



May 4, 2024

VIA ELECTRONIC MAIL

Tom Jackson, Jr.
President
1 Harpst Street
Arcata, CA 95521
Email: president@humboldt.edu

Re: Hard Closure of Cal Poly Humboldt Campus and Media Access

Dear President Jackson:

We write on behalf of the American Civil Liberties Union of Northern California and the First Amendment Coalition to express concern about Cal Poly Humboldt's "hard closure"¹ and restrictions to media access on campus.² Our organizations work to protect the free speech and free press values enshrined in both federal and state law. We believe that the university's policy limiting public access—and especially press access—is constitutionally suspect. We recognize that this closure has been asserted in response to the recent civil unrest and involvement of law enforcement at Cal Poly Humboldt,³ but it is precisely in these moments that reporting by a free press is essential. We urge you, in the strongest possible terms, to lift this campus-wide closure.

Pursuant to both policy and practice, Cal Poly Humboldt maintains spaces on its campus that constitute a designated public forum.⁴ Any restriction on access or speech in these spaces must therefore satisfy constitutional review. *See Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 44-46 (1983). As the U.S. Supreme Court made clear decades ago, once a university opens a space for use by the public, "it is bound by the same standards as apply in a

¹ Cal Poly Humboldt, Emergency, [Updates for Campus Hard Closure during Finals Week](#), Bulletin dated May 3, 2024 – 6:00 pm.

² See Email dated May 2, 2024 from "News@humboldt.edu" with Subject: *Process for Media Access to Cal Poly Humboldt Campus During Hard Closure*, attached as **Exhibit A**.

³ See Cal Poly Humboldt, Emergency, *Enforced Hard Closure of Campus*, Bulletin dated April 27, 2024 – 12:41 pm, <https://www.humboldt.edu/emergency>.

⁴ See, generally [Cal Poly Humboldt Policy No. EM:P10-01, Time, Place, and Manner of Free Expression Policy](#); see also *id.*, Section VI, *Designated Public Forums* ("The University Center Quad (UC Quad) area adjacent to the University Center/Student Union and the Balabanis-Art Quad (Art Quad) outside of the Van Duzer Theater are Designated Public Forums in which members of the University community and non-University community may exercise their free speech rights without special restriction").

traditional public forum.” *Id.*; see also *Widmar v. Vincent*, 454 U.S. 263, 268, n. 5 (1981) (recognizing that “the campus of a public university, at least for its students, possesses many of the characteristics of a public forum . . .”).⁵

With particular respect to the campus quads that the university has designated as a public forum, the law—at most—permits Cal Poly Humboldt to enforce content-neutral time, place, and manner restrictions that are narrowly tailored to substantial government interests and leave open ample alternatives for communication. See *Ward v. Rock Against Racism*, 491 U.S. 781, 795 n.5 (1989); *Berger v. City of Seattle*, 569 F.3d 1029, 1041 (9th Cir. 2009). A complete ban on access to public places is “narrowly tailored . . . only if each activity within the proscription’s scope is an appropriately targeted evil.” *Frisby v. Schultz*, 487 U.S. 474, 485 (1988).

Cal Poly Humboldt’s sustained blanket closure of campus fails this constitutional test. It is unbounded as to time and unreasonable as to purpose. Simply put: the university’s 24-hour ban on public access continuing day-to-day for days on end is the opposite of “narrowly tailored.”

Students, faculty, and members of the public are not an evil to be guarded against or silenced. Keeping them away from campus while the academic year is still underway is disruptive and punitive to the entire school community. Excluding these individuals from campus also contravenes the university’s stated commitment to “affording all members of the University community the protections of freedom of speech, expression, assembly, religion, and press available under the U.S. and California Constitutions”⁶

Notably, Cal Poly Humboldt’s sustained campus closure does not appear to fall within its Campus Closure Policy.⁷ That policy applies only when “an emergency or unplanned event occurs that threatens the safety of persons or property.” Whatever may have happened previously, it is difficult to see how any such emergency currently exists that could justify the complete closure of the entire campus, including its designated public forum spaces. That clean-up work might be more expedient without observation does not provide a basis to exclude observers. And the university is “not free to foreclose expressive activity in public areas on mere speculation about danger.” *Bay Area Peace Navy v. United States*, 914 F.2d 1224, 1228 (9th Cir. 1990).

