



## FGCU REGULATION 9.009

*Effective Date  
of Regulation*

### Trespass and Loitering

*January 11, 2022*

#### A. GENERAL STATEMENT

1. Florida Gulf Coast University (FGCU) is a member institution of the State University System. The President, as the Chief Executive Officer of the University, has the responsibility for the operation and administration of the University, and may authorize the issuance of Trespass Warnings pursuant to Florida law. The Vice President for Administrative Services and Finance, as Chief Administrative Officer, is designated as the delegee of the President to implement and enforce this Regulation. The President and the Vice President for Administrative Services and Finance have designated the University Law Enforcement Officers (UPD) to provide for the safety and security of the University Premises.
2. This Regulation applies to all University Premises, as defined below.
3. Identification may be requested of persons seeking to access and/or use University facilities.

#### B. DEFINITIONS

1. *Authorized University Business*: Activity which furthers the mission and purpose of the University and business that has been approved by the appropriate University Official.
2. *Common Areas*: University areas generally open to Non-University Persons only during business or operating hours, including, but not limited to, portions of the library, food/vending areas, and bookstore/retail areas.
3. *No Trespass Order (NTO)*: A written order issued by the UPD responsible for the security of University Premises and will direct a person to leave, vacate, or stay away from University property or offices. The NTO is in effect for the period indicated (it may be temporary) or if no specific period of time is indicated, it is indefinite and may only be lifted or revoked by the President or Vice President responsible for the University Premises, the Vice President for Student Success and Enrollment Management, or their respective designees, after independent review or as a result of the student conduct process or trespass sanction process as set forth in this Regulation. Any such incidents will be reported to UPD.
4. *Non-University Persons*: All persons, as defined herein, 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, employees of

other entities, and persons who have applied but have not been admitted to the University.

5. *Trespass Warning/Notice*: A warning or notice that a person is not authorized to be on University Premises, or some portion thereof, and may be subject to arrest, criminal sanctions, and civil penalties without further warning if they refuse to leave or returns while the warning is in effect.
6. *University Housing Facilities*: All student housing owned or operated by FGCU and for which residence life programming is provided by the University.
7. *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 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 that a person leave an athletic facility.
8. *University Persons*: Those persons who are current faculty, staff, or other 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.
9. *University Premises*: All land, buildings, facilities, and other properties owned, used, leased, operated by, or in the possession of the University or one of its direct support organizations. University Premises includes any vehicles owned by the University such as cars, trucks, boats, busses, and golf carts.
10. *University Students*: Those persons who are currently enrolled at the University, or who have been admitted and who are registered for upcoming classes, or who have completed at least one (1) credit at the University during the current academic year.

### **C. NON-UNIVERSITY PERSONS ON UNIVERSITY PREMISES**

1. Non-University Persons are allowed access to those University Premises available to the public, during normal business hours and in accordance with University regulations governing the use of University facilities. Non-University Persons are allowed access to 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. It is the responsibility of the Vice President for Administrative Services and Finance, or their designee, to control the use of all University facilities. Non-University Persons are not allowed on campus except as authorized by this Regulation. Non-University Persons on University Premises for other than Authorized University Business, or

where their continued presence at University facilities is deemed by the Vice President for Administrative Services and Finance, or their designee, to be disruptive to the orderly conduct of the University, may be requested to leave and/or issued a Trespass Warning. The presence of Non-University Persons in offices of the University is permitted when on Authorized University Business. The supervisor of each office as the designee of the Vice President for Administrative Services and Finance is delegated the authority to warn those persons present not on University business that they must leave University facilities or be subject to arrest for trespassing. The University Police are to be notified of any such incidents.

## 2. Classroom Attendance by Students Only

Only students registered for a class may be in attendance in instructional areas, unless permission of the instructor is given. The instructor, as the designee of the Vice President for Administrative Services and Finance, 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. Any such incident will be reported to the University Police. Non-University Persons are not allowed in classroom buildings unless present on Authorized University Business. This provision is not intended to restrict the ability of University administrators, facilities personnel, and first responders to have access to instructional areas, even during class periods, as needed to perform their duties.

## 3. Library

The Dean of the University Library, or their designee, is designated by the Vice President for Administrative Services and Finance to warn those who are not using the library in an appropriate manner or who are creating an atmosphere not conducive to its use by University Students and personnel, that they must leave the library (if they are University Students or University Persons) or the campus (if they are Non-University Persons); or be subject to arrest for trespassing. Non-University Persons may be told to leave the campus pursuant to this section. Any such incidents will be reported to the University Police. The Dean of the University Library, or their designee, may restrict access to certain library facilities, or portions thereof, to ensure that University Persons are ensured access to and quiet enjoyment of those facilities.

## 4. Athletic, Intramurals, Recreation

Athletic, intramural, and recreational facilities are for the use of University Students, University Persons, and their authorized invited guests. Identification may be requested for the use of the facilities. The Director of Intercollegiate Athletics or the Vice President for Student Success and Enrollment Management, or their designees, are hereby designated by the Vice President for Administrative Services and Finance as the person to warn all unauthorized persons found at these facilities that they must leave the campus or be removed from University facilities if they do not comply. Any such

incidents will be reported to the University Police.

