

OFFICE OF THE GENERAL COUNSEL: USF REGULATIONS

NOTICE OF PROPOSED NEW REGULATION

DATE: FEBRUARY 8, 2010 (REVISED FEBRUARY 11, 2011)

REGULATION No: USF 4.0140	TITLE: No Trespass and Loitering
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Summary

Florida Board of Governors Regulation 1.001 (3-26-09) provides that each Board of Trustees is authorized to promulgate university regulations in accordance with the Regulation Development Procedure adopted by the Board of Governors, (7-21-05). Such regulations must be consistent with law, and the regulations and strategic plan of the Board of Governors.

Florida Board of Governors Regulation 1.001 section (3)(l) further provides that “Each board of trustees shall be responsible for campus safety and emergency preparedness, to include safety and security measures for university personnel, students, and campus visitors.”

Recent Florida case law suggests that universities must have some form of official due process if restricting access to university property. To date, USF has used the outline set forth in the attached proposed Regulation as a “protocol” when considering No Trespass Orders.

If adopted by the Board of Trustees on March 17, 2011, this Regulation will provide the USF System with a formal procedure to address trespassing and loitering and the review process. Proposed Regulation follows:

(End of Summary)

1 **Proposed New USF System Regulation USF4.0140-No Trespass and Loitering**

2 (1) General:

3 The President, as the Chief Executive Officer of the University of South Florida System (USF
4 System) and, by delegation, the Chief Administrative Officers* at the System institutions or
5 campuses have the responsibility for the operation and administration of their campuses and
6 facilities. The President and those Administrative Officers have designated the University Law
7 Enforcement officers ("University Law Enforcement") to provide for the safety and security of
8 their individual institutions and campuses. Designated personnel and University Law
9 Enforcement may request individuals to leave or vacate or issue No Trespass Orders (NTO) as
10 set forth in this Regulation. *(As each System member has unique characteristics and offices,
11 "Administrative Officer" and "University Law Enforcement" may be different on each
12 institution or campus and the specific titles and offices may change. Contact the Chief Student
13 Affairs Officer or University Law Enforcement Office at the applicable institution or campus
14 for the most current titles and contact information.)

15 (2) Definitions:

16 (a) **University persons:** Those persons who are current faculty, administration, staff,
17 students or temporary employees of the USF System, and those persons who are in or on
18 University facilities to fulfill contractual obligations.

19 (b) **Non-University persons:** All other persons who are not classified above as University
20 persons.

21 (c) **Authorized University business:** Activity which furthers the mission and purpose of
22 the USF System and business that has been approved by the appropriate University officials.

23 (d) University facilities: All campuses and centers operated by the USF System, including
24 all buildings and grounds of such campuses and centers; and all locations, buildings, or grounds
25 utilized by the USF System for authorized University business.

26 (e) University officials: Employees of the USF System responsible for the control,
27 supervision or operation of a building, classroom, or USF System property.

28 (f) No Trespass Order (NTO): A No Trespass Order (NTO) is a written order issued by
29 the University Law Enforcement office responsible for the applicable institution or campus
30 security and will direct a person to leave, vacate or stay away from USF System property or
31 offices. The NTO is in effect for the period indicated (it may be temporary)—or if no specific
32 period of time is indicated, it is indefinite—and may only be lifted or revoked by the President,
33 the Vice President responsible for facilities on the individual campuses, the Chief Student Affairs
34 Officer, or their respective designees, after independent review or as a result of the Trespass
35 Review process as set forth in this Regulation.

36 (3) Applicability:

37 Any person who, in the opinion of University officials, is violating or has violated the law, USF
38 System regulations or policies, or is prowling, loitering, or is not using University facilities in an
39 appropriate manner or who is creating an atmosphere not conducive to the use of such facilities
40 by other University persons or authorized guests, may be immediately reported to University
41 Law Enforcement or may be directed to leave the USF System property by the University
42 official. In the event the person does not leave as requested, the University official may notify
43 University Law Enforcement. University Law Enforcement may respond to provide an official
44 warning and/or issue an NTO.

45 (4) Non-University Persons on USF System property:

46 Non-University persons are allowed access to University facilities available to the public, during
47 normal business hours and in accordance with USF System protocol, guidelines or regulations
48 governing the use of University facilities. Non-University persons are allowed to attend lectures,
49 plays, and other activities on the USF System campus in the designated buildings or areas when
50 such attendance is permitted by the sponsoring organization. Access to facilities may also be
51 permitted to Non-University persons in order to conduct official University business. Non-
52 University persons are not allowed on campus except as authorized by this Regulation.
53 University Law Enforcement may request a person leave the property or may issue an NTO to
54 any Non-University persons at University facilities for other than authorized University business
55 or whose current conduct or reported conduct is deemed to present a threat to the orderly
56 conduct of the USF System. Non-University persons on authorized University business are
57 permitted in offices of the USF System. University officials have the authority to request those
58 non-University persons to leave the University facility or premises. In the event the person does
59 not leave as requested and/or if the University official decides the matter should be reported to
60 the University Law Enforcement, the University official may notify University Law Enforcement
61 who may respond to provide an official warning and/or issue an NTO.

