

NOTICE OF CHANGE IN PROPOSED REGULATION

Date: November 5, 2012

REGULATION TITLE:	REGULATION
NO.:	
Distribution of Printed Material	UF-2.003

SUMMARY OF CHANGES: The University of Florida, in response to comments received concerning the amendments to the above regulation, has changed sections (5), (7) and (8) as reflected in the attached.

THE FULL TEXT OF THE PROPOSED REGULATION IS ATTACHED TO THIS NOTICE.

REGULATIONS OF THE
UNIVERSITY OF FLORIDA

Substantial clarifying rewording of Regulation UF-2.003 follows.

See <http://regulations.ufl.edu/regulations/> for present text.

UF 2.003 Distribution of Printed Material.

(1) The University encourages protected discourse in designated public fora on its campus and the environmental sustainability of its campus, and requires thoughtful allocation of limited educational resources, all of which are critical to the University's educational mission. The purpose of this regulation is to promote the University's educational mission and the public health, safety and welfare through the regulation of the time, place and manner of such discourse on the University campus so as to:

- (a) Reduce of litter and landfill waste streams;
- (b) Provide for pedestrian and vehicular safety and convenience by restricting unreasonable interference with the flow of pedestrian or vehicular traffic (including ingress into or egress from any campus building or thoroughfare);
- (c) Reduce visual clutter and promote the aesthetic quality of the University campus;
- (d) Provide for public and property safety during hurricane and other severe weather conditions;
- (e) Provide reasonable access for the use and maintenance of poles, posts, traffic signs or signals, hydrants and access used for public transportation purposes;
- (f) Maintain and preserve freedom of the press; and

(g) Provide for the safe, orderly and cooperative Manned Distribution and Unmanned Distribution of Printed Materials on the University campus.

(2) Definitions.

(a) “Designated Ground Area” means a Limited Designated Public Forum constituting a University-owned fixed area outdoors on the ground or pavement of the University’s campus that is designated and made available by the University for the Unmanned Distribution of Printed Material via a Non-modular Unit.

(b) “Limited Designated Public Forums” means Designated Ground Areas and Modular Units that are owned, designated and made available by the University for the Unmanned Distribution of Printed Material and other fixed outdoor areas that are owned, designated and made available by the University for the Manned Distribution of Printed Material, under the time, place and manner conditions and restrictions established in this regulation.

(c) “Manned Distribution” means distribution by a natural person physically handing Printed Material to a consumer.

(d) “Modular Unit” means a Limited Designated Public Forum constituting a University-owned box which is a fixed location on the University’s campus that is designated and made available by the University for the Unmanned Distribution of Printed Material.

(e) “Non-modular Unit” means publisher- or distributor-provided equipment used for the Unmanned Distribution of Printed Material in a Limited Designated Public Forum constituting a Designated Ground Area that is designated and made available by the University for that purpose.

(f) “Printed Material” means newspapers, handbills, leaflets, pamphlets, posters, magazines, and printed items of a like nature.

(g) “Publisher” means any person, organization or entity that prints or arranges for the printing of, or acquires in bulk, Printed Materials for the purpose of distributing the Printed Materials, and any employee or agent of that person, organization or entity.

(h) “Unmanned Distribution” means distribution by placing Printed Materials at a location that is unattended by a natural person.

(3) The Distribution of Printed Material is permitted on campus in Limited Designated Public Forums that the University chooses to open for this purpose. Such distribution is subject to reasonable time, place, and manner requirements provided in this regulation to encourage protected speech in such public forums without interrupting or impairing the orderly operation of University programs, classes, studies, research, or other activities of the University and its faculty, students, staff, and invitees; the safety and security of the University and its faculty, students, staff, and invitees; the protection of the property and resources of the University and its faculty, students, staff and invitees; and the achievement of the University’s mission.

