

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

Date: May 20, 2010

REGULATION TITLE AND NUMBER: Student Code of Conduct (4.007).

SUMMARY: The Division of Student Affairs seeks to amend FAU Regulation 4.007, Student Code of Conduct. The Student Code of Conduct is a critical component of the University's efforts to teach civic and social responsibility. This regulation outlines the student disciplinary process for addressing behavior that is inconsistent with the high standards we expect from students attending FAU. This revision was done to further clarify this regulation and to conform to the regulation promulgated by the Florida Board of Governors. This revision emphasizes the lead role of the Dean of Students in managing and administering the Student Code of Conduct, and conforms to best practices in student disciplinary systems based upon an educational, as opposed to legalistic, model.

The Division of Student Affairs and representatives from all Campuses spent several months revising this regulation.

FULL TEXT OF THE AMENDED REGULATION: The full text of the proposed amended regulation is attached below to this Notice. The full text of the existing regulation is posted on FAU's website at www.fau.edu/regulations. In addition, the full text of the proposed amended regulation and current regulation are available upon request to the Office of the General Counsel, which can be contacted at (561) 297-3007 or GeneralCounsel@fau.edu.

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:
Dr. Charles Brown, Vice President of Student Affairs

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: Myrlande Dessalines, Paralegal, Office of the General Counsel, 777 Glades Road, Boca Raton, Florida, 33431, (561) 297-3007 (phone), (561) 297-2787 (fax), GeneralCounsel@fau.edu.

PROPOSED

Florida Atlantic University

Regulation 4.007

Student Code of Conduct

(1) Statement of Philosophy.

~~Florida Atlantic University is a public university committed through its distributed campus structure to providing access to challenging opportunities in higher education for students in Southeast Florida and beyond. Its mission is to serve its region, state, and nation by preparing students to make meaningful contributions in an increasingly complex global society, by encouraging reflection on and evaluation of emerging needs and priorities, and by supporting research and service that enhances economic, human, and cultural development.~~

Florida Atlantic University is a public research university with multiple campuses along the southeast Florida coast serving a uniquely diverse community. It promotes academic and personal development, discovery and lifelong learning. FAU fulfills its mission through excellence and innovation in teaching, outstanding research and creative activities, public engagement and distinctive scientific and cultural alliances, all within an environment that fosters inclusiveness.

FAU accomplishes its mission primarily through its students, teachers and researchers, its undergraduate educational programs, its graduate and professional offerings, and its linkages to other educational institutions and [in](#) the community.

The University's Student Code of Conduct is

The University, however, recognizes its responsibilities to all members of the ~~academic community~~ University Community, and —students, faculty, and staff, ~~and~~ the protection of personal and institutional rights and property is a primary focus of the process described in this Regulation 4.007.

(2) Principles.

The University principles address the respect for the law, regulations and policies, and the respect for people.

- (a) Respect for the Law. Students are expected to respect and obey all regulations and policies of the University and all local, state and federal laws. If regulations, policies or laws are considered to be unfair or improper, it is expected that students will use appropriate, established, and lawful procedures to effect change.
- (b) Respect for Self and Others. Students are expected to conduct themselves in a manner which exemplifies respect for people of all races, religions, and ethnic groups, and to adhere to one's personal values without unduly imposing them on others. Respect for one's own mind and body, is essential. In interpersonal relationships, students are expected to respect the rights of others, particularly their right to refuse to participate in any activity. Students should take responsibility to serve as leaders in promoting compassion for others and challenging prejudice.

All students ~~enrolled~~ in the University Community, regardless of institutional or program affiliation, are expected to know and adhere to the regulations and policies of the University, as well as local, state, and federal laws.

(3) Jurisdiction of the University.

A student, ~~registered student~~ organization or a person who has submitted an application for admission, housing, or any other service provided by the University which requires a student status will be subject to the Student Code of Conduct for any conduct which occurs on University property, at University-sponsored events or off campus under the conditions described in this regulation. Any action of the University with respect to off-campus conduct shall be taken independently of any off-campus authority.

