, drug or other substance which subjects a student to an unreasonable risk of harm or which adversely affects the mental or physical health or safety of a student.

d. Any activity that intimidates or threatens a student with ostracism, subjects a student to extreme mental stress, shame or humiliation, adversely affects the mental health or dignity of a student, or discourages a student from entering or remaining enrolled at the University, or may reasonably be expected to cause a student to leave the organization or the University rather than submit to acts described above.

e. Any activity in which a person solicits, encourages, directs, aids or attempts to aid another in engaging in hazing; intentionally, knowingly or recklessly permits hazing to occur; has firsthand knowledge of the planning of a specific hazing incident which has occurred and knowingly fails to report the incident to the VPSEES or the University Police Department. f. Any activity in which hazing is either condoned or encouraged or any action by an officer or combination of members, pledges, associates or alumni of the organization of committing or assisting in the commission of hazing. Students who are recipients and/or victims of hazing (and who have not perpetrated hazing behavior on others involved in the fact pattern for which they are reporting) and who report the activities to the VPSEES and/or the University Police Department, will not be charged with a violation of the hazing rule. NOTE: For more information on hazing see Texas Education Code, Sections 37.151-37.155 and Section 51.936 at

<http://www.statutes.legis.state.tx.us/?link=ED>

## **Insurance**

In many cases, your organization should require students to have some type of medical, accident and injury insurance. In the majority of instances, students are insured by their parents on a family plan of some sort. It is a good idea to ask students to furnish a copy of their family insurance card (proof of insurance) or purchase some sort of event insurance. The University does not carry insurance on students and cannot be responsible for medical bills or other related expenses.

## **Student Activity Release Form**

It is important that participants are warned of any dangers inherent in an activity and that they sign a document stating that they understand this danger and will assume the responsibility for themselves. A sample form from the Office of General Counsel of the Texas A&M University System is available in the Office of Student Engagement and Leadership for use as a pattern for filling in the parts that are significant to your specific activity. This form is a legal document and should be stated as such. It is a good idea to have everyone sign it at the time they join or pay dues. It is also a good idea to have your members sign a more specific form before each event that carries some risk. This may seem like a lot of paperwork, but very important.

Only students of WTAMU should participate in your activities. If outsiders want to participate, be sure they sign any and all risk forms, too. If you allow children to participate, it is a good idea for minors to have a release from their parents and require parents be present at the event.



If your organization has questions regarding risk management or liability, please don't hesitate to contact the Office of Student Engagement and Leadership. We love to help students!

### Houses/Lodges, Fire Safety and Equipment

Houses/Lodges, fire safety, and equipment are other areas where good risk management must be practiced. A careful check of each is very important to the overall safety of guests and users of a group's facilities and equipment. Guests and users should be made aware of any potential hazard, taught how to use certain equipment, and informed of proper fire evacuation plans. These measures are necessary to safeguard groups from potential legal action stemming from the use of their facilities or equipment. It is good practice to contact the Fire Marshall to have annual inspections of your facilities.

## West Texas A&M University Student Travel Procedures

Effective January 1, 2002

Revised December 7, 2010

Supplements System Policy 13.04 and WTAMU Rule 13.04.99.W1/SA

### 1. GENERAL

The purpose of these procedures is to protect the health and welfare of the West Texas A&M University community by regulating travel that is undertaken by one or more students presently enrolled at the university under certain conditions.

**1.1** It is the intent of West Texas A&M University to promote safety and to encourage safe conduct when traveling to and from university activities or events. Accordingly, in addition to encouraging the use of good judgment, the university has adopted the Student Travel Rule and set out safety procedures designed to encourage safe behavior. These procedures herein apply to all who travel to an activity or event that is organized and sponsored by the university:

**(1)** When the travel will be (a) more than 25 miles from the University or (b) to and from Palo Duro Canyon; and

**(2)** When (a) attendance at the activity or event is required by a student organization properly registered at the university; or (b) the activity or event is funded by the university [including Campus Organizations/Forums Committee (COFC) funds]; or (c) travel is in a state-owned vehicle.

If Travel Is...	Travel Manifest Required?	Individual Release Required?	Parental Release Required?
Less than 25 mi from campus	Optional	Optional	***
To/From Palo Duro Canyon	YES	YES	***
More than 25 mi from campus	YES	YES	***
<b>AND the travel is...</b>			
In a state-owned vehicle	YES	YES	***
Required by a registered student organization	YES	YES	***
The responsibility of students to (1) an off-campus site where a class is meeting; (2) internship, field study, clinical or student teaching sites; or (3) service-learning activities	YES	YES	***
***Participant is under 18			YES

These procedures do not apply when students are responsible for their own transportation to

(1) an off-campus site where a class is meeting; (2) internship, field study, clinical or student teaching sites; or (3) service-learning activities.

**1.2** Traveling to and from university organized or sponsored events and activities may require the use of various modes of transportation and travel under different conditions. Each form of travel requires the student to follow common and mode-specific safety precautions. In addition to following federal and state laws that encourage safe travel, students should use sound judgment and follow the procedures set forth in this document when traveling.

**1.3** University employees who authorize students to drive state-owned vehicles for university-related business and activity are responsible for ensuring that the student has a valid driver's license and is approved to drive university vehicles as determined by the Office of the Vice President for Business and Finance. To be covered on the Texas A&M University System self-insured auto plan, drivers must be employed by WTAMU when driving a state-owned vehicle.

**1.4** Students traveling in university vehicles, to university organized or sponsored events and activities, must return in university vehicles, unless authorized in writing to do otherwise. Only the vice president, advisor, or department head responsible for organizing the travel may authorize travel in a vehicle other than that provided by the university.

## **2.COMPLIANCE AND ENFORCEMENT**

**2.1** Departments that encourage or require one or more students to travel to university organized and sponsored events and activities are responsible for verifying that students are aware of the procedures outlined in this document.

**2.2** Students who fail to comply with the rule and the procedures herein are subject to disciplinary action, up to and including suspension. Student organizations that violate the rule and the procedures herein also are subject to disciplinary action, up to and including suspension. University departments who fail to comply with the rule and the procedures herein are subject to losing the use of university vehicles.