(4) Any Publisher desiring to distribute Printed Material on the University campus may distribute under the following conditions:

(a) Manned Distribution of Printed Material is permitted, but Printed Material, whether sold or distributed without charge, may not be left unattended unless placed in a space within a Modular Unit or contained in a Non-modular Unit placed in location within a Designated Ground Area in compliance with this regulation. To promote the aesthetic quality of the University campus and to avoid littering the campus and interference with

the operations, work and activities of the University, and its faculty, student and staff, Unmanned Distribution of Printed Material is permitted only in spaces provided in Modular Units and in Non-modular Units placed in locations within Designated Ground Areas pursuant to paragraph (5) of this regulation, and Printed Material may not be left in stacks, left on the ground, left on vehicles, or otherwise be left unattended, and equipment used in connection with Manned Distribution of Printed Material may not be left unattended and must be removed after its use.

(b) The Publisher distributing Printed Material is subject to all applicable University regulations and laws and regulations of the city, state and nation. For example only, distribution of Printed Materials by a student or student group or organization is subject to the Student Code of Conduct, among other regulations and law that apply.

(c) Speech that, alone or in combination with any conduct, is obscene, illegal or constitutes or is likely to provoke violence, an unsafe condition, an illegal action, destruction of property, or conduct that violates another provision of the University's regulations, is not protected and is prohibited in all areas of the campus.

(d) Advertisements for the illegal consumption of alcohol or the use, sale, consumption or distribution of illegal drugs are prohibited. Also prohibited are stand-alone advertisements for the rapid and excessive use or consumption of alcohol (conduct that violates University regulations and has contributed to death, serious injury and harm of individuals within the University community) including, but not limited to: 2-4-1 specials, beat-the-clock deals, happy hours, ladies' night, or illustrations/photos depicting these activities. Market-rate paid advertisements that are an immaterial and ancillary communication in a publication primarily for other purposes are not stand-alone

advertisements and, if legal, are not prohibited by this clause. Alcohol education materials/promotions (i.e., alcohol/health programs, responsible drinking programs, or University of Florida Alcohol awareness organizations materials) are permissible, so long as they do not violate University of Florida Regulation 2.019 and do not include such advertisements. Research and course materials on alcohol or drugs are not considered advertisements for purposes of this regulation, and such materials and other activities that do not constitute advertisements are not addressed by this clause.

(e) Distribution of Printed Material must not interfere with or impair the operations and activities of the University or infringe on the rights of others, including, but not limited to, instructional and research activities and conditions in classrooms, laboratories and other settings; residential activities and conditions; office activities and conditions; free movement of pedestrian and vehicular traffic; safety and security; privacy; and department- or operational unit-determined use of departmental or unit bulletin boards.

(f) Distribution of Printed Material may not take place within University buildings, structures and facilities, including athletic or recreational fields, with limited exceptions specifically provided in this regulation. In residence halls or other campus living areas, Printed Material may be distributed if, as and where permitted under the procedures approved by the governing bodies of those areas for such distribution. Distribution of Printed Material in classrooms is permitted at the discretion of the instructor. In any event, Printed Material may not be distributed in such a manner as to interfere with access to, or impair the condition or use of University buildings or facilities.

(g) Any Printed Material which identifies the author and/or Publisher as University personnel, or has subject matter, including photographs, which might

incorrectly imply to the reader that such publication is University-sponsored, reflects the University's position, or is sponsored by authorized University personnel in their official capacity, must contain the following statement prominently exhibited in the first three pages: "This publication is solely the expression of the author and/or publisher and it is not a publication of the University of Florida, nor is it in any way intended to express any policies or opinions of the University of Florida, or its personnel in their official capacities."

(h) No Printed Material may be posted or placed on trees, light or utility poles, any interior or exterior walls, windows, or doors of campus buildings, or on any campus facility, structure, building or property other than permanent official bulletin boards of the University designated for that purpose, except as permitted by the appropriate University official for official University instructional, research and administrative business in a manner that does not damage property, threaten safety or security or interfere with University activities.

(i) The use of adhesives in the posting of materials is strictly prohibited.

(j) The selling of Printed Material is subject to the provisions of University of Florida Regulation 4.006 and, if permitted by that regulation, must be sold in a space within a Modular Unit or in a Non-modular Unit placed in a location within a Designated Ground Area, complying with this regulation.

