

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

Date: March 4, 2010

REGULATION TITLE AND NUMBER: Trespass and Loitering (7.006).

SUMMARY: Regulation 7.006, Trespass and Loitering, was last amended January 30, 2008. This proposal clarifies which administrators are responsible for decisions regarding the issuance and revocation of trespass notices. This proposal also implements a formal appeal and reconsideration process to insure due process is afforded to affected persons.

FULL TEXT OF THE REGULATION: The full text of the proposed 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 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:
Dennis Crudele, Interim Senior Vice President of Financial 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 AMENDMENT/REPEAL OF REGULATIONS 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.

PROPOSED

Florida Atlantic University

Regulation 7.006 Trespass and Loitering

(1) Florida Atlantic University is a member of the State University System. The President, as the chief executive officer of the University, has the responsibility for the operation and administration of the University, ~~and. The President, or the President's designated authorized personnel,~~ may issue trespass warnings ~~pursuant to Florida law. The Vice President for Financial Affairs is designated as the representative of the President to implement and enforce this regulation set forth below.~~

(2) Definitions.

~~(a)~~ University persons~~students.~~ Those persons who are currently enrolled at the University or have been admitted, registered for upcoming classes or completed at least one credit at the University during the current academic year.

~~(A)(b)~~ University persons. Those persons who are faculty, staff, ~~students~~ or other employees, volunteers or agents of Florida Atlantic the University, and persons on campuses University property fulfilling contractual obligations or acting as authorized members of registered University organizations.

~~(B)(c)~~ Non-University persons. All other persons who are not classified above as University persons~~students or University persons including, but not limited to, visitors, invited guests, students of other institutions and employees of other entities, and persons who have applied but have not been admitted to the University.~~

~~(d)~~ Authorized President's designated authorized personnel. Any University ~~business. Activity which furthers the mission~~ Police officer and purposes all Vice Presidents, Provosts, and Deans of the all levels.

~~(e)~~ Trespass warning. A warning that a person is not authorized to be on University and which has been approved property, or a portion thereof, and may be subject to arrest, criminal sanctions and civil penalties without further warning if he or she refuses to leave or returns at any time in the future. Trespass warnings are permanent and remain in full force and effect unless revoked by the appropriate applicable appeal or reconsideration process herein.

~~(C)(f)~~ Common areas. University ~~officials.~~ areas generally open to non-

University persons including, but not limited to, the library, food/vending areas, and bookstore/retail areas.

(3) Non-University persons are allowed to use the publiccommon areas of the University during normal business hours ~~or when present on campus for authorized University business~~, and are allowed to attend lectures, plays and other activities on the University campus in the designated buildings or areas when such attendance is permitted by the sponsoring organization. ~~It is the responsibility~~ Non-University persons are permitted in non-common areas of the ~~Vice President for Financial Affairs~~ University, including offices and administrative areas only when invited or ~~his/her designee to control the use of all campus areas on~~ authorized University business. Non-University persons are not allowed on ~~campus~~ University property except as authorized by this regulation. ~~Non-University persons on campus for other than authorized University business, or if their continued presence on the campus is deemed by the Vice President for Financial Affairs or his/her designee to be disruptive to the orderly conduct of the University, may be asked to leave.~~

~~(4) The presence of non-University persons in offices~~ students may access all common areas of the University ~~is permitted when on and~~ other University property open and available to students for authorized University business. ~~The supervisor of each office as the designee of the Vice President for Financial Affairs is delegated the authority to warn those persons present not on University business that they must leave the campus or be subject to arrest for trespassing. The~~ Only ~~University Police is to be notified of any such incidents.~~

~~(5)~~ (4) ~~Only~~ students registered for a class may be in attendance in instructional areas unless permission of the ~~Instructor is given. The Instructor as the designee of the Vice President for Financial Affairs is authorized to warn non-students that they are trespassing and must leave the area of instruction or be arrested for trespass. Any such incident will be reported to the University Police. Non-University persons are not allowed in classroom buildings unless present on authorized University business~~ instructor is given.

~~(6)~~ (5) ~~The Director of the Library or his/her designee is designated by the Vice President for Financial Affairs to warn those non-University persons who are not using~~ may access all common areas of the Library in an appropriate manner or who are creating an atmosphere not conducive to its use by University and other campus areas open and available to students and other University personnel, that they must leave the campus or they will be subject to arrest for ~~trespassing~~ authorized University business.