#### 5. Residence Halls

University Housing Facilities are considered to be the home of students who reside there. No one is allowed in a University Housing Facility except authorized University personnel, resident students, and individuals contracted as service providers for disability accommodations. In addition, a resident student may have guests in the University Housing Facility where the student resides only according to published visitation policies. The Director of Housing and Residence Life, or their designee, is designated by the Vice President for Administrative Services and Finance to warn all other persons to leave the University Housing Facility and to have such persons removed from University facilities if they do not comply. University Housing Facilities are not subject to the Florida Residential and Landlord Tenant Act (see section 83.42, Florida Statutes).

#### 6. Failure to Comply

- a. Any person who, in the opinion of a University Official, is violating the law, violating University Regulations or policies, prowling, loitering, not using University facilities in an appropriate manner or who is creating an atmosphere not conducive to the use of such facilities by other University 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. A person who fails to comply with instructions given by University Officials pursuant to section C. may be arrested and/or issued a Trespass Warning.
- c. A Trespass Warning issued to any person may be for an indefinite period or for a defined period, as noted on the NTO. A Trespass Warning issued to any person will note or identify the geographic and temporal scope of the warning. An NTO may be issued as to all University facilities, some portion thereof, or a particular event or series of events occurring in or on a University facility.

### **D. APPEALS**

Any person issued a Trespass Warning may appeal the warning pursuant to the applicable procedure below.

1. a. A University Student issued a Trespass Warning as part of the review of a student conduct referral or who is also referred to the student conduct process for the same conduct that led to the Trespass Warning may appeal the Trespass Warning in the context of the student conduct process. The student conduct hearing procedures are outlined in FGCU Regulation 4.002, Student Code of Conduct and Student Conduct Review Process.

- b. Any person, other than a student as described in this section, may appeal a Trespass Warning as follows:
- 1) A person wishing to contest a Trespass Warning should first attempt an informal resolution by contacting the Chief of Police, or designee, to discuss the circumstances in which the Trespass Warning was issued.
  - 2) If informal resolution is not successful or is not satisfactory to the individual, he or she may appeal the Trespass Warning, in writing, to the Vice President for Administrative Services and Finance, or designee, (hereafter referred to as, the reviewing official). This written appeal must be received within ten (10) business days of issuance of the Trespass Warning. The individual must submit a detailed written statement of the basis for the appeal, along with any other documents, statements, photos, data, or other items to be considered. After receiving the written appeal, the reviewing official may, but is not required to, request additional information or documentation for any involved party including the issuing authority for further consideration. Subsequently, the reviewing official shall issue a written decision to uphold, modify, or reverse the issuance of the notice or Trespass Warning. The Trespass Warning shall only be reversed or modified by the reviewing official if, in their sole discretion, the requesting individual has shown, by clear and convincing evidence, that the underlying reason for the Trespass Warning did not occur or does not warrant the Trespass Warning as issued. The decision of the reviewing official is the final decision of the University and may not be appealed further.
2. Requests for Revocation. If a Trespass Warning has been in effect for a period of at least six (6) months, the person who received the Trespass Warning may request that the warning be revoked. The request for revocation must be in writing 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. A Trespass Warning may only be revoked by the President, the Vice President for Administrative Services and Finance, or the Vice President for Student Success and Enrollment Management, or their respective designees. Persons who were University Students when they received the Trespass Warning shall direct such requests to the Vice President for Student Success and Enrollment Management; all others shall direct such requests to the Vice President for Administrative Services and Finance. The appropriate Vice President, or designee, will review the written request for revocation (hereafter referred to as, the reviewing official). The request should be approved if, in the reasonable opinion of the reviewing official, the conditions that led to the issuance of the Trespass Warning no longer exist and there is no reasonably predicted public safety risk. The decision of the reviewing official is the final decision of the University and may not be appealed further. If the reviewing official decides that the Trespass Warning should not be revoked, the individual may

submit, after waiting a period six (6) months from the date of that decision, another request for revocation following the same procedure.

3. 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 pursuant to law.
4. Nothing in the foregoing shall preclude or be interpreted to preclude or otherwise diminish the exercise of the statutory authority of 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.
5. For all University facilities, all certified law enforcement officers of the UPD are designated as authorized representatives of the President and Vice President for Administrative Services and Finance to issue Trespass Warnings, and to 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, sections 810.08 and 810.09, Florida Statutes).

*Authority*

*Sections 810.08, 810.09, 856.021, 856.031, 1001.706, 1001.73, 1012.97, Florida Statutes  
BOG Regulation 1.001, University Board of Trustees Powers and Duties*

*History of Regulation*

*New 01/11/22*

*Approved by Florida Gulf Coast University Board of Trustees*

*January 11, 2022*