

FLORIDA A&M UNIVERSITY BOARD OF TRUSTEES



NOTICE OF PROPOSED AMENDED REGULATION

DATE: August 9, 2024

REGULATION CHAPTER NO.: Chapter 5

REGULATION CHAPTER TITLE: Miscellaneous

REGULATION TITLE AND NO.: Freedom of Expression and Assembly Rights and Responsibilities – 5.005

SUMMARY OF REGULATION: This Regulation was substantially amended for the purpose of expounding on University guidelines; prohibited activities and items, and disruptive actions during expressive activities, as defined in the Regulation. Expressive activities protected by this section do not include defamatory or commercial speech. Additionally, the proposed amended Regulation continues to outline the authority of the President and Campus Police as it relates to expressive activities. The Regulation also includes content-neutral time, place, and manner guidelines.

AUTHORITY FOR REGULATION: Article IX, Section 7, Florida Constitution, Sections 1004.097, 1006.61, ad 1012.80, Florida Statutes, and Board of Governors Regulations 1.001.

UNIVERSITY OFFICIAL INITIATING THIS REGULATION: Rica Calhoun, Esq., CCEP, Chief Compliance and Ethics Officer, Office of Compliance and Ethics.

PROCEDURE FOR COMMENTS: Written comments concerning this proposed regulation shall be submitted within 14 days of the date of this notice to the person identified below. The comments must specifically identify the regulation you are commenting on.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION IS: Rica Calhoun, Esq., CCEP, Chief Compliance and Ethics Officer, Office of Compliance and Ethics, Suite 105 Foote-Hilyer Administration Center, Tallahassee, Florida 32307, (850) 412-7520, rica.calhoun@famu.edu and Shira Thomas, Esq., Chief Policy Officer and University Counsel, Office of University Policy, 1735 Althea Gibson Way, Suite 101 CASS Building, Tallahassee, Florida 32307, (850) 599-8315, shira.thomas@famu.edu.

FULL TEXT OF THE PROPOSED REGULATION: The full text of this amended Regulation follows:

Florida A&M University Regulation



5.005 Freedom of Expression and Assembly Rights and Responsibilities.

Freedom of expression at Florida A&M University (“FAMU” or “University”) includes the right to present and advocate ideas in the spirit and development of knowledge. Freedom of expression and assembly includes demonstrations, picketing, protests, petitioning, marches, information dissemination, the formation of groups, gatherings, and participation in group activities (hereinafter “Expressive Activity”). FAMU, as a public university, protects the First Amendment rights of all, including those constitutionally protected views and values contrary to FAMU’s mission and fundamental principles. In upholding these freedoms, the University will not shield members of the University community from expressive activities. However, the University prohibits speech, expression, or assembly that advocates lawlessness and/or violence, or restrains, intentionally and significantly disrupts, or interferes with activities of members of the University community, whether by physical force or intimidation. The positions, expressions, or views belong to those students, protestors, demonstrators, or speakers themselves, and do not necessarily reflect the views of the University. This Regulation is not intended to inhibit or interfere with academic freedom of expression, and it is understood that faculty exercising their rights under academic freedom will accept responsibility for both the substance and the manner of their messages.

As with all public universities, the word “public” does not mean that all areas on University property are open to the general public. There are areas that are not open to the public such as, but not limited to, classrooms, laboratories, offices, and research and field sites. The regulation of certain activity on the University’s campuses is necessary to preserve the educational mission, vision, and fundamental principles of the University; to prevent unnecessary disruption of classes, study periods and/or administrative functions; to provide for the safety of University students, faculty, staff, and the public; and to protect the property of students, faculty, staff, and the University. Therefore, reasonable restrictions on the time, manner, and place of the expression are appropriate and necessary to maintain and protect the rights of its students, faculty, staff, and the public.

(1) University Guidelines.

(a) Permissive Activities.

1. Expressive activity is permitted when such activity complies with federal, state, or local statutes, FAMU or Florida Board of Governors’ (“BOG”) regulations or policies governing unlawful assemblies.
2. Expressive activity, in the form of symbolic speech, such as silent protest or wearing expressive clothing that is not obscene or a safety hazard is permitted. Gesturing or standing in solidarity as symbolic speech is also permissive. Such activity is subject to compliance and restriction parameters outlined throughout this Regulation.
3. To maintain the orderly operation of the University, expressive activity may, without limitation, occur: The University Quadrangle, parking lot south of the Student Union Building, Stadium parking lot, gymnasium parking lot, and west of the Student Union

Building between the Student Union and Foster-Tanner Fine Arts Building on a space available basis. However, expressive activity must not disrupt, interfere with, or obstruct, the normal operational processes of the University. In addition, satellite campuses may designate but not limit or restrict areas best suited for expressive activities that are least likely to obstruct University operations.

