# NOTICE OF AMENDED REGULATION

**August 21, 2024**

## BOARD OF GOVERNORS

Division of Universities

University of North Florida

## REGULATION TITLE:

Freedom of Expression in Outdoor Areas of Campus

## REGULATION NO.:

7.0040R

## SUMMARY:

The regulation is being amended to provide further details and clarification to the campus community regarding Freedom of Expression in Outdoor Areas of Campus. The amended regulation does not expand or limit the University’s authority under the current version of the regulation, but instead seeks to provide further guidance to the campus community. Specifically, the changes focus on providing clarity surrounding the University’s authority to enforce time, place, and manner restrictions on expressive activity. Changes include: providing a definition of “time, place, and manner” to provide clarity regarding the meaning and use of that term, adding more detail to the non-exhaustive list of prohibited acts during freedom of expression activities, providing a non-exhaustive list of prohibited items during freedom of expression activities, clarifying the times during which the University has the resources to allow spontaneous expressive activity in the outdoor areas of campus, providing further clarification regarding obligations to comply with directives of University officials and the process by which University officials handle disruptive activities.

## MEETING DATE AND TIME:

September 30, 2024 at 9:00 a.m.

## FULL TEXT:

The full text of the regulation being proposed is attached.

## AUTHORITY:

Florida Constitution, Article IX, Section 7(c)

BOG Regulation 1.001

Florida Statutes 1004.097

## UNIVERSITY OFFICIAL INITIATING THE PROPOSED REVISED REGULATION:

John Reis, Senior Associate General Counsel, j.reis@unf.edu, 904-620-2533

## INDIVIDUAL TO BE CONTACTED REGARDING THE PROPOSED REVISED REGULATION:

Stephanie Howell, Paralegal, Office of the General Counsel, showell@unf.edu, phone (904)620-2828; fax (904)620-2829; Building 1, Room 2100, 1 UNF Drive, Jacksonville, FL 32224.

***Any comments regarding the amendment of the regulation must be sent in writing to the contact person on or before Wednesday, September 4, 2024, to receive full consideration.***

** Regulation**

**Regulation Number**: 7.0040R

**Effective Date**: 10/11/2018 **Revised Date**: Pending

**Subject: Freedom of Expression in Outdoor Areas of Campus**

**Responsible Division/Department**: Administration and Finance/Physical Facilities

**Check what type of Regulation this is:**

[ ] New Regulation

[x] Major Revision of Existing Regulation

[ ] Minor/Technical Revision of Existing Regulation

[ ] Reaffirmation of Existing Regulation

[ ] Repeal of Existing Regulation

1. **OBJECTIVE AND PURPOSE**

The freedoms of speech, expression and assembly are basic and essential freedoms that the University strives to protect. However, these personal freedoms are subject to well-established rights of the University to regulate, on a viewpoint- and content-neutral basis, time, place, and manner so that the activities do not materially and substantially interfere with, disrupt, or impede the academic programs or activities, or interfere with, disrupt, or impede the orderly conduct, processes, and functions (“Normal Operation”) of the University, or infringe upon the rights of others. The purpose of this regulation is to provide guidance to persons external and internal to the University regarding their rights of freedom of expression in the outdoor areas of the University’s campus.

1. **DEFINITIONS**

For purposes of this regulation, the following definitions shall apply:

A. “Commercial Speech” means speech in which the individual is engaged in commerce, the intended audience is commercial or actual or potential consumers, and the content of the message is commercial.

B. “Expressive Activities” means activities such as assemblies, exercise of free speech, protests, demonstrations, marches, and picketing protected under the First Amendment to the United States Constitution and Article 1 of the Florida Constitution. These activities include, but are not limited to, any lawful oral, demonstrative, or written communication of ideas, including all forms of peaceful assembly, protests and speeches; distributing literature; carrying signs, circulating petitions; and the recording and publication, including the Internet publication, of video or audio recorded protected activity in outdoor areas of campus. Expressive Activity, for purposes of this regulation, does not include commercial speech.

C. “Outdoor areas of campus” means generally accessible areas of the University’s 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 that are dedicated for a specific purpose and/or to which access is restricted. Outdoor areas of campus specifically do not include any buildings or other indoor facilities.

