

**FLORIDA BOARD OF GOVERNORS
NOTICE OF PROPOSED REGULATION AMENDMENT**

DATE: April 2, 2009

REGULATION NUMBER AND TITLE: 21.108 Procedures for Petitioning the Board of Governors, Challenging Compliance of the Campus Master Plan or Plan Amendment.

SUMMARY: An advisory group has worked over the past year with the Florida Conflict Resolution Consortium to revise and update the Board of Governor Master Planning Regulations. The group is composed of university, local government and community representatives.

The draft document has been circulated as well as posted on the Board of Governor's website, with the goal of soliciting comments and feedback. These revisions were presented at the March 26, 2009 Board of Governors meeting for public notice purposes; and if approved, will be presented for final approval in June 2009.

FULL TEXT OF THE REGULATION IS INCLUDED WITH THIS NOTICE.

AUTHORITY TO AMEND REGULATION(S): Section 7(d), Art. IX, Fla. Const.; BOG Regulation Development Procedure dated March 23, 2006.

THE BOARD OF GOVERNORS' OFFICIAL INITIATING THE PROPOSED AMENDMENT TO THE REGULATION: Chris Kinsley, Director, Finance & Facilities

COMMENTS REGARDING THE PROPOSED AMENDMENT SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation on which you are commenting:

Chris Kinsley, Director, Finance & Facilities, Board of Governors, State University System, 325 W. Gaines Street, Suite 1652, Tallahassee, Florida 32399, (850) 245-9677 (phone), (850) 245-9685 (fax), or Chris.Kinsley@flbog.edu

21.108 Procedures for Petitioning the Board of ~~Regents~~ Governors, Trustees Challenging Compliance of the Campus Master Plan or Plan Amendment.

~~(1) Any affected person who submitted comments on the draft campus master plan or plan amendment may petition the Board, challenging the campus master plan or plan amendment as not being in compliance with subsection 240.155(3), 1013.30 (3) Florida Statutes, and any rules promulgated pursuant to subsection 240.155(22)1013.30 (22), Florida Statutes.~~

~~(2) Optional elements which have been included in the adopted campus master plan at the discretion of the Board shall not be subject to challenge under this Rule.~~

~~(3) Plan amendments which, either alone or in conjunction with other amendments, do not exceed the thresholds established in Section 240.155(9)(a)-(c)1013.30 (9) (a) (c), Florida Statutes, and subsection 21.103(2), F.A.C., and are adopted by the Board, shall not be subject to challenge under this Rule.~~

~~(4) Petitions challenging the compliance of the campus master plan or plan amendment must be filed within 30 days after receipt of the notice of adoption of the plan or plan amendment, or within 30 days after the date the adopted plan or plan amendment is available for review, whichever is greater.~~

~~(1)(5) The Petitions challenging a campus master plan or campus master plan amendment pursuant to Section 1013.30(7), Florida Statutes, shall be filed with the General Counsel, Board of Regents ~~Governors~~, 325 West Gaines Street, Tallahassee, Florida 32399-1950 0400 at the applicable university. Each petition shall be typewritten or otherwise duplicated in legible form on white paper of standard letter size. Unless typewritten, the impression shall be on one side of the paper only and lines shall be double-spaced and indented. Each petition shall contain the following:~~

(a) The name of the party on whose behalf the petition is being filed;

(b) The name, address, and telephone number of the person filing the petition;

(c) The signature of the person filing the petition;

(d) A statement of facts sufficient to show that the petitioner is an affected person, as defined in subsection ~~240.155(2)(b) 1013.30 (2)(b)~~, Florida Statutes, including the date(s) and method by which the petitioner submitted oral or written comments or objections during the review and adoption of the plan or plan amendment;

(e) A statement identifying the campus master plan or plan amendment(s) which is being challenged, including the name of the institution, date of adoption, and any other specific formal designation(s);

(f) A statement describing how each portion of a campus master plan or plan amendment alleged to be not in compliance is not consistent with one or more provisions of Section ~~240.155(3), 1013.30~~ Florida Statutes, the State Comprehensive Plan, or Chapter 21, ~~Part II~~, F.A.C., or is in conflict with the comprehensive plans of appropriate host and/or affected local governments. ~~A petition filed by an affected local government may raise only those issues directly pertaining to the public services or facilities that the affected local government provides to or maintains within the campus, or to the direct impact that campus development would have on the affected local government; and~~

(g) A recommended action to bring the plan or plan amendment into compliance.

~~(2)(6) If the Board's university General Counsel determines that the petition filed by an affected person is sufficient, complies with Section 1013.30(7) and this regulation, the Board's university General Counsel shall, within 10 working days of receipt of the petition,~~

~~notify the petitioner by certified mail, return receipt requested, of the sufficiency of the petition forward the petition to the Division of Administrative Hearings as required by Section 1013.30(8), Florida Statutes. Copies of this notice and the petition shall be sent to the university Board of Governors general Counsel, host local government, and affected local governments.~~

~~(3) (7) If a petition is filed that does not substantially comply with the requirements of paragraphs (5)(a)-(g) of this rule, the Board's 1013.30(7), Florida Statutes and this regulation, the university General Counsel shall may issue an order dismissing the petition with leave to file an amended petition complying with the requirements of the statute and regulation within 15 days of service of the order, or if a petitioner fails to file a legally sufficient petition after three attempts, the petition shall be dismissed by the General counsel with prejudice, which shall constitute final agency action. petitioner's right to mediate issues in dispute under subsection challenge the master plan or master plan amendment. A copy of this order shall be sent to the university, host local government, and affected local governments. If an amended petition complying with this Rule is not filed within 15 days of service of the order, the petitioner's right to mediate issues in dispute under subsection 240.155(8), 1013.30 (8) Florida Statutes, is waived.~~

~~(8) If no petition complying with the requirements of this rule is filed, the adoption of the campus master plan or plan amendment shall become final.~~

~~*Specific Authority 240.209(1), (3)(q), 240.155(22) FS. Law Implemented 240.155(4), (7), (9) FS. History New 2-15-94.*~~