## **3. PROCEDURES**

The following procedures are established to implement the student travel rule.

**3.1** Required Documentation. All required documentation must be submitted to the Director of Student Activities. The following documents should be completed 2 weeks prior to travel.

**(1)** Travel Manifest. All trips, including field trips, need to have a travel manifest (itinerary and participants) completed if the travel will be subject to these procedures as outlined in section 1.1. The completed travel manifest will be routed via the Office of Student Activities to:

**(a)** University Police Department – all group travel

**(b)** Department head – travel that involves field trips, organized teams or performing groups, i.e. athletic teams, university band, dance groups, vocal ensembles, etc.

**(c)** Business Office – travel that involves absence from work by the faculty/staff sponsor and/or university funds for payment of the travel. The manifest should be submitted with the Notification of Absence.

For those organizations or classes in which travel is a regular practice during the semester, a blanket Travel Manifest and Individual Release Forms may be submitted for the entire semester. Travel organizers may attach a list of persons participating in the travel to the Travel Manifest form.

**(2)** Individual Release Forms. Students must be warned of any dangers inherent in an

activity and sign a document (TAMUS Student Activity Release Form) stating that they understand these dangers and will assume the responsibility for themselves. Students under the age of eighteen (18) must have a release form signed by their parents or legal guardian.

**(3) Authorization for Student Travel in Personal Vehicles Form.** Students driving personal vehicles must have department head approval.

### **3.2 Modes of Travel.**

**(1) Vehicles owned by the University.** All employees and students must be approved by the Office of the Vice President for Business and Finance (VPBF) to operate state-owned vehicles. The criteria are available in the VPBF Office. Departments, who request a driver to operate university vehicles regardless of the distance traveled, are responsible for coordinating with the VPBF Office to obtain the driver's motor vehicle record from the Department of Public Safety.

**(a)** If an individual who has been approved to drive the University's vehicles receives a ticket or has restrictions or endorsements added or removed from his/her driver's license, that individual must report this change to the VPBF Office immediately. Failure to do so will result in immediate and permanent removal from the University's approved driver list. In addition, anyone having knowledge of an approved driver receiving a ticket or other status change must report it to the Office of the Vice President for Business and Finance.

**(b)** Travel in vans with a capacity to hold 12 passengers is the only approved mode of travel. Passenger capacity is strictly restricted to no more than ten (10) individuals, including the driver. The weight of passengers and their gear should be distributed evenly throughout the van.

**(2) Privately Owned Vehicles.** While traveling to and from university sponsored or organized activities and events, students using privately-owned vehicles, or any vehicle other than those owned by the university, are expected to follow the safety guidelines outlined in this procedure. Student drivers must have a valid driver's license, current motor vehicle insurance, and current state vehicle inspection. If students use their own vehicles, and/or transport other students as passengers, they should be informed, in advance, that their personal insurance will be primarily responsible for any liability that may arise from such use. Departments or advisors that authorize students to travel in privately-owned vehicles are responsible for ensuring compliance with these requirements (i.e. Authorization Form for Student Travel in Personal Vehicles).

Departments or advisors are not responsible for verifying the legitimacy of the documents the student(s) provide. The student's signature on the authorization form attests that the information is current and correct. The department or advisor needs only to collect the documents, ensure they have been filled out completely, and then submit them to the Director of Student Activities.

**(3) Commercial Travel.** Students traveling by commercial transportation must comply with all federal laws regulating travel and the rules of the specific carrier. This includes laws and rules regarding carry-on baggage and baggage weight restrictions.

**(4) Club Sport Travel.** Each member of the Club Sport will complete a TAMUS Student Activity Release Form, with participant information, at the beginning of each semester. The Club Sport coach/advisor will complete a Travel Manifest prior to each out-of-town event/competition and supply a list of participants for the given event/competition as outlined in 3.1(1) above. The coach/advisor will provide each student participant with information concerning (1) emergency notifications in case any travel-related emergency results in serious injury to the student or (2) driving directions and suggestions specific to travel.

**3.3 Safety Requirements.** Drivers and passengers must act responsibly and use sound judgment when traveling. The procedures set out below do not replace individual judgment in regard to individual safety. Drivers and passengers traveling to and from an activity or event that is subject to these procedures as outlined in section 1.1 must:

- (1) When driving, obey all traffic laws and regulations, including posted speed limits and reduce driving speeds as dictated by adverse road or weather conditions.
- (2) Wear seat belts at all times. The number of occupants in the vehicle will not exceed the number of seat belts and the load shall not exceed the vehicle manufacturer's recommended load capacity (see owner operating manual for specific instructions).
- (3) Avoid the use of personal electronic devices (cell-phones, texting, mp3, ear-phones, etc.) while driving.
- (4) Avoid driving when conditions are hazardous (this includes but is not limited to fog, heavy rain, snow or ice conditions). It may be necessary to stop the trip and check into a motel.
- (5) Not consume, transport, or possess alcoholic beverages, illegal drugs, firearms or weapons.
- (6) Avoid horseplay, racing, or other distracting or aggressive behavior.
- (7) Bring a copy of the participant list, emergency contacts, and Travel Manifest on the trip.

**3.4 Safety Recommendations.** Drivers and passengers are encouraged to follow the safe driving practices as follows:

- (1) Begin the trip well rested.
- (2) Plan routes in advance, and carpool and caravan where possible.
- (3) Divide the trip into segments, stopping for rest as necessary.
- (4) Immediately contact the organization advisor or designated contact person upon departure and arrival if the advisor is not present on the trip.
- (5) Whenever possible, carry at least one cellular telephone or other two-way communication device in each vehicle for emergency purposes. The driver should only use any communication device when the vehicle is not in motion.
- (6) Establish a reasonable departure and arrival time to and from the activity or event.
- (7) Limit driving time to between 6:00 a.m. and 10:00 p.m. unless otherwise approved by the organization advisor or department head.
- (8) Whenever possible on extended trips, have at least one other approved University driver in the vehicle. It is recommended that drivers rotate every two hours. A passenger or second driver should ride in the front passenger seat and remain awake at all times to help the driver maintain alertness. A single driver should not exceed driving over 8 hours per day.
- (9) Follow proper procedures for emergencies and when experiencing mechanical problems as outlined in the Student Organization Handbook.

