

**THE FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES
NOTICE OF PROPOSED REGULATION**

REGULATION NUMBER AND TITLE: FPU-1.006 Trespass.

SUMMARY OF THE REGULATION: This regulation provides the information related to the issuance of trespass warnings, the authority to issue trespass warnings, identifies who may issue trespass warnings, the consequences of a trespass warning, including arrest, and describes the process for the appeal or revocation of a trespass warning.

TEXT OF REGULATION: The full text of the Proposed Regulation can be viewed below and on the Florida Polytechnic University Board of Trustees website, at <http://floridapolytechnic.org/board-of-trustees/university-policies-and-regulations/>.

If you would like a copy of the Proposed Regulation, please contact Bacogie Luke, Administrative Assistant to the VP and General Counsel at (863)874-8412.

AUTHORITY: Board of Governors Regulations 1.001

NAME OF PERSON INITIATING PROPOSED REGULATION: Ava Parker, Executive VP & Chief Operating Officer

ANY PERSON SEEKING TO COMMENT ON THE PROPOSED 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.

THE CONTACT PERSON REGARDING THIS REGULATION IS: Bacogie Luke, Administrative Assistant to the VP and General Counsel at 4700 Research Way, Lakeland, Florida 33805-8531, Email: bluke@fpoly.org, Phone: (863)874-8412, Fax: (863)583-8716.

DATE OF PUBLICATION: May 1, 2015

THE FULL TEXT OF THE REVISED PROPOSED REGULATION IS PROVIDED BELOW:

FPU-1.006 Trespass

(1) PURPOSE. This regulation applies to any individuals on University property.

(a) The University Workplace and Learning Environment. The University permits public access to public portions of the campus while maintaining its commitment to a safe workplace and learning environment. The President or designee, may authorize the issuance of trespass warnings pursuant to Florida law. The President designates the University's Department of Public Safety & Police (the "University Police") as the department responsible for the implementation and enforcement of this regulation provided such is consistent with this regulation and with Florida Statutes section 1012.97 and Chapter 810. The University Police may request identification of individuals on campus, may direct individuals to leave campus, may issue trespass warnings and/or may arrest individuals for trespass.

Individuals on University property are subject to University policies, rules and regulations ("University rules") as well as state and federal law. Any person who, in the opinion of a University official, is violating the law, violating University rules, prowling, loitering, disrupting University operations, not using University facilities in an appropriate manner or who is creating an atmosphere not conducive to the use of the facilities by other persons or authorized guests, may be warned by a University official to leave the facility or campus or be subject to arrest for trespassing.

(b) Authority of University Police. Nothing in this regulation diminishes the exercise of the statutory authority of the University Police to arrest in accordance with the laws of this state, any person for violation of state law or applicable ordinances when such violations occur on any property or facilities which are under the jurisdiction of the University Police. For all University facilities, all certified law enforcement officers of the University Police may issue trespass warnings and issue instructions to an individual to leave and/or vacate any University facility, under the terms of this regulation and other applicable authority (including but not limited to Florida Statutes sections 810.08 and 810.09).

(c) Non-University persons. Non-University persons may access those University facilities available to the public, during normal business hours, including portions of the library, dining area, and bookstore/retail areas and in accordance with University rules governing the use of University facilities. Non-University persons may also access University facilities for authorized University business, and are allowed to attend lectures, plays and other activities on the University campus in the designated buildings or areas when such attendance is permitted by the sponsoring organization. The presence of non-University persons in offices of the University is permitted when on authorized University business.

(d) Instructional areas. Only students registered for a class and University personnel may be in attendance in instructional areas unless the instructor provides permission.

(e) University Library. The Director of the University Library may restrict access to certain library facilities, or portions thereof, to ensure that University persons have access to and quiet enjoyment of those facilities.

(f) The Wellness Center. The Wellness Center, intramural and recreational facilities are for the use of University students, University persons, and patrons. Identification may be requested for the use of these facilities.