(k) Manned Distribution of Printed Material must be conducted in a manner that is not disruptive of University work or activities or pedestrian or other traffic, does not create a safety, security or health risk, and does not damage property or create litter uncollected by the distributor. Printed Material may not be forced upon an individual.

(1) Manned Distribution of Printed Material from groups, persons, and entities not defined as “University groups and organizations” under paragraph 2.004(l)(f), UF Reg., is limited to the following campus locations: Turlington Plaza, Plaza of the America, the north lawn of the J. Wayne Reitz Union, under the outside covered entrance to the Academic Research Building, J. Hillis Miller Health Science Center, and the northeast lawn of the College of Law. Public sidewalks adjacent to municipal or county streets in the University’s vicinity are also available for Manned Distribution of Printed Material subject to the reasonable time, place and manner requirements of the applicable public authority.

(5) Unmanned Distribution in Space Within Modular Units and in Non-modular Units Placed Within Designated Ground Areas.

(a) When the University chooses to open space within Modular Units and locations for Non-modular Units to be placed within Designated Ground Areas as Limited Designated Public Forums for the purpose of Unmanned Distribution of Printed Materials, the criteria in this regulation governing such distribution shall be aimed at providing reasonable access to the University community without interfering with pedestrian or vehicular travel, creating an unsafe or unsecure condition, creating litter uncollected by the distributor, compromising the aesthetic quality of the University’s campus, or interfering with or impairing University education, research, administrative or other work.

1. Unmanned Outdoor Distribution of Printed Materials by a Publisher is permitted solely under a University license for the use of a space within a Modular Units or for the placement of a Non-modular Unit in a location within a Designated Ground Area. Such license is issued by the University’s Associate Vice President for Business Affairs or

designee upon approval of an application by a Publisher for such a license in accordance with the provisions of this paragraph (5)(a)-(i).

2. The following procedures shall govern licensing of Unmanned Distribution of Printed Materials on the University campus. Notwithstanding any other provision of this regulation, the Vice President for Business Affairs, Associate Vice President for Business Affairs or a designee shall not consider the content of the Printed Materials in determining whether to approve an application or appeal for a license hereunder, ~~except to the extent the content is obscene or is likely to provoke violence, an unsafe condition, an illegal action, destruction of property. Controversial or offensive content, or content that is critical of the University policies or its personnel, does not, without more, constitute content that would justify denial of a license or appeal.~~

3. The locations of Modular Units for Unmanned Distribution of Printed Materials are shown at <http://www.bsd.ufl.edu/G1C/modularracks.aspx>. Areas of campus where the University has only opened Limited Designated Public Forums for such purpose within Modular Units are also shown at that Website.

4. Designated Ground Areas within which locations are established for the placement of Non-modular Units for Unmanned Distribution of Printed Materials are shown at <http://www.bsd.ufl.edu/G1C/modularracks.aspx>.

5. A Publisher may petition the Associate Vice President for Business Affairs or designee to create additional Designated Ground Areas for the placement of Non-modular Units, provided that the proposed locales shall not be in areas of the campus where Modular Units are the only Limited Designated Public Forums opened by the University for the Distribution of Printed Material, as such areas are shown at the Website

cited in paragraph (5)(a)3. The Associate Vice President for Business Affairs or designee will determine whether to approve the petition within 30 days of its receipt. In considering whether to grant approval of such petition, the Associate Vice President for Business Affairs or designee shall consider, without reference to content, whether allowing such additional Designated Ground Areas will interfere with pedestrian or vehicular travel, create an unsafe or unsecure condition, compromise the aesthetic of the University's campus, interfere with or impair University education, research, administrative or other work, or increase costs or require other resources of the University.