(10) Read and become familiar with suggestions on “Staying Alert and Fit to Drive” found in the Texas Department of Public Safety’s Commercial Motor Vehicle Drivers Handbook (also outlined in the Student Organization Handbook).

### **3.5 Driver Qualifications and Training**

(1) Driver Qualifications. When traveling to or from activities and events, either organized or sponsored by the university, students must possess a valid driver’s license and maintain current insurance as required by state law. In order to be covered under the auto-liability protection of the Texas A&M University System, all drivers must be employed by WTAMU, acting in course and scope of employment. Students may only use private or commercially-owned vehicles with a current vehicle inspection.

(2) Driver Training. All employees and students who operate vehicles owned by the university must successfully complete mandatory van operator training provided by the Environmental Safety Office. Departments that authorize students to operate vans are responsible for ensuring compliance with this requirement.

CONTACT FOR INTERPRETATION: Director of Student Engagement and Leadership

## **Travel Policies and Guidelines**

### **13.04.99.W1/SS**

Approved December 7, 2001

Revised January 19, 2011

Supplements System Policy 13.04

### **1. OVERVIEW**

West Texas A&M University (WTAMU) is supportive of student activities both on and off campus, but also recognizes that the safety of its students is of utmost importance. The requirements outlined in this rule apply to student travel that is more than 25 miles from campus to an activity or event that is organized, registered, funded, or sponsored by WTAMU. Students traveling on behalf of the university must obtain prior approval through the appropriate vice president or department head.

### **2. TRAVEL SAFETY GUIDELINES**

During travel situations specified above, students must abide by the following safety guidelines.

**2.1** In accordance with state law, drivers must use seat belts and other available safety restraints and require all passengers to do likewise.

**2.2** Drivers, occupants and their luggage should not exceed the official maximum capacity of the vehicle used.

**2.3** Drivers must possess a valid state driver’s license that is appropriate for the classification of vehicle being driven. Drivers must be approved by the Office of the Vice President for Business and Finance to operate state-owned vehicles. All approved drivers must be employed by WTAMU when driving a state vehicle.

**2.4** Operator fatigue should be considered when selecting drivers. On lengthy trips, alternate approved drivers should be used to avoid fatigue.

### **3. TRAVEL SAFETY PROCEDURES**

Specific procedures for student travel have been developed to augment the above requirements.

These procedures are available online or you can contact the OSEL at 806-651-2313.

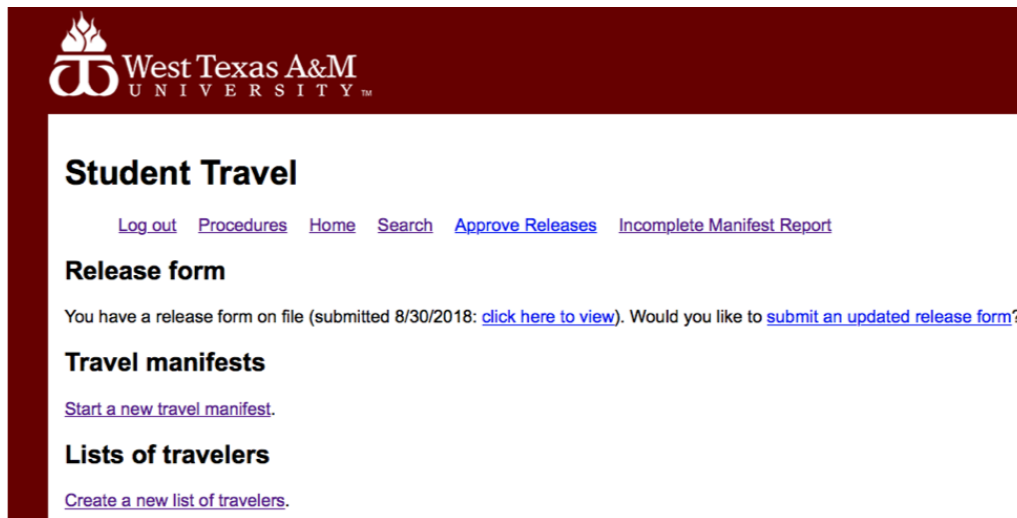
## Online Travel Manifest Instructions

Use the following link to access the online travel manifest system: (Firefox or Chrome is preferred)

<https://apps.wtamu.edu/student-travel/>

(The username and password are what you normally use to sign into your computer.)

You should see the following screen:



### STEP 1 - Release Form:

- If you do not already have a release form online, you will need to do one. Release forms are good for 2 years, so you may or may not need to submit a new one depending on the last time you traveled. 'Submit a release form' will appear under the RELEASE FORM section if you don't have a current release form on file.
- Each person traveling will need to go online (using the same link from above), and submit a release form online.
- They need to identify themselves with a specific group so they will need to check the box of the group. (Ex. Rogers LEAD, BSM, etc.)
- You will not be able to complete the manifest until every person has completed a Release Form.
- Any outside travelers (non-WTAMU) will have to complete a paper release form signed and then uploaded to the manifest.

### STEP 2 – Lists of Travelers:

- Click on 'Create a new list of travelers.'
- You should then see the following:



# Student Travel

[Log out](#) [Procedures](#) [Home](#) [Search](#) [Approve Releases](#) [Incomplete Manifest Report](#)

## Traveling Hippies: Spread cheer conference (2/28/2019 - 3/3/2019)

\* What would you like to do?

[Add a traveler to this manifest](#)

Add a traveler to this manifest

\* Type of traveler

\* Buffalo Gold Card number

\* First name

\* Last name

[Update traveler list](#)

- You will be making two lists: 1-advisors (non-Student) and 2-students. Will submit from this screen twice.
- Make the name of the list specific for each list.
  - Example List 1: TH Advisors 2019
  - Example List 2: TH Students 2019
- You will input the following information for each person traveling.
  - First and Last Name
  - Buff ID
- Please create a list that includes every person that might have the possibility of traveling.
  - You can always remove people from the manifest. You cannot add to the manifest.
  - If you do not include everyone in the list, you may have to recreate the list.
- Once you have created the lists, you will see them listed (ex. Track and Field):
  - The type of list is in black.

