



## **FAU COMPLIANCE AND ETHICS PROGRAM**

**October 2, 2018**

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## I. INTRODUCTION

Higher Education is one of the most highly regulated and decentralized industries in the country. At the federal level alone, there are over 200 laws regulating some aspect of our operations. Regulatory activity is directed at issues including, financial affairs, accessibility programs, services, and activities, accreditation, alcohol and drug prevention, athletics, campus safety and security, college cost and affordability, conflicts of interest, disability accommodation, distance learning, export control, hazardous waste and environmental concerns, human subjects protocols, IT security, and records management. Regulatory compliance is a major university challenge and a source of financial, legal, and reputational risk.

Florida Atlantic University's (FAU or University) mission, vision, and values set forth the ethical principles under which all members of the University community are expected to conduct themselves. They also form the basis, along with the Code of Ethics for Public Officers and Employees (codified in the Florida Statutes at Title X, Chapter 112, Part III), the Federal Sentencing Guidelines, and Board of Governors Regulation 4.003 (State University Compliance and Ethics Programs), for the development of the University's Compliance and Ethics Program (CEP).

**Mission:** The mission of Florida Atlantic University's CEP is to assist the university in achieving its financial, operational and strategic goals (as set forth in FAU's Strategic Plan for the Race to Excellence, 2015-2025) while promoting compliance with all institutional policies as well as federal and state laws and regulations.

FAU's Compliance Office provides an organizational structure and range of services that:

- Support the University's mission, vision and values;
- Promote a culture of compliance and ethical behavior;
- Encourage a commitment to compliance with laws, rules, regulations, and policies;
- Reduce the risk of non-compliance; and
- Add value to and improve FAU's operations.

**Vision:** FAU is nationally recognized for high-caliber and diverse students, faculty, and staff. We engage students with experiential learning grounded in critical thinking, effective communication, and analytical skills. We will continue to expand our reach, influence and impact through innovative programs and research that drive the economy, build upon our extensive partnerships, and position our students for life-long success. The areas at FAU provide opportunities for faculty and students to build upon its existing strengths in research and scholarship. FAU's world-class teaching and research faculty serves students through 10 colleges: the Dorothy F. Schmidt College of Arts and Letters, the College of Business, the College for Design and Social Inquiry, the College of Education, the College of Engineering and Computer Science, the Graduate College, the Harriet L. Wilkes Honors College, the Charles E. Schmidt College of Medicine, the Christine E. Lynn College of Nursing and the Charles E. Schmidt College of Science. In addition, FAU houses over thirty institutes and centers that are established to carry out research, service and instructional activities which supplement and extend programs of instruction and research, including without limitation the Harbor Branch Oceanographic Institute, one of the nation's premier oceanographic

centers. FAU is ranked as a High Research Activity institution by the Carnegie Foundation for the Advancement of Teaching. The University is placing special focus on the rapid development of critical areas that form the basis of its strategic plan: Healthy aging, biotech, coastal and marine issues, neuroscience, regenerative medicine, informatics, lifespan and the environment.

**Values:** Integrity, Accountability, Excellence, Safety, Respect, and Engagement

FAU is committed to values which promote the welfare and positive transformation of individuals, communities, and societies. We value: the pursuit of truth and knowledge carried out in the spirit of intellectual and artistic freedom; ethical conduct; community engagement; diversity; responsibility to the natural environment; and mutual respect and civility.

A comprehensive compliance and ethics program promotes an organizational culture that encourages ethical conduct, a commitment to compliance with the laws and regulations, and detection of criminal conduct consist with the Federal Sentencing Guidelines. Specifically, Chapter 8 of the Federal Sentencing Guidelines outlines elements for an effective compliance program that include the following:

- Executive Oversight;
- Standards of Conduct/Policies and Procedures;
- Effective Lines of Communication;
- Education, Training and Awareness;
- Audit and Monitoring;
- Enforcement and Discipline; and
- Response and Prevention.

