

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

Date: October 15, 2021

REGULATION TITLE AND NUMBER: University Ethics (5.011).

SUMMARY: The Office of Compliance and Ethics seeks to amend FAU Regulation 5.011, University Ethics. The University Ethics Regulation is a critical component of the University's Compliance and Ethics Program. This regulation outlines the expectations of University employees with regards to ethical conduct, integrity and accountability. The proposed amendments incorporate reference to the new University Standards of Conduct and otherwise provide clarity regarding conflicts of interest and conflicts of commitment, unauthorized compensation, misuse of public position, disclosure or use of University information, political activities, and the use of the University name and symbols, and affirm that no disciplinary action will be taken for any employee that reports, in good faith, an alleged ethical violation.

FULL TEXT OF THE AMENDED REGULATION: 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. 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: Ms. Elizabeth Rubin, Chief Compliance & Ethics Officer, Office of Compliance & Ethics.

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: Cassandra Rey, Paralegal, 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 5.011

University Ethics

~~(1) State Code of Ethics & Standards of Conduct. Ethical conduct and decision-making by University employees are material components of the University's Compliance and Ethics Program. All employees are expected to perform their duties and responsibilities with integrity and accountability to the highest ethical standards. Employee ethics are governed by tThe Florida Code of Ethics for Public Officers and Employees, Chapter 112, Part 3, F.S. (Code of Ethics) and the University's regulations and policies, including without limitation this University Ethics regulation and the University's Standards of Conduct. ,is a part of the law of the State of Florida.~~ The Code of Ethics declares that it is the policy of the state that no state employee ~~of a state agency~~ may have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature which is in substantial conflict with the proper discharge of his/her duties in the public interest. The University's Standards of Conduct, as established by the University President or designee, sets forth additional ethical principles to govern business dealings by and within the University community. ~~The University adopts and reaffirms the State Code of Ethics and further adopts the following supplementary policies as part of the FAU Ethics Rule. The terms used are to be given the broadest definitions appropriate, so as to best implement the state policy and to evade even the appearance of impropriety in transactions and relationships involving University employees.~~

~~Collective Bargaining Agreements. This rule applies to all University employees. The provisions of this rule are subject to applicable provisions of collective bargaining agreements. In the event of conflict between this rule and a collective bargaining agreement, the provisions of the collective bargaining agreement shall prevail.~~

~~(2) Conflicts of Interest & Conflicts of Commitment. Conflicts of interest and conflicts of commitment must be avoided in conducting University business or outside activities. Conflicts may arise by virtue of business, personal or financial relationships.~~

~~(A) Purchasing. Purchasing Activities.~~

~~(B) Application. Transactions relating to expenditure of public funds require the highest degree of public trust to protect the interests of the University and the taxpayers of the State of Florida. All University personnel engaged in purchasing activities including, but not limited to the President, Vice President, Deans, Chairpersons, Directors, Budget Committee Members, Initiators of Requirements, Receiving Personnel, Recommending Advisors, Finance and Accounting, Purchasing Agents, and all persons involved in purchasing activities, and their Supervisors, are bound by the standards of conduct for public officers and employees set forth in Chapter 112, Part 3, F.S.~~

~~(C) — All employees. No full or part-time~~ University employee may rent, lease or sell any goods, services or realty to the University, either directly or, indirectly, from any business entity of which the employee or the employee's spouse or child is an officer, partner, director, or proprietor, or in which the employee or the employee's spouse or child, or any combination of them, has a material interest.

~~(A) Employees Involved in Purchasing. No full or part-time~~ University employee who participates through decision, approval, recommendation or preparation of any part of a purchase request or who influences the content of any specification or procurement standard, may contract with or become the agent contracting with University. The University reserves the right to refrain from contracting with any vendor of goods or services, if it determines that such a contract would involve or would appear to involve a conflict of interest. Nor shall such an employee permit the sale or lease of anything to the University through the employee's spouse or minor children, or through any business entity of which the employee's spouse or minor children, in any combination, have a material interest. "Material interest" is defined as having direct or indirect ownership of more than 5 percent of the total assets or capital stock of any business entity.

~~(D) — Conflicts of Interest~~ Outside Business Activities.