Moreover, even if the sustained campus-wide closure did somehow comport with the law (and to be clear, it does not), the university’s severe restrictions on press access are constitutionally problematic. These restrictions also hurt the public’s ability to be informed. So long as officials are publicly conducting official business on campus that is a matter of public concern—which the recent campus protests and mass arrests undoubtedly are—the First Amendment to the U.S. Constitution and Article I section 2 of the California Constitution protect the right to report on

⁵ LoMonte & Greenberg, *(Not) Ready for Their Close-Up: Camera-Shy Colleges Lose First Amendment Focus in Restricting Campus Filming*, 84 U. Pitt. L. Rev. Spring 2023 (providing forum analysis under First Amendment).

⁶ [Cal Poly Humboldt Policy No. EM:P10-01, Time, Place, & Manner of Free Expression Policy](#);

⁷ [Cal. Policy Humboldt Policy No. EM:P03-04, Campus Closure Policy](#).

that conduct. *See Askins v. U.S. Dep’t of Homeland Sec.*, 899 F.3d 1035, 1044 (9th Cir. 2018); *see also Index Newspapers LLC v. U.S. Marshals Serv.*, 977 F.3d 817, 831 (9th Cir. 2020) (concluding that, in light of the “limited time and resources” that most people have “to observe at first hand the operations of [] government,” the press has long been understood to play a vitally important role in holding the government accountable”).

California lawmakers have made explicitly clear that the press serves a crucial role in keeping communities informed in moments like these. In 2021, the Legislature passed a law to ensure that the press has access to “document[] history and inform[] the public” so that all manner of newsworthy events may be observed and reported on without interference. Cal. Sen., Third Reading for 2021 Cal. S.B. 98, at 2 (Sept. 3, 2021); *see also* Cal. Penal Code §§ 409.5(d), 409.7(a). The Court of Appeal has similarly stated that California law demands “the news media must be afforded special access to disaster sites in order that they may properly perform their function of informing the public.” *Leiserson v. City of San Diego*, 184 Cal. App. 3d 41, 51 (1986) (citing Cal. Penal Code § 409.5(d)).

Given the strong legal principles favoring press access, Cal Poly Humboldt’s recently distributed Process for Media Access is far too limited. *See* Ex. A. The process adopts an overly restrictive approach with respect to both credentialing and timing. First, the process demands that reporters email in advance their “press credential” or “authorization from your news outlet.” *Id.* But California law does not require that a reporter be on assignment from a particular news organization to gain press access.⁸ Nor does the law necessarily require reporters to provide identification or contact information for themselves or others. As recognized by the Los Angeles Police Department—one of the largest municipal police departments in the country—“the inability to produce identification does not preclude an individual from acting as a member of the media.”⁹ And second, it is untenable that members of the press would have to limit themselves to “check-in” between the hours of 7:30 a.m. and 2 p.m. The news does not typically operate on a schedule.

Lastly, and in regards to reports that a member of the press was detained by law enforcement officers or otherwise prevented from newsgathering while on campus this week, we would like to take this opportunity to respectfully remind the university that the press, including student journalists, are not the enemy. They are people doing the brave, tireless, and sometimes messy work of reporting on public events. They should be afforded the university’s respect, and the public’s gratitude.

* * *

⁸ *See, e.g.*, Cal. Penal Code § 409.7 (no definition of term “duly authorized representative of any news service, online news service, newspaper, or radio or television station or network”); *id.* § 409.5 (same).

⁹ *See* Los Angeles Press Club, *Definition of Protected Journalist for Penal Code 409.7(a)*, <https://lapressclub.org/definition-protected-journalist-penal-code-section-409-7a/>.