(b) Each application for a license for Unmanned Distribution of Printed Materials by a Publisher in a space within a Modular Unit or in a Non-modular Unit placed in a locale within an existing Designated Ground Area shall provide:

1. The name, physical address, telephone number, contact name, and email address of the applicant.
2. Whether the applicant seeks a license for the use of space(s) within Modular Unit(s) and/or placement of Non-modular Unit(s) in Designated Ground Area(s).
3. The name of the Printed Material publication proposed for Unmanned Distribution.
4. The location(s) of the particular Modular Unit(s) and/or the proposed location(s) for Non-modular Unit(s) within particular Designated Ground Area(s) where the applicant seeks to distribute Printed Material. See the locales of these Limited Designated Public Forums at the Websites cited in paragraph (5)(a)3 and 4.
5. In the case of an application for the use of space(s) in Modular Unit(s), the number of spaces or half-spaces in each Modular Unit that the applicant proposes to use,

the specific space(s) within an applicable Modular Unit that the applicant seeks to use, and an executed license agreement (provided by the University) whereby the applicant agrees that the applicant will comply with the provisions of this regulation, will not alter the Modular Unit in any way and will comply with other reasonable conditions related to the use and operation of Modular Units.

6. (A) In the case of an application for the placement of Non-modular Unit(s) within Designated Ground Area(s), a description of the proposed location(s) within each identified Designated Ground Area for each Non-modular Unit, a certification that the Non-modular Unit(s) will be identical in color, size, material, and dimensions to existing Modular Units, and an executed license agreement (provided by the University) whereby the Publisher agrees to bear all costs associated with the Non-modular Unit(s), comply with this regulation, and comply with other reasonable conditions related to the use of the applicable Designated Ground Area(s) for Non-modular Unit(s).

(B) The requirements of this ~~regulation~~paragraph (5)(b)6. concerning the color, size, material and dimensions of Non-modular Units shall not apply to any Non-modular Unit already located in a Designated Ground Area as of October 16, 2012 for so long as it remains in the existing locale; all other provisions of this regulation shall apply.

Applications for licenses for such already situated Non-modular Units shall be submitted to the Associate Vice President for Business Affairs no later than thirty (30) days after the effective date of this regulation.

(C) Notwithstanding anything in this paragraph (5)(b)6. to the contrary, an application for the placement of Non-modular Unit(s) within Designated Ground Area(s) may include a request that a variance be granted whereby such Non-modular Unit(s) may

vary from existing Modular Units in color, size, material, and/or dimension. A request for such a variance must include the color, size, material, and dimensions of the proposed Non-modular Unit(s). The Associate Vice President for Business Affairs or designee shall determine whether to grant such a variance. In making such determination, the Associate Vice President for Business Affairs or designee shall not consider the content of the Printed Material to be distributed in such Non-modular Unit(s), but shall consider the safety and aesthetic qualities of the proposed Non-modular Unit(s).

7. The approximate number of pages of each edition of the Printed Material, the frequency of the proposed distribution of the Printed Material, and, if the application is for space in a Modular Unit, the width and length of the Printed Material to be distributed.

(c) The Associate Vice President for Business Affairs or designee shall issue an initial license, within fifteen (15) days of receipt of a complete application for the use of Modular Unit(s) or for the location of Non-modular Unit(s) in Designated Ground Area(s) (provided such application complies in all respects with the requirements of paragraph (5)(b) of this regulation) if all of the following criteria are met on the face of the applicant's application (and, upon issuance, a license for the Unmanned Distribution of Printed Materials shall be effective for the period from the date of issuance of the license until the date that is the August 1 following such issuance), and the license shall renew automatically for an additional one (1) year period unless notice of termination is given at least thirty (30) days prior to termination:

1. The space in the Modular Unit or the location in the Designated Ground Area sought is not under license to another Publisher;

2. The applicant is not seeking more than 33 percent of the available space in a single Modular Unit or of the available locales in a Designated Ground Area.

3. If the application is for a locale within a Designated Ground Area, the Non-modular Unit satisfies the requirements of this regulation as to color, size, material and dimensions unless exempted under paragraph (5)(b)6. If the application is for space in a Modular Unit, the Printed Material will fit in the space sought (e.g., it is not too large for a half-space if that is sought).

4. The applicant, if it charges for its Printed Materials, shall (at applicant's sole cost and expense) install a system to control such access, be responsible for the maintenance of the system, and agree in the applicable license agreement that the University shall not be responsible for any loss of revenue or material of licensee as a result of any malfunction of the system.