## Lists of travelers

[Create a new list of travelers.](#)

- [LEAD WT](#) (students)
- [Office of Student Engagement and Leadership](#) (students)
- [RA PALO DURO](#) (students)
- [Rogers LEAD WT Orientation](#) (advisors)

### STEP 3 – Travel Manifest

- From the Student Travel Homepage, click on ‘*Start a New Travel Manifest*’
- You should then see the following at the top of the page:

# Student Travel

[Log out](#) [Procedures](#) [Home](#) [Search](#) [Approve Releases](#) [Incomplete Manifest Report](#)

## Manifest

\* Name of travel group

My travel group does not appear in this list

\* Please provide the name of your travel group

Traveling Hippies

\* Purpose of trip

Spread cheer conference

Number of WTAMU student travelers

3

Number of WTAMU staff/faculty advisor travelers

1

Number of non-WTAMU travelers

1

\* Are you requesting COFC funding

Yes

### Transportation

\* Is at least one traveler traveling by plane?

No

\* Is at least one traveler traveling by university vehicle?

Yes

\* If traveling by university vehicle, please identify the driver(s) BY NAME

Darcy Webber

- Name of travel group: Select what sport you are traveling with.
- Purpose of trip: Be specific. Example: *Spreading cheer conference*
- Number of students attending: This number will need to be precise.
- Number of staff/faculty advisors: This number will need to be precise as well.
- Are you requesting COFC funding? Answer accordingly.

### Transportation

Number of travelers traveling by plane

WTAMU students and WTAMU faculty/staff advisors (exclude non-WTAMU volunteers)

Number of travelers traveling by university vehicle

WTAMU students and WTAMU faculty/staff advisors (exclude non-WTAMU volunteers)

Number of travelers traveling by personal vehicle

WTAMU students and WTAMU faculty/staff advisors (exclude non-WTAMU volunteers)

Number of travelers traveling by chartered/nonchartered public carrier (bus, rental car, etc.)

WTAMU students and WTAMU faculty/staff advisors (exclude non-WTAMU volunteers)

\* Is at least one traveler traveling by non-WTAMU vehicle?

Yes ↕

\* If traveling by non-WTAMU vehicle, please identify the driver(s) BY NAME

Sarah Nease

\* Is at least one traveler traveling by chartered/nonchartered public carrier (bus, rental car, etc.)?

No ↕

---

Departure from WTAMU

\* Date of departure

02/28/2019

Select the date

MM/DD/YYYY

\* Time of departure

12:00pm

examples: 11:30am, 2pm

---

Return to WTAMU

\* Date of arrival back at WTAMU

03/03/2019

Select the date

MM/DD/YYYY

\* Estimated time of arrival back at WTAMU

6:00pm

examples: 11:30am, 2pm

---

The email address at which you wish to receive notifications about this manifest

dwebber@wtamu.edu

Save and continue

- In this section, you will need to provide the total number of travelers in the correct mode of travel.
  - This number must match the numbers you provided earlier.
  - If you choose charter, including rental vehicles, you will need to provide the charter company name.
- Departure and Return from WTAMU: Select the date and provide a time.
  - The time format must match the example, including 'am' or 'pm'
- The email address box will automatically fill with your email address.
- Save and Continue

The page will continue on with your Travel Manifest created, but not complete:

## Student Travel Manifest #2620

[Log out](#) [Procedures](#) [Home](#) [Search](#) [Approve Releases](#) [Incomplete Manifest Report](#) [Create a duplicate of this manifest](#)

### Traveling Hippies: Spread cheer conference (02/28/2019 - 03/03/2019)

This manifest is incomplete

#### Incomplete tasks

- You must identify at least one destination
- Student travelers: indicated 3, identified 0
- Advisor travelers: indicated 1, identified 0
- Non-WTAMU travelers: indicated 1, identified 0
- You have indicated travel by non-WTAMU vehicle, but you have not completed a non-WTAMU vehicle authorization

#### Update this manifest

- [Add a destination](#)
- [Edit the traveler list for this manifest](#)
- [Add a non-WTAMU vehicle authorization](#)
- [Edit this manifest](#)
- [DELETE this manifest](#)

#### Manifest detail

- From the home screen, choose the manifest you are working on (will be listed under Travel Manifests)
- The screen will look similar to (Student Travel Screen):

You will notice at this point the section '*Manifest Status*':

- Listed will be items that are not complete and will prevent the manifest from being submitted.
  - Any item listed in red, will need completed before the manifest can be submitted.
  - Once the item is corrected, it will turn green.
- You want everything to turn **GREEN!!** Start with the destination, and work through each of the required sections.
- The most common items you will see listed are:
  - Not all the travelers listed will have a current release form online.
  - The number of travelers on the traveler list does not match the number indicated by the person preparing the manifest (as seen above).
  - Select add destination.

#### STEP 4- Destination

You will need to add the destination(s) of your travel

- If you have multiple destinations along the trip, you may add more than one.

The screen will look like:

## Student Travel

[Log out](#) [Procedures](#) [Home](#) [Search](#) [Approve Releases](#) [Incomplete Manifest Report](#)

### Traveling Hippies: Spread cheer conference (2/28/2019 - 3/3/2019)

\* Destination

\* Does any part of your stay at this destination involve travel outside the United States?

\* Staying in accommodations?

#### Arrival

\* Date of arrival at destination

  MM/DD/YYYY

\* Estimated time of arrival at destination

 examples: 11:30am, 2pm

#### Departure

\* Date departing this destination

  MM/DD/YYYY

\* Estimated time departing this destination

 examples: 11:30am, 2pm

- Provide the details of your destination:
  - Destination: ex. Tarleton – Stephenville, TX
  - Organization has been to this same location in the past two years?
    - You will need to select yes or no.
  - Staying in Accommodation: will need specific details:
    - Name of Hotel (or private residence)
    - Address of Hotel
    - Phone Number of Hotel

- Date and Time of arrival of your Destination (time must match the form given in the example)
- Date and Time of departure of your Destination (time must match the form given in the example)
- Save: will take you back to the Student Travel Screen

#### STEP 5 – Traveler List

- From the Student Travel screen, choose 'Edit the Traveler List for this Manifest'.
- The screen will look like:

## Student Travel

[Log out](#) [Procedures](#) [Home](#) [Search](#) [Approve Releases](#) [Incomplete Manifest Report](#)

### Traveling Hippies: Spread cheer conference (2/28/2019 - 3/3/2019)

\* What would you like to do?

