

FLORIDA ATLANTIC UNIVERSITY

AUTHORITY TO AMEND THE REGULATION: Article IX of the Florida Constitution and the Board of Governors Regulation Development Procedure dated July 21, 2005.

UNIVERSITY OFFICIAL INITIATING THE REGULATION AMENDMENT: Mr. Donald Kamm, Executive Director, Office of Equity and Inclusion.

COMMENTS CONCERNING THE PROPOSED REGULATION AMENDMENT SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. In response, the University may solicit additional written comments, schedule a public hearing, withdraw or modify the proposed regulation amendment in whole or in part after notice, or proceed with adopting the regulation amendment. The comments must identify the regulation(s) on which you are commenting.

THE PERSON TO BE CONTACTED REGARDING THE REGULATION AMENDMENT IS: Mr. Daniel Jones, Office of the General Counsel, 777 Glades Road, Boca Raton, Florida, 33431, (561) 297-3007 (phone), (561) 297-2787 (fax), GeneralCounsel@fau.edu.

Florida Atlantic University

Regulation 7.0085.010

Anti-Discrimination and Anti-Harassment

I. VALUES PURPOSE

Florida Atlantic University (“FAU”) is committed to providing a workplace and educational environment that is free from discrimination and harassment. To facilitate compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational enterprise, FAU has developed internal policies and procedures that provide a prompt, fair, and equitable process for those involved in allegations of discrimination or harassment. FAU values the dignity of all members of its community.

II. PURPOSE

A. Florida Atlantic University (“FAU” or University) shall comply with applicable federal, state and local discrimination/harassment laws to provide an educational, employment, and business environment free of all forms of discrimination or harassment. Unlawful discrimination or harassment based upon an individual’s race, color, religion, sex, national origin, age, disability, military or veteran status, marital status, pregnancy or parental status, sexual orientation, gender identity or expression, or other protected status is prohibited. Discriminatory conduct in the form of sexual misconduct, including sexual harassment, sexual assault, domestic violence, dating violence, and stalking, is also prohibited. Federal laws covered by this Regulation include Title II of the Civil Rights Act of 1964 (“Title II”), Title VI of the Civil Rights Act of 1964 (“Title VI”), Title VII of the Civil Rights Act of 1964 (“Title VII”), and Title IX of the Education Amendments Act of 1972 (“Title IX”), along with all applicable implementing regulations. This Regulation also covers the Florida Civil Rights Act and any other applicable local, state or federal laws.

B. This Regulation 5.010 (“Regulation”) applies to all FAU students, registered student organizations, applicants for employment, faculty, volunteers and staff (hereinafter collectively referred to as “University Community Members”), as well as third parties providing services to FAU. When a potential violation of this regulation is reported, the allegations will be investigated and addressed promptly and equitably in accordance with the processes detailed in University Policy 1.15 (Prohibited Discrimination and Harassment) and University Regulation 4.007 (Student Code of Conduct). ~~This Regulation establishes procedures for a University Community Member to file a complaint of alleged discrimination, harassment or retaliation.~~

~~Discriminatory conduct in the form of sexual misconduct/sexual harassment is also prohibited, and procedures for processing and investigating claims of sexual misconduct/sexual harassment by a University Community Member will be processed in conjunction with FAU Regulation 4.007 (Student Code of Conduct) and/or FAU Policy~~

~~1.15 (Prohibited Sexual Conduct). The Executive Director of the Office of Equity, Inclusion, and Compliance is the Title IX Coordinator for the University.~~

~~B.C.~~ The Office of Equity and ~~–Inclusion–and–Compliance~~ (“OEIEIC”) shall administer this Regulation. The Executive Director of OEI is the University’s Title IX Coordinator. Inquiries regarding the procedures contained in this Regulation should be forwarded to OEIEIC.

~~C.D.~~ It shall be a violation of this Regulation for any University Community Member to deny, deprive, or limit the educational or employment access, benefits, or opportunities of any member of the FAU community, guest, or visitor on the basis of that person’s actual or perceived membership in ~~It shall be a violation of this Regulation for any University Community Member to discriminate against or harass any other University Community Member on the basis of~~ a protected status as defined by law or University regulations and policies.

~~D.E.~~ Activities covered under this Regulation include, but are not limited to, all educational, athletic, cultural and social activities occurring on campus or sponsored by FAU, housing supplied by the University, and employment practices between the University and its employees.