(4) Definitions:

~~(a) Academic days — Only those days when the University's classes are in session, excluding holidays and weekend days.~~ ~~(a)(b)~~ Advisor - The term "advisor" refers to any person, including an attorney chosen by the student or the alleged victim at their own expense and initiative

| has been ~~formally~~ charged with an alleged violation of the Student Code

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- (c) property or of the property of members of the University eCommunity.
 - (c) Interference with the freedom of movement of any member or guest of the University.
 - (d) Interference with the rights of others to carry out their activities or duties at or on behalf of the University.
 - (e) Interference with academic freedom and freedom of speech of any member or guest of the University.
 - (f) Noncompliance with written, oral requests or orders

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- (bb) Obstruction of Student Code of Conduct Process – Acts that disrupt or interfere with the University ~~disciplinary~~student conduct process, including but not ~~be~~ limited to:
1. failure to appear at an official ~~U~~university ~~h~~Hearing when proper

- (6) Off-Campus Conduct: The University shall take disciplinary student conduct action against a student for violations committed off campus if any one of the following applies:
- (a) The off-campus conduct is specifically prohibited by law or violates this Code of Conduct.
 - (b) The off-campus conduct demonstrates that the continued presence of the student on campus presents a danger to the health, safety, or welfare of the University Community; is disruptive to the orderly ~~conduct~~ processes and functions of the University; or is intimidating or threatening to the University Community or an individual within the University Community.
 - (c) The off-campus conduct is of such a serious nature that it adversely affects the student's suitability to remain a part of the University Community.
- (7) Court proceedings outside of the University:
- (a) University disciplinary student conduct proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and this Student Code of Conduct, without regard to the pendency of civil or criminal litigation in court or criminal arrest and prosecution. Proceedings under this Student Code of Conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the Dean of Student ~~Affairs~~. Determinations made or sanctions imposed under this Student Code of Conduct shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of University rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.
 - (b) Any admission of guilt, responsibility or statement against the student's interest made by a student at off-campus proceedings shall be conclusive for University purposes.
 - (c) A verdict of guilty, a plea of guilty, a plea of no contest (*nolo contendere*) or similar plea in a court of law by a charged student will operate as a conclusive finding that the student is "responsible" for the purpose of FAU disciplinary student conduct proceedings.
 - (d) The University may amend its charge(s) based on information obtained through an outside proceeding ~~when~~ that information is relevant to activity adversely affecting the University Community.
- (8) Students' Rights. A student against whom disciplinary student conduct action may be taken shall have the following rights:
- (a) The right to be notified in writing correspondence of the charges against him/her in sufficient detail to prepare for a Hhearing.
 - (b) The right to a hhearing no less than five (5) ~~three academic business~~ days after the University provides the student with a notice of charges, unless waived pursuant to this Regulation 4.007, or by final disposition in external court proceedings.

| (c) The right to a fair and impartial hearing on the charges by ~~an~~ duly

measures are ~~more~~ appropriate to protect the health, safety, or welfare of the student or the University eCommunity, the Dean of Student ~~Affairs~~ may:

1. restrict or bar attendance of any or all classes;
2. restrict or bar access or contact with individuals in the University Community;
3. restrict or bar access to University property, places, facilities or equipment;
4. restrict or ban participation in University activities or organizations; or
5. otherwise restrict conduct or ban access to University resources ~~or conduct~~.

d. If a student's privileges are temporarily revoked as described in this Regulation 4.007, but the student is subsequently found not responsible for the violation, the University must will:

1. Correct any record of the change in enrollment

against a student for alleged violation of law or University regulations or policies. An investigation may take place of the circumstances of the complaint. The complaint regarding a student's conduct must be submitted as follows:

1. Filing a police report with the University Police Department or requesting that a report from another law enforcement agency be sent to the University Police Department and referral to the Dean of Student ~~Affairs~~; or providing a written and signed statement to the ~~Dean of Student Affairs~~Dean of Students. Written statements should include all information and evidence the person making the complaint can produce.
2. Reports must be made to either law enforcement or the appropriate

handled through other appropriate channels, is not dismissed, or is not settled informally, then the ~~Dean of Student Affairs~~Dean of Students ~~shall~~may present in ~~writing~~correspondence formal charges to the student.

- (d) Notice of Charges. The notification of charges shall be in ~~writing~~correspondence

(f) Formal Disposition by Hearing: When a charged student denies responsibility, a ~~h~~Hearing shall be scheduled no less than ~~five~~ ~~three (3)-(5)~~ business days after the date of the ~~Disciplinary~~Student Conduct Conference, except in cases of emergency as specified below, or unless waived by the student.

1. A ~~f~~Formal disposition by

The ~~Dean of Student Affairs~~Dean of Students may grant a postponement when the circumstances presented demonstrate that a postponement is necessary to ensure fairness to the process or on any other reasonable grounds. The ~~Dean of Student Affairs~~Dean of Students may postpone the ~~h~~Hearing on the University's behalf for administrative reasons.