D. “Material and substantial disruption” means any conduct, which is not protected by the United States Constitution and Article 1 of the Florida Constitution, that intentionally and significantly hinders another person’s, or group’s expressive rights or Expressive Activities, or that interferes with, disrupts, or impedes the academic programs or activities, or interferes with, disrupts, or impedes the orderly conduct, processes, and functions of the University.

E. “Restricted Areas” means any portion of campus which is generally not open or accessible to the public, either permanently or temporarily and/or where the University President, or designee, determines on a viewpoint- and 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.

F. “Time, Place, and Manner” regulation means enforcement of reasonable restrictions on Expressive Activities, when such regulations are narrowly tailored to a significant University interest, that are enforced on a viewpoint- and content-neutral basis, and that leave open ample alternative means of expression. Enforcement of time, place, and manner restrictions, whether explicitly listed in this regulation or not, shall be consistent across all individuals and groups without regard to the content or specific viewpoint of Expressive Activity.

1. **STATEMENT OF REGULATION**
2. **Right to Engage in Free Expression**

Outdoor areas of campus are traditional public forums for individuals, organizations, and guest speakers to engage in Expressive Activities subject to reasonable viewpoint- and content-neutral time, place and manner restrictions. Accordingly, consistent with this regulation and related University regulations, persons or groups wishing to engage in Expressive Activities in outdoor areas of campus may do so freely, spontaneously, and contemporaneously as long as the person’s conduct is lawful and does not materially and substantially interfere with, disrupt, or impede University’s Normal Operation or infringe upon the rights of others to engage in Expressive Activities. Use of outdoor areas must also be consistent with all applicable federal, state, and local laws, all Board of Governors regulations, and all University regulations, policies, and procedures including, but not limited to the regulations and policies governing commercial speech and activity, distribution of written materials, and use of facilities.

1. **Prohibited Acts During Freedom of Expression Activities**

As stated above, persons and organizations conducting Expressive Activities must not materially and substantially interfere with, disrupt, or impede the Normal Operation of the University, or infringe on the rights of others. The following include, but are not limited to, examples of actions that are considered to cause such material and substantial disruption:

1. Conducting Expressive Activities inside University buildings, structures or public transportation vehicles;
2. Conducting Expressive Activities on the grounds of University property that is dedicated for a specific University purpose and/or access-restricted, including but not limited to parking facilities, residential facilities, intramural fields, Campus Gardens, including those listed at <https://www.unf.edu/botanical-garden/Visit.html>, Competition Pool Complex, UNF Golf Complex, Athletics facilities, Osprey Challenge Course, Nature Trails;
3. Obstructing vehicular, bicycle, pedestrian, or other traffic;
4. Obstructing entrances or exits to buildings or driveways;
5. Interfering with educational activities inside or outside any building;
6. Posing a health or safety threat to the University, students, faculty, staff or the general public;
7. Interfering with or precluding a scheduled speaker from being heard;
8. Damaging property of the University, including landscape and hardscape including, but not limited to, lawns, shrubs, trees, benches or artwork;

9. Using sound amplification, including bullhorns, without prior permission;

10 Harassing or endangering others as defined in the Student Code of Conduct;

11. Interfering with scheduled University ceremonies or events;

12. Erecting or placing any temporary or permanent structure, shelter, barrier or furniture, including but not limited to tents, canopies, beach/oversized umbrellas, and tables, without prior approval;

13. Camping, with or without a tent or other structure, including overnight sleeping, or the use of mattresses, comforters, and sleeping bags; without prior approval;

14. Engaging in Expressive Activity that is directed to incite or produce imminent lawless action, and is likely to incite or produce such action;

15. Violate any applicable federal, state, or local law and/or University policy or regulation.

1. **Prohibited Items During Freedom of Expression Activities**

No person, while participating in any Expressive Activity, shall carry or possess any of the following:

