



EXECUTIVE VICE PRESIDENT—
BUSINESS OPERATIONS

OFFICE OF THE PRESIDENT
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200
510/987-9029

April 4, 2008

ACADEMIC COUNCIL CHAIR BROWN

Re: Proposed Regulations Governing Conduct of Non-Affiliates on University Property

Dear Michael:

Thank you for the Academic Council's careful review of the proposed regulations governing the conduct of non-affiliates on University property. Enclosed are the revised, proposed regulations for non-affiliates.

The Office of General Counsel reviewed the Council's specific concerns and addressed them as follows. (All references are to the Regulations.)

1. *Definition of Non-Affiliates:* The definition of non-affiliates was expanded to include official volunteers, emeriti, and students who have completed the immediately preceding term, are not presently enrolled, and are eligible for re-enrollment. (Section II A, Definitions)
2. *Freedom of Speech:*
 - a. In your letter of January 24, 2008, you wrote that the regulations "should make it clear that no one would be arrested or prosecuted for a misdemeanor unless a request is first made to leave or desist..." In response to this concern, a new section was added to the proposed regulations.

When enforcing these Regulations, an officer or employee authorized to maintain order on the campus or facility should make a reasonable attempt to warn and advise a non-affiliate subject to cease the prohibited conduct or activity before citing and/or arresting the non-affiliate subject for violation of these Regulations, except where the conduct violating these Regulations reasonably appears to create a threat to or endanger health, safety or property. (Section III, Enforcement)

- b. The proof of identity requirement was deleted in its entirety from the Passage on University Property section. (Section XIII, Passage on University Property)

3. *Signs, Posters, Placards, Banners, Handbills, Display/Structures:*

Two sections were added to the Signs regulation to emphasize that all review is content neutral.

a. Section G was added.

Where the Designated University Official is permitted to authorize exceptions to the regulations set forth in this section, the criteria for such authorization shall be content-neutral and specified in advance. (Section XV, G, Signs)

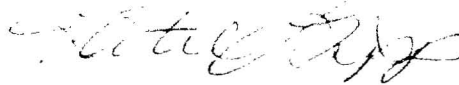
b. At the suggestion of the Los Angeles division of the Academic Senate, the following language was added to Section XV, Signs:

Non-affiliates' ability to speak and communicate on campus adds to the vibrant exchange of ideas at the University. At the same time, reasonable content-neutral regulations regarding the time, place, and manner of such speech help preserve University property for the functions for which it is dedicated.

4. *Discretionary Powers of the University:* Under Education Code Section 92440.5, violation of the Regulations by non-affiliates is a misdemeanor, and in that sense they are "binding" in a judicial setting. As you are probably aware, police and local prosecutors have considerable discretion over enforcement of criminal laws. That discretion would be the same for criminal enforcement of the Regulations as it is for enforcement of all existing state and local criminal statutes.
5. *Artistic Expression:* Language was added to explicitly include programs approved by the Designated Campus Official for the sponsorship or presentation of visual or performing arts productions. (Section XII, Nudity)

Please convey our thanks to the faculty for its interest in crafting these regulations, which we believe will be a valuable tool for making the campuses safe for all who come on to University property. We appreciate the faculty's continuing support in meeting the challenge of campus security at the University of California.

Sincerely,



Katherine N. Lapp
Executive Vice President

Enclosure

cc: Executive Director Bertero-Barceló
University Counsel Patti
Deputy Boland
Director Ngai

**Proposed Regulations Governing Conduct of Non-Affiliates
on the Buildings and Grounds of the University of California**

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Proposed Regulations (California Education Code § 92440.5)

I. INTRODUCTION.

The following regulations are promulgated under California Education Code Section 92440.5, which authorizes The Regents of the University of California to enact regulations addressing the conduct of persons who are not students, officers, or employees of the University of California when that conduct is a threat to persons or property or constitutes interference with functions or activities of the University. Violation of regulations promulgated under Section 92440.5 is punishable as a misdemeanor. Pursuant to Section 92440.5, these regulations do not apply to the conduct of students, officers, or employees of the University; their conduct is governed by other University regulations. These regulations may not be utilized to impinge upon the lawful exercise of constitutionally protected rights of freedom of speech or assembly, or the constitutionally protected right of personal privacy.