For the foregoing reasons, we urge you to lift the “hard closure” on campus. We believe this complete and sustained exclusion of the public, including non-resident students, faculty, and the press, is wrong on the law and misguided as to policy.

Sincerely,



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cc:

Dustin May, University Counsel for Cal State University, Humboldt (dmay@calstate.edu);
Aileen Yoo, Director of News & Information (Aileen.Yoo@humboldt.edu);
Office of News and Information (news@humboldt.edu)

EXHIBIT A

Subject: FW: Process for Media Access to Cal Poly Humboldt Campus During Hard Closure
Attachments: campusmap_MEDIA ACCESS PROCESS.pdf

-----Original Message-----

From: "news ." <news@humboldt.edu>

Sent: Thursday, May 2, 2024 10:57am

Subject: Process for Media Access to Cal Poly Humboldt Campus During Hard Closure

This is to provide clarity about how authorized media representatives can access campus at this time. The entire campus is under a hard closure—individuals must have permission to enter the normally public places on campus. There is no access to Siemens Hall and Nelson Hall East and the areas surrounding both buildings, which should be considered to be crime scenes.

Reporters who choose to come to campus must be a duly authorized representative of a news organization, per California law. To request access to campus, please email news@humboldt.edu the following:

-
- photo of your press credential or other authorization from your news outlet
-
- Your full name
-
- cell number and email
-
- emergency contact information
-
- photo ID
-

The News & Information office will share your information with campus law enforcement and add you to the day's Media List.

You will need to check in at the Parking Kiosk [see attached map] between 7:30 a.m. and 2 p.m. each day you want access to campus. There is no check-in process available after 2 p.m. each day.

****Your press credentials and campus authorization need to be visible at all times to be on campus.****

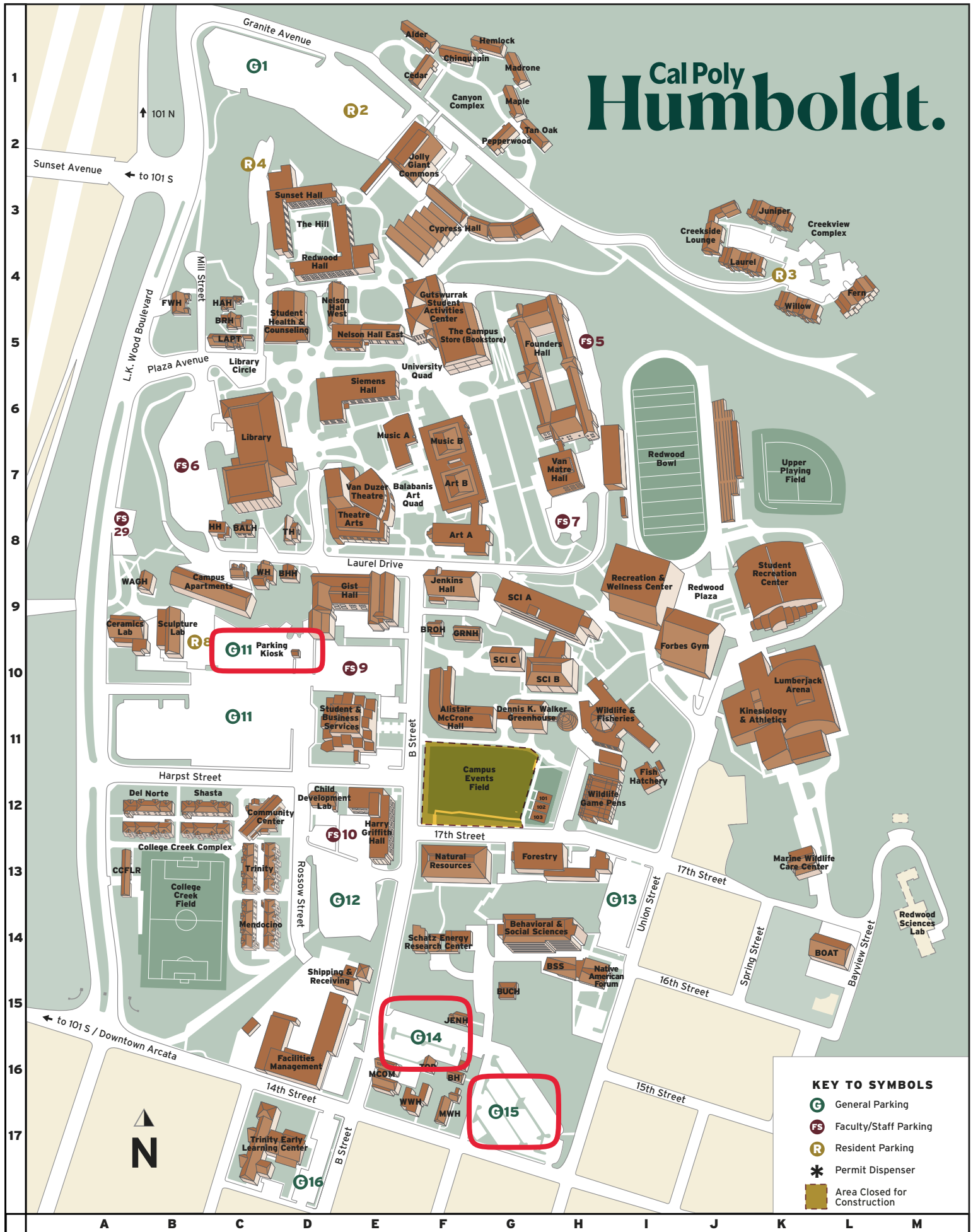
****Vehicles may be parked in designated parking areas, G14 and G15. [See attached map].**

