

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

NOTICE OF CHANGE TO PROPOSED AMENDMENT TO REGULATION

REGULATION NO.: FIU-110

REGULATION TITLE: Expressive Activities in Outdoor Areas on Campus

SUMMARY: Proposed changes to Regulation FIU-110 consist of new language to section 6, which articulates conditions that may cause material and substantial interference and disruption, specifically restricting the movement of others. The addition of section 7 sets limits on displays. Sections 9 and 10 establish limits on concealing one's identity with intent to intimidate others or to evade discovery in connection with a law or policy violation and refusing to provide identification when requested by a university official or law enforcement official.

Additional amendments reflect grammatical changes as well as the removal of repetitive phrasing in section 6.

TEXT OF REGULATION: The full text of the Proposed Amendment to 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, Departmental Administrator, Office of the General Counsel, (305) 348-2103.

AUTHORITY: Board of Governors Regulation 1.001(7)(g) and 1004.097, Fla. Stat. (2023) (the Campus Free Expression Act).

NAME OF PERSON INITIATING PROPOSED AMENDMENT TO REGULATION:
Carlos B. Castillo, General Counsel

ANY PERSON SEEKING TO COMMENT ON THE PROPOSED AMENDMENT TO 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 AMENDMENT TO REGULATION: Eli Deville, Departmental Administrator, 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: October 24, 2024

THE FULL TEXT OF THE PROPOSED AMENDMENT TO REGULATION IS PROVIDED BELOW. THE ADDITIONAL CHANGES TO THE PROPOSED REGULATION ARE HIGHLIGHTED IN YELLOW.

FIU-110 Expressive Activities in Outdoor Areas on Campus

1. Definitions: For purposes of this regulation, the following definitions shall apply:
 - a. Expressive Activities: Expressive activities are activities such as assemblies, demonstrations, exercises of free speech, protests, parades, marches, and picketing protected under the First Amendment to the United States Constitution and Article 1 of the Florida Constitution. Expressive activity does not, for purposes of this regulation, include commercial speech.
 - b. Outdoor areas of campus: Outdoor areas of campus are generally accessible areas of the University's Modesto A. Maidique Campus and Biscayne Bay Campus in which members of the campus community are commonly allowed, including grassy areas, walkways, or other similar common areas. The term does not include outdoor areas of campus to which access is restricted. Restricted areas include areas designated by the President or the President's designee either temporarily or permanently as restricted, parking facilities/areas, athletic or recreational facilities, fields and stadiums. Furthermore, outdoor areas of campus do not include any buildings or other indoor facilities.
 - c. University Community: The University Community consists of Florida International University faculty, staff and students.
 - d. 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, expressive activities are permitted in outdoor areas of campus so long as the conduct is lawful and does not materially and substantially disrupt the normal operations of the University or materially and substantially infringe upon the rights of others.
3. To protect health, safety, and welfare and prevent disruption of University activities, protests, parades, marches, picketing, demonstrations, and other similar expressive activities are prohibited inside University buildings or other University indoor facilities. University buildings and other University indoor facilities are designed for instruction, study, reflection, group discussion, research, administrative functions, and other University activities and operations. This provision will be enforced in a content and viewpoint neutral manner.
4. Subject to the other provisions of this regulation, including Sections 6, 7, ~~and 8~~, 9, 10, and 11 persons may organize, conduct, or participate in expressive activities in outdoor areas of campus, except 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 childcare services, elderly care services and health care

services including, without limitation, mental health and substance abuse services, take place; and

e. The FIU Libraries.

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5. Events on the University's campuses occasionally draw attention from the University Community and general public and expressive activities may result. Where necessary to ensure crowd control and the safety and security of persons on campus and to ensure an opportunity for persons engaging in expressive activities to communicate regarding the event(s), the University may designate specific areas situated in close proximity to the event for the expressive activity. On these occasions, expressive activities related to the event(s) must be conducted in the areas specified by the University.
6. All persons and organizations conducting expressive activities in outdoor areas of campus must abide by the general requirement that no such activities may materially and substantially interfere with, disrupt, or impede the normal operations of the University or materially and substantially interfere with or infringe on the rights of others. Material and substantial interference with, disruption of, or impeding the normal operations of the University and/or interference with the rights of others includes, without limitation:
 - a. ~~Impeding or restricting the movement of another person, including by blocking or obstructing~~ entries- entrances and exits, pathways, roadways, walkways, sidewalks, driveways, buildings, parking lots and associated structures, fire lanes, windows, doors, or other passageways to and from University property, or otherwise deny a person or persons access to or from a University facility or space. This provision does not apply to restrictions placed by University officials acting within the scope of their job duties or by persons who have been given specific authorization by the University;
 - ~~a.~~b. ~~impeding or restricting vehicular, 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
 - 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.