(2) DEFINITIONS:

(a) University students. Those persons who are currently enrolled at the University, or who have been admitted and are registered for upcoming classes.

(b) **University persons.** Employees of the University and those persons who are in or on University facilities to fulfill contractual obligations or otherwise to conduct authorized University business.

(c) **Non-University persons.** All other persons who are not classified as University students or University persons. This category includes, but is not limited to, visitors (including alumni), invited guests, students of other institutions, and employees of other entities, and persons who have applied but have not been admitted to the University.

(d) **Trespass warning.** A warning or notice that a person is not authorized to be on University property, or some portion thereof, and may be subject to arrest, criminal sanctions and civil penalties without further warning if he or she refuses to leave or returns while the warning is in effect.

(e) **University official.** In addition to the President and all Vice-Presidents of the University, all University law enforcement officers are University officials for purposes of this regulation. In addition, University official includes a person authorized under this regulation to request that a person leave a University facility or is authorized to enforce any portion of this regulation. A person may be a University official in one setting but not in another – for example, an instructor is the authorized University official to remove someone from the classroom where and when the instructor is teaching, but that same instructor may not be authorized to request to remove someone from the Wellness Center.

(3) Statement of Regulation.

(a) **When a trespass warning may be issued.** A University official may ask an individual to leave and/or issue a trespass warning to a non-University person when that person is at University facilities for other than authorized University business, or where their continued presence at University facilities is deemed by the University official to be disruptive to the orderly conduct of University operations.

(b) **Authorization or delegation to issue a trespass warning.** The supervisor of each office has the authority to warn persons who are present but are not on University business that they must leave University facilities or be subject to arrest for trespassing. The supervisor will report such incidents to the University Police.

(c) **Instructors may issue trespass warnings.** The instructor is authorized to warn individuals not registered for the class that they are trespassing and must leave the area of instruction or be subject to arrest for trespass. The instructor will report any such incidents to the University Police. Non-University persons are not allowed in classrooms unless present on authorized University business.

This provision is not intended to restrict the ability of University administrators, facilities personnel, and/or first responders to have access to instructional areas, even during class periods, as needed to perform their duties.

(d) **The Director of the Library may issue trespass warnings.** The Director of the University Library or designee is authorized to warn those who are not using the library in an appropriate manner or those who are creating an atmosphere not conducive to its use by University students and personnel, that they

(i) must leave the library (if they are University students or University persons) or the campus (if they are non-University persons); or

(ii) be subject to arrest for trespassing. The Director of the University Library or designee will report any such incidents to the University Police.

(e) **The Director of Student Affairs may issue trespass warnings.** The Director of Student Affairs or designee is authorized to warn all unauthorized persons found at University facilities that they must leave the campus or be removed from University facilities if they do not comply. The Director or designee will report any such incidents to the University Police.

(f) **The Campus Fitness and Recreation Coordinator may issue trespass warnings.** The Campus Fitness and Recreation Coordinator is authorized to warn those who are not using the campus fitness and recreation facilities in an appropriate manner or who are creating an atmosphere not conducive to its use by University students and personnel, that they

(i) must leave the fitness/recreation facility (if they are University students or University persons) or the campus (if they are non-University persons); or

(ii) be subject to arrest for trespassing. The Coordinator will report any such incidents to the University Police.

(g) **On-campus housing.** No one is allowed in on-campus housing except authorized personnel, resident students and their guests. A resident student may have guests in the on-campus housing facility where the student resides provided such is in accordance with on-campus housing policies. The Management of the on-campus housing or the Director of Student Affairs or designee is authorized to warn persons to leave the on-campus housing facility and to have such persons removed from the facilities if they do not comply. Management will report any such incidents to the University Police. On-campus housing is not subject to the Florida Residential and Landlord Tenant Act (Fla. Stat. §83.42).