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Cal Poly Humboldt
News & Information 
news@humboldt.edu

Please visit humboldt.edu/emergency for more updates.

Cal Poly Humboldt.



KEY TO SYMBOLS

- ⓐ General Parking
- FS Faculty/Staff Parking
- Ⓡ Resident Parking
- * Permit Dispenser
- Area Closed for Construction

CAL POLY HUMBOLDT CAMPUS LISTING

Alphabetical by Facility Name

- A -		- G -		- R -	
ALDER	Alder Residence Hall 1F	GH	Gist Hall 9D	RWC	Recreation & Wellness Center 9I
AMH	Alistar McCrone Hall 10F	GSAC	Gutswurrak Student Activities Ctr ... 4F	RB	Redwood Bowl 7I
ARTA	Art A 8F				Redwood Plaza 9J
ARTB	Art B 7F	- H -		REDWO	Redwood Residence Hall 4D
- B -		HH	Hadley House 8B		Redwood Sciences Lab 14M
BH	Baiocchi House 16F	HAH	Hagopian House 4B	- S -	
BALH	Balabanis House (MCC) 8C	HGH	Harry Griffith Hall 12E	SERC	Schatz Energy Research Ctr 14F
	Balabanis Art Quad 7F	HEMLC	Hemlock Residence Hall 1G	SCIA	Science A 9G
BSS	Behavioral & Soc. Sciences 14G		Hill, The 3D	SCIB	Science B 10H
BOAT	Boat Facility 14K	- J -		SCIC	Science C 10G
BRH	Brero House (ITEPP) 5C	JH	Jenkins Hall 9F	SCLPT	Sculpture Lab 9B
BHH	Bret Harte House 9D	JENH	Jensen House (Children's Center) .. 15F	SHAST	Shasta Residence Hall 12B
BROH	Brookins House 9F	JGC	Jolly Giant Commons 2F	SR	Shipping & Receiving 15E
BUCH	Buck House (CCAT) 15G	JUNIP	Juniper Residence Hall 3K	SH	Siemens Hall 6E
- C -		- K -		SBS	Student & Business Services 11E
CA	Campus Apartments 9B	KA	Kinesiology & Athletics 11K	HC	Student Health & Counseling 5D
CEF	Campus Events Field 11F	- L -		SRC	Student Recreation Center 8K
	Canyon, The 1F	LAURE	Laurel Residence Hall 4J	SUNST	Sunset Residence Hall 3D
CEDAR	Cedar Residence Hall 1F	LIB	Library 7C	- T -	
CERAM	Ceramics Lab 9A		Library Circle 5C	TANOK	Tan Oak Residence Hall 2G
CDL	Child Dev. Lab, Swetman 12D	LAPT	Little Apartments 5C	TH	Telonicher House 8D
CHINQ	Chinquapin Residence Hall 1F	- M -		TA	Theatre Arts 8D
	College Creek Complex 12B	MADRN	Madrone Residence Hall 1G	TOD	Toddler Center 16F
CCF	College Creek Field 14B	MAPLE	Maple Residence Hall 1G	TELC	Trinity Early Learning Center 17C
CCFLR	College Cr. Field Locker Rooms 13A	MWCC	Marine Wildlife Care Center 13K	TRIN	Trinity Residence Hall 13C