II. DEFINITIONS.

The following definitions shall apply to terms used in these Regulations:

- A. “Non-affiliate” means any person who is not any of the following: a student, officer, official volunteer, employee, Regent, or emeritus of the University of California or a member of a household authorized to reside in University Property. As used in this definition:
 - 1. “student” means any person who (a) is enrolled in or registered with an academic program of the University; (b) has completed the immediately preceding term, is not presently enrolled, and is eligible for re-enrollment; or (c) is on an approved educational leave or other approved leave status, or is on filing-fee status.
 - 2. “official volunteer” means any person who is: (a) listed as an officer of the recognized campus alumni association, including its committees or related clubs; (b) listed as an officer of a support group formally recognized by the particular campus; or (c) formally registered through the relevant Campus Human Resources/Staff Personnel office and authorized to provide volunteer services on behalf of the University in campus facilities (e.g., hospitals, museums, etc.).
 - 3. “employee” means any person who is listed in the campus payroll system, regardless of the percentage of time associated with the person’s employment, including a staff retiree who has been recalled for University employment.

- 4. "emeritus" means any person upon whom an academic emeritus title has been conferred and who has been assigned a workspace (office, laboratory, workstation) in a campus building.
- B. "University Property" means buildings and grounds that are operated by, or under the control of, The Regents of the University of California.
- C. "Person" includes natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons.
- D. "Designated University Official" means the University official delegated authority over the relevant operation from the Chancellor or chief administrative officer of the facility.

III. ENFORCEMENT.

When enforcing these Regulations, an officer or employee authorized to maintain order on the campus or facility should make a reasonable attempt to warn and advise a non-affiliate subject to cease the prohibited conduct or activity before citing and/or arresting the non-affiliate subject for violation of these Regulations, except where the conduct violating these Regulations reasonably appears to create a threat to or endanger health, safety or property.

IV. ALCOHOL.

No non-affiliate shall drink or consume any alcoholic beverage, or possess an alcoholic beverage in an open container, on University property out of doors, except as an invited guest at an event or activity sponsored by the University at which the Designated University Official has approved the consumption of alcoholic beverages.

V. APPROVAL FOR ACTIVITY ON UNIVERSITY OF CALIFORNIA PROPERTY.

- A. Approval for Gatherings or Demonstrations: No non-affiliate shall hold or conduct any demonstration or gathering in or upon any University property without prior approval from the Designated University Official, and subject to such requirements regarding time, place, and manner as the Designated University Official may impose.
- B. Approval for Structures or Equipment: No non-affiliate shall build, construct, set up, place or maintain or attempt such, in or upon any University of California owned or operated property, any tent, platform, booth, bench, table, building, sound system, or other structure, without prior approval from the Designated University Official, and subject to such requirements regarding time, place, and manner as the Designated University Official may impose.
- C. Approval for Amplified Sound: No non-affiliate may use amplified sound on University Property, without prior approval from the Designated University Official, and subject to such requirements regarding time, place, and manner as the Designated University Official may impose.

- D. Criteria for approval of activities in this section shall be content-neutral and specified in advance.

VI. CAMPING AND STORAGE OF PERSONAL BELONGINGS.

No non-affiliate on University property shall:

- A. Camp, occupy camp facilities, use camp paraphernalia, or store personal property on University property except in an area designated for such purposes and pursuant to a valid permit issued by the Designated University Official.
- B. Bring any tent or other housing structure on University property, or occupy any such tent or housing structure, except as approved by the Designated University Official.
- C. Set up a household or campsite on University property.
- D. Bring, leave, or dump furniture, mattresses, or other large household items on University property, or bring or maintain large personal belongings or large amounts of personal belongings on University property, except as authorized by the Designated University Official. For purposes of this section, "large household items," "large personal belongings," and "large amounts of personal belongings," means anything that cannot be reasonably carried on the person or reasonably used for personal purposes.
- E. Store personal possessions on University property. For purposes of this section, "storage of personal possessions" means leaving items unattended, that is, not in the owner's immediate personal custody and control.
- F. Bring onto University property any unauthorized carts, carriages, trailers, or other vehicles of conveyance designed for, or used to transport property, except for: (1) baby carriages actually used to transport infants, or (2) wheelchairs or other wheeled conveyances necessary for disabled access.

VII. COMMERCIAL ACTIVITIES.

No non-affiliate shall solicit, hawk or otherwise peddle or rent any goods, wares, merchandise, liquids or edibles for human consumption or services on University property, operate any commercial enterprise, or give any lessons, classes or instruction on University property whether for profit or otherwise, except as specifically authorized by the Designated University Official. For purposes of this section, soliciting and selling shall include the leafleting or distribution of advertisements or other promotional devices.

