

**THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES
FLORIDA BOARD OF GOVERNORS**

NOTICE OF PROPOSED AMENDMENT TO REGULATION

REGULATION NO.: **FIU-110**

REGULATION TITLE: **Demonstrations**

SUMMARY: This regulation addresses free speech /demonstration activities on FIU's campuses. The Regulation is being updated to: (1) add a new area for conducting demonstrations and relocating another one, (2) confirm the University's desire to continue to provide designated free speech areas and the authority to relocate demonstration areas as needed to accommodate future campus development, (3) designate hours for demonstrations between 8 am and 10 pm, and (4) memorialize the important role in our society of, but potential consequences for engaging in, civil disobedience.

TEXT OF REGULATION: The full text of the Proposed Amended Regulation can be viewed below and on the website of The Florida International University Board of Trustees, <http://regulations.fiu.edu/>. If you would like a copy of the Proposed Regulation, please contact Eli Deville, Chief of Staff, Office of the General Counsel, (305) 348-2103.

AUTHORITY: Board of Governors Regulation 1.001(7)(g)

NAME OF PERSON INITIATING PROPOSED REGULATION: M. Kristina Raattama, General Counsel.

ANY PERSON SEEKING TO COMMENT ON THE PROPOSED REGULATION MUST SUBMIT COMMENTS IN WRITING TO THE CONTACT PERSON LISTED BELOW. ALL WRITTEN COMMENTS MUST BE RECEIVED BY THE CONTACT PERSON WITHIN 14 CALENDAR DAYS OF THE DATE OF PUBLICATION OF THIS NOTICE.

CONTACT PERSON REGARDING THE PROPOSED REGULATION: Eli Deville, Chief of Staff, Office of the General Counsel, Florida International University, 11200 SW 8th Street, PC 511, Miami, FL 33199. Email: devillee@fiu.edu Phone: 305-348-2103 | Fax: (305) 348-3272.

DATE OF PUBLICATION: February 14, 2014

THE FULL TEXT OF THE REGULATION IS PROVIDED BELOW:

FIU-110 Demonstrations.

(1) Definitions: For purposes of this regulation, the following definitions shall apply:

- (a) Demonstrations: Demonstrations are activities such as assemblies, exercises of free speech, protests, parades, marches, and picketing.
- (b) University Community: The University Community consists of Florida International University faculty, staff and students.
- (c) University Organization(s): University Organization(s) are recognized University faculty and staff organizations and registered University student organizations. This definition excludes individuals, groups, and/or organizations sponsored by or affiliated with University Organization(s).

(2) Subject to the terms of this regulation and related University regulations:

- (a) the University Community and University Organizations may use University grounds to conduct demonstrations, except as specified below.
- (b) non-University persons and non-University Organizations may conduct demonstrations in those areas of the University designated as “Free Assembly Areas,” as specified below.

(3) In no event shall campus buildings, indoor facilities, parking facilities/areas, athletic or recreational facilities, fields and/or stadiums be used for demonstrations unless specifically permitted in writing by the Vice President of Student Affairs or his or her designee.

(4) Subject to the other provisions of this regulation, including sections (8), (9) and (10), the University Community and University Organizations may organize, conduct, or participate in demonstrations on University grounds, except for grounds within fifty (50) feet of the following (unless a greater distance is required by applicable laws):

- (a) University residential facilities;
- (b) Buildings, facilities, or areas where such use could impair entrance to or exit from the building, facility or area, or interfere with activities therein;
- (c) The Children’s Creative Learning Center;
- (d) Buildings wherein child care services, elderly care services and health care services including, without limitation, mental health and substance abuse services, take place; and
- (e) The FIU Libraries.

(5) Subject to University regulations, policies and procedures, non-University persons and non-University Organizations are limited to the “Free Assembly Areas” listed below for purposes of organizing and conducting demonstrations on University grounds:

- (a) The Fountain Area located immediately north of the Charles Perry Building on the ~~University Park~~ Modesto A. Maidique Campus;
- (b) The portion of the open grassy area directly ~~north of behind~~ the Graham Center Ballrooms entrance, east of the sidewalk leading from the Graham Center to Owa Ehan and west of the sidewalk leading from the Graham Center to Chemistry and Physics;
- (c) The portion of the grassy open area directly north of the Graham Center parking lot, east of the sidewalk leading from the Graham Center to Chemistry and Physics and south of the Health & Life Sciences I Building;
- (d) The open grassy area directly west of the Gold Parking Garage, east of the MARC building, south of the covered walkway between the Gold Parking Garage and the Primera Casa building, and north of Southwest 17th Street;
- ~~(e)~~ The paved area immediately north of Academic Building I at the Biscayne Bay Campus; and,
- ~~(e)~~ (f) The open grassy area ~~west~~north of the ~~Marine Biology Building between~~Wolfe University Center at the Biscayne Bay Campus. ~~Academic Building I and Academic Building II.~~

(6) The Free Assembly Areas may also be used for demonstrations by the University Community and University Organizations. The use of these Free Assembly Areas is subject to availability. Free Assembly Areas will be provided on the University campuses, provided the University reserves the right to re-locate Free Assembly Areas from time to time when determined to be in the best interest of the University, including, but not limited to, accommodating development of new buildings on the University campus and accommodating the needs of the University’s educational and other programs.

~~(6)~~ (7) Events on the University’s campuses occasionally draw attention from the University Community and general public and demonstrations may result. Where necessary to ensure crowd control and the safety and security of persons on campus and to ensure an opportunity for demonstrators to communicate regarding the event(s), the University may designate specific areas situated in close proximity to the event. On these occasions, demonstrations related to the event(s) must be conducted in the areas specified by the University.