(h) **Consequences of a trespass warning.** A person who fails to comply with instructions given by University officials may be issued a trespass warning and if merited may be subject to arrest. All persons who have been issued a trespass warning or who have been notified by an authorized University official to leave and remain out of a specified area or areas and are subsequently found in the specified area or areas, are subject to arrest for trespass and/or loitering without further warning.

(i) **Parameters of a trespass warning.** A trespass warning issued to any person may be for an indefinite period or for a definite period, as noted on the warning itself. The issuer of the trespass warning will note or identify the geographic and temporal scope of the warning on the warning. A trespass warning may be issued for all University facilities, some portion thereof, or a particular event or series of events occurring in or on a University facility.

(j) **Appeals.** Any person issued a trespass warning may appeal the warning pursuant to the applicable procedure below.

(i) **Student appeals.** A University student issued a trespass warning may appeal the trespass warning in the context of the student conduct process. The student conduct hearing procedures are outlined in Student Code of Conduct.

(ii) **Non-student appeals.** Any person, other than a student described in paragraph (j) (i) above, may appeal a trespass warning as follows:

1. **Informal resolution.** A person wishing to contest a trespass warning should first attempt an informal resolution by contacting the Chief of Police of the University or designee to discuss the circumstances in which the trespass warning was issued.

2. **Review.** If informal resolution is not successful or is not satisfactory to the individual, he or she may request a review of the trespass warning, in writing, to the Chief of Police or designee. This written request for review must be received within ten (10) business days of issuance of the trespass warning. The individual must submit a detailed written statement to the University Police outlining the basis for the request for review, along

with any other documents, statements, photos, data or other items to be considered and provide an email address for receipt of the decision(s).

After receiving the written request for review, the Chief of Police or designee may, but is not required to, request additional information or documentation for any involved party including the issuing authority for further consideration. In addition, if requested by the individual, the Chief of Police or designee will meet with the individual and hear the individual's basis for requesting review and any evidence, including witnesses, the individual provides.

Subsequently, the Chief of Police or designee shall issue a written decision to uphold, modify, or reverse the issuance of the notice or trespass warning and send it to the individual's email address. The trespass warning shall only be reversed or modified by the Chief of Police or designee if, in his or her sole discretion, the requesting individual has shown, by clear and convincing evidence, that the underlying reason for the trespass warning did not occur or the actions did not warrant the trespass warning as issued.

3. Appeal. If the individual wants to appeal the decision of the Chief of Police or designee the individual must submit a written appeal to the President of the University or the President's designee, no later than ten (10) days after the date the Chief of Police or designee's decision was emailed to the individual. The President or designee will review the individual's initial request for review and related documents and may, but is not required to, meet with the individual in order to make a decision. The President or designee will send the decision to the individual's email address and to the Chief of Police or designee. The decision of the President or designee is the final decision of the University.

(k) Requests for Revocation. If a trespass warning has been in effect for a period of at least six (6) months, the individual who received the trespass warning may request that the warning be revoked. The request for revocation must be in writing, contain an email address for sending a decision and must include an explanation of why the individual believes the trespass warning should be revoked; the request may, but is not required to, include additional information to support the request.

(i) Students. Individuals who were University students when they received the trespass warning shall direct such requests to the Vice President for Student Affairs who will issue a decision consistent with the procedures outlined in the Student Code of Conduct.

(ii) Non-students. A trespass warning issued to a non-student may only be revoked by the Chief of Police or designee. The request should be approved if in the reasonable opinion of the Chief of Police or designee that the conditions that led to the issuance of the trespass warning no longer exist and that there is no reasonably predicted public safety risk. The decision of the Chief of Police or designee is the final decision of the University and may not be appealed further at the University. If the Chief of Police or designee decides that the trespass warning should not be revoked, the individual may submit, after waiting a period six months from the date of that decision, another request for revocation following the same procedure.

Authority: BOG Regulation 1.001

History: New _____