VIII. CURFEW.

No non-affiliate shall enter or otherwise remain on University Property between the hours of midnight to 6:00 a.m., or at such other times as published or posted by the campus or University location. This curfew shall not apply to University housing residents or their invited guests, invited guests of University faculty, emeritus or staff, persons possessing valid written authorization from the Designated University Official, or those on legitimate University related business or attending a specific University sponsored event. Those persons possessing a valid written authorization, or attending a specific event, shall be allowed to remain and use the facilities as specified in their authorization or through the duration of the specific event, after which time they shall leave the property without any appreciable delay. This curfew also shall not apply to people proceeding directly across a roadway or path that has been designated by the Designated University Official as open to the public during curfew hours.

IX. DANGEROUS MATERIALS.

No non-affiliate shall bring any explosive material (as defined by Section 12000 of the California Health and Safety Code) or flammable material (as defined by Section 12504 of the California Health and Safety Code) or any hazardous or flammable materials (as defined by the regulations adopted pursuant to Section 2402.7 of the California Vehicle Code) onto University property, regardless of whether or not the material is burning, except such materials that are transported in approved containers and necessary for the conduct of the business of the University or are approved by the Designated University Official or are contained in any tank used only to carry fuel necessary for the operation of a vehicle or any equipment of the vehicle.

X. DOGS, CATS AND OTHER ANIMALS.

No non-affiliate, having ownership, custody or control of any dog, cat or other animal, except for animals (as described in California Penal Code Section 365.5) assisting persons with disabilities, shall cause, suffer or permit such animal on University property without authorization, unless (1) the animal remains on a leash or under the hand control of a responsible person at all times, (2) the animal is not left unattended, and (3) the animal remains at all time in outdoor areas designated by the University. Any non-affiliates having ownership, custody or control of any animal on University property must promptly remove and properly dispose of any droppings left by such animal.

XI. FIRES.

Non-affiliates shall not start or maintain campfires, portable stoves, open fires and other fires on University property except as expressly authorized by the Designated University Official, and subject to such requirements regarding location, time, and fire safety precautions as the Designated University Official may impose.

XII. NUDITY.

No non-affiliate shall be nude on University property in any place open to the public or any place visible from a place open to the public including offices and classrooms, except for specifically designated "clothing optional areas" of campus gymnasiums and pools, dressing rooms, changing rooms, and restrooms. "Nude" within the meaning of this section means the absence of an opaque covering which covers the genitals, pubic hair, buttocks, perineum, anus or anal region of any person or any portion of the breast at or below the areola thereof of any female person.

This prohibition does not apply to: (1) individuals or groups participating in visual or performing arts productions or academic programs or classes scheduled or sponsored by campus academic units or departments or under the auspices of programs approved by the Designated Campus Official for the sponsorship or presentation of visual or performing arts productions, as determined and formally approved by the departmental chair, unit or program director; or (2) any female exposing her breast to the extent such exposure is necessary to breast-feed a child.

XIII. PASSAGE ON UNIVERSITY PROPERTY.

No non-affiliate shall remain on University property if directed to leave that University property by the chief administrative officer of the campus or facility, or an officer or employee designated by the chief administrative officer to maintain order on the campus or facility, upon the reasonable determination of that officer or employee that the non-affiliate is committing an act that is likely to interfere with the peaceful conduct of the activities of the campus or facility or has entered the campus or facility with the purpose of committing any such act.

XIV. PROHIBITED CONDUCT.

No non-affiliate on University property shall:

- A. Knowingly and willfully interfere with the peaceful conduct of the activities of the campus or facility by intimidating, harassing or obstructing any University employee, student, or any other person.
- B. Delay or linger without lawful purpose for being on the property and for the purpose of committing a crime or violation of these policies as opportunity may be discovered.
- C. Use University facilities not generally open to the public, including but not limited to, showers, storage lockers, study lounges or recreational facilities, without authorization of a Designated University Official.

- D. Rummage through or remove any discarded item from any recycling container or any designated University waste or recycling center without authorization of a Designated University Official.
- E. Urinate or defecate in any place other than a designated restroom or other facility designed for the sanitary disposal of human waste.
- F. Wear a mask, personal disguise, or otherwise conceal his/her identity with the intent of intimidating any person or group, or for the purpose of evading or escaping discovery, recognition, or identification in the commission of violations of University policy, University regulations or municipal, state, or federal laws.
- G. Disturb plants and wildlife in any way, including climbing or placing objects in trees or bushes or attaching items to them.
- H. Attempt to engage in any of the above offenses.