~~(B) —~~ No University employee may have outside employment or a contractual relationship with any business entity which is doing business with the University, whether compensated or uncompensated, which would create a continuing or frequently recurring conflict between private interests and the full and faithful performance of the employee's public duties or —burden or interfere with the employee's primary obligations and commitments to the University. University employees shall report outside activities, including financial interests of themselves and certain relatives, for conflict review and approval in accordance with applicable law and University policies and regulations.

~~(E) — Gifts.~~

~~(F) —~~ No University employee may solicit, agree to accept, or accept anything of value, including gifts, loans, rewards, promise of future employment, favor or service the employee knows or should have known that it was given to influence the judgment or official action of the employee or in connection with any contract for commodities or services.

~~(C) —~~

~~(D) —~~ Faculty Produced Books and Materials. Textbooks and instructional materials shall be implemented and selected in accordance with Section 1004.085, F.S, Florida Board of Governors Regulation 8.003, FAU

Regulation 3.004 and procedures designated by the Office of Academic Affairs.

~~Exemptions. Certain transactions and business relationships The University reserves the right to refrain from contracting with any vendor of goods or services, if it determines that such a contract would involve or would appear to involve a conflict of interest.~~

~~(5) Exemptions: University employees may be exempted or waived from certain conflicts by the University from the foregoing prohibitions against doing business with the University, if: as set forth in the Code of Ethics.~~

~~(a) The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder; and~~

~~The employee or the employee's spouse or child has in no way used or participated in the determination of the bid specifications for the determination of the lowest or best bidder;~~

~~The employee or the employee's spouse or child has in no way used or attempted to use influence to persuade the University or any personnel thereof to enter such a contract other than by the mere submission of the bid; and~~

~~The employee, prior to or at the time of the submission of the bid, has filed a statement with the Department of State, disclosing the interest of the employee or the employee's spouse or child, and the nature of the intended business.~~

~~An emergency purchase or contract which would otherwise violate this Code of Ethics must be made in order to protect the health, safety, or welfare of the citizens of the state.~~

~~The business entity involved is the only source of supply and there is full disclosure of the employee of his interest in the business entity to the University prior to the business being transacted. Additional documentation may be required to verify sole source purchases.~~

~~The total amount of the subject transaction does not exceed \$500.00.~~

~~The employee is engaged in research and development pursuant to a University copyright or patent, or under the auspices of the University's Division of Sponsored Research. Such transaction must be approved by the President and the Chancellor and reported to the Governor and the Legislature.~~

~~As a matter of policy, exemptions will not be approved by the University if other means of procurement of goods or services are available and more appropriate.~~

~~(6) Outside Employment, Business and Professional Activities.~~

~~(E)~~

~~(a) All Faculty and Administrative and Professional Employees:~~

~~It is the obligation of each faculty and staff member to keep the Chairman or Supervisor informed in detail as to all outside employment. Keeping the Supervisor informed, however, does not relieve the faculty or staff member of final responsibility for his or her~~

~~actions. The attention of faculty members is directed to the possibility of conflict of interest between their outside activities and work at the University.~~

~~This University subscribes in principle to the statement on this subject by the American Council on Education and the American Association of University Professors. Before assuming outside employment, business or professional activities, the University faculty or staff member shall complete a University Outside Activity Form and submit it to his or her Department or Supervisor. Approval of Outside Activities is granted for a period not to exceed one year.~~

~~3. In general, outside activities shall not require absence from assigned duties. Situations which are not satisfactorily resolved between a faculty or staff member and the appropriate Chairman or Supervisor may be referred or appealed through normal administrative channels.~~

~~Any University employee who proposes to engage in outside employment or any continuing business activity shall obtain approval, in writing, as far in advance as is practical. The request for approval shall include at a minimum the name of the proposed employer, or recipient of services and funding source; the location where such activity will be performed, the nature and extent of the activity; and any intended use of University facilities, equipment, or services. The employee shall inform the Supervisor of any changes in outside activities prior to engaging in the change. University Outside Activity Forms are public records under the laws of Florida.~~

~~If the request for approval of outside activities includes an intended use of University facilities, equipment, or personnel, approval may be conditioned upon reimbursement to the University for any additional costs resulting from such use. Outside activities may be approved without approval of the use of University facilities, equipment, or personnel.~~

