

**Florida Gulf Coast University Board of Trustees
April 21, 2009**

SUBJECT: Regulation: FGCU-PR9.004 Public Expression and Assembly

PROPOSED BOARD ACTION

Approve revisions to university regulation.

BACKGROUND INFORMATION

FGCU is proposing adoption of the attached regulation to update an existing regulation. The title of the regulation has been updated to reflect a broader definition of free speech to public expression, and criteria has been established for individuals and groups to clarify the time, place and manner of public expression and use of university resources on campus. The regulation also removes requirements for outside speakers to seek prior approval to speak on campus if no resources or facilities are to be used, and clarifies the criteria under which an event can be suspended or terminated.

All state universities are required to utilize the Board of Governors' Regulation Development Procedure. This updated FGCU measure assists in handling matters based upon today's current practices and expectations.

Supporting Documentation Included: Notice and Regulation Public Expression and Assembly (FGCU-PR9.004)

Prepared by: Vice President for Student Affairs Mike Rollo

Legal Review by: General Counsel Vee Leonard (March 17, 2009)

Submitted by: Vice President for Student Affairs Mike Rollo

FLORIDA GULF COAST UNIVERSITY

NOTICE OF REGULATORY ACTION

March 19, 2009

REGULATION TITLE:

Public Expression and Assembly

REGULATION NO.:

FGCU-PR9.004

SUMMARY:

This regulation is being presented to address constitutionally protected expression in the University community.

FULL TEXT:

The full text of the regulation being proposed is attached and can also be found at <http://www.fgcu.edu/generalcounsel/promulgation.asp>

LAW IMPLEMENTED:

§§1001.74, 1006.60, 870.01-04, F.S.

UNIVERSITY OFFICIAL INITIATING THE PROPOSED REVISED REGULATION:

Michelle Yovanovich, Dean of Students

UNIVERSITY OFFICIAL APPROVING THE PROPOSED REGULATION:

Michael Rollo, Vice President for Student Affairs

PERSON TO BE CONTACTED REGARDING THE PROPOSED NEW REGULATION:

Diane St. John, Administrative Assistant, dstjohn@fgcu.edu; (239) 590-1101 (Phone), (239) 590-7470 (Facsimile); 10501 FGCU Blvd. South, Fort Myers, FL 33965-6565

ANY COMMENTS REGARDING THE PROPOSED NEW REGULATION SHOULD BE SUBMITTED IN WRITING ON OR BEFORE APRIL 3, 2009 BY 5:00 P.M. THE COMMENTS MUST IDENTIFY THE REGULATION ON WHICH YOU ARE COMMENTING.

THIS NOTICE WAS POSTED ON THE FGCU WEBSITE ON MARCH 19, 2009.



REGULATION: FGCU-PR9.004

Effective
Date of
Regulation:

~~Freedom of Speech~~ Public Expression and

8/2/98

Assembly

(1) ~~General:~~ The freedoms of speech and assembly guaranteed by the Constitutions of the United States and the State of Florida shall be enjoyed by all ~~students, faculty and staff of Florida Gulf Coast University~~ members of the University community. ~~so long as the exercise of these freedoms does not interfere with the operation of the University or the rights of others. The on campus exercise of public expression and assembly by students, faculty and/or staff shall be in accordance with the guidelines set forth herein.~~ It is the intent of the University to encourage a free discourse of ideas while maintaining the safe and normal operations of campus life and education. To that end, this regulation provides some time, place and manner parameters on campus expression.

(2) Persons engaged in speech occurring in public spaces that requires no University support or services are not required to coordinate the activity with Campus Reservations but must follow all University Policies and Regulations. An event that requires use of University resources including but not limited to sound amplification, reservable spaces, and security must go through the normal scheduling and coordination process provided by Campus Reservations. Demonstrations may be held anywhere on campus, so long as they do not disrupt the normal operations of the University or infringe on the rights of other members of the University community, except that no demonstrations may be held inside University buildings.

(23) Responsibility: Each speaker or group shall be fully responsible for any violation of ~~F~~federal or ~~S~~state law or University regulation committed by them.

~~(3) Outside Speakers: The issuance of invitations to outside speakers by members of the University community is encouraged. However, only those requests sought by University recognized or registered student groups, faculty or staff groups or authorized University committees will be considered for scheduling in University facilities. (See section (4) of this rule for the approval and scheduling procedure).~~

~~(4) Approval for Outside Speakers and/or Assembly and Public Expression: With the exception of guest lecturers in a scheduled class, all individuals or groups seeking to host an outside speaker or hold a scheduled assembly must obtain approval for such activity from the Office of the Dean of Student Services (for students) or from the Facilities Coordinating Committee (for all others). Such a request must contain the following:~~

~~(a) Name, address, and telephone number of the person(s) filing the notice;~~

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- ~~(b) Name, address, and telephone number of the person(s) to be contacted;~~
- ~~(c) Date, time, duration and location place of proposed activity;~~
- ~~(d) Name of speaker and topic, or purpose of the activity;~~
- ~~(e) Type of audio-amplification to be used, if any; and~~
- ~~(f) Estimated number of participants.~~

