

**THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES  
FLORIDA BOARD OF GOVERNORS**

**NOTICE OF PROPOSED REPEAL OF REGULATION**

**REGULATION NO.:** FIU-104

**REGULATION TITLE:** Sexual Harassment

**SUMMARY:** This Regulation is being repealed and is replaced by FIU-105, Prohibited Discrimination, Harassment and Related Misconduct Including Sexual and Gender-Based Harassment, Sexual Violence, Dating Violence, Domestic Violence, and Stalking.

**TEXT OF REGULATION:** The full text of the Proposed Repeal of Regulation can be viewed below and on the website of The Florida International University Board of Trustees, <http://regulations.fiu.edu>. If you would like a copy of the Proposed Repeal of Regulation, please contact Eli Deville, Special Assistant to General Counsel, [devillee@fiu.edu](mailto:devillee@fiu.edu), Office of the General Counsel, (305) 348-2103.

**AUTHORITY:** BOG regulation 1.001(5)(a).

**NAME OF PERSON INITIATING PROPOSED REPEAL:** Jaffus Hardrick, Vice President of Human Resources and Vice Provost for Student Access & Success

ANY PERSON SEEKING TO COMMENT ON THE PROPOSED REPEAL OF THE REGULATION MUST SUBMIT COMMENTS IN WRITING TO THE CONTACT PERSON LISTED BELOW. ALL WRITTEN COMMENTS MUST BE RECEIVED BY THE CONTACT PERSON WITHIN 14 CALENDAR DAYS OF THE DATE OF PUBLICATION OF THIS NOTICE.

**CONTACT PERSON REGARDING THE PROPOSED REPEAL OF THE REGULATION:** Eli Deville, Special Assistant to General Counsel, Office of the General Counsel, Florida International University, 11200 SW 8<sup>th</sup> Street, PC 511, Miami, FL 33199. Email: [devillee@fiu.edu](mailto:devillee@fiu.edu). Fax: (305) 348-3272. Phone: 305-348-2103.

**DATE OF PUBLICATION:** February 23, 2015

**THE FULL TEXT OF THE PROPOSED REPEAL OF REGULATION IS PROVIDED BELOW:**

## **FIU-104 Sexual Harassment.**

### **(1) General Statement.**

(a) Sexual harassment undermines the integrity of the academic and work environment, and prevents its victims and their peers from achieving their full potential. All members of the University community are entitled to work and study in an atmosphere free from sexual overtures or innuendos that are unsolicited and unwelcome. It is the particular responsibility of those members of the University community who hold positions of authority over others to avoid actions that are, or can be considered, sexually abusive or unprofessional.

(b) It shall be a violation of this regulation on sexual harassment for any member of the University Community to sexually harass, as sexual harassment is hereinafter defined, any other member of the University Community. Sexual harassment is a type of misconduct which shall result in disciplinary or other action as provided by the policies and regulations of the University.

(c) The University discourages amorous or sexual relations between employees and students. Such relationships, even when consensual, may be exploitive, and imperil the integrity of the educational process or work environment. They may also lead to charges of sexual harassment. When an individual evaluates (including academic evaluations) or supervises another individual with whom he or she has an amorous or sexual relationship, a conflict is created. The University requires the resolution of any conflict of interest created by these relationships.

(d) Whenever a conflict of interest situation arises or is reasonably foreseen, the employee in a position of authority must resolve any potential conflict of interest by taking necessary steps, including, but not limited to, removing himself or herself from evaluative or academic decisions concerning the other individual. If he or she is unable to resolve personally the conflict of interest, he or she is required to inform the immediate supervisor promptly and seek advice and counsel in