---

Add a traveler to this manifest

\* Type of traveler

\* Buffalo Gold Card number

\* First name

\* Last name

- From the drop down, 'copy a traveler list into this manifest': You will do this twice, for both the Advisor list and Student list.
- Update traveler list
- Once they are attached, you will be able to go in and remove anyone from the manifest, but it will not remove from the original travel list.
  - Remember, you cannot add to the travel list from here. Once they are removed, they are removed from the manifest only.
  - You are given the option to add a single traveler to the manifest.

#### Step 6: Non-Authorized WTAMU vehicle (Personal Transportation)

- If you selected your mode of transportation as a non-WTAMU vehicle, you will need to provide the following information:
  - Vehicle Make
  - Vehicle Model
  - Vehicle Color
  - Vehicle Year
  - License Plate State and Number

The screen will look like the following:

## Student Travel

### Non-WTAMU Vehicle Authorization

Spirit Squad: TEST (6/18/2022 - 6/18/2022)

\* Will everyone who will be driving this vehicle have a valid driver's license for the duration of this trip?

\* Does the owner's auto insurance policy cover everyone who will be driving the vehicle for the duration of this trip?

\* Will this vehicle have valid registration (and inspection, if applicable) for the duration of this trip?

Vehicle

\* Make

\* Model

\* Color

\* Year

\* License plate state

\* License plate number

- Continue adding as many vehicles as needed
- Once you have added all the vehicles that will be used for transportation, you will then need to go and select which travelers will be in which vehicle.
- Scroll to the bottom of your Travel Manifest until you see the heading "Non-WTAMU vehicle authorization." This is where you should see the vehicles you have just added
- Click "edit occupant list" and select by clicking which of your already added travelers will be in that vehicle

## INTERNATIONAL TRAVEL

If you are traveling out of the country, you will need to complete the Export Control Survey. Please submit travel manifest's at least two weeks prior to traveling, to ensure secure travel.

### Student Travel

[Log out](#) [Procedures](#) [Home](#) [Search](#) [Approve Releases](#) [Incomplete Manifest Report](#)

#### Export Control Survey for Traveling Hippies: Spread cheer conference (2/28/2019-3/3/2019)

If you have questions about how to respond to this survey, please contact Janet Wood (806-651-2982, [jawood@wtamu.edu](mailto:jawood@wtamu.edu)) of the export control office.

\* Will you be traveling to an embargoed destination?

: For current list consult the [Treasury Department](#)

\* Will you take information or technology not widely available in the public domain or items subject to Export Control regulations?

: e.g., technology; software, and information related to the design, production, testing, maintenance, operation, modification, or use of controlled items or items with military applications. This does not include basic marketing information on function or purpose; information regarding general scientific, mathematical or engineering principles commonly taught in universities; or information that is generally accessible in the public domain.

\* Will you be taking biological or hazardous material?

: See [Federal Select Agents and Toxins list](#)

\* Will you take materials or equipment?

: e.g., GPS, advanced laptops, software, or scientific equipment. This does not include basic/standard laptops, tablets or smartphones, and general commercial software. See [Computer equipment](#) note below.

\* Will your activities involve presenting or sharing information not available in the public domain?

: See [Publicly Available/Public Domain Exclusion](#) note below.

\* Do you know or have any reason to believe that the information you will be sharing or the activities you will engage in while traveling will have a military use or will provide a military service?

: e.g., Will the information you carry with you or the discussions you engage in aid in the design, development, production, or use of nuclear explosive devices, chemical/biological weapons, or missiles?

\* Will you be furnishing financial assistance or anything of value, including services to a blocked or sanctioned country, individual, or entity?

: This includes agreements performable outside the United States, payments to foreign vendors, engaging in collaborative projects/activities. See the [current list of sanctioned individual or entities](#) and the [list of embargoed countries](#).



If you have questions contact Janet Wood, her info is listed above the questions.

**NON-WT Travelers**

- Non-WT travelers will have to complete and sign a hard copy of the release form and upload it to the manifest
- Click “upload the release form” highlighted in blue and upload the document from your computer.
- The same thing will need to be done for the Export control survey click “upload the survey” highlighted in purple and upload the document from your computer.
- These forms are not fillable forms you must (print, sign, and scan back into your computer) in order to upload the form.
- The ONLY person that can upload the forms for NON-WT TRAVELERS is the manifest preparer.

External Travelers		
Traveler	Release form	Export control survey
Sandra Bullock	<a href="#">release form for Sandra Bullock submitted 2/28/2019</a>	clear
	you need to <a href="#">upload the release form for Sandra Bullock</a>	you need to <a href="#">upload the survey for Sandra Bullock</a>

**Please make sure everything is green and submitted for approval. If you are having any issues with submitting a manifest, please contact Sabrina Pugh at 651-2313.**

**Money Matters**

**COFC**

Campus Organizations/Forums Committee (COFC) funds some organization activities. To be eligible for these funds, the organization must be recognized by the University, be in good standing with the Office of Student Engagement and Leadership, have not received any other form of campus funding, and demonstrate the benefits of the allocation. The COFC Guidelines and Application may be obtained in the Office of Student Engagement and Leadership.

**Recommended Guidelines for the Management of Funds**

Most registered campus organizations at WTAMU are not funded by the University. These organizations raise money in a variety of ways, including the collection of dues, soliciting donations, and sponsoring fundraisers. Because campus organizations are registered with the University rather than functional entities of the University, the University will not be involved in the collection, deposit, or maintenance of an organization’s funds beyond providing some guidelines related to sound business practice:

- Registered campus organizations should establish and maintain a checking account in the name of the organization. Organizational funds should not be mixed with the private funds of any officer or member.
  - An EIN is necessary to open a bank account. See below for instructions.
- When establishing or renewing an account, two signatures should be required on checks.
- Debit cards are not recommended because it is possible to use a debit card and not have a proper paper trail.
- Venmo and/or cash apps are not recommended because this could cause the mixing of personal and organization funds.
- All financial obligations should be paid promptly.
- Deposits should be made promptly, and appropriate security should be maintained over any cash or checks collected.
- Receipts should be issued for any money collected by the organization.
- Balance the checkbook monthly.
- Always have a budget for each semester and stick to it! Have a budget committee to set guidelines for dues and fines and to develop the semester budget.