(b) Prohibited Activity.

1. Expressive activity is impermissible when such activity:
 - a. impedes or disrupts the normal operation of the University including, without limitation, impeding or disrupting educational, administration, or research activities, ceremonies, events, or operations inside or outside any building;
 - ii. impedes or infringes on the rights of other members of the University community;
 - iii. occurs inside University buildings including, without limitation, classrooms, laboratories, offices, research and field sites, and other University indoor or outdoor facilities that are intended for purposes such as instruction, study, reflection, group discussions, administrative functions, and various other University activities and operations;
 - iv. blocks the ingress or egress (entrances or exits) to University buildings, streets, or sidewalks.
 - v. occurs in restricted outdoor areas, including the Educational Research Center for Child Development, Student Health Services primary care clinic, University Libraries, and residential facilities;
 - vi. damages property, such as but not limited to buildings, landscapes, or vehicles;
 - vii. defaces University property, including any vertical or horizontal surface;
 - viii. harasses, intimidates, injures, or threatens passersby, or directly uses words which by their mere utterance intended to incite violence or a breach of peace (fighting words);

(c) Time, Place and Manner Restrictions. Florida A&M University is committed to safeguarding the health, safety, and welfare of all University community members. In furtherance of that commitment, expressive activities are subject to the following additional restrictions:

- i. **Time Restrictions.** Expressive activity is prohibited on University campuses from sunset to 8:00 a.m. without prior approval from the Vice President of Student Affairs. Requests for approval will be evaluated in a content and viewpoint-neutral manner.
- ii. **Venue Capacity.** The University may restrict attendance at expressive activities based on the capacity of the venue.
- iii. **Sound Amplification.** Any use of sound amplification equipment, including megaphones, on the outdoor areas of campus is prohibited without five (5) business days prior written approval from the Vice President of Student Affairs.
 1. Such use will be permitted only if sound levels are reasonable, meet the event communication needs without excessive noise penetration to adjacent areas and there is no interference or disruption of any academic or other University activities.
- iv. **Disruption of Scheduled Speakers.** Individuals engaging in expressive activity shall not obstruct, disrupt, or attempt to force the cancellation or continuance of a speaker physically; or interfere with or impede a scheduled speaker from being heard.
- v. Only University-related events will be permitted during any final exam period, and no unapproved amplified sound will be permitted at outdoor events during any final exam period.

- vi. **Safety Hazard.** Expressive activity that creates an environmental hazard or poses a health and safety threat to the University, its community, affiliated organizations, or the general public, is prohibited.
- vii. **Camping, Encampments, or Structures.** Camping on University grounds is prohibited, unless it is part of an official University activity, including activities organized by an academic or administrative unit, and has received written approval from the Vice President of Student Affairs, or their designees. Building or constructing any shelter, barrier, or other physical structure is also prohibited.
- viii. **Failure to Comply.** Individuals engaging in expressive activity must comply with any reasonable instruction by Department of Campus Safety and Security (“Campus Police”) or any University official acting in the performance of their duty.
- ix. **Unlawful Conduct.** Individuals may not engage in conduct that violates the lawful time, place, and manner restrictions outlined in this Regulation.

(d) Guidelines for Outside Speakers.

- i. **University Sponsored.** Academic units, departments, alumni groups, recognized student organizations and other University affiliated groups who sponsor outside speakers are responsible for informing the speaker that the University is not to be used as a platform for the organization or the incitement of lawlessness or violence. The University affiliated unit sponsoring the speaker is responsible for obtaining the speaker’s agreement with these parameters. Please refer to University [Regulation 2.030, Student Activities](#) for additional information.
 - ii. **Non-University Sponsored.** Entities, individuals, or public speakers who wish to lease or rent a University facility for an event must comply with this Regulation and University [Regulation 10.124, Use of University Facilities and Services](#). Priority will be given to those groups and/or individuals whose activities are related to and/or further the mission of the University.
- (e) **Distribution of Literature and Postings.** Individuals may circulate non-commercial literature, provided it is identified by authorship and sponsorship, subject to applicable provisions of this Regulation. Signs may be posted on bulletin boards designated for public announcements. FAMU maintains a General Information Center and bulletin boards throughout campus locations. Listings on the boards include information regarding campus events and activities, general information, and classified advertisements. Such listings are limited to the Quadrangle Information Center and bulletin boards and will not be displayed, for example, on trees, buildings, or road signs. Posters must obtain pre-approval for the posting of signs, including posting for solicitation, as required by University Regulations 3.011, Commercial Solicitation, and [2.030, Student Activities](#). Deans of the colleges and/or schools located at the satellite campuses can designate additional posting areas at that satellite location.
- (f) **Infringement of Copyrighted Materials and Individuals’ Expectations of Privacy.** Recording of speeches, gatherings, rallies, events, and/or other activities may be restricted by copyright protection, and/or laws governing privacy. There are civil and criminal penalties associated with the recording of copyright-protected events and in situations where there is an expectation of privacy.