5. The applicant has executed the applicable license agreement.

6. Applicants that submit an application in compliance with the provisions of this regulation will receive an initial license to distribute Printed Material in particular space(s) within Modular Unit(s) or to place Non-Modular Unit(s) in particular location(s) within Designated Ground Area(s) for that purpose on a first come, first served basis for applications determined by the Associate Vice President for Business Affairs or designee to equally satisfy the criteria established in paragraph (5)(b) and (c).

(d) When demand for spaces within Modular Units or demand for locales within Designated Ground Areas exceeds supply, then upon approval of an application for a license to use the last space in a given Modular Unit or the last locale within in a given Designated Ground Area, all the Associate Vice President for Business Affairs or designee

shall notify the license holders for the Modular Unit space or Designate Ground Area location that their licenses ~~for that Modular Unit or Designated Ground Area~~ shall expire the following August 1. Then, the Associate Vice President for Business Affairs or designee will accept and evaluate applications from all Publishers for use of space(s) within those Modular Unit(s) and allocate locale(s) within those Designated Ground Area(s) for Non-modular Units based on the following criteria:

1. A Publisher's historic use of space in a particular Modular Unit or of a locale within a particular Designated Ground Area will give rise to a presumption that such Publisher will be granted a license for the continued use of space in such Modular Unit or a locale in such Designated Ground Area.

2. If a Publisher that has not historically used space in a particular Modular Unit seeks a license for space in that Modular Unit, or if a Publisher that has not historically used a locale within a particular Designated Ground Area seeks a license to place a Non-modular Unit in that Designated Ground Area, the Associate Vice President for Business Affairs or designee will consider the following factors in determining whether to grant a license to said Publisher:

(iA) the length of the historic use of space in a Modular Unit or a locale in a Designated Ground Area (with preference given to publications that have used space in a particular Modular Unit or a locale in a particular Designated Ground Area for an extended period of time),

(iiB) frequency of each Publisher's publication of Printed Material (with preference given to more frequent publications),

(~~ii~~C) the number and proximity to one another of spaces in a single Modular Unit and/or spaces and/or locations in other Limited Public Forums, being used by each Publisher (with preference given to Publishers with limited or no distribution at a given location or at other nearby locations),

(~~iv~~D) the length of the Printed Material (with preference given to lengthier publications), and

(~~v~~E) respecting a Modular Unit, the size of the Printed Material (with preference given to publications that fit well within the space requested in the Modular Unit).

3. The criteria and processes in paragraph (5)(b) and (c) shall also apply, except that the Associate Vice President or designee shall have thirty (30) days (rather than fifteen (15) days) from receipt of the applications to act on such applications.

(e) In the event a petition or application under this paragraph (5) is denied for failure to satisfy the criteria set forth in this paragraph (5), the University's Associate Vice President for Business Affairs or designee shall inform such petitioner or applicant in writing at the address set forth in the petition or application of the reason(s) for such denial and the petitioner or applicant may submit a new petition or application in accordance with the provisions of this paragraph (5). If a petitioner or applicant wishes to appeal any decision with respect to a petition for additional Designated Ground areas or an application for a license for the use of space(s) in Modular Unit(s) and/or location(s) for Non-modular Units in Designated Ground Area(s), such petitioner or applicant may submit an appeal to the University's Vice President for Business Affairs within ~~fifteen~~ (~~5~~10) business days after receiving written notice of the denial at the address set forth in the petition or application. The appeal package shall be in writing and shall state with specificity why the

petitioner or applicant believes the decision of the Associate Vice President for Business Affairs is at odds with the applicable standards and criteria in this regulation. The University's Vice President for Business Affairs will make a final determination with respect to such an appeal on or before the 30th day following the receipt of a complete appeal package, and will notify the applicant in writing of such determination at the address set forth in the petition or application.

(f) The following obligations shall apply to all recipients of licenses under this regulation:

1. All Non-modular Unit(s) placed in Designated Ground Areas under licenses to a Publisher shall be kept in a serviceable, neat and clean condition, free of graffiti by such Publisher, and shall be serviced and repaired in a regular and periodic manner, and replaced when necessary, by the Publisher. The Publisher shall promptly, at its own cost, remove such Non-modular Unit(s) when directed by the University to do so due to severe weather conditions or other reasons related to the health, safety, or security of the University, people or property.

