

**FLORIDA ATLANTIC UNIVERSITY
NOTICE OF PROPOSED REGULATION AMENDMENT**

Date: June 1, 2015

REGULATION TITLE AND NUMBER: Anti-Discrimination/Anti-Harassment (5.010).

SUMMARY: The Office for Equity, Inclusion and Compliance under the Division of Financial Affairs seeks to amend FAU Regulation 5.010, Anti-Discrimination/Anti-Harassment. The Anti-Discrimination/Anti-Harassment Regulation is a critical component of the University's efforts to ensure our campus is inclusive and free from prohibited discrimination. This regulation outlines the process by which the University defines protected groups, and the process for addressing behavior that is inconsistent with the high standards we expect from our campus community. These revisions are intended to further clarify Regulation 5.010. The proposed changes are summarized as follows:

1. Systematic reorganization of the Regulation in order to ensure clarity and consistency in the application of FAU's anti-discrimination policies.
2. Clarification of definitions applicable to prohibited conduct and investigations by the Office of Equity, Inclusion and Compliance.
3. The definition of "sexual harassment" was revised to include explanations of hostile environment and quid pro quo harassment.
4. The process for conducting investigations and applicable timelines were clarified, specifically to account for new requirements under Title IX.
5. The grounds and processes for requesting reconsideration of a Complaint were clarified.
6. The "Equal Opportunity Programs" office was changed to the "Office of Equity, Inclusion and Compliance" to reflect the recent re-designation.

The Office of Equity, Inclusion and Compliance spent several weeks revising this regulation.

FULL TEXT OF THE AMENDED REGULATION: The full text of the proposed

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

PROPOSED

(a) For the purpose of this Regulation, “unlawful discrimination” is defined as

~~protected class herein, and not based on a bona fide requirement or distinction.~~

- ~~4. Retaliation for asserting protected anti-discrimination rights, filing complaints or protesting practices which are prohibited under this Regulation.~~

3. Retaliation

Retaliation is adverse action taken against a person for engaging in protected activity. Examples of adverse action include: firing, denial of a promotion, lowering a grade, unjustified negative performance evaluations and reports, increased supervision or scrutiny, sudden enforcement of previously unenforced policies, exclusion from activities or privileges open to others, maki

a. ~~Submission to such conduct or request is made either~~ **Hostile Environment**

Hostile environment harassment exists when harassment has the purpose or effect of unreasonably interfering with a person's work or educational performance or participation in a university program or activity, or is

~~h. Continuing any of the conduct listed in the above examples after being told or being otherwise made aware that the conduct is unwelcome.~~

~~e) Sexual Violence is a form of sexual harassment and is prohibited under Title IX. Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to an intellectual or other disability or the victim's use of or exposure to drugs or alcohol. Acts falling into the category of sexual violence include, but are not limited to, rape, sexual assault, sexual battery, and sexual coercion.~~

4.F. Gender-based harassment may be a form of sexual harassment prohibited under Title IX or other state or local laws. 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.

~~(f)G.~~ G. The definition of sexual harassment excludes the use of sexual material in a classroom setting for academic purposes.

~~(g) When referred to in this Regulation, "days" means calendar days unless otherwise noted.~~

~~(h) Disparate treatment on the basis of a class not protected by federal or state law shall not constitute discrimination or harassment if such disparate treatment is required by federal or state law.~~

~~3. PROCEDURE FOR~~ III. **REPORTING VIOLATIONS**

A. ~~(a) The Office of Equal Opportunity Programs~~ EIC is responsible for administering the complaint and investigation process set forth in this Regulation.

1. In cases where the potential complainant indivi7.65 0.71 0.4 0.431 0.588 rg9 ref/.588 rg9 t

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Boca Raton, Florida 33431-0991
<http://www.fau.edu/eopEIC/>
(561) 297-3004

-B. In all cases in which a violation of Title IX is alleged against a University

the filing time limitations of those external agencies. All ~~complainants~~Complainants are urged to contact these external agencies directly to learn the filing deadlines and procedures for each agency. Contact information for these agencies is available from the ~~EOPEIC~~ office.

G. ~~(f)~~—All complaints shall contain the name of the ~~complainant~~Complainant and

the EOPEIC Director. Corrective or disciplinary action ~~will~~may also be considered and implemented if EOPEIC determined the complaint was unfounded and made maliciously or recklessly. All disciplinary action shall be subject to applicable University Regulations (including but not limited to University Regulation 5.009 (Grievance Procedure) and University Regulation 4.007 (Student Code of Conduct)), policies and applicable collective bargaining agreements.

~~VI. 5. PROCEDURE FOR RECONSIDERATION~~

~~(a)E.~~ Any ~~party~~Complainant or Respondent may submit a ~~written~~ response or statement to be attached to the EOPEIC's final report and which will be maintained in the same file. ~~EIC file; any response or statement must be submitted to the EIC Director within ten (10) calendar days of the date the final report is published.~~

VI. RECONSIDERATION

~~A. Either the complainant or alleged offender~~Any Complainant or Respondent may request reconsideration of ~~the~~a finding in the ~~EOP final report.~~ ~~The party must submit this~~ EIC Report by filing a written request in writing to the EOP Director within ten (10) days of receipt of ~~with~~ the EOPEIC Executive Director.

~~(b)1.~~ The EIC Executive Director must receive the written request within ten (10) calendar days of the date the final report is published.

2. ~~The request must include a basis for the reconsideration~~ ~~must be in writing and shall specify the basis of the request. Typically,~~

~~(c)3.~~ The EIC Executive Director will consider any request for reconsideration, but reconsideration will only be granted only in cases where new evidence is provided or relevant evidence was not previously considered or reviewed and/or new evidence is available.