1. Signs exceeding 24’’ x 36’’. Only signs constructed of foam, cardboard, or paper are permitted. Signs may be mounted on sticks or posts, provided that the sticks or posts are constructed of wood, foam, or plastic and they do not exceed 48 inches in length, and ½ inch in diameter (if round) or ¼ inch thick by 2 inches wide (if rectangular).
2. Unmanned signs, banners, or flags. All signs, banners, or flags must be in the possession of a person at all times, unless prior approval has been granted pursuant to Regulation 7.0100R Temporary Signage. Any unmanned signs, banners, or flags will be removed pursuant to Regulation 7.0100R Temporary Signage.
3. Signs, banners, or flags that infer University endorsement by content or location.
4. Weapons or firearms, pursuant to s. 790.001, Florida Statutes.
5. Mace, pepper spray, or self-defense chemical spray that is carried solely for purposes of lawful self-defense and does not contain more than two ounces of chemical.
6. Bats, clubs, night sticks, batons, or similar objects.
7. Face shields, gas masks, hand-held shields, or helmets.
8. Face masks, personal disguise, hood, or other item to conceal one’s 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, or policy.
9. Flammable liquids or other incendiary devices.
10. Torches or other open flames, unless authorized by University officials.
11. Wagons, carts, or ladders, unless authorized by University officials, or other items that could be used to barricade or push or manipulate crowds.
12. Any other item reasonably determined by the University President or designee to be used, or potentially could be used, as a weapon, harmful device, or a public safety hazard.

**D. Use of Amplified or Enhanced Sound, Noise Levels and Crowd Sizes**

Any person or group may use outdoor areas of campus for Expressive Activities that do not materially and substantially disrupt University’s Normal Operation, or infringe upon the rights of others to engage in Expressive Activities. Use of amplified or enhanced sound, including bullhorns, is an example of activity that may result in such material and substantial disruption. As a result, use of amplified or enhanced sound in spontaneous and impromptu events is not permitted. However, if a person or group desires to use amplified sound at a scheduled expressive event, they must complete an Event Approval Form and provide it to the Director of the Student Union by the reservation request deadline published on the Student Union [website.](https://www.unf.edu/studentunion/event-services/reservations.html) If it is determined that the desired location for the proposed event will result in material and substantial disruption, the person, or event organizer acting on behalf of a group will be informed whether the event can proceed without the use of amplified sound, or alternative locations on campus or at alternative times the event can proceed using amplified sound.

Even where use of amplified sound is pre-approved, the University reserves the right to reconsider the approval on its use after consideration of the actual impact of amplified sounds on the Normal Operations of the University at the date, time, and location of the event. Restrictions may include, but are not limited to, revoking an amplified sound approval and/or working with the event organizer to find a different location on campus for use of amplified or seeking an alternative date and/or time for use of amplified sound. Any restrictions on the use of amplified sound after such has been previously approved shall be clearly communicated to the event organizer by a University official and made in accordance with Time, Place, and Manner principles.

Large groups, i.e., more than fifty (50) people, engaging in Expressive Activities has the potential of causing material and substantial disruption to the Normal Operation of the University due to increased safety and security risks, increased need for University administrative and University police resources, and the potential for increased noise levels. Therefore, the group, or its representative, must complete the Event Approval Form by the reservation request deadline published on the Student Union [website](https://www.unf.edu/studentunion/event-services/reservations.html) land submit it to the Director of the Student Union, indicating the date, time, location, and anticipated number of people who will attend the event. The Event organizer will be informed whether the event can proceed at the date, time, and location desired or whether alternative dates, times, and/or locations on campus for the event are necessary.

**E. Interfering with the Rights of Others to Engage in Expressive Activities.**

To ensure that all persons or groups rights to engage in Expressive Activities are protected, students, faculty and staff may not materially and substantially disrupt previously scheduled or reserved activities occurring on campus at the same time. Likewise, a person or group may not infringe on the rights of others’ Expressive Activities. If the University President, or designee, determines a person or group is materially and substantially disrupting previously scheduled events or infringing upon others’ rights to free expression, the President, or designee, may take appropriate action including, but not limited to, informing the person or group if they desire to continue the Expressive Activity they must relocate to another portion of campus or terminating the event.

The University President, or designee, reserves the right to set reasonable boundaries immediately surrounding areas where previously scheduled events are taking place. Such boundaries shall be clearly and conspicuously marked with approved signage, event management barricades, or other event management barriers or markings.