- It is recommended that the treasurer be required to submit monthly reports to an appropriate executive officer and/or to the advisor.

### **Organizational Employer Identification Number**

1. Complete the EIN Application that can be found at [https://irs.ein-tax-id-number.com/application/?gclid=Cj0KCQjwhqaVBhCxAARIsAHK1tiNI07dOv4-xmCpldTaygGKX2zW6pTbavcEQm3eY-4JOSMoFx\\_ay0HAaAnnkEALw\\_wcB](https://irs.ein-tax-id-number.com/application/?gclid=Cj0KCQjwhqaVBhCxAARIsAHK1tiNI07dOv4-xmCpldTaygGKX2zW6pTbavcEQm3eY-4JOSMoFx_ay0HAaAnnkEALw_wcB)
2. Fill out form completely. Here are some helpful steps:
  - Non-profit organization
  - Use the complete name of the organization no acronyms.
  - Type of Non-profit – Education
  - Responsible party should be the organization advisor.
  - Closest reason for applying – Banking
  - Primary Activity – Other
  - Specific Products/Services – Education
  - General questions – should all be No unless you are reapplying for an EIN
  - Contact the OSEL for any further questions.

### **Raffles**

Per the definition below, student organizations are NOT allowed to have raffles, “opportunity to win”, etc. The ONLY way to have a raffle is by collecting participants information to win a prize but no money can be collected. For example, giving away a pair of earbuds but it doesn’t cost money for people to participate.

#### **Raffles What is a raffle?**

CREA defines a raffle as "the award of one or more prizes by chance at a single occasion among a single pool or group of persons who have paid or promised a thing of value for a ticket that represents a chance to win a prize."

### **Solicitations of Private Donations**

It is important to coordinate all fundraising efforts so that the private support West Texas A&M University receives is not jeopardized. Many former students, friends, corporate executives, and foundation officials are sensitive about being approached by numerous entities representing WTAMU. As a guideline, any new fundraising effort anticipated by any group associated with the University should be coordinated through the Assistant Vice President for Philanthropy Operations, Lezlie Davis, at 651-2070.

### **Services Provided by the Office of Student Engagement & Leadership**

#### **Copy Services**

Each registered organization is eligible to have copies made by the OSEL (JBK 103) to copy minutes, agenda, flyers and other materials. The OSEL will provide the first 150 copies (black and white on white paper) each long semester at no charge. If an organization wants colored copies or colored paper, the organization must provide the colored paper and will be charged. The cost for copies over the 150 limit or for colored copies is .10 per copy.

#### **Program Planning Assistance**

If you need help planning an event or activity, your student consultant can offer you experienced advice. The staff can help find efficient means of publicity, budgeting, advice, less expensive means to obtain services, food services advice, and any other aspect of successful programming planning.

#### **Poster Printing Services**

Every registered organization is eligible to use the Poster Printer in the Office of Student Engagement and Leadership. The charge is \$7.00 per poster and must be paid when services are rendered.

#### **Campus Organizations Directory**

Each semester every organization is required to re-register on BuffLink. When the re-registration is complete then your organization is added back to the BuffLink directory. The purpose of this directory is

to have an updated listing of all campus organizations, their presidents and advisors. This is available to all potential and current students. It may be viewed by going to [www.wtamu.edu](http://www.wtamu.edu) > click on Student Life > Student Orgs

### **Check-out Items**

Registered organizations are able to check out miscellaneous items from the OSEL free of charge unless the items are not returned or they are returned damaged. Here is a short list of items that we have but if you don't see what you need contact the OSEL at 806-651-2313 to inquire if we have what you need.

- Table cloths
- Bose speaker
- Yard games
- Popcorn machine
- Miscellaneous decorations

*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 2**

**to Declaration of Barrett Bright in  
Support of Plaintiffs' Rule 62(d)  
Motion for Injunction Pending  
Appeal**

**From:** [jbk@wtamu.edu](mailto:jbk@wtamu.edu)

**Sent:** Tuesday, April 11, 2023 8:07 PM

**To:** [Barrett Bright](#)

**Subject:** Reservation #137158 Submitted - "Buff-a-Woah Drag Show" - Your request has been received and will be processed soon.

Reservation No.: 137158  
Student  
Org/Department/Individual: Spectrum WT

Type	Date	Start	End	Building	Room	Event	Status
New	4/26/2023 Wed	12:30 PM	10:30 PM	ABH	ABH Dr. Hazel Kelley Wilson Banquet Hall	Buff-a-Woah Drag Show	Virtual EMS Request (Hold)

*Spectrum WT, et al., v. Wendler, et al.*

## **Exhibit 3**

**to Declaration of Barrett Bright  
in Support of Plaintiffs' Rule  
62(d) Motion for Injunction  
Pending Appeal**



**From:** [University Risk Assessment Process](#)

**Sent:** Friday, January 5, 2024 4:56 PM

**To:** [Barrett Bright](#)

**Subject:** Risk Assessment at WTAMU - TENTATIVE

Barrett Bright,

Thank you for submitting your request for risk assessment at West Texas A&M University. Currently, your event/activity is **TENTATIVE**. The University will review your request and get back to you within the next two weeks.

NOTE: Your request is not approved until you receive a confirmation email from the Risk Management office with "**APPROVED**" in the subject line.

If you have any further questions about your request and/or need to clarify your responses, simply reply to this email.

