

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

Date: September 30, 2011

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

student disciplinary process for addressing behavior that is inconsistent with the high standards we expect from students attending FAU. These revisions are intended to further clarify Regulation 4.007, to conform to the regulation promulgated by the Florida Board of Governors, and to update the regulation in light of recent Title IX guidance. The proposed changes are summarized as follows:

1. The addition of stalking, cyber-stalking and cyber-bullying as enumerated violations under the Student Code of Conduct.

2. The full text of the proposed amended regulation is attached below to this Notice. The full text of the existing regulation 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, Senior 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 PROPOSED 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.

- (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 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, student organization or a person who has

conduct for which a student, a group of students, or a student organization may be subject to student conduct/disciplinary action.

1.

limited to:

1. failure to appear at an official University Hearing when proper notification has been provided (nothing in this subsection shall be construed to compel self-incrimination);
2. knowingly falsifying, distorting or misrepresenting information before a student conduct proceeding;
3. deliberate disruption or interference with the orderly conduct of a student conduct proceeding;
4. knowingly initiating a complaint/referral without cause;
5. use of threats, coercion, or intimidation to discourage an

the student conduct process;
6. tampering with information to be used in a Hearing;
7. attempting to influence the impartiality of a member of the student conduct process prior to or during the course of the student conduct proceeding;
8. harassment or intimidation of any participant in the student conduct process; or
9. violating and/or failing to comply with or fulfill student conduct sanctions.

- (cc) Disruptive Conduct — Any other action that impairs, interferes with or obstructs the mission, purposes, order, academic atmosphere, operations, processes and/or functions of Florida Atlantic University.
- (dd) Any unauthorized use of electronic or other devices to make an audio or video recording of any person while on University premises without his/her prior knowledge or without his/her effective consent when such recording is likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room or restroom.
- (ee) Violation of any University Policy or Regulation published in hard copy
- (ff) Violation of Housing and Residential Life policies and procedures as outlined in either the Housing Contract or The Guidebook.
- (gg)

student on campus presents a danger to the health, safety, or welfare of the University Community; is disruptive to the orderly 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 University Community.

(7) Court pr

- (h) The right not to be forced to present testimony which would be self-incriminating. However, the University is not required to postpone student conduct proceedings pending the outcome of any outside criminal or civil case.
 - (i) The right to request an appeal of University action and the sanction imposed as long as appropriate appeal procedures are followed.
 - (j) The right to have his/her status remain unchanged pending final student conduct action except in cases involving the health, safety or welfare of the University Community.
 - (k) The right to be informed of their rights provided in this Regulation 4.007.
- (9) Emergency Measures.
- (a) The Dean of Students or designee has the authority to take appropriate immediate action against a student who poses a- danger of imminent or serious physical harm to himself/herself or others at the University, or where the Dean of Students determines that an emergency exists which affects the health, safety or welfare of a student or the University Community. Emergency Measures include but are not limited to, one or more of the following:
 - ~~1. ———~~
 - ~~Emergency Measures include but are not limited to, one or more of the following:~~
 - a1. Interim Suspension. A student under interim suspension

1a. Correct any record of the change in enrollment status in the student's permanent records and reports in a manner compliant with state and federal laws; and

2b. Refund to the student, a pro rata portion of any charges for tuition and out-of-state fees, as appropriate, if the temporary revocation or

lasts for more than 10 ~~school~~business days.

e5. A Dean of Students hold on registration may immediately be placed on all students who have Emergency Measures taken against them, which prevents the student from accessing, changing or altering his/her course registration and/or admission status.

(b) A student subject to Emergency Measures shall be furnished:

1. Written notice of the Emergency Measure and the reason(s) for the action.
2. The opportunity to participate in student conduct proceedings or to present relevant information for consideration of his/her case.

(c) Emergency Interim Measures may be taken at any time prior to the conclusion of the University

believe that the allegations of the complaint are true, and if true, would
Code of Conduct.

1. The Dean of Students may conduct an Investigation Conference with the student. This conference shall include the opportunity for the Dean of Students to interview and gather information from the student and an explanation of the pr
review of the incident with the student. No student shall be required to testify against him/her.
2. The Dean of Students may conduct an investigation with others as related to the incident or complaint.
3. Nothing in this regulation shall prevent the mediation of a complaint when deemed appropriate by the University.
4. Nothing in this regulation shall prevent the disposition of a complaint administratively by written agreement with mutual consent of the parties invol

questions or concerns about Title IX, and/or those who wish to file a complaint under Title IX,
Coordinator as follows:

Director
Equal Opportunity Programs
<http://www.fau.edu/eop/>
(561) 297-3004

(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 Hearing shall be one of the faculty members/administrators that ~~serve~~ serve on the panel. Faculty members, administrators, and students shall be selected- by the 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.

