

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

Date: January 13, 2023

REGULATION TITLE AND NUMBER: Examinations and Assessments (7.010).

SUMMARY: FAU Regulation 7.010 was developed in accordance with Florida Statute 1008.23 and Board of Governors Regulation 3.005 to protect postsecondary examination and assessment instruments and directly related developmental materials and workpapers from disclosure to the public under Florida's public records laws. The proposed new regulation is summarized as follows:

1. Indicates all examination and assessment instruments as exempt from disclosure under section 119.07(1), Florida Statutes, and section 24(a), Article I, Florida Constitution, as provided in section 1008.23, F.S.
2. Protects examination and assessment instruments from unauthorized access or disclosure through encrypted electronic means or secure storage.
3. Requires all third-party contractors responsible for administering or proctoring examination or assessments to comply with this proposed new regulation.
4. Implements the destruction of obsolete examination and assessment instruments, and related materials according to applicable records retention schedules and University regulations and policies.
5. Defines permissible access to, or authorized disclosure of, examination and assessment instruments to faculty, staff, and students outside of the regular examination or testing process.

FULL TEXT OF THE NEW REGULATION: The full text of the proposed new 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: David L. Kian, General Counsel and Vice President for Legal 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: Ms. Cassandra Rey, Office of the General Counsel, 777 Glades Road, Boca Raton, Florida, 33431, (561) 297-3007 (phone), (561) 297-2787 (fax), GeneralCounsel@fau.edu.

Florida Atlantic University

Regulation 7.010 Examinations and Assessments

- (1) All examination and assessment instruments, including developmental materials and workpapers directly related thereto, that are prepared, prescribed or administered by the University are exempt from disclosure under section 119.07(1), Florida Statutes, and section 24(a), Article I, Florida Constitution, as provided in section 1008.23, Florida Statutes.
- (2) The security and confidentiality of examination and assessment instruments shall be protected against unauthorized access or disclosure, through encrypted electronic means or secure storage.
- (3) All third-party contractors responsible for administering or proctoring examinations or assessments shall be required to comply with this regulation.
- (4) Destruction of obsolete examination and assessment instruments and related materials shall be implemented pursuant to applicable records retention schedules and University regulations and policies.
- (5) Access to, or authorized disclosure of, examination and assessment instruments to faculty, staff and students outside of the regular examination or testing process shall be permitted by faculty in their reasonable discretion and/or as otherwise directed by the Provost's office or required by applicable law and may be shared with other school officials who have legitimate educational interests in the information.

Specific Authority Section 7(d), art. IX, Fla. Const.; BOG Regs. 1.001 and 3.005; Section 1008.23, Florida Statutes. History: New xx-xx-2023.