(2) Prohibited Items during Protests/Demonstrations/Speaker Events

To maintain the orderly operations of the University and the safety of all members of the University community and the public, the following items are prohibited during any expressive activity events:

- Firearms and/or weapons of any kind including, without limitation, toy weapons, weapon lookalikes, or fake weapons;
- Sharp objects;
- Lighters, matches, torches or open flame;
- Flammable liquids;
- Any athletic equipment or other items which could be used as a weapon;
- Masks of any kind; goggles; bandanas/scarfs; neck gaiters;
- Armor and/or screens of any kind;
- Helmets;
- Flag poles, bats, clubs, sticks (**including sticks for signs**); umbrellas;
- Aerosol/pressurized cans; mace; pepper spray;
- Chains, padlocks, bicycle locks;
- Fireworks;
- Backpacks, bags, purses, clutches;
- Signs made of anything other than cloth, paper, foam core, cardboard;
- Cans, metal, or glass containers,
- Beverages or alcoholic beverages;
- Water bottles of any kind, due to potential use as weapons;
- Pop-up tents, shelters, bedding, canopies and/or hammocks;
- Wagons or pull carts
- Vehicles,
- Coolers; grills, propane tanks, ladders;
- Drones or other unmanned aircraft systems;
- Pets (exception: ADA service animals);
- Bicycles, scooters, skateboards;
- Tobacco products of any kind;
- Illegal drugs;
- Laser pointers;
- Water balloons;
- Megaphones or other amplified sound devices without appropriate prior approval;
- Any other items that the President or Campus Police reasonably determine pose a risk to safety, disruption of classes or traffic (vehicular or pedestrian).

(3) Disruptive Action

- (a) In the event of disruptive activity, University employees and students involved in demonstrations shall identify themselves by presenting appropriate documents such as ID cards when requested to do so by Campus Police, the President, or President's designee, and such designee shall identify him/herself when making this request.
- (b) Demonstrators not officially affiliated with FAMU may be directed to leave the campus immediately or be subject to arrest for a violation of the law forbidding the disruption or interference with the administration or functions of an educational institution.
- (c) If the President or his/her designee determines that such expressive activity is disrupting normal University operations, poses a health or safety risk, or infringes on the rights of other members of the

University community, the President or President's designee is authorized to take any of the following actions, without limitation:

1. Inform the demonstrators that they are in violation of the University policy and/or in violation of the law and specify the nature of the violation.
 2. Request that the violation cease.
 3. Designate an area on University property that would mitigate such effects and is reasonably accessible to University students and faculty, and to limit the event to such location.
 - a. Nothing in this section is intended to, nor shall be read to, imply an obligation on the part of the President or the University to secure or rent property for any expressive activity nor is it intended to indicate that all manner of expressive activity can be accommodated.
 4. Cancel the event or activity, if the President or designee has reasonable grounds to believe that any such event or activity presents an imminent threat to the health, safety, and welfare of campus and the threat cannot be mitigated using reasonable alternative means.
 5. In the event of non-compliance, enlist the assistance of the Campus Police, or affiliated law enforcement at satellite locations, in restoring order and enforcing the law.
- (d) The University's Campus Police has the primary mission of providing safety and security for all members of the University community including students, faculty, staff, and guests. Campus Police has full law enforcement authority to arrest individuals who violate the law on University property. In addition, the Campus Police maintains mutual aid agreements with city and county authorities, and host cities of the University campuses.

Campus Police has the authority and responsibility to:

1. Declare an expressive activity to be in violation of law and request all participants to cease and desist, and to disperse and clear the area, or be subject to arrest and/or University disciplinary action;
2. Arrest any participants observed to be in violation of the law; and
3. Enlist the assistance of outside law enforcement agencies, if necessary.
4. This Regulation does not intend to limit or restrict the authority of the Campus Police Department or other law enforcement personnel under applicable laws or BOG and/or University regulations, policies, and procedures.

(4) Students and Employees (Faculty, Staff and Personnel)

- (a) Students, faculty, staff, and all other personnel who intentionally act to impair, disrupt, interfere with, or obstruct the orderly conduct, processes, and functions of the University shall be subject to appropriate disciplinary action by the University authorities.
- (b) Students, faculty, staff, and all other personnel who participate in expressive activity are hereby notified that they will be held accountable individually for any actions that violate the BOG and/or

University regulations and policies as well as federal, state and local laws. Faculty, staff, and all other personnel shall not participate while on work time.