XV. SIGNS, POSTERS, PLACARDS, BANNERS, HANDBILLS, DISPLAYS/STRUCTURES.

Non-affiliates' ability to speak and communicate on campus adds to the vibrant exchange of ideas at the University. At the same time, reasonable content-neutral regulations regarding the time, place, and manner of such speech help preserve University property for the functions for which it is dedicated.

- A. No non-affiliate shall carry, transport or use signs, posters, placards or banners exceeding thirty inches (30") by thirty inches (30") in size, in or on any University property unless prior written permission has been obtained from Designated University Official.
 - 1. The size of the handles or supports for such signs, posters, placards, or banners shall be limited to one-fourth inch (1/4") in thickness by three-fourths inch (3/4") in width and shall extend no more than eighteen inches (18") beyond a single exterior edge of such signs, posters, placards or banners.
 - 2. All such handles or supports shall be made of wood without exception.
- B. No non-affiliate shall, on University property, without authorization from the Designated University Official: in any way affix, fasten, or attach to the premises any such signs, posters, placards or banners; nor shall they be self-supporting and placed for display; nor leaned against any wall, partition or other portion of University property.
- C. No non-affiliate shall carry such signs, posters, placards or banners in a way that obstructs or interferes with the normal movement of any vehicular traffic or pedestrian movement on University property.

- D. No non-affiliate shall post or affix, or cause to be posted or affixed, on any University property any handbill, circular, booklet, card, pamphlet, sheet or written or printed notice except in such locations and in the time and manner explicitly established by the University for such purpose, without prior authorization of the Designated University Official.
- E. No non-affiliate shall distribute any written or printed matter in violation of established campus directives regarding time, place and manner.
- F. No non-affiliate shall erect any structure or display, or bring a structure or display on to University property without prior written authorization from the Designated University Official. For purposes of this paragraph, "structure or display" means any object larger than two feet in any dimension that is intended to be placed or displayed in a public area, or is left unattended in a public area. It does not include objects entirely supported or carried by a single person that do not extend more than one foot from that person (e.g., a signboard supported over someone's shoulders).
- G. Where the Designated University Official is permitted to authorize exceptions to the regulations set forth in this section, the criteria for such authorization shall be content-neutral and specified in advance.

XVI. WEAPONS.

No non-affiliate shall, on University property, carry upon his/her person or have in his/her possession or under his/her control any Dangerous Weapon. For purposes of this section, "Dangerous Weapon" means and includes, but is not limited to:

- A. Any firearm in violation of the Gun-Free School Zone Act of 1995, California Penal Code Section 626.9.
- B. Any knife having a blade two and one-half inches or more in length.
- C. Any folding knife with a blade that locks into place.
- D. Any ice pick or similar sharp tool that can be used as a stabbing implement capable of inflicting serious bodily injury.
- E. Any razor with an unguarded blade.
- F. Any cutting, stabbing or bludgeoning weapon or device capable of inflicting serious bodily injury.
- G. Any dirk or dagger.
- H. Any taser, stun gun, or other similar electronic device.
- I. Any instrument that expels a metallic projectile such as a BB or a pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun.

This section shall not apply to a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830 of the California Penal Code), a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, a security guard authorized to carry a loaded firearm pursuant to California Penal Code Section 12031 or to an honorably retired peace officer authorized to carry a concealed or loaded firearm pursuant to California Penal Code Sections 12027(a) or (i), or California Penal Code Section 12031(b)(1) or (8), or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties

This section shall not apply if, at the time of the alleged violation, the instrument or device alleged to be a Dangerous Weapon was in good faith carried upon the person or in his/her custody or control for use in his/her lawful occupation or employment.

XVII. AUTHORITY CITED.

Authority cited: California Education Code Section 92440.5(a)

Notwithstanding any other provision of law, to the extent that The Regents adopt or amend a rule or regulation pertaining to the governance and maintenance of the buildings and grounds of the University of California pursuant to this section, addressing the conduct of persons who are not students, officers, or employees of the University of California when that conduct is a threat to persons or property or constitutes interference with the functions or activities of the University, the violation of that rule or regulation is a misdemeanor.