~~(b) In-Unit Faculty and Administrative and Professional Employees:~~

~~In-Unit Faculty and Administrative and Professional Employees may undertake outside employment pursuant to the provisions of applicable collective bargaining agreements. A University Outside Activities Form must be filed prior to undertaking outside activities:~~

~~If any employee is compensated for outside professional activities, or,~~

~~If one could reasonably conclude that the activity could create conflict of interest, or which could otherwise interfere with the full performance of the employee's professional or institutional responsibilities.~~

~~(c) University Support Personnel Service Employees, Student Employees and Others:~~

~~1. University's Support Personnel Service employees, student employees and all other part-time University employees not mentioned in paragraphs (a) and (b) above, may undertake outside employment or business or professional activities provided it does not interfere with the regular work of the employee and does not result in any conflict of interest between the outside activity and the employee's responsibility to the University.~~

~~2. It is the obligation of the employee to inform his/her Supervisor in writing on the University Outside Activity Form as to all outside employment, professional and business activities, if one could reasonably conclude that the activity is likely to create a conflict of interest or the appearance of a conflict of interest, interfere with the full performance of~~

~~the employee's duties, if the business entity, which the employee proposes to be employed by or to contract with, does business with the University.~~

~~(3) Unauthorized Compensation. University employees, their spouses and minor children may not accept any compensation, payment, or thing of value when they know, or should know, that it is given to influence a vote or other official action.~~

~~(4) Misuse of Public Position. University employees may not use or attempt to use their official position or any property or resource that is within his or her trust to obtain special privilege, benefit, or exemption for themselves or others.~~

~~(5) Disclosure or Use of Information. University employees (including former employees) may not disclose or use information not available to the public and obtained by the reason of their position for their personal benefit.~~

~~(6) Political Activities. University employees may not use their position to interfere with an election, to command, coerce, or advise any other employee to contribute towards any political purpose, advise where he or she might purchase commodities or interfere in any other way with the personal right of employees, or participate in any political campaign for an election while on duty.~~

~~(4) Use of University Name and Symbols. No employee shall claim to represent the University or use University letterhead or the University seal, logos, or other marks in connection with any outside employment or activity, unless authorized in writing to do so, by the University President or the President's representative.~~

~~(7) _____~~

~~(8) _____~~

~~Faculty Produced Books and Materials.~~

~~(a) An employee may procure copyrights, and receive the royalties resulting therefrom, for the employee's products, provided~~

~~(a) the ideas came from the employee, (b) the products were the result of the employee's independent labors, and (c) the University was not held responsible for any opinions expressed therein. If the products were in any way supported by University funds, personnel, facilities, equipment, or materials, the employee shall report to the president or representative the employee's interest in having the product copyrighted.~~

~~(b) University faculty members are expected to be eminent in their areas of expertise. Faculty members are also encouraged to engage in creative pursuits and to publish the products of those pursuits. The result is that the best text for use in a faculty member's class is often written by the faculty member. A faculty member may require students to buy textbooks he or she has written provided that textbook has been published by a nationally recognized, commercial book company other than vanity press companies. The decision of the College Dean as to whether a company is a vanity press company shall be binding upon the college.~~

~~(c) Faculty members may require students in their classes to buy course manuals, studies guides, and other materials prepared by the faculty member if such materials are produced off campus, comply with copyright laws, and are offered for sale by the University Bookstore or if the materials are produced and sold by the University Copy Center. The charges to students for these materials will cover only the cost of producing and distributing the material and must be approved by the Department Chairperson and College Dean.~~

~~Faculty members may not sell books or materials to the University except in conformity with other provisions of the University Ethics Rule.~~

~~(94) —Disciplinary Actions. University employees who are determined by the University President to have violated these ethics standards Ethics Rules are subject to disciplinary action. Actions may include penalties specified by law, such as dismissal, suspension, demotion, reduction in salary, forfeiture of salary, restitution, public censure, and reprimand, or such other actions as may be deemed appropriate by the University President. No disciplinary action will be taken for any employee that reports, in good faith, an alleged ethical violation.~~

Specific Authority: Article IX of the Florida Constitution, Section 1001.706 and 120.53(5), 240.227(1) FS. Law Implemented Chapter 112, Part III, F.S., Florida Board of Governors Regulation 1.001, 240.229, 240.241, 287.055, 287.057, 287.062 FS. History—New 11-11-87, Formerly 6C5-5.013. Amended.