Experts in the field of compliance and ethics suggest a culture of compliance and ethics can be distilled from the following three simple questions:

- Is it legal?
- Do these actions comply with university policy or regulation?
- Do these actions seem fair, honest, and ethical?

The benefits of a comprehensive Compliance and Ethics Program are significant, including a campus environment which is open, honest, and accountable. Additionally, a comprehensive Compliance and Ethics Program:

- Fosters a culture which encourages and supports ethical decision-making and does not tolerate illegal or unethical behavior;
- Addresses problems through collaboration, cooperation, and communication;
- Reduces risks of non-compliance while increasing the likelihood of early detection and correction;
- Enhances decision-making at all levels by raising awareness of requirements/ expectations;
- Enhances employee engagement to report actual or perceived violations of law or policy; and
- Protects FAU's reputation by reducing the likelihood that damaging or negative events will happen and minimizing the consequences of such events if they do.

The consequences of non-compliance are similarly significant. Consequences of not doing the right thing include:

- Loss of accreditation
- Loss of federal funding, including student financial aid
- Fines and penalties,
- Federal and/or State monitoring activities,
- Litigation, and/or
- Reputational risk and bad press.

FAU's mission, vision, and values speak to a level of employee engagement which extends beyond mere compliance with laws, rules and policies. FAU's commitment, supported by this CEP, is to the highest standards of integrity, accountability, and ethical conduct.

FAU's CEP creates a structural foundation to prevent and detect violations of law and assist FAU in encouraging ethical conduct and compliance with all applicable laws and regulations. The program also proactively identifies and assesses risk to the University and strives to mitigate those risks through appropriate controls, governance processes as well as developing or implementing training and awareness for the University community.

One goal of the CEP is to make compliance and ethical behavior relevant to each and every employee. This CEP establishes the tone for ethical decision-making and accountability in all University business operations and reinforces FAU's commitment to integrity and "doing the right thing." The CEP elements detailed below outline strategies to help ensure integrity, accountability, and ethical conduct become embedded in all elements of our day-to day operations.

## **II. STRUCTURE**

### **A. Executive Oversight**

#### **1. The Board of Trustees Audit and Compliance Committee**

Primary oversight and direction for the University's CEP rests with the Board of Trustees Audit and Compliance Committee (BOTACC). The BOTACC's primary focus in this regard includes statutory, fiduciary and oversight responsibilities relating to:

- The integrity of the University's financial accounting and reporting processes;
- The maintenance of an effective system of internal controls;
- The performance of the University's independent audit and compliance functions;
- The governance of the CEP;
- Maximizing compliance with applicable laws, regulations, rules, policies, and procedures including the Code of Ethics and Conflict of Interest policies;
- Monitoring and controlling risk exposure;
- Maintaining open and direct lines of communication with the Board of Trustees, the administration, internal auditors, independent auditors, compliance officers, and internal compliance specialists; and
- Safeguarding University personnel and the physical, financial and information assets of the University.

The BOTACC takes appropriate action to set the overall tone for accountability, sound risk management, ethical behavior, and compliance with laws and regulations. Further, the BOTACC provides oversight of the University's financial practices and standards of conduct as well as the CEP and internal audit activity.

## 2. The Chief Compliance and Ethics Officer

Implementation and administration of the CEP shall be directed by a Chief Compliance and Ethics Officer (CCO), appointed by the University President and approved by the BOTACC. The CCO serves as the central point for coordination, collaboration, and oversight of activities and initiatives to promote and encourage a culture of compliance and ethical behavior. The CCO also serves as a resource to the President's executive leadership team and to departmental compliance partners in making compliance management decisions. The CCO is responsible for the implementation of this CEP, providing oversight and monitoring of its implementation, and periodic review. The CCO reports functionally to Chair of the BOTACC and administratively to the President and, as such, can escalate critical and/or time-sensitive compliance issues as appropriate and necessary.

