



Item: PC: A-6

PERSONNEL & COMPENSATION COMMITTEE

Monday, June 15, 2015

**SUBJECT: REQUEST TO AMEND REGULATION 5.012, EMPLOYEE STANDARDS
AND DISCIPLINARY PROCEDURES**

PROPOSED COMMITTEE ACTION

Recommend BOT approval of amendments to FAU Regulation 5.012, Employee Standards and Disciplinary Procedures.

BACKGROUND INFORMATION

This personnel regulation was last reviewed in total and updated in March 2009. As part of a regular review with Human Resources and other administrators, these amendments to the regulation are recommended to update outdated provisions and implement current best practices. Specifically, the Regulation is being amended to update titles, reflect existing personnel policies, add a provision for failure to cooperate with an internal investigation, and clarify the grievance and Step Three hearing processes and procedures to the reader.

IMPLEMENTATION PLAN/DATE

If approved by the Board, the regulation will be amended and effective as of July 1, 2015.

FISCAL IMPLICATIONS

N/A

Supporting Documentation: Text of proposed amended Regulation 5.012

Presented by: David Kian, Vice President & General Counsel

Phone: 561-297-3007

Florida Atlantic University

Regulation 5.012 Employee Standards and Disciplinary Procedures

(1) Scope and Authority. This Regulation applies to all employees unless in direct conflict with an applicable collective bargaining agreement.

(a) The authority to discipline employees is vested in the University President. The President has delegated this authority as follows:

1. To the Provost or Vice President, or their designee, to whom the employee reports, for all disciplinary action; and
2. To the Dean, Director or higher level immediate supervisor, or their designee, for all disciplinary actions other than suspensions without pay and terminations.

(2) Standards of Conduct. The following standards are required for all employees. Departure from these standards by an employee will constitute offenses and will result in disciplinary action being taken:

(a) Employees shall respect the rights of others

(b) Employees shall exhibit a level of behavior supporting the mission, purposes and best interests of the University

(c) Employees shall perform assigned duties in an orderly, efficient and effective manner

(d) Employees shall adhere to all University regulations, policies and directives

(3) Disciplinary Procedures. Employees who intentionally act to impair, interfere with, or obstruct the mission, purposes, order, academic atmosphere, operations, processes, and functions of Florida Atlantic University shall be subject to appropriate disciplinary action by University authorities. This includes incompetence in the performance of job duties, and misconduct.

(a) Counseling. Except for offenses which require that immediate disciplinary action be taken, employees will receive counseling and will be given an opportunity to comply with the supervisor's instructions before disciplinary action is taken. Counseling shall be constructive and done with the primary purpose of helping the employee correct a problem.

(b) Just Cause 1. Procedure: Disciplinary action shall be taken only for just cause. The disciplining authority shall review alleged offenses to determine:

a. Notice - Whether the employee knew or should have known that the behavior is not acceptable.

b. Job-related offenses - Whether the offense occurred while the employee was at work or is job-related. If offense occurs while the employee is off duty and away from the job, any disciplinary action taken must be preceded by a decision, supported by facts, that the offense

adversely affects the employee's ability to perform assigned duties, or the University's ability to carry out its mission and purposes.

c. Proof of Misconduct – Whether the alleged offense has been investigated objectively and the investigation has established a reasonable belief that the University's standards of conduct have been violated.

d. Past Practice – Whether the proposed discipline is consistent with past treatment of employees who have committed similar offenses.

e. Appropriateness of Discipline – Whether the severity of the proposed discipline is reasonably related to the seriousness of the offense and the employee's past record of work performance, conduct, and discipline.

(c) Types of Disciplinary Action. The following types of disciplinary actions shall be administered in accordance with this Regulation:

1. Reprimand (oral and/or written)
2. Suspension
3. Discharge

(d) Probationary Employees. Probationary employees may be disciplined without a right of appeal and are subject to dismissal for any single offense or for failure to meet required performance levels during the probationary period.

(e) Guidelines for Disciplinary Action.

1. The employee shall be given written notice of any disciplinary action.
2. The notice shall state the reason for the disciplinary action.
3. A copy of the notice shall be retained in the employee's personnel file.

(4) Standards for Disciplinary Action. The appropriate level and severity of disciplinary action ranging from oral reprimand to termination shall be determined in each individual instance on a case by case basis. Progressive discipline should be considered where appropriate, but is not required based on the nature and severity in each case. The following list of unacceptable conduct, further defined as incompetence or misconduct, is in violation of the University's Standards of Conduct, and shall include, but shall not be limited to, the following:

(a) Substandard, incompetent, unprofessional or incomplete performance of any responsibility or assigned duty;

(b) Insubordination- A deliberate and inexcusable refusal or failure to obey a reasonable order given by the supervisor or other authorized University personnel in the performance of their official duties. Such orders may include orders given by authorized University Administrators or University Police to vacate campus premises;

(c) Excessive tardiness, or a pattern of tardiness;

(d) Excessive absences, or a pattern of absences;

(e) Absence without authorization - Failure to obtain approval prior to any absence from work, to notify or call the appropriate supervisor or the supervisor's designee on the first day

of an absence or obtaining leave based upon a misrepresentation or falsification. Includes unauthorized absence from the work area;