(11) Structure of the Student Conduct Board.

The Student Conduct Board shall consist of the following persons: two students, one faculty member/administrator and an optional fourth member who may be a student or a faculty member/administrator. The chairperson of a Student Conduct Board ~~h~~Hearing shall be one of the faculty members/administrators that serves on the panel. Faculty members, ~~administrators, and students shall be selected are~~ chosen by the ~~Dean of Student Affairs~~Dean of Students Office ~~for a Hearing~~.

~~The student board members are selected through an annual application and interview process, with the exception of the student justices from the Student Government Judicial Branch. All Student Conduct Board members, including Student Government Justices, will receive training from the Dean of Students Office. The students shall be appointed by the Student Government President. If, however, the Student Government President fails to provide a list of students to serve for disciplinary proceedings or if the student charged is an officer in student government, the Dean of Student Affairs or designee may select students from the Judicial branch of the Student Government Association or other interested impartial students to serve on the Student Conduct Board or to serve as ~~b~~Board members for a particular disciplinary proceeding~~

(12) Hearing Procedures.

(a) The ~~h~~Hearing is not a legal proceeding. Formal rules of process, procedure, ~~and~~or evidence do not apply.

- Hearing is subject to ~~disciplinary~~disciplinary student conduct charges.
- (d) Information.
1. The charged student and his/her adviser, if any, have the right to inspect all of the information that will be presented against the student at least three (3) business days before the Hearing. The University also has the right to review any information that the student intends to use at least three (3) business days before the Hearing.
 2. The charged student may present information on his/her own behalf. Pertinent records, exhibits, and written statements may be accepted as information for consideration by the Hearing Officer or the Student Conduct Board at their discretion. ~~at the discretion of the Chair.~~
- (e) Burdens of Proof. The Student Conduct Board or Hearing Officer shall determine whether it is more likely than not that the accused student violated the Student Code of Conduct by a preponderance of evidence. This means that the information presented supports the finding that it is more likely than not that the violation occurred. The burden of proof is not on the charged student.
- (f) The charged student or the alleged victim may choose one advisor to be present during the process at the student's or alleged victim's expense and initiative. It is the student's or alleged victim's responsibility to make appropriate arrangements for the advisor to attend the Hearing, which shall not be delayed due to scheduling conflicts of the chosen advisor. The advisor may be present to advise the student or alleged victim but may not speak for or present the case for the student or alleged victim, present statements or arguments, question witnesses or otherwise participate in the process. ~~The charged student may choose one advisor to be present at the hearing at the student's expense. The advisor/attorney may not present statements, arguments, or question witnesses or participate directly in any Student Conduct Board Hearing.~~
1. Members of the Student Conduct Board may not serve as a student's advisor at the H hearing.
 2. If the charged student or alleged victim chooses an attorney as his/her advisor at the H hearing, he or she must ~~H~~form the

order if necessary. The Student Conduct Board or Hearing Officer may question any party or witness directly.

- a. Review of Hearing procedures.
- b. Reading of Charges
- c. Opening statement and presentation of evidence information by the charged student.

notification in writing correspondence (referred to as a “Notice of Decision and Sanction”) ~~to the informing the student of the decision of the Student Conduct Board~~ of the Dean of Students’ final decision and sanctions and ~~the sanction(s)~~ explaining any differences between the recommendation of the Student Conduct Hearing Board or Hearing Officer and the Dean of Students’ final decision. ~~imposed~~ Such correspondence will be sent to the student within a reasonable period of time ~~five academic days after of~~

specified number of hours of service to the campus or general community.

4. Termination or Change in University Housing Contract/Assignment. Students remain financially responsible for obligations under the housing contract.

5. Fines not to exceed \$250.00 per case.

6. Restitution - Payment made for damage or loss caused by the responsible student.

7. Restriction or Revocation of Privileges. Temporary or permanent loss of privileges, including, but not limited to the use of a particular University facility, resources, equipment or other visitation privileges.

8. Disciplinary Student Conduct Warning - A disciplinary student conduct sanction in writing correspondence notifying a student that the student's behavior did not meet University standards. All disciplinary student conduct warnings will be taken into consideration if further violations occur.

9. Disciplinary Student Conduct Probation - A disciplinary student conduct sanction in writing correspondence notifying a student that his/~~or~~-her behavior is in serious violation of University standards and that restrictions are being placed on his or her activities.