62 (5) Classroom Attendance by Students ONLY:

63 Only students registered for a class and those individuals contracted by USF System institutions
64 as service providers for disability accommodation reasons may be in attendance in instructional
65 areas unless permission of the instructor is given. The instructor, as the designated University
66 official responsible for the class, is authorized to notify non-students that they are trespassing
67 and must leave the area of instruction. In the event the person does not leave as requested
68 and/or if the University official decides the matter should be reported to the University Law
69 Enforcement, the University official may notify University Law Enforcement who may respond

70 to provide an official warning and/or issue an NTO. Non-University persons are not allowed in
71 classroom buildings unless present on authorized University business.

72 (6) Residence Halls:

73 Residence halls are considered to be the home of students. No one is allowed in a residence hall
74 except authorized USF System personnel, resident students, individuals contracted by USF
75 System institutions as service providers for disability accommodation reasons, and resident
76 students' guests according to published visitation policies.

77 (7) Library:

78 The University official at each institution vested with oversight of the Library or his/her
79 designee is authorized to warn those non-University persons, who are not using the library in an
80 appropriate manner or who are creating an atmosphere not conducive to its use by University
81 personnel, that they must leave the campus and/or an immediate report will be made to
82 University Law Enforcement for appropriate action under this Regulation.

83 (8) Trespass Reviews and Process:

84 (a) The type of Trespass Review is determined by the status of the person subject to an
85 NTO as follows (such that University persons have a right to an appeal ten (10) days from the
86 issuance date of the NTO where Non University persons may only appeal one year from the
87 issuance date of the NTO):

88 1. University Persons: Initial Trespass Review (10 days from the date of the NTO). Any
89 University person who receives an NTO to leave, vacate or stay away from USF System
90 property or offices (except those students who are issued NTOs as a sanction under the Student
91 Code of Conduct (SCC) as provided in existing USF System Regulation USF6.0021, as the SCC
92 includes an internal process and appeal mechanism that is final) may request an "Initial Trespass
93 Review" for the reconsideration, modification, and/or revocation of the NTO. The request

94 must be in writing (by e-mail or U.S. Mail) within ten (10) days of the date on the NTO or at
95 such time as the person has changed his or her status with regard to being a University person
96 (i.e. admission or employment by the USF System). Non-University persons may not request
97 this Initial Trespass Review.

98 2. All Persons: General Trespass Review (12 months from the date of the NTO)

99 Any person who receives an NTO may request a General Trespass Review *after a 12-month*
100 *period*. University persons at the time the NTO was issued may request another General
101 Trespass Review again once every 12-month period.

102 (b) Process for both the Initial and General Trespass Review:

103 1. Persons who were *students* at the time that they received the notice or warning to leave or
104 vacate USF System property shall direct Trespass Review requests to the Chief Student Affairs
105 officer and *non-students* shall direct Trespass Review requests to the Chief Security/Safety officer,
106 or his/her designee, responsible for facilities or safety at the designated institution or campus.
107 The title of the person vested with oversight of student affairs and facilities/safety may be
108 different at specific institutions or campuses

109 2. The Trespass Review will be a review by a committee appointed by the applicable office
110 as described above and will include three individuals as requested by that office. Recommended
111 members of the committee are representatives from the Offices of the University Law
112 Enforcement, Student Rights and Responsibilities, Academic Affairs, Human Resources or
113 Facilities and Planning. However, the makeup of the committee will be at the discretion of the
114 appointing office.

115 3. The Trespass Committee will review the submitted written request for review and the
116 existing USF System record unless the committee or office vested with the authority to conduct
117 the Trespass Review initiates a request for additional materials.

118 4. The Committee shall make a recommendation within three (3) weeks of receipt of the
119 written request for the Trespass Review to the student affairs or facilities/safety office. The
120 student affairs or facilities/safety office shall notify the person of the final determination by
121 either e-mail or U.S. mail within a reasonable time from the date of the committee
122 recommendation.

123 5. If the NTO is not changed, it remains in full force and effect. Non-University persons
124 shall have no additional right to review. A University person may make an additional request for
125 Trespass Review no more than once every twelve (12) months.

126 (9) All persons who have been notified by an authorized University official to leave and
127 remain out of a specified area or areas, either verbally or by NTO, who are subsequently found
128 in the specified area or areas are subject to arrest for trespass and/or loitering without further
129 warning pursuant to law.

130 (10) Nothing in the foregoing shall preclude or be interpreted to preclude or otherwise
131 diminish the exercise of the statutory authority of University Law Enforcement to arrest in
132 accordance with the laws of this state any person for violation of state law or applicable
133 ordinances when such violations occur on any property or facilities which are under the
134 jurisdiction of University Law Enforcement.

135 *Authority: Article IX, Sec. 7, Fla. Constitution; Fla. Board of Governors Regulation 1.001; Chapter 810,*
136 *F.S., 1012.97, F.S. History-New XX-XX-11.*

AUTHORITY TO ADOPT/AMEND/REPEAL: Art. IX, Sec. 7, Fla. Constitution; Fla. Board of Governors Regulation 1.001.

UNIVERSITY OFFICIAL INITIATING PROPOSED REGULATION: Sandy Lovins,
Vice President, Administrative Services.

**WRITTEN COMMENTS CONCERNING THIS PROPOSED REGULATION MAY
BE SUBMITTED WITHIN 14 DAYS AFTER THE POSTING DATE OF THIS
NOTICE TO:**

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