~~i.~~ The provisions in these subsections do not apply to restrictions placed by University officials acting within the scope of their job duties or by persons who have been given specific authorization by the University.

7. Any display, including but not limited to any sign, banner, flag, poster, visual, or flyer that is not held or carried by a person is prohibited. Displays may not be attached or affixed to any University property, such as buildings, poles, grounds or trees without prior approval of the Vice President for Student Affairs or Designee; if approved, the requester is responsible for doing so in a manner that will not cause damage to the University property.
 - a. Displays are restricted to a size of three feet by two feet. Screens for projection purposes may be larger if approved by the Vice President for Student Affairs or Designee.
 - b. Displays must be attached at all times to the person or organization sponsoring the display.
 - c. Displays must be removed immediately following an event and no later than sunset.
 - d. Displays must be assembled and ~~dissembled~~ disassembled each day.
 - e. Displays must be staffed at all times by the person or organization sponsoring the display.
8. To protect health, safety, and welfare and prevent disruption of University activities, no protests, parades, marches, picketing, demonstrations, and other similar expressive activities are permitted on the University campuses from sunset to 8:00 a.m. without the prior approval of the Vice President for Student Affairs. Requests for approval will be reviewed in a content and viewpoint neutral manner.
9. No person shall wear a mask, personal disguise, hood, or other item to conceal their identity with the intent to intimidate any person or group, or for the purposes of evading or escaping discovery, recognition, or identification in connection with or during the commission of a violation of law, regulation, policy, or ordinance.
- ~~7.10.~~ No person on University property shall refuse to identify themselves to University officials, including law enforcement officers, who are acting in the performance of their duties. Additionally, students of the University are required by the Student Code of Conduct to provide identification upon request by a University official or by a law enforcement officer.
- ~~8.11.~~ All persons and organizations conducting expressive activities in outdoor areas of campus, must comply with all applicable federal, state and local laws, all Board of Governors regulations, and all other applicable University regulations, policies and/or procedures. The University recognizes, respects and values the right of individuals to express themselves on its campuses. While civil disobedience sometimes plays a role in expressive activities, 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 ~~9, 120, and 131~~, and 14.

~~9.~~12. If expressive activity is materially and substantially disrupting normal University operations or infringing on the rights of others contrary to the requirements of this regulation, the President or the President's designee has authority to:

- a. identify himself or herself to the persons engaging in expressive activity in an outdoor area of campus, providing the person's name and official position;
- b. inform the persons engaging in expressive activity in an outdoor area of campus 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 Florida International University Police Department and/or law enforcement personnel in restoring order and enforcing the law.

~~10.~~13. In the event of a material and substantial disruption, the Florida International University Police Department 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 expressive activity 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;
- 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 Florida International University Police Department or other law enforcement personnel under applicable laws or University regulations, policies and procedures.

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

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~~2.~~15. Amplification equipment is not allowed except as otherwise is provided herein. In order to coordinate University events and other activities taking place in outdoor areas of campus, with due consideration for the health and safety of all individuals, any person or organization who intends to engage in an expressive activity in outdoor areas of

campus must notify the University at least two (2) business days in advance if sound amplification equipment shall be used or if displays larger than the size of three feet by two feet shall be used.—All permitted use of amplification equipment shall maintain a reasonable sound level which meets the communication needs of the event without excessive noise penetration to adjacent areas.

Notification must be provided on the designated notification form, which is available at the following Office location. The notification must be submitted in writing to the designated University representative noted below at the applicable University Office location:

Attention: Vice President of Student Affairs or Designee
11200 S.W. 8th Street
Graham Center Room GC219
Miami, Florida 33199

The designated University representative may deny the referenced amplification request within two (2) business days after receipt of the notice for the following reasons:

- a. The proposed use of amplification would materially and substantially interfere with the normal operations of the University and/or interfere with the rights of others due to one of the reasons enumerated in Section 5 above;
- b. The proposed use of amplification 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.

~~3.16.~~ 16. Any person or organization that is denied permission for a proposed use of amplification may appeal such denial in writing to the Provost or the Provost's 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 the Provost's designee's decision on this matter shall be final.

~~4.17.~~ 17. The University may prohibit the carrying of certain items during expressive activities if the carrying of such items may increase safety and security risks of the persons engaged in the expressive activities or otherwise on campus.

~~5.18.~~ 18. Nothing in this regulation limits the authority of the University to allow areas of its campuses to be scheduled or reserved in advance for the use of the University or of a specific person or organization; the outdoor areas of campus being available on a space-available basis for expressive activities.

Specific Authority Section 1004.097, Fla. Stat. (2023) (the Campus Free Expression Act); Board of Governors Resolution dated 1.7.03 History: New 12.23.76, Amended 8.7.83, Formerly 6C8-5.008. Amended 9.12.08, 11.14.08, 4.8.14, 6.8.18, 6.10.24, ~~and 7.31.24,~~ Amended