(6) Athletic, intra-mural and recreational facilities are for the use of University students, ~~faculty, staff~~ University persons and their authorized invited guests. Identification may be requested for the use of these facilities. ~~The Director of Athletics or the Vice President for Student Affairs, or his/her designees are hereby designated by the Vice President for Financial Affairs as the~~

~~(7) — No person to warn all unauthorized persons found at these facilities that they must leave the campus or be subject to arrest for trespassing. Any such incidents will be reported to the University Police.~~

~~(8)(7) Residence halls are considered to be the home of students. No one is allowed is permitted in a residence hall except authorized University personnelpersons, resident University students, and resident University students' guests according to published University Housing visitation and guest policies. The Director of Housing or his/her designee is designated by the Vice President for Financial Affairs to warn all other persons to leave the residence hall facility and to have such persons arrested for trespassing if they do not comply. Identification may be requested for the use of these facilities.~~

~~(8) (9) — Any person on University property who, in the opinionsole discretion of University officials, are the President or his/her designated authorized personnel, is violating or has violated the law, is violating or has violated any University regulations or policiesregulation or policy, including, as applicable, the Student Code of Conduct and Employee Standards and Disciplinary Procedures, prowling, loitering, not using FAU University facilities in an appropriate manner, obstructing traffic or impeding entry or exit, damaging property, creating a hazardous or unsafe condition, disrupting University operations, making threats toward any person or University property whether implied, express or in jest, or who are creating an atmosphere not conducive to the use of such facilities by other others, may be directed to leave the property and/or issued a trespass warning by the President or his/her designated authorized personnel.~~

~~(9) Appeals. A person issued a trespass warning may appeal the warning pursuant to the applicable procedure below. All appeals must be received in writing by the appropriate individual designated below within 10 calendar days of the date of issuance of the trespass warning.~~

~~(a) University students. University students may appeal a trespass warning in accordance with Regulation 4.007, the Student Code of Conduct. A written request for appeal shall be addressed to the Dean of Students. If not already provided, the Dean of Students will issue a Notice of Charges as set forth Regulation 4.007.~~

~~(b) University persons or guests, may be warned by authorized. University persons to leave the facility or campus or be arrested.may appeal a trespass warning in accordance with the General Grievance Procedure in Regulation 5.009(2). A written request for appeal shall be addressed to the Director of Human Resources for processing.~~

~~(c) (10) — The notice or warning to any person to leave or vacate University property is indefinite and may only be lifted or revoked by the President, the Non-University persons. Non-University persons may appeal a trespass warning to the Senior Vice President for Financial Affairs. The~~

appellant should submit a detailed written statement of the bases for the appeal, along with any other documents, photos, data or other items to be considered. Statements of witnesses or other individuals may also be submitted. After receiving the written appeal, the Senior Vice President for Financial Affairs may: 1) request additional information or documentation for any involved party including the issuing authority for further consideration; 2) schedule a meeting where all involved parties may attend to present information and documents in person; or 3) uphold or reverse the issuance of the notice or trespass warning based on the information received. The trespass warning shall only be invalidated or modified by the reviewing official if, in his/her sole discretion, the requesting individual has shown, by clear and convincing evidence, that the underlying reason for the trespass warning did not occur or does not warrant the trespass warning as issued. The decision of the Senior Vice President for Financial Affairs is the final decision of the University and may not be appealed.

Reconsideration. Unless revoked by the appropriate appeal process, the trespass warning is permanent and shall remain in full force and effect and may only be lifted or revoked after reconsideration by the President, the Senior Vice President for Financial Affairs, or the Senior Vice President for Student Affairs, or their respective designees.

~~(11) Any person who receives a notice or warning to leave or vacate University property may request. A request for reconsideration, revision, and/or revocation may be made in writing no more than once every six months. Students University students shall direct such requests to the Senior Vice President for Student Affairs, and non-students all other persons shall direct such requests to the Senior Vice President for Financial Affairs.~~

~~(10) (12) All persons who have been notified. Reconsideration shall only be granted by an authorized University official to leave and remain out of a specified area or areas and are subsequently found in the specified area or areas, are subject to arrest for trespass and/or loitering without further warning pursuant to law. the reviewing official if, in his/her sole discretion, the requesting individual has shown, by clear and convincing evidence, that the underlying reason for the trespass warning is no longer a concern and no other reasons exist to keep the trespass warning in force. The passage of time, in and of itself, shall not serve as a basis for revoking the trespass warning.~~

~~(11) (13) Nothing in the foregoing shall preclude or be interpreted to preclude or otherwise diminish the exercise of the statutory authority of University Police officers to arrest in accordance with the laws of this state any person for violation of state law or applicable county or city ordinances when such violations occur on any property or facilities which are under the jurisdiction of the University Police.~~

~~(14) The University Police Department is designated as authorized representatives of the President and Vice President for Financial Affairs, to issue notices and warnings to leave and/or vacate, for all campus facilities and areas.~~

(12) It is not the intent of the University nor does the University create any additional rights by the implementation of this Regulation or any changes thereto that are not otherwise available by law.

Specific Authority: Article IX of the Florida Constitution, Florida Board of Governors Resolution dated January 7, 2003, 1001.706, 1001.74, 1012.97 FS.; Law Implemented 1001.74, 810.08, 810.09, 856.021, 856.031, 1012.97 FS. History—New 9-14-81, Formerly 6C5-7.08, Amended 11-11-87, Formerly 6C5-7.008, Amended 1-30-08, - - -10.