2. All spaces in Modular Unit(s) licensed to a Publisher shall be used for their intended purpose and without damage or impairment of such Modular Unit(s).

(g) Any Non-modular Unit or use of space in a Modular Unit not complying with this regulation will be considered a nuisance to the University community and the Non-modular Unit and its contents or the contents of the space in the Modular Unit may be removed and stored or disposed of by the University. In those cases where there is no immediate danger to health, safety or security, the University will provide Publisher with notice of failure to adhere to this regulation and will give Publisher three (3) days to cure

such failure prior to such removal. Following such three-day cure period, if applicable, any non-compliance with this regulation may result in removal of Printed Material or related equipment in accordance with paragraph (7).

(h) The University may revoke or suspend a license and discontinue Publisher's use of a space in a Modular Unit or a locale for a Non-modular Unit in a Designated Ground Area upon determining that the location of the Modular Unit or Non-modular Unit no longer being used by the licensee or is needed for ~~other University purposes (including, but not limited to, for expansion of~~ University infrastructure, service areas, ~~or~~ landscaping, ~~for other University activities or work, or to provide for the safety, security, and protection of the University, people or property).~~ activities or work. No revocation or suspension shall be effective until ten (10) business days after the licensee has been given notice in writing which states the reason for the revocation or suspension, as the case may be. A licensee may appeal any termination to the University's Vice President for Business Affairs within ten (10) business days after receiving notice of the termination. The filing of the appeal shall toll the effectiveness of the termination until 10 days after the determination of the appeal. The appeal shall be in writing and shall state with specificity why the licensee believes the termination is at odds with the applicable standards and criteria in this regulation. The University's Vice President for Business Affairs will make a final determination of the appeal on or before the 30th day following the receipt of a complete appeal package, and will notify the applicant in writing of such determination at the address stated on the licensee's appeal.

(6) Additional regulatory measures shall be observed where such regulations are necessary for special areas of the campus. The following are considered special areas:

The J. Hillis Miller Health Center, P .K. Yonge Developmental Research School campus and Florida Field. Distribution of Printed Material in these areas must be pursuant to the policies for these areas. Such policies are available from the director of each area or designee.

(7) Failure to adhere to this regulation or a license issued under it may result in removal of the Printed Material and related equipment ~~and disciplinary action by the University~~. The University shall notify the Publisher of any such failure. ~~Stepped discipline may be imposed on the violator. The~~ provide the Publisher an opportunity to respond to the notice, to be heard regarding the allegations in the notice, and to appeal any finding adverse to the Publisher in accordance with procedures that are consistent with the procedures for contesting other licensing decisions. Notwithstanding anything to the contrary herein, the University may remove Printed Material and/or related equipment that the University deems non-compliant with this regulation pending final resolution of the appeals process. Any member of the University community who is found to have violated this regulation is subject to disciplinary action. Any violator shall be responsible for any costs arising from the violation that are incurred by the University, its personnel, invitees, and contractors and/or the public for clean-up, repair, removal and/or replacement of property and equipment and/or for harm to people.

(8) Any individual, group or organization engaged in the distribution of Printed Material in violation of this regulation ~~shall~~may be prevented from continuing ~~such~~ distribution if of Printed Material if such action is found to be necessary to protect the uninterrupted or orderly operation of the University, the University's resources,

the University's faculty's, staff's, student's or invitees' work and activities, or the safety and security of the University, people or property.

(9) Any member of the University community who wrongfully interferes with the distribution of Printed Material in accordance with this regulation is subject to disciplinary action by the University.

Authority: BOG Regulation 1.001.

History--New 9-29-75, Amended 8-15-78, 8-6-81, 9-15-83, Formerly 6C1-2.03, Amended 5-19-93, 7-11-94, 5-1-96, 6-3-03, 5-30-04, Formerly 6C1-2.003, Amended 12-11-09.