## 3. The University Compliance and Ethics Committee

The University Compliance and Ethics Committee (CEC) was established by the President to advise on significant compliance and ethics issues and to provide leadership and oversight in the implementation and continuous improvement of the CEP. The CEC is a keystone to ensuring the University's compliance activities and programs are reasonably designed, implemented, and enforced. The CEC's focus includes: promoting excellence in all University compliance and ethics activities; providing leadership to ensure integrity and compliance with legal, regulatory, policy and ethics responsibilities; providing leadership and oversight to reduce and mitigate University compliance risks. The Committee is chaired by the COC and made up of individuals with compliance-related functions throughout the University.

## 4. Departmental/Divisional Compliance Partners

Finally, Compliance Officers/Partners in individual departments or divisions (e.g., Research, Athletics, Title IX Administrators, Environmental Health and Safety) provide leadership in addressing compliance issues within their scope of responsibility. In support our efforts to establish an effective, broad-based CEP, Compliance Officers/Partners will either report to or regularly communicate with the CCO. This approach recognizes the desire to maintain accountability for compliance at the department level, while also providing a structure for escalation of issues to the CCO as needed.

Although compliance is a responsibility of each member of the University community, proactive engaged leadership by members of the Board of Trustees and University administration is critical to maintaining a strong culture of compliance and ethical conduct. The structure for Executive Oversight of the CEP as outlined in this Plan provides a solid foundation for success.

## **B. Standards of Conduct**

The State of Florida's Code of Ethics for Public Officers and Employees, Chapter 112, Part 3, Florida Statutes and the University's Regulation on University Ethics (Ethics Regulation) is the foundation of the CEP. The Ethics Regulation sets forth the expectation of all employees to perform their duties and responsibilities with integrity and accountability to the highest ethical standards. It also serves as a guide for employees to support day-to-day decision making, and can be used as a benchmark against which performance, both individual and organizational, can be evaluated. The Ethics Regulation addresses purchasing activities, conflicts of interest, outside employment, business and professional activities, use of the University's name and symbols, and faculty produced books and materials. The Ethics Regulation incorporates the State of Florida's Code of Ethics for Public Officers and Employees, Chapter 112, Part 3, Florida Statutes and mandates that transactions relating to the expenditure of public funds requires the highest degree of public trust. The Ethics Regulation has not been updated in many years. With the adoption of this CEP, the CCO, with the support of the CEC and the BOTACC, will initiate a comprehensive review of the Ethics Regulation and make recommendations for changes.

## **C. Regulations and Policies**

University Regulations are statements of general applicability to guide the conduct or action of University constituents or the public, adopted by the University Board of Trustees to implement its powers and duties. University Policies are statements of management philosophy or practice established by the University President to provide direction and assistance to the University community in the conduct of University business or activities. University Regulations and Policies may be required to meet compliance and/or regulatory requirements, and/or to promote or enhance risk reduction and mitigation efforts. Both Regulations and Policies are easily accessible on the University's website.

University Regulations are managed by the University's Office of the General Counsel. Regulations are updated as required by Florida law and/or the Florida Board of Governors Regulations or Guidelines or other applicable legal or regulatory authority.

University Policies are managed by the University's Policies and Procedures Committee, which is comprised of representatives throughout the University and chaired by the Chief Compliance and Ethics Officer. University Policies are organized by area within the University Policies and Procedures Manual (UPPM). The UPPM includes only those policies and procedures that are generally applicable to more than one college or unit of the University. Matters pertaining only to the internal procedures of a given college or unit are generally not within the scope of the UPPM and are delegated to the responsibility of the specific college or unit. Internal policies may not conflict with University-wide policies. The Policies and Procedures Committee generally meets on a quarterly basis, or more often as needed.

Regular review of University Regulations and Policies is suggested as a best practice. With the adoption of this CEP, the CCO, with the support of the CEC will initiate a comprehensive review of University Regulations and Policies to fill missing gaps in compliance and regulatory requirements and maximize risk reduction and mitigation efforts.