———Some sanctions that may be placed on a student during a probationary period include, but are not limited to, restriction of the privilege to: participate in student activities or in student organizations; represent the University on athletic teams, student organizations or in other leadership positions; gain access to University Housing buildings or other areas of campus; use of University resources and/or equipment; or contact with specified person(s). If the student is found "responsible" for another violation of the code of conduct during the period of

Disciplinary Student Conduct Probation, the University will on his or 0.5028 cs 0.

imposed, if any.

13. Expulsion - Permanent dismissal from the University with no right for future readmission under any circumstances. A student who has been expelled is barred from all FAU campuses.
14. Deactivation of the Student Organization's status at the University.
15. Administrative Withdrawal from individual courses or all courses registered for at the [University](#). Students remain financially responsible for tuition and fees.
16. Other Appropriate Action. A ~~disciplinary~~student conduct action not specifically set out above, but deemed proper by the ~~Dean of~~

- housing contract.
 2. Parental Notification.
 3. Disciplinary Student Conduct Probation for 1 year.
 4. Completion of up to 50 hours of Community/University Service.
 5. Completion of an Educational program and a Fine to pay the administrative costs for providing this program.
18. Drug Abuse Sanction Guidelines: Depending on the amount of illegal substance involved, the student may be suspended or expelled from the University, as well as prosecuted. At the minimum, a student may be sanctioned as follows:
- a. First Violation

dependent student (pursuant to the Internal Revenue Code), under the age of 21, has been found in violation of the University Alcoholic Beverages and Drug-Free Environment policy.

- (a) In non-emergency situations, parents of dependent students, under the age of 21, will be notified in writing. However, in emergency situations, parents may be notified by an immediate phone call from the Dean for Students or his/her designee.
- (b) These guidelines do not preclude Parental Notification for other policy violations that may endanger the health, safety and well being of a student or other individuals in the University Community. In addition, Parental Notification may occur in health and safety emergencies regardless of the student's age or dependent status.
- (c) Students, whose parents are to be notified under these guidelines, will be informed, when possible, before such notification occurs and given an opportunity to initiate contact with their parents.

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testify in a separate room from the charged student so long as the process does not unduly compromise the charged student.

6. To be notified of the outcome.

7. — Additional support services are provided to the victim through the Victim Services Advocacy Office upon request of the victim through the Dean of Student Affairs Dean of Students Office.

(16)(17) Regulation Review. Florida Atlantic University shall establish a committee at least once every five years beginning five years after the adoption of this regulation to review, evaluate and recommend changes to this

- a. If the student has had a ~~disciplinary student conduct~~ action taken against him/her which falls under paragraph (1) above, the transcript can only be sent with an overlay.
 - b. The overlay states: “This transcript reflects only the academic record of the student; this student currently is not in good standing and further information should be requested from the ~~Dean of Student Affairs~~Dean of Students.”
3. The ~~Dean of Student Affairs~~Dean of Students Office has adopted the following Retention of Records Policy: Student ~~conduct~~disciplinary records will be maintained in the ~~Dean of Student Affairs~~Dean of Students Office for a period of six (6) years from the end of the student’s matriculation at the University. Student conduct records shall be retained for longer periods of time or permanently if the student was expelled, dismissed, suspended or blocked from enrollment and in situations that may result in future litigation. ~~The disciplinary student conduct file of an accused student shall be destroyed if the student is not found responsible for violating the Student Code of Conduct.~~
- a. Notwithstanding the foregoing, if during the semester of the student’s graduation, the student requests in writing~~correspondence~~ that his or her student conduct ~~disciplinary~~ record be destroyed, that record will be evaluated.
 - b. No record may be destroyed when the disciplinary student conduct violation resulted in:
 1. personal injury;
 2. property damage;
 3. a felony violation of a state controlled substance law;
 4. Disruption to the orderly operation of the University;
 5. Violation of the firearm, explosives, dangerous chemicals, and ammunition or weaponry regulations of the University;
 6. Suspension or expulsion from the University;
 7. Endangering the health, safety, or welfare of members or guests of the University; or
 8. Comes within the jurisdiction of the o~~ff~~c~~amp~~us C~~on~~duct section of the Student Code of Conduct.

Specific Authority: 1001.74(4), 1006.60(1), (2), (5) F.S.; Law Implemented 1001.74(10)(e), 1006.60, 1006.61, 1006.62, 1006.63 F.S.; History–New 10-1-75; Amended 12-17-78, 6-9-83; Formerly 6C5-4.08; Amended 11-11-87, 6-7-88, 9-16-03; Formerly 6C5-4.008; Amended 5-10-06, 5-28-08; Amended - -2010.