(f) Loafing - Continued and deliberate idleness during working hours which results in the employee's failure to perform assigned duties;

(g) Sleeping on duty;

(h) Falsification of records - The willful and deliberate misrepresentation, falsification or omission of any fact whether verbal, written, or communicated in some other medium;

(i) Unauthorized use of University property, equipment or personnel;

(j) Improper or careless use or operation of State property or equipment;

(k) Misuse or duplication of any University key;

(l) Unauthorized distribution and solicitation;

(m) Horseplay - Actions which disrupt or have the effect of disrupting the work of the participants or other employees;

(n) Fighting - Any form of violence, or threat of violence to others or against one's self;

(o) Threatening or abusive language;

(p) Illegal possession, sale, distribution or misuse of alcohol, drugs and other controlled substances, including drinking on the job, and/or reporting to work impaired under the influence of alcohol or drugs;

(q) Theft, conversion, misuse, damage or destruction of University property or of the property of members of the University community;

(r) Sabotage - Participation in an act of destruction or attempted destruction of University property or equipment;

(s) Conviction of a crime - The conviction of an employee of a crime, which would adversely affect the employee's ability or availability to perform the duties of the job, or the University's ability to carry out its mission;

(t) Violation of safety practices;

(u) Failure to wear required uniforms or appropriate clothing;

(v) Providing false information to University officials, withholding requested and/or required information, or the misuse of University documents;

(w) Prohibited Harassment - As defined by law, University Regulation or Policy;

- (x) Conduct unbecoming a public employee - Conduct, whether on or off the job, which adversely affects the employee's ability to continue to perform his assigned duties, or the University's ability to carry out its assigned mission;
- (y) Abuse of position or unauthorized use of department identification;
- (z) Divulging confidential information or unauthorized release of records;
- (aa) Interference with the freedom of movement of any member or guest of the University;
- (bb) Interference with the rights of others to carry out their activities or duties at or on behalf of the University;
- (cc) Interference with academic freedom and freedom of speech of any member or guest of the University;
- (dd) Possession of fireworks, explosives or weapons on campus without the express approval of the appropriate University authority;
- (ee) Creating a false alarm;
- (ff) Misuse of, or interference with, firefighting equipment;
- (gg) Disturbing the peace;
- (hh) Endangering the health, safety and welfare of members or guests of the University;
- (ii) Failure to make restitution of debts owed to the University or State of Florida;
- (jj) Failure to report revocation or suspension of driver's license where driving is a job-related function or the employee has access to University owned vehicles;
- (kk) Failure to report a bribe;
- (ll) Unlawful or careless use or display of a weapon by an employee required to carry a weapon during the performance of duties;
- (mm) Handling of evidence by Law Enforcement Officers- A University law enforcement officer who fails to inventory, process and reasonably care for recovered or seized property or who converts, falsifies, conceals, destroys or withholds any property or evidence;
- (nn) Repeated carelessness in, omission of, or inattention to, the performance of assigned duties and responsibilities;
- (oo) Violation of State or Federal law or University Regulations or Policies; and
- (pp) Violation of University Police General Orders.

(qq) Failure or refusal to cooperate in or interference with an internal investigation. All employees are required to fully and candidly cooperate with University or University sanctioned investigations and may not interfere in the process.

(5) Suspensions and Terminations. The appointment of an employee may be suspended or terminated for cause. Employees shall be given written notice of the proposed suspension or termination. The notice shall state the reason for the suspension or termination. During the period following notice, the employee may be reassigned at the discretion of the President, Provost or Vice President to whom the employee reports or their designee, or be placed on Administrative Leave with Pay. Written notice shall also be given upon a determination of final action.

(6) Administrative Leave pending investigation. The President, Provost or Vice President to whom the employee reports, or designee, may immediately suspend an employee from the performance of duties with or without pay when the employee is under investigation by the University for violation of the University's Standards of Conduct, or when there is reason to believe that the employee's presence on the job would adversely affect the functioning of the employee's office or the University, or jeopardize the safety or welfare of other employees, colleagues, or students. Administrative Leave may be with or without pay, pending final administrative action. Within two work days, excluding weekends and official holidays, the President, Provost or Vice President or designee, shall serve written notice upon the employee including a statement of the reasons for any action taken. If the employee has been placed on Administrative Leave without pay and ultimately prevails in the grievance procedure, the employee shall be reinstated with back pay.

(7) Notification. Notices given under this Regulation shall be hand-delivered or sent "return receipt requested" to the employee's address of record with the University. It is the duty of employees to keep current their address of record by notification to the University's Department of Human Resources.

(8) This Regulation shall apply to acts conducted on or off campus when relevant to the orderly conduct, processes and functions of the University.

Specific Authority: Article IX of the Florida Constitution, Florida Board of Governors Resolution dated January 7, 2003, 1001.706 FS., 1001.74(5) FS., History– New 6-7-88, Formerly 6C5-5.014; Amended 11-9-05, 3-15-06, 3-18-09, 7-1-15.