~~E.E.~~

~~C. Discrimination on the basis of sex in education programs and activities receiving federal financial funding as set forth in Title IX of the Education Amendments of 1972, as amended (“Title IX”), is also prohibited. Discrimination on the basis of sex includes sexual violence, sexual battery, sexual harassment, domestic battery, dating violence, stalking and bullying (as defined below). Title IX prohibits sex discrimination in both the educational and employment settings. Sex discrimination is governed by the current University policy on prohibited sexual conduct (Policy 1.15).~~

~~D. For purposes of this Regulation, examples of conduct that fall into the definition of prohibited discrimination include, but are not limited to:~~

~~1. **Disparity of treatment**~~

~~F. Sexual harassment, which includes acts of sexual violence and gender-based harassment, is also prohibited. Sexual harassment can take the form of “hostile environment harassment” or “quid pro quo harassment”, as described above. Gender-based harassment includes acts of verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex stereotyping, even if those acts do not involve conduct of a sexual nature. The definition of sexual harassment excludes the use of sexual material in a setting for academic or educational purposes.~~

III. REPORTING

- B. Any University employee or applicant who believes ~~they~~he/she ~~have~~s been harassed, discriminated or retaliated against in violation of this Regulation should report the facts and circumstances thereof to ~~the Executive Director~~OEI, or in the alternative, may report to the appropriate supervisory employee or other official who has the authority to institute corrective measures on behalf of the University, including the appropriate Vice President or Provost, College Dean, or the Director of Human Resources, who in turn must notify the Executive Director.

Any student who believes ~~he/she~~they ~~have~~s been harassed or discriminated against in violation of this Regulation should report the facts and circumstances thereof to ~~the Executive Director~~OEI, or in the alternative, may report to another official who has the authority to institute corrective measures on behalf of the University, including the appropriate University Vice President or Provost, the Dean of Students, the Dean of ~~his/her~~their College, or to their ~~his/her~~ Department Head, who in turn must notify the Executive Director.

~~Reports or allegations of an alleged violation of this Regulation will be processed upon the filing of a written complaint with EIC. The Executive Director may process an alleged violation without a written complaint if deemed necessary by the Executive Director and if enough information is available, in the discretion of the Executive Director, to conduct a responsible investigation.~~

- C. A complaint of discrimination or harassment not related to Title IX must be filed with ~~OEI~~EIC within one-hundred eighty (180) calendar days of the alleged act(s) of discrimination or harassment. ~~OEI~~EIC may process an alleged violation outside of this

investigation, ~~whether a violation of University Regulation was found~~ and analysis of the facts and evidence presented, based on a preponderance of the evidence standard, ~~and recommendations for disposition.~~

B. OEIÆIC may attempt conciliation or informal settlement resolution before or during an investigation of a complaint, consistent with the requirements of University Policy 1.15. If conciliation or informal settlement resolution is not achieved, OEIÆIC shall continue to investigate the complaint, and shall issue a final investigation report.

C. OEIÆIC shall attempt to conclude its investigation and issue its final report within seventy-five (75) calendar days of the filing of the complaint. However, the investigation process may be stayed/extended for good cause as determined by the Executive Director.

C.D. All University employees have a duty to cooperate fully and unconditionally in a University investigation. This duty includes, among other things, speaking truthfully with OEIÆIC and voluntarily providing all documentation and information that relates to the claim being investigated.

D.E. The final report by OEIÆIC shall be submitted to the appropriate Vice President, Provost or designee if an employee is involved, and/or to the Dean of Students or designee if a student is involved. The Respondent and Complainant will each be notified in writing of the outcome of the complaint, consistent with the requirements of Policy 1.15 and any appeal. Corrective or disciplinary action up to and including dismissal or expulsion will be considered and implemented, if warranted, by the Vice President, Provost or Dean of Students in consultation with the Executive Director. Corrective or disciplinary action may also be considered and implemented if OEIÆIC determined the complaint was unfounded and made maliciously or recklessly. All disciplinary action shall be subject to applicable University Regulations and Policies, ~~including but not limited to University Regulation 5.009 (Grievance Procedure) and University Regulation 4.007 (Student Code of Conduct)~~, University Policy 1.15, policies, and applicable collective bargaining agreements.

E.

~~4.—The Executive Director shall notify the requesting party, in writing, of the
—appeal decision within twenty (20) calendar days.~~

*Specific Authority: Article IX of the Florida Constitution; Florida Board of Governors
Regulation 1.001; Formerly 6C5-5.012, Amended 11-11-87, 7-5-99, 11-9-05, 6-28-06,
11-16-11, 07-01-15, 6-4-19, 8-XX-20.*