Thank you,

Richard C. Smith

Assistant Vice President, Risk and Compliance

(806) 651-2740

[rcsmith@wtamu.edu](mailto:rcsmith@wtamu.edu)

---

**Recipient Data:**

**Time Finished:** 2024-01-05 16:54:38 CST

**IP:** [REDACTED]

**ResponseID:** R\_7dl9IVO06evvOgx

**Link to View Results:** [Click Here](#)

**URL to View Results:** <https://wtamuuw.sjc1.qualtrics.com/apps/single-response-reports/reports/v5rBs-rpA-3DjCusa-A2eXZDtJ2zU102xITBg5swjd%2ESUrVX7q7v8jNU6vLIZ9CBjk7qZzdT4MR4p9ACaeJ%2EYdjCv5rav%2ECMTIf5z6Ygy1j6wc3GUsoXtMzcLt7Iwl%2EWLMRBWb0AxXZMvbH-dgRmUI2vEKv93nLFS2elgHsJIMmKwKXwHjjqBoLQfmT7G9JHyRPIV8e-e6m4wOX8SvEI5X6JM4NKnPPdAPWq9xYwHuMQz9XW0Jx3eEXUT4ORfZW6j-MbSAuJjKAfutVhz3kpdUNWyOd8WOOvQdv4FyJRNmJEKhyGz0w%2E7oAx63afL9slpB%2EYDGockMdBBkXr-dA>

**Response Summary:**

Please provide event information below:\* designates required field

Date of Request: 1/5/2024

Person Requesting Approval\* Barrett Bright

Title\* President of Spectrum

Sponsoring Organization / Department: (if applicable) Spectrum

Phone (xxx-xxx-xxxx)\* [REDACTED]

Email\* [\[REDACTED\]@buffs.wtamu.edu](mailto:[REDACTED]@buffs.wtamu.edu)

Organization's Advisor(if applicable) Kristina Drumheller

Does your Advisor know about the event and the risk(s) involved?

Yes

Please provide the event information below: \* designates required field

Date of Event\* March 22nd

Event Start Time\* 12:30pm

Event Name\* *No acronyms or abbreviations please* Don't be a Drag, Drag Show

Estimated Attendance\* 100

Description of Event\* *Describe in detail the planned activities that will take place during the event (e.g. sports, running games, dancing, live music, jump houses, fire pits, etc.)* Spectrum is hosting a charity drag show in order to raise donations for The Trevor Project. Student and local performers will perform lip-sync dance performances on stage in costumes. Non-alcoholic mocktail drinks will be served to the audience as an additional fundraiser. All participants and attendees are required to be over the age of eighteen, and this policy will be enforced by checking IDs at the door.

Event End Time\* 11:30pm

Age Range of Participates\* 18+

Event Location(s)\* Legacy Hall

Reservation # (if applicable) 137159

Will food be served at your event/activity?

What type of food will be served?

mocktails

Will alcohol be served at your event/activity?

No

Will money be present at your event/activity?

Yes

How will the money be secured?

In a lockbox, secured through card purchases as well.

Does this event/activity require a contract to be signed by the organization?

No

Does this event/activity, as currently planned, present a risk of damage to property?

No

Does the event/activity, as currently planned, present more than an everyday risk of physical inj...

Yes

Please explain what risk exists to participants AND what steps are being taken to mitigate those...

the activity of dancing comes with the risk of injury, to negate this, performers will be practicing before hand.

Are minors (individuals less than 18 years of age) specifically invited to attend the event/activ...

No

Does the event include any inherently dangerous activity? Examples might be: Fire, pyrotechnics...

No

Does this event/activity pose a risk of embarrassment, humiliation, coercion, physical assault, o...

Yes

Please explain the risk to participants AND what steps are being taken to mitigate those risks.

as with any kind of performance, there is a risk of embarrassment on stage. The steps to mitigate this risk will be the practicing as mentioned before.

This event will be insured by which of the following:

None

Please attach the completed Hazard Matrix. This needs to be provided with each risk assessment s...

[https://wtamuuw.az1.qualtrics.com/WRQualtricsControlPanel/File.php?F=F\\_2VF1avHNofJfNpU](https://wtamuuw.az1.qualtrics.com/WRQualtricsControlPanel/File.php?F=F_2VF1avHNofJfNpU)

Are any of the activities the event contemplates specifically excluded from coverage by the terms...

No

Is this event/activity co-sponsored?

Does this event/activity require waivers to be signed by participants?

No

It is the responsibility of the group/organization to ensure that the use of University facilitie...

[https://wtamuuw.az1.qualtrics.com/WRQualtricsControlPanel/File.php?F=F\\_xAijmlg2NBjYEwN](https://wtamuuw.az1.qualtrics.com/WRQualtricsControlPanel/File.php?F=F_xAijmlg2NBjYEwN)

# Exhibit H

# **EXHIBIT A**



3. Facility reservations for student organization events generally fall within the purview of the Division of Student Affairs.

4. Pursuant to WT SAP 24.01.01.W0.01, the Risk Management Office is responsible for conducting risk assessments related to facility use requests. Risk assessments are a requirement for all on-campus events in which the planner has self-disclosed a risk of physical injury to students or attendees.

5. I have reviewed the status of Spectrum WT's application and reservation request to host a drag show event on March 22, 2024 ("2024 Drag Show"). The application status for the 2024 Drag Show is currently listed as in "Tentative" status following completion of a standard risk assessment. "Tentative" status indicates that there are still certain outstanding items for the event that need to be met before the reservation is "Confirmed," which, in this case, includes proof of insurance and submission of proposed marketing materials provided the student organization intends to advertise the event as indicated in their application.

6. Spectrum WT is currently working with the Student Affairs Marketing Department to create marketing for this event. In addition, Spectrum WT submitted an amended Risk Assessment for the 2024 Drag Show on January 31, 2024, disclosing for the first time Spectrum WT's intention to permit minors to attend the event. A true and correct copy of the amended Risk Assessment is attached as Exhibit 1.

7. As part of the risk management process, WT has required that Spectrum WT purchase event liability insurance for this event.




8. As with any on-campus event, WT further reserves the right to cancel an event and immediately remove access to campus if an event violates the policies and regulations of the Texas A&M University System, the rules and procedures of WT, or if an event is deemed to be unsafe for minors or anyone else.

9. No final determination has been made yet on the reservation request for the 2024 Drag Show. The event application remains pending.