- (c) Students, faculty, or staff of the University may not materially disrupt previously scheduled or reserved activities on campus occurring at the same time.

(5) Public and Guests

- (a) Members of the public and guests are responsible for their actions on any and all University property and will be held accountable for any violations of law, University regulations, or policies, which may include a trespass warning.

(6) Security

- (a) It is the responsibility of the sponsor, individual, and/or group, including University sponsors, to coordinate security plans with Campus Police prior to the event or activity, and to arrange for and cover costs of security as permitted by law.
- (b) Additional duly appointed security officers may also be required depending upon the type of event, facility, and the expected number of individuals to attend. Security officers employed or secured must be approved by Campus Police.
- (c) Two weeks prior to the scheduled outside speaker or other event, the sponsor, individual, and/or group shall give notice to Campus Police in order to plan and coordinate for security and safety concerns.

- (7) **University Use.** This regulation does not restrict the University's authority to schedule or reserve campus areas in advance for use by the University or a specific individual or organization. Outdoor areas of the campus will be available for expressive activities on a space-available basis. Expressive activities in outdoor areas that have been reserved by the University or another individual, group, or organization for use through established University procedures are subject to removal or relocation. Additionally, no individual or group may claim exclusive use of any area without prior approval through the applicable event permitting or reserving processes. Individuals may not materially disrupt previously scheduled or reserved activities on campus occurring at the same time.

- (8) **Enforcement and Penalties.** If any expressive activity is disrupting, impeding, or obstructing normal University operations, and after the participants have been officially notified of the impediment or obstruction, the act will be considered in violation of University policy and can be considered disturbance (breach) of the peace, which is a violation of the law. Within a reasonable length of time, those who fail to disperse may be subject to criminal, civil, as well as University disciplinary action as appropriate. Refer to University [Regulation 2.012, Student Code of Conduct](#), [Regulation 10.111, Disruptive Conduct](#), and [Regulation 1.019, University Code of Conduct](#); and applicable federal, state, and local laws for further information.

(9) Definitions

- (a) Breach of the peace; disorderly conduct. Section 877.03, Florida Statutes, provides “[w]hoever commits such acts as are of a nature to corrupt the public morals, or outrage the sense of public decency, or affect the peace and quiet of individuals who may witness them, or engages in brawling or fighting, or engages in such conduct as to constitute a breach of the peace or disorderly conduct, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.”

- (b) Campuses (main and satellite campuses) are defined to include all properties and facilities under the guidance, supervision, regulation, or control of the University, or any of its direct support organizations.
- (c) Material and substantial disruption means any conduct that intentionally and significantly hinders another person's or group's expressive rights. The term does not include conduct that is protected under the First Amendment to the United States Constitution and Art. I of the State Constitution, including, but not limited to, lawful protests and counter-protests in the outdoor areas of campus or minor, brief, or fleeting nonviolent disruptions that are isolated or brief in duration.
- (d) Expressive Activities are activities such as assemblies, demonstrations, exercises of free speech, protests, parades, marches, picketing and speeches; distributing literature; carrying signs; circulating petitions; faculty research, lectures, writings, and commentary, whether published or unpublished; and the recording and publication, including the Internet publication, of video or audio recorded in outdoor areas of campus, 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 defamatory or commercial speech.
- (e) Fireworks are defined as, and includes, any combustible or explosive composition or substance or combination of substances, or except as hereinafter provided, any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation.
- (f) Restricted Area means any portion of campus the University President or designee determines on a content-neutral basis, permanently or temporarily, where it would be unreasonable for expressive activities to occur because of disruption or health, safety, and welfare considerations.
- (g) Shield means to limit students', faculty members', or staff members' access to, or observation of, ideas and opinions that they may find uncomfortable, unwelcome, disagreeable, or offensive.
- (h) Solicitation (or commercial speech) is defined to be any act or event conducted for the purpose of financial or commercial gain to the vendor, individual(s), or organization(s), e.g. handing out promotional leaflets and placing signs on University property. Please refer to University [Regulation 3.011, Commercial Solicitation](#) for further information.
- (i) Weapon is defined as any item, including, but not limited to metallic knuckles, knives, swords, any dangerous chemical or biological agents, firearms, machine guns, starter guns, BB guns, stun guns, paintball guns, stun guns (Tasers), archery equipment, or any other object which will, is designed to, or may readily be converted to, expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device.

Specific Authority: Article IX, Section 7, Florida Constitution, Sections 1004.097, 1006.61, and 1012.80, Fla. Stat., Board of Governors Regulation 1.001. History—New 1-2-2018, Amended 7- 9-18, Technical Amendment (update footer) 1-9-19; September xx, 2024.