(8) All persons and organizations conducting demonstrations on University grounds must abide by the general requirement that no such activities may interfere with, disrupt, or impede

the normal operations of the University or otherwise interfere with or infringe on the rights of others. Interference with, disruption of, or impeding the normal operations of the University and/or interference with the rights of others includes, without limitation:

- (a) obstruction of vehicular, bicycle, pedestrian, or other traffic;
- (b) obstruction of entrances or exits to buildings or driveways or impeding entry to or exit from any building or parking lot or vehicular path;
- (c) obstruction or disruption of any educational, research, or administrative activities inside or outside any building;
- (d) violation of a law, rule, regulation, or ordinance; violation of Board of Governors regulations, or violation of a University regulation, policy and/or procedure;
- (e) posing an environmental hazard or a health or safety threat to the University, the University Community, University Organizations, or the general public;
- (f) interference with or precluding a scheduled speaker from being heard;
- (g) threatening persons or using fighting words which are those words that by their mere utterance inflict violence or would tend to incite a reasonable person to violence or other breach of peace;
- (h) damaging property of the University or on University grounds; or
- (i) utilizing sound amplification, including bullhorns, except as approved in advance in writing as set forth below and within sound limits that will not disrupt normal University operations.

~~(7)~~ (9) No demonstrations are permitted on the University campuses between the hours of 10:00 pm and 8 am.

(10) All persons and organizations conducting demonstrations on University grounds, must:

~~(a)~~ _____ comply with all applicable federal, state and local laws, all Board of Governors regulations, and all other applicable University regulations, policies and/or procedures; ~~and~~. The University recognizes, respects and values the right of individuals to express themselves on its campuses. While civil disobedience sometimes plays a role in demonstrations, civil disobedience involves a refusal to comply with laws or regulations as a form of protest. The failure to comply with law or regulation when exercising rights under this regulation shall be grounds for the University to take appropriate action as described in Sections 11, 12 and 13.

~~(b)~~ _____ procure and comply with federal, state, local or University licensure/permit/insurance requirements, to the extent applicable.



(11) If a demonstration is disrupting normal University operations or infringing on the rights of others contrary to the requirements of this regulation, the President or his or her designated representative has authority to:

- (a) identify himself or herself to the demonstrators, providing the person's name and official position;
- (b) inform the demonstrators that they are in violation of the University regulation(s), policies and/or procedures, Board of Governors regulations or applicable law and specify the nature of the violation;
- (c) request that the violation cease (which could include relocation of the activity to avoid the disruption); and/or;
- (d) in the event of non-compliance with this request, enlist the assistance of the University Department of Public Safety and/or law enforcement personnel in restoring order and enforcing the law.

(912) In the event of a disruption, the University Department of Public Safety or other law enforcement personnel has authority to:

- (a) require that any individual identify himself or herself by presenting appropriate documentation such as identification cards;
- (b) declare a demonstration to be disruptive, disorderly, or in violation of the University regulation or law and request all participants to cease and desist and to disperse and clear the area, including leaving the University grounds immediately, or be subject to arrest; ~~and;~~
- (c) arrest any participants observed to be in violation of applicable federal, state or local laws; ~~and/or;~~
- (d) enlist the assistance of outside law enforcement agencies, as may be necessary.

Nothing contained in this regulation is intended to limit or restrict the authority of the University Department of Public Safety or other law enforcement personnel under applicable laws or University regulations, policies and procedures.

(4013) University Community members or University Organizations who intentionally act to impair, interfere with, or obstruct the orderly conduct, processes, and functions of the University or interfere with, or infringe upon, the rights of others, are subject to appropriate disciplinary action by the University authorities.

(1114) In order to coordinate University events and other activities taking place on

University grounds, with due consideration for the health and safety of all individuals, any person or organization who intends to demonstrate on University grounds must notify the University at least two (2) business days in advance if: (a) the demonstration event shall involve a group consisting of more than 30 participants; or (b) if sound amplification equipment shall be used.

Notification must be provided on the designated notification form which is available in any one of the following Offices. The notification must be submitted in writing to the designated University representative noted below at the applicable University Campus:

Modesto A. Maidique ~~University Park~~ Campus: Attention: Vice President of
Student Affairs or his or her designee
11200 S.W. 8th Street
Graham Center Room 1215
Miami, Florida 33199

Biscayne Bay Campus: Attention: Vice Provost of the Biscayne Bay Campus or
his or her designee
3000 N.E. 151st Street
Library Room 315
North Miami, Florida 33181

The designated University representative at each applicable University Campus may deny the request to demonstrate on the University grounds within two (2) business days after receipt of the notice for the following reasons:

- (a) The use or activity would interfere with the normal operations of the University and/or interfere with the rights of others due to one of the reasons enumerated in sSubsection 86 above;
- (b) The use or activity would conflict with previously planned programs, activities and/or events organized and conducted by the University and/or University Organizations and previously scheduled for the same time and place; and
- (c) A fully executed prior notification for the same time and place has been received and processed granting the prior requestor the authorization to use the area.

~~(1215)~~ Any person or organization that is denied permission to demonstrate may appeal such denial in writing to the Provost or his or her designee. The appeal must be made within two (2) business days after receipt of a written denial from the University's designated representative. The Provost's or his or her designee's decision on this matter shall be final.

Specific Authority Board of Governors Resolution dated 1-07-03 History: New 12-23-76, Amended 8-7-83, Formerly 6C8-5.008, Amended 9-12-08, 11-14-08:_____.