

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

**Date:** May 20, 2010

**REGULATION TITLE AND NUMBER:** Student Academic Grievance Procedures for Grade Reviews (4.002).

**SUMMARY:** The Division of Academic Affairs seeks approval to amend FAU Regulation 4.002, *Student Academic Grievance Procedures for Grade Reviews*. This proposed amended regulation describes the conditions under which a grade may be appealed and outlines the procedures for such appeals. While the proposed amendment reaffirms the fundamental right of faculty to determine how to assess student performance, it provides a mechanism for students to appeal a final grade when certain conditions are met. The proposed amended regulation also provides a mechanism for the final grade to be changed. The regulation that is currently in effect provides no such mechanism and suffers from a lack of clarity concerning the appeal process.

The Division of Academic Affairs spent several months revising this regulation, with extensive consultation with faculty and final approval by the University Faculty Senate. It was also reviewed by the General Counsel's Office.

**FULL TEXT OF THE REGULATION AND AMENDMENTS:** 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](http://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](mailto: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 AMENDMENTS:**  
Dr. Diane Alperin, University Provost and Chief Academic Officer

**COMMENTS CONCERNING THE PROPOSED REGULATION AMENDMENTS 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 amendments in whole or in part after notice, or proceed with adopting the regulation amendments. The comments must identify the regulation(s) on which you are commenting:

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION AMENDMENTS 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](mailto:GeneralCounsel@fau.edu).

# PROPOSED

## Florida Atlantic University

### **Regulation 4.002**

### **Student Academic Grievance Procedures for Grade Reviews**

#### (1) POLICY.

~~Student grievances arising from academic activities require a written request for conference with the Instructor. If unsatisfied, the student may request further discussion in a department conference within ten (10) days. The conference, held as soon as possible, will be among the student, the Instructor, and the Head of the Department administering the course. An advisor may attend to provide counsel to the student, but not to answer in place of the student. The Department Head's written statement of action taken pursuant to the conference will be delivered to the student and the Dean of the College administering the course. Grades will not be changed except by the Instructor, and grievances involving the judgment and discretion of a faculty member in assigning grades shall not proceed under this rule beyond the conference with the Instructor. This is an application of the concept of academic freedom. The exception to this rule occurs if the student can demonstrate malice on the part of a faculty member.~~

~~A grievance involving a charge of malice may be appealed to a student faculty council. This council will be established by each College and will be composed of the Dean, two faculty members, and two students. Requests for a hearing must be presented in writing within ten (10) days of the departmental conference. Records of appeals and minutes will be maintained by the Dean. These hearings are considered to be educational activities. The strict rules of evidence do not apply. Students may be assisted by attorneys, but may not abdicate the responsibility to respond to charges to their legal advisors.~~

~~The student may appeal the faculty student council's action to the University Provost by requesting a hearing within ten (10) days of the committee's decision. These appeals are limited to the following bases:~~

- ~~(a) Failure to receive due process.~~
- ~~(b) Arbitrary actions including lack of commensurateness of penalty to offense.~~
- ~~(c) New pertinent information not available during earlier proceedings.~~

~~In the event of a finding of malicious action, the University may take disciplinary action against the faculty member and, at the option of the student, remove the grade from the record and refund the student's fees for the courses. Students, whose accusations of malice are found to be frivolous by the Vice President of Student Affairs, are subject to disciplinary action.~~

Faculty have a fundamental right to assess student performance. Faculty exercise professional judgment in determining how to assess student performance, based on standards in their departments or disciplines and on their own expectations for student

achievement. A student may request a review of the final course grade, as described below, only when the student believes that one or more of the following conditions apply:

- There was a computational or recording error in grading.
- Non-academic criteria were applied in the grading process.
- There was a gross violation of the instructor's own grading statement.

Students who falsify or misrepresent information during a grade review are subject to disciplinary action, as outlined in the *Student Code of Conduct*. A grade will not be changed after graduation except in the case of a computational or recording error, subject to the reasonable discretion of the Provost (or designee).

Any time frames described below may be modified at the discretion of the University Provost (or designee). Should any deadline fall on a holiday or other day when the University is closed, the deadline will become the next business day.

## (2) PROCEDURES.

### Step 1. Meeting with instructor.

A student who believes that a grade has been assigned under one or more of the conditions above may request in writing a meeting with the instructor, who will explain how the grade was determined and attempt to resolve any disagreement. The student, whether still enrolled or not, must request the meeting by October 1, if the grade was granted in the previous spring or summer semester, or by February 1, for grades awarded in the previous fall semester.

### Step 2. Conference with chair/director.

A student who is unable to satisfactorily resolve the grade review through consultation with the instructor, or if the instructor is unable or refuses to meet with the student, may request a conference with the chair of the department or director of the school/program in which the course was taught. The written request must be presented by November 1, if the grade was granted in the previous spring or summer semester, or by March 1, for grades awarded in the previous fall semester. The request for a conference must include clear evidence that the grade assigned was based on a computational or recording error; that non-academic criteria were applied in the grading process; or that there was a gross violation of the instructor's own grading statement. The instructor may participate in such conference. No other parties may be in attendance at the conference(s) with the chair/director. The chair/director will attempt to mediate the grade review, unless the chair/director determines that the review is without merit. The chair/director will provide the student, the instructor, and the dean of the college administering the course a summary of findings.

### Step 3. Appeal to the dean.

A student who is not satisfied with the results of the conference may appeal to the dean of the college administering the course. The written appeal must be received by the dean within five (5) business days of receipt of the chair/director's findings. The dean (or designee) will review the written appeal, supporting evidence, and statements from the instructor and chair/director. Unless the dean (or designee) determines that the appeal is without merit, the dean (or designee)

will convene a Faculty Committee (“Committee”) within ten (10) business days of receipt of the student’s appeal. The Committee will be composed of the dean (or designee), who will serve as Committee chair, and three faculty members, at least two of whom must be from the department/school in which the course was taught. The Committee chair will direct the hearing and maintain the minutes and all records of the appeal hearing, which will not be transcribed or recorded. The hearing is an educational activity subject to student privacy laws/regulations, and the strict rules of evidence do not apply. The student and instructor may attend the meeting and present testimony and documents on their behalf. The student may choose to be accompanied by a single advisor, but the advisor may not speak at the hearing. Additional witnesses may be permitted to speak at the dean’s (or designee’s) discretion and only if relevant and helpful to the Committee. The Committee will deliberate and prepare a summary of findings. The Committee chair will discuss the case with the instructor and inform the student in writing of Committee findings and the instructor’s response.

Step 4. Appeal to the provost (or designee).

A student who is not satisfied with the result of the appeal to the dean may request an appeal of the instructor’s action to the University Provost (or designee). The written appeal must include relevant supporting documentation. The appeal must be filed within five (5) business days of receipt of the dean’s (or designee’s) notification. The University Provost (or designee) will determine that (a) no action is required; (b) the course and grade will be expunged from the record and the student’s fees for the course refunded; (c) the course and grade will be expunged and substituted with a new section of the same course with a grade determined by the Provost in consultation with the Faculty Committee and other experts in the field, as appropriate; or (d) the grade issue be returned to the Faculty Committee for reconsideration or clarification of findings. The Provost will notify the student, dean, and instructor in writing of any action. This decision by the Provost (or designee) constitutes final University action.

*Specific Authority: Article IX of the Florida Constitution, Florida Board of Governors Resolution dated January 7, 2003, Florida Board of Governors Regulation Development Procedure dated July 21, 2005, Board of Governors Regulations 1.001 and 6.010, 1001.74 FS. History–New (Pending); Amended - -10.*