CCCTR	Community Center 12C	MCOM	Marketing & Communications 16E	- U -	
CREEK	Creekside Lounge 3	MWH	Mary Warren House 17F	UPF	Upper Playing Field 4K
	Creekview Complex 3K	MENDO	Mendocino Residence Hall 14C		University Quad 5F
CYPRS	Cypress Residence Hall 3F	MUSA	Music A 6E	- V -	
- D -		MUSB	Music B 6F	VMH	Van Matre Hall 7H
DELNO	Del Norte Residence Hall 12B	- N -		- W -	
SCIE	Dennis K. Walker Greenhouse 11G	NR	Natural Resources 13F	WAGH	Anderson Wagner House 9B
- E -		NHE	Nelson Hall East 5E	WWH	Walter Warren House (INRSEP) 17E
GRNH	Experiemental Greenhouse 9F	NHW	Nelson Hall West 4D	WH	Warren House 9C
- F -		- P -		WDFS	Wildlife & Fisheries 11H
FM	Facilities Management 16D	PARK	Parking Kiosk 10D	WGP	Wildlife Game Pens 12H
FERN	Fern Residence Hall 4L	PEPR	Pepperwood Residence Hall 2G	WILLO	Willow Residence Hall 4L
FWH	Feuerwerker House 4B				
FSH	Fish Hatchery 12I				
FGYM	Forbes Gym 10I				
FR	Forestry 13H				
FH	Founders Hall 5H				

Event, Meeting, and Retail Spaces

Bigfoot Burgers	Gutswurrak Student Activities Center (GSAC) 5F
College Creek Marketplace	Community Center (CCCTR) 102 12C
Depot	Gutswurrak Student Activities Center (GSAC) 127 5F
Fieldhouse	Student Recreation Center (SRC) 165 8K
Fishbowl	Library (LIB) 209 7C
Fulkerson Recital Hall	Music B (MUSB) 132 6F
Goodwin Forum	Nelson Hall East (NHE) 102 5E
Great Hall	Community Center (CCCTR) 260 12C
Green & Gold Room	Founders Hall (FH) 166 5H
J Dining Hall	Jolly Giant Commons (JGC) 400 2F
Gutswurrak Student Activities Center	(GSAC) 225 4F
Lumberjack Arena	Kinesiology & Athletics (KA) 247 10K
Native American Forum	Behavioral & Soc. Sciences (BSS) 162 15H
The Campus Store (Bookstore)	Gutswurrak Stud. Act. Ctr. (GSAC) 332 5F
Van Duzer Theatre (JVD)	Theatre Arts (TA) 101 7E
West Gym	Recreation & Wellness Center (RWC) 202 9I

Parking Regulations

Parking permits required year round:
Monday–Thursday 7am–10pm; Friday 7am–5pm

Permits not required on weekends and Humboldt holidays

Vehicles in ♿ spaces always require disabled plate/placard and Humboldt parking permit when permits are required

General parking (w/permit) okay in Ⓡ lots evenings after 5pm Monday–Thursday

Ⓡ Resident parking areas require permits 24/7 Monday–Friday