~~(54) Denial of Permission to Hold Activity~~Suspension or Termination of Activities: Like all activities, Free speech public expression activities can may also be scheduled in reservable spaces, any of the University's designated public speech areas, subject to their availability. ~~Permission to hold free speech~~Public expression activities ~~(to include postings)~~ can be suspended, terminated or removed ~~denied, or in the case of an approved activity, canceled~~ by the ~~Office of the Dean of Student Services Vice President of Student Affairs or designee~~ when, after consultation with ~~the Campus Police and Safety Department, there is a substantial likelihood~~ Police it is determined that the activity ~~will result in~~ is ~~disrupting~~ of the University's normal operations, is causing imminent ~~harm to the University property or infringing on the and safety or rights~~ of others, ~~including that of the University; or infringe the rights of others.~~ The following occurrences ~~will may~~ result in the suspension or termination ~~cancellation~~ of a public expression activity:

- (a) Intentional obstruction of ingress to or egress from any office, classroom, building, facility or area on campus;
- (b) Disruption of other ongoing, authorized University functions or operations through excessive sound, noise or other means;
- (c) A speaker's advocacy of the use of violence towards any Individual or of the violent overthrow of the government ~~of the United States, the State of Florida or any political subdivision (local, state or federal);~~
- (d) ~~Willful d~~Damage, ~~or~~ destruction, ~~or~~ seizure and or subversion ~~or of~~ the University's buildings or other property;
- (e) ~~Intentional i~~Interference with the University's regularly scheduled classes or other educational functions.;
- (f) Physical harm, coercion, intimidation or other invasion of the lawful rights of any other person, including University students, faculty or staff members or officials;
- (g) ~~Other a~~Acts which constitute a crime.;

~~FREEDOM OF SPEECH~~ PUBLIC EXPRESSION AND ASSEMBLY

(65) Appeals Process: The ~~denial or cancellation~~ suspension or cancellation of a public expression of a scheduled activity to include solicitation may be appealed to the President or designee. The ~~"Use of University Facilities Decision Appeal Form" FCC #004 (9/97), which is incorporated by reference, should be obtained from the Facilities Coordinator, completed and returned to the Facilities Coordinator.~~ The President or designee shall render a decision within a reasonable time not to exceed five (5) University working days after receiving the appeal. The written decision of the President or designee shall be hand-~~carried~~ delivered, mailed certified return receipt or faxed to the individual or organization that filed the appeal. The decision of the President or designee shall be final and binding.

(76) Sound Amplification Equipment: ~~Permission to use sound amplification equipment for assemblies or free speech activities in designated areas on campus must be secured from the Dean of Student Services Office, or Facilities Coordinating Committee, as appropriate.~~ The University reserves the right to impose reasonable time, place and manner restrictions on the use of sound equipment, such as the degree of amplification.

~~(8) — Non-interference with University Operation: In order that outside speakers, assemblies and public expression activities not interfere with the operation of the University or the rights of others, participants in these activities shall not, for example:~~

~~(a) — Obstruct vehicular, bicycle, pedestrian or other traffic in and around the University;~~

~~(b) — Obstruct ingress or egress to buildings, facilities or roadways;~~

~~(c) — Interfere with educational activities inside or outside any building or facility;~~

~~(d) — Harass passersby or otherwise interrupt, interfere with or disrupt normal University ceremonies, events or speakers;~~

~~(e) — Damage or injure University property or equipment; or~~

~~(f) — Prejudice the safety of persons or property.~~

~~(9) — Disrupting School Activities: Pursuant to Sections 231.07 and 877.13, F.S., it is unlawful for any person to knowingly disrupt or interfere with the lawful administration of functions of any educational institution or activity on University property. Further it is unlawful for any person to advise, counsel, or instruct any University student or employee to disrupt the University or an activity on University Property. It is unlawful to knowingly interfere with the attendance of any student or employee to a University function. Finally, it is unlawful to conspire to riot or to engage~~

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~~in any disturbance which interferes with the educational process or orderly conduct of the University. In doing so, the person shall be guilty of a misdemeanor of the second degree and punished accordingly.~~

(7) Suspension or Termination Procedure.

If an activity is or becomes disruptive, the ~~Dean of Student Services~~ Vice President of Student Affairs or a ~~designated~~ representative shall utilize the following procedure. The Campus Police has the authority to act independently if the Vice President of Student Affairs or designee is not present :

(a) Identify himself/herself to the participants, giving name and official position;

(b) Inform participants that they are in violation of the law and/or this ~~rule~~ regulation and specify the nature of the violation;

(c) Request that the violation cease;

(d) In the event of non-compliance with the request, enlist the assistance of the University Police in terminating the activity, restoring order and enforcing the law. The University Police have the authority to:

1. Declare an assembly to be in violation of the law and this ~~rule~~ regulation 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 participants observed to be violating the law; and

3. Enlist the assistance of outside law enforcement agencies, if necessary.

(8) All prior University policies or directives concerning public expression are superseded by this regulation.

Specific Authority:

~~240.227(1), 240.261, F.S.~~ §§1001.74, 1006.60, F.S.

Law Implemented:

~~240.132, §§870.01-04,~~ 1004.74, F.S.

History of Rule:

New 8/2/98

History of Regulation:

New 1/15/08, Amended

Effective Date of Regulation:
