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Assembly of the Academic Senate
Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

November 8, 2007

**SYSTEMWIDE SENATE COMMITTEE CHAIRS
DIVISION CHAIRS**

RE: Systemwide Senate Review of Proposed Regulations Governing Conduct of Non-Affiliates

Dear Systemwide Senate Committee and Division Chairs:

On behalf of Chair Michael T. Brown, proposed regulations governing the conduct of non-affiliates on University property is being forwarded for your review and comments. As background information, on July 27, 2007, Academic Council Chair Oakley was informed that the Office of the President had sent out a draft of this proposal to the campuses for administrative comments. Upon quick review of the proposal by the Academic Council it was determined that this proposal needed to be sent out for Senate-wide review. Executive Vice President for Business Operations Katherine N. Lapp agreed that once a revised proposal was completed that it would be sent to the Academic Council for comment. We are now in receipt of the proposed regulations, and EVP Lapp has requested an expedited review with comments back by the end of December if at all feasible.

In order to meet the requested December deadline, we are requesting that both **Systemwide Senate Committees** and **Divisions** submit responses by **December 13, 2007**.

As a reminder to Systemwide Senate Committee Chairs, please note that **requests for comments are sent out to all System-wide Senate Committees. Each committee may decide whether or not to opine.** Please notify the Senate Office either directly by emailing me or through your Committee Analyst, if your committee chooses not to participate in this review.

Cordially,

A handwritten signature in cursive script, appearing to read "María".

María Bertero-Barceló, Executive Director
Academic Senate

Encl: 1
Copy: Academic Council Chair Michael T. Brown
Divisional Senate Directors
Academic Senate Committee Analysts



EXECUTIVE VICE PRESIDENT—
BUSINESS OPERATIONS

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

November 5, 2007

ACADEMIC COUNCIL CHAIR BROWN

Re: Proposed Regulations Governing Conduct of Non-Affiliates

Dear Michael:

The proposed regulations governing the conduct of non-affiliates on University property are enclosed for the Academic Senate's review and comment.

I understand that you have agreed to an expedited review of these proposed regulations and will try to have comments back to us by the end of December. Please let me know if this timeline is still feasible.

If you have any questions or concerns, please feel free to contact me.

Sincerely,

Katherine N. Lapp
Executive Vice President

Enclosures

cc: Executive Director Bertero-Barceló
Deputy Boland
Interim Public Records Officer Ngai

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Proposed Regulations (California Education Code Section 92440.5)

INTRODUCTION

The following regulations are promulgated under California Education Code Section 92440.5. Section 92440.5 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 and makes violation of regulations promulgated under Section 92440.5 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.

DEFINITIONS

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

1. “Non-affiliate” means any person who is not any of the following: a student, officer, or employee of the University of California or a member of a household authorized to reside in University Property.
2. “University Property” means buildings and grounds that are operated by, or under the control of, the Regents of the University of California.
3. “Person” includes natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons.
4. “Designated University Official” means the University official delegated authority over the relevant operation from the Chancellor or chief administrative officer of the facility.

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.

APPROVAL FOR ACTIVITY ON UNIVERSITY OF CALIFORNIA PROPERTY

1. 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.
2. 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.
3. 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.

CAMPING AND STORAGE OF PERSONAL BELONGINGS

No non-affiliate on University property shall:

1. 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.
2. 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.
3. Set up a household or campsite on University property.
4. 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 other than what can be reasonably carried on the person or reasonably used for personal purposes.
5. 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.
6. Bring onto University property any unauthorized carts, carriages, trailers, or other vehicles of conveyance designed for, or used to transport property, except for: (a) baby carriages actually

used to transport infants, or (b) wheelchairs or other wheeled conveyances necessary for disabled access.

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.

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 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.

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.

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.

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.

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, as determined and formally approved by the departmental chair or unit director; or (2) any female exposing her breast to the extent such exposure is necessary to breast-feed a child.

PASSAGE ON UNIVERSITY PROPERTY AND PROOF OF IDENTITY

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.

No non-affiliate on University property shall refuse to provide identification to demonstrate his or her affiliation with the campus if directed to do so 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.

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) Loiter with the intent to violate law or University policy.
- (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 waste can, trash can, dumpster, 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 or applicable 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.

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

1. Requirements for Size: 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 a Designated University Official, whose review under this section shall not be made on the basis of content.

- a) 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.
 - b) All such handles or supports shall be made of wood without exception.
2. Requirements for Hand-Carrying: 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.
 3. No Obstruction: 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.
 4. Posting: 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.
 5. Distribution of Written Materials: No non-affiliate shall distribute any written or printed matter in violation of established campus directives regarding time, place and manner.
 6. Unauthorized Displays/Structures: 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 (i.e., a signboard supported over someone's shoulders).

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, 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 of the accused or was in good faith in his possession or control for use in his lawful occupation or employment.

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.

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 functions or activities of the university, the violation of that rule or regulation is a misdemeanor.

(b) (1) A proposed rule or regulation subject to this section shall be reviewed by the regents' office of general counsel for necessity, authority, clarity, consistency, reference, and nonduplication. The office of general counsel may recommend to the regents any action it deems appropriate concerning the proposed rule or regulation.

(2) For purposes of paragraph (1), "necessity," "authority," "clarity," "consistency," "reference," and "nonduplication" have the same meaning as those words are defined by Section 11349 of the Government Code.

(c) Notice of the proposed rule or regulation described in this section shall be available to the public in electronic format and shall be published at least 45 days prior to a public hearing in a newspaper of general circulation in each county in which the regents maintain a campus. The notice shall include the right of the public to comment orally or in writing on the proposed rule or regulation either prior to or during the public hearing.

(d) The public shall be provided the opportunity to comment on the proposed rule or regulation at that public hearing.

(e) The regents shall maintain a rulemaking file containing the public notice, public comments, and minutes of the public hearing, including the action taken.

(f) The rulemaking file maintained pursuant to subdivision (e) shall contain a summary of each objection or recommendation made with an explanation of how the proposed rule or regulation was changed to accommodate each objection or recommendation, or the reason or reasons for making no change.

(g) The proposed rule or regulation shall be accompanied by an estimate of the effect of the proposed rule or regulation with regard to the costs or savings to the regents, other state or local agency, or any combination.

(h) The regents shall transmit the rule or regulation, as adopted, to the Secretary of State for filing, and, upon publication in the California Code of Regulations, a violation of the rule or regulation is a misdemeanor.

(i) This section 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.