Outdoor areas of campus are for the use, enjoyment, and benefit of the entire University community. No person or group has the right to exclusive use of outdoor areas of campus unless a person or group has previously reserved an outdoor area of campus.

1. **Time Limitations on Expressive Activity**

Assemblies, protests, demonstrations, marches, picketing, speeches, and similar expressive activity, regardless of group size, is limited to the hours from 8:00 AM to 8:00 PM, unless prior approval is granted from the University.

**G. Obligation to Comply with Directives of University Officials Regarding Disruptive Activities**

This regulation seeks to identify and provide guidance regarding prohibited conduct while engaging in Expressive Activity in the outdoor areas of campus. However, the University cannot predict or identify all conduct or activities that cause a material and substantial disruption to the University’s Normal Operations or infringe on the rights of others. Therefore, consistent with the University’s enforcement of time, place, and manner restrictions, the University President, or designee, reserves the right to determine that certain conduct or activities are causing or are reasonably forecast to cause a material and substantial disruption to the University’s Normal Operations or infringe on the rights of others. Such a determination must be based on specific and articulable facts, as opposed to a general fear or apprehension, made on a content-neutral basis, must be narrowly tailored to serve a significant University interest, and must leave open ample alternative channels to engage in Expressive Activity.

1. In the event the University President or designee determines that an Expressive Activity is materially and substantially disrupting Normal Operation or infringing on the rights of others, the University President or designee has authority to:
	1. Inform the persons engaging in Expressive Activity of their name and official position;
	2. Inform the persons engaging in Expressive Activity that they are in violation of University regulation(s), policies, and/or procedures, Board of Governors regulations, or applicable law, and specify the nature of the violation(s);
	3. Request that the violation cease, which could include relocation of the activity to avoid the disruption; and/or terminating the activity and directing participants to disperse from all or portions of campus.
	4. Request that the persons engaging in Expressive Activity produce appropriate identification, such as a University ID card or government-issued ID.
	5. In the event of noncompliance with the request, enlist the assistance of law enforcement personnel in restoring order and enforcing the law and University policies and regulations.
2. In the event of a material or substantial disruption to Normal Operation or infringement on the rights of others, the University of North Florida Police Department or other law enforcement personnel has authority to:
	1. Require that any individual present appropriate identification;
	2. Declare Expressive Activity to be disruptive, disorderly, or in violation of University regulation or law and request all participants to cease and desist and to disperse and clear the area, including leaving University grounds immediately; and that failure to do so will subject individuals to trespass and/or arrest, as well as appropriate University disciplinary action;
	3. Arrest any participants observed to be in violation of applicable laws; and/or
	4. Enlist the assistance of outside law enforcement agencies, as necessary.

Nothing in this regulation is intended to limit or restrict the authority of the University of North Florida Police Department or other law enforcement personnel under applicable laws or University regulations, policies, or procedures.

In the event of material and substantial disruption, students, faculty and staff involved in the disruptive activities shall identify themselves by presenting appropriate documents such as University ID cards when requested to do so by a University official. Participants not officially affiliated with the University will be directed to leave the campus immediately or be subject to trespass and/or arrest for a violation of the law forbidding the disruption or interference with the administration or functions of an educational institution.

Additionally, failure for University students, faculty and staff to comply with instructions of University officials to cease material and substantial disruption of Normal Operations or infringing on the rights of others, may result in disciplinary action, including trespass, arrest, and referrals to student conduct.

**H. Exclusions**

This regulation does not govern a person or group who desires to rent indoor or outdoor space for commercial purposes on campus as such events shall be governed by Regulation 7.0050R, Commercial Activity; Selling of Merchandise, Activities Involving Off-Campus Vendors. Likewise, this regulation does not govern handing out pamphlets or other printed material as such activity is governed by Regulation 7.0060R Distribution of Printed Material. Finally, the right to engage in freedom of expression does not relieve a person or group from the duty to comply with other University regulations and policies.

*Specific Authority Regulation 1.001; F.S. Florida Statutes 1004.097. History–New as Approved by BOT on 10/11/18, revised xx/xx/xxxx.*