(12) Hearing Procedures.

- (a) The Hearing is not a legal proceeding. Formal rules of process, procedure, and/or evidence do not apply.
- (b) Objectives of the Hearing. Requisite levels of fairness and the satisfaction of certain minimum requirements will be provided to all participants during these proceedings. The Hearing shall have the following objectives:-
 1. Inform the student of the charges.
 2. Give the accused student an opportunity to respond to the charges.
 3. Review the facts of the case.

- h. The Student Conduct Board or Hearing Officer may recommend a decision(s) and a sanction(s) to the Dean of Students. Such recommendation of decision(s) and sanction(s) may be presented to the student by the Student Conduct Board or Hearing Officer.
- (h) The Student Conduct Board or Hearing Officer will find the student listed on the Notice of Charges, based solely on the information presented at the Hearing. The Student Conduct Board or Hearing Officer will inform the Dean of Students of its findings and any recommendation for sanctions based on its findings. If the Student Conduct Board cannot reach a reasonable time period based on the complexity of the case, the chairperson shall call the Board as deadlocked and the Dean of Students may call a new Hearing date with new Board members to hear that charge. No person serving on the first Board shall serve on the second Board. If the second Board also deadlocks, then the charges against the charged student shall be dismissed.
- (i) If the charged student fails to appear at the scheduled Hearing (after proper notice), the student shall be found Responsible for each of the alleged violations listed on the Notice of Charges and may not appeal the finding of responsibility. The student retains the right only to appeal the severity of the sanction.
 - (j) The Dean of Students will review the findings and recommendations of the Student Conduct Board or Hearing Officer, as applicable. The Dean of Students will then make a decision as to the violation(s) in question and sanctions imposed, which decision which may consist of adopting, modifying, or rejecting the recommended decision and sanctions of the Student Conduct Board or Hearing Officer, or remanding the matter for rehearing. The Dean of Students will send a correspondence (referred to Notice of Decision and Sanction) informing the student of the and explaining any differences between the recommendation of the Student Conduct Hearing . Such correspondence will be sent to the student within a reasonable period of time after the conclusion of the Hearing.
- (13) (a) Student Conduct Sanctioning is intended:
1. To make sure the student sanctioned has learned from the experience.
 2. To educate the student so he or she does not commit the violation again.
 3. To offer the student the opportunity to make good on a mistake.
 4. To ensure that University expectations regarding appropriate behavior are clear.
 5. To educate the student concerning how his or her behavior impacts others in the University Community.
 6. To protect the University Community from people who may harm others in the University Community or who may substantially

listed below serve only as guidelines.

- a. First Violation
 1. Completion of an Educational program and ~~a Fine to pay~~ payment of the administrative costs for providing this program.
 2. Parental Notification-~~**~~ (Parental Notification may be implemented depending on the severity or nature of the first violation).
 3. Completion of 5 - 15 hours of -Community/ University Service.
- b. Second Violation
 1. Completion of evaluation and recommended treatment from Counseling ~~Center~~ and Psychological Services.
 2. ~~Termination or~~ Deferred Termination of -University Housing Contract/~~Assignment~~ for a period of one year. Students are still financially responsible for obligations under the housing contract.
 3. Parental Notification.
 4. Student Conduct Probation for ~~at least~~ a minimum of 1 semester.
 5. Completion of 15 - 30 hours of -Community/ University Service.
 6. Completion of an educational program and ~~a fine to pay the~~ payment of administrative costs for providing this program.
- c. Third Violation
 1. Termination of Housing Contract/~~Assignment for a~~ minimum of 1 year Student is suspended from campus housing and may be suspended from the University. Students are still financially responsible for obligations under the housing contract.
 2. Parental Notification.
 3. Student Conduct Probation for a minimum of 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~~ payment of administrative costs for providing this program.

~~1817~~. 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
 1. Termination of Housing Contract

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2. Student Conduct
Probation for ~~one~~ minimum of 1 year.
 3. Mandatory completion of evaluation and treatment from Counseling ~~Center~~ and Psychological Services.
 4. Parental Notification.

4. ~~_____~~: To the extent applicable, victims shall have an advisor rights equivalent to those of _____ presenting information a charged student, including the following rights:
1. The right to have equivalent access to pre-hearing meetings with the Dean of Students or designee, as permitted by law, as that granted to the charged student.
 2. The right to review, not

- a. Notwithstanding the foregoing, if during the semester of correspondence that his or her student conduct record be destroyed, that record will be evaluated.
- b. No record may be destroyed when the ~~–~~student conduct violation resulted in:
 1. ~~P~~personal injury;