10. I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 19<sup>th</sup>, 2024.

  
CHRISTOPHER J. THOMAS

# **EXHIBIT A-1**

**From:** [Barrett Bright](#)  
**To:** [Fouts, Shawn M.](#)  
**Subject:** RE: Don't Be A Drag, Drag Show Reservation #137159  
**Date:** Wednesday, January 31, 2024 8:59:13 AM  
**Attachments:** [27A6298A5C844170964B6D366F3A40E2.png](#)

---

Sent from [Mail](#) for Windows

---

**From:** [Fouts, Shawn M.](#)  
**Sent:** Wednesday, January 31, 2024 7:53 AM  
**To:** [Barrett Bright](#)  
**Subject:** Re: Don't Be A Drag, Drag Show Reservation #137159

Good morning, I've copied your original Risk Assessment into the body of this email. If you will make your changes in the appropriate places in a different color. Leave the original responses, but add your changes in a different color. Send it back to me when you are done and I will make sure the Risk Assessment Team receives it for comment.

Thanks,  
Shawn

**Response Summary:**

Please provide event information below: \* designates required field

Date of Request: 1/5/2024  
Person Requesting Approval\* Barrett Bright  
Title\* President of Spectrum  
Sponsoring Organization / Department: *(if applicable)* Spectrum  
Phone (xxx-xxx-xxxx)\* [REDACTED]  
Email\* [REDACTED]  
Organization's Advisor*(if applicable)* Kristina Drumheller

Does your Advisor know about the event and the risk(s) involved?  
Yes

Please provide the event information below: \* designates required field

Date of Event\* March 22nd  
Event Start Time\* 12:30pm  
Event Name\* *No acronyms or abbreviations please* Don't be a Drag, Drag Show  
Estimated Attendance\* 100  
Description of Event\* *Describe in detail the planned activities that will take place during the event (e.g. sports, running games, dancing, live music, jump houses, fire pits, etc.)* Spectrum is hosting a charity drag show in order to raise donations for The Trevor Project. Student and local performers will perform lip-sync dance performances on stage in costumes. Non-alcoholic mocktail drinks will be served to the audience as an additional fundraiser. All

participants and attendees are required to be over the age of eighteen, and this policy will be enforced by checking IDs at the door.

Event End Time\* 11:30pm

Age Range of Participates\* 18+

Event Location(s)\* Legacy Hall

Reservation # (if applicable) 137159

Will food be served at your event/activity?

Yes

What type of food will be served?

mocktails

Will alcohol be served at your event/activity?

No

Will money be present at your event/activity?

Yes

How will the money be secured?

In a lockbox, secured through card purchases as well.

Does this event/activity require a contract to be signed by the organization?

No

Does this event/activity, as currently planned, present a risk of damage to property?

No

Does the event/activity, as currently planned, present more than an everyday risk of physical inj...

Yes

Please explain what risk exists to participants AND what steps are being taken to mitigate those...

the activity of dancing comes with the risk of injury, to negate this, performers will be practicing before hand.

Are minors (individuals less than 18 years of age) specifically invited to attend the event/activ...

No Yes but only with a legal guardian present, IDs checked at the door.

Does the event include any inherently dangerous activity? Examples might be: Fire, pyrotechnics...

No

Does this event/activity pose a risk of embarrassment, humiliation, coercion, physical assault, o...

Yes

Please explain the risk to participants AND what steps are being taken to mitigate those risks.

as with any kind of performance, there is a risk of embarrassment on stage. The steps to mitigate this risk will be the practicing as mentioned before.

This event will be insured by which of the following:

None

Please attach the completed Hazard Matrix. This needs to be provided with each risk assessment s...

[https://wtamuwv1.qualtrics.com/WRQualtricsControlPanel/File.php?F=F\\_2VF1avHNofJfNpU](https://wtamuwv1.qualtrics.com/WRQualtricsControlPanel/File.php?F=F_2VF1avHNofJfNpU)

Are any of the activities the event contemplates specifically excluded from coverage by the terms...

No

Is this event/activity co-sponsored?

Does this event/activity require waivers to be signed by participants?

No

It is the responsibility of the group/organization to ensure that the use of University facilitie...

[https://wtamuwv1.qualtrics.com/WRQualtricsControlPanel/File.php?F=F\\_xAijmIlg2NBjYEWn](https://wtamuwv1.qualtrics.com/WRQualtricsControlPanel/File.php?F=F_xAijmIlg2NBjYEWn)



**Strengths: Relator / Learner / Input / Belief / Competition**

---

**From:** Barrett Bright [REDACTED] >  
**Date:** Tuesday, January 30, 2024 at 7:52 PM  
**To:** Fouts, Shawn M. <sfouts@wtamu.edu>  
**Subject:** RE: Don't Be A Drag, Drag Show Reservation #137159

We need to change a section of the risk assessment. How do we do that?

Thank you for your time!

Barrett Bright

Sent via the Samsung Galaxy S23+ 5G, an AT&T 5G smartphone

----- Original message -----

From: "Fouts, Shawn M." <sfouts@wtamu.edu>  
Date: 1/29/24 8:40 AM (GMT-06:00)  
To: Barrett Bright [REDACTED], Marcus Stovall [REDACTED] >  
Cc: "Mills, Jacob M." <jmills@wtamu.edu>  
Subject: Don't Be A Drag, Drag Show Reservation #137159

Good morning, thank you for submitting a Risk Assessment for this event. As the JBK continues to process this event we need some items to continue with this reservation.

Have you completed a Catering Exemption, or are you using Aramark for your refreshments? Here is

a link to the Catering Exemption:

[https://wtamuwv.az1.qualtrics.com/jfe/form/SV\\_d6XE9R977rf6Znw](https://wtamuwv.az1.qualtrics.com/jfe/form/SV_d6XE9R977rf6Znw)

Do you have your marketing material ready to submit?

I would recommend reaching out to Richard Smith to inquire about Event Liability Insurance. His WT extension is 2740. His email is [rsmith@wtamu.edu](mailto:rsmith@wtamu.edu).

Thank you,  
Shawn

signature\_2056831361



**Strengths: Relator / Learner / Input / Belief / Competition**