#### **D. Effective Lines of Communication (Reporting)**

Open lines of communication are critical to early detection and identification of issues. Issue identification also points to areas or topics requiring additional monitoring or education. To those ends, employees are encouraged to share concerns and issues with their supervisor or other higher level administrators. Facilitating personal/face-to-face interactions is a priority for FAU as demonstrated by the training and awareness programs available both in person and online. Continued support for, and enhancement and expansion of, these programs is critical to ensuring open and effective lines of communication and thus an effective compliance and ethics program.

There are, however, situations when students, faculty or employees are not comfortable sharing a concern with their supervisor. In those cases, the University community is encouraged to raise the issue through use of the Office of Compliance or Office of Inspector General website or using the Maxient electronic reporting system that is managed by the Dean of Students. Maxient allows employees, students and any other individuals in the FAU community to make anonymous reports at any time. These reporting mechanisms are widely discussed in new-employees and freshman orientation as well as through other training offerings. Additionally, the Dean of Students and the CCO have met with college and department leaders across campus to increase awareness of these reporting mechanisms and answer questions or comments individuals may have regarding these communications tool. Continued marketing and support of these reporting mechanism is required for an effective CEP. Finally, the Office of Inspector General's website contains an anonymous complaint submission portal, and that office also oversees whistleblower protection and anti-retaliation regulations.

Additionally, information regarding specific reporting requirements on issues such as Clery Act reporting, Child Abuse reporting, Title IX and discrimination reporting are made available to the campus community through a variety of measures, including face-to-face and on-line training, targeted e-mails, and poster presentations. Continued use of these communications tools helps foster an environment of open, honest, and effective communications; in other words, a culture of compliance.

Finally, the CCO reports directly to the University President and to the BOTACC maximizing independence in function and providing a direct path for escalating communication of significant issues or concerns.

#### **E. Education and Training**

Compliance and ethics training is a foundational element of an effective compliance and ethics program. A university's commitment to general and specific compliance education and training programs cannot be overstated. Describing what constitutes an appropriate culture of compliance and ethics and communicating those expectations to employees and others in the FAU community is a function of our education and training program.

Currently, FAU offers a broad range of compliance related education and training workshops and seminars. Those individual programs form a good nucleus for the development of a comprehensive Compliance and Ethics Education and Training Program. The New Employee Compliance and Ethics Training is offered online and is a requirement that all new employees

must complete within thirty (30) days of onboarding. The Compliance and Ethics Training is separate from the Anti-Discrimination/Anti-Harassment training that all new employees also receive upon joining FAU. Additionally, in January 2018, the Compliance Office launched online Title IX Training to all current employees and faculty. Further, the Office of Compliance implemented HIPAA training for all employees and individuals working in or closely with the covered components. These training modules cover HIPAA Privacy Essentials and HIPAA Security Rule for Covered Entities. The Office of Compliance coordinate online training related to other areas of the university and offers the following training modules to relevant employees: PCI Compliance, FERPA for Higher Education and Security Awareness for End Users.

Finally, compliance and ethics training is not limited to our employees or faculty. More specifically, the CCO is working with representatives from the State Commission on Ethics and the Board of Governors to provide training for our Board of Trustees on compliance and ethics issues, including the Code of Ethics for Public Employees, Conflicts of Interest and Gifts and Honoraria. A regular schedule of BOT training on compliance and ethics issues is critical to our success in implementing this CEP since the tone at the top sets the tone for all.

In the short term, the CCO oversees training and awareness of different university components; all of which falls under the compliance and ethics umbrella. The CCO will also focus specific efforts on the development of education and awareness programs regarding ethics and conflicts of interest for all employees.

## **F. Audit and Monitoring**

Regular, rigorous review of University programs and operations allows issues to be identified early and remedied quickly. The University engages in frequent self-assessment, beginning with the continuous improvement processes required to meet accreditation standards through the Southern Association of Colleges and Schools, to departmental program reviews, to campus culture and satisfaction surveys. Continuous assessment of this nature is critical to ensuring an efficient, effective, and compliant work environment.

The Office of Inspector General (OIG) serves management as an integral part of the system of control. The OIG provides independent, objective assurance and consulting activities to improve University operations and promote accountability. Whether through regularly scheduled audits or ad hoc management accountability reviews, OIG staff serve to assist and coach administrators and employees in areas needing attention. An active, engaged audit function contributes to the overall health of the compliance and ethics culture.

Additionally, the University has a full-time risk manager, who is responsible for developing, planning and administering a comprehensive insurance and loss prevention program for the University. The University risk manager is the direct liaison with all insurance and risk management agencies and agents including the Division of Risk Management and FEMA. The University risk manager also chairs the University Safety Committee (a management level risk committee).

Furthermore, the University engages third-parties for the assessment of programs which require greater scrutiny due to the complexity and/or nature of the issue, or when there is no in-house

expertise for the initiative. Continued use of third-parties for such purposes should continue to be embraced as a best business practice.

## **G. Enforcement and Discipline**

An effective compliance and ethics program is one which provides incentives for employees to engage in conduct in accordance with laws, rules, and policies, and, conversely, applies appropriate disciplinary measures when employees engage in conduct which is non-compliant. The Federal Sentencing Guidelines specifically state that “adequate discipline of individuals responsible for an offense is a necessary component of enforcement” with the form of discipline determined on a case by case basis.

The University’s preferred approach is to engage programs and processes which incentivize employees to do the right thing. The University holds an annual Service Awards Ceremony recognizing employee contributions and services. This ceremony may be an appropriate vehicle by which to recognize employees for compliance related acts or actions and may be explored in consultation with the Office of Human Resources. Other means by which to incentivize employees should be explored to support and enhance, this element of the CEP.

With respect to discipline, the Assistant Vice President of Human Resources apprises and consults with the CCO on potential disciplinary issues related to non-compliance of laws, rules, and regulations. As part of this CEP, the CCO, with the support of the CEC, may review reports of confirmed non-compliance, including information regarding the nature of the discipline imposed, to ensure the University’s approach to enforcement and discipline is consistent and defensible. This review should also include information regarding instances when employees were found to have known of an act of non-compliance but failed to report, since all employees are required to report acts of non-compliance.

## **H. Response and Prevention**

Ensuring reasonable steps are taken to respond to complaints, especially complaints of compliance violations and/or unethical conduct, is critical to fostering an environment of integrity, trust, and accountability. Corrective action also helps prevent similar issues from occurring in the future. Failure to respond creates doubt about the University’s commitment to addressing misconduct, which has the effect of reducing employee morale and engagement. The University has multiple processes by which to investigate and address reports of questionable actions or behaviors. The Office of Compliance investigates compliance and ethics allegations and complaints while the Office of Equity, Inclusion and Compliance investigates allegations that involve discrimination or retaliation against various protected classes. These two areas are directly under the oversight of the CCO. Decentralized departmental decision-making, however, can have University-wide implications which can create institutional risk. To limit such risk, as part of this CEP, the CCO and the CEC will coordinate with those persons responsible for investigations to help ensure a cohesive approach to addressing complaints across campus, including the creation and implementation of any corrective actions plans, as appropriate. Coordination and cohesion are critical to an effective centralized compliance function.

### **III. EVALUATION**

A rigorous process of evaluation answers basic questions about a program’s effectiveness and is a critical management tool for program improvement. The BOTACC shall have governance oversight over this CEP. Metrics available for assessing the CEP include: review/investigation statistics, compliance training statistics, policy attestation rates, investigation reports, and timely implementation of important changes or rulings in compliance law. Board of Governors Regulation 4.003 requires the university president and the board of trustees to engage “an external review of the Program’s design and effectiveness” at least once every five (5) years and make recommendations for improvement. The first such external review will be engaged in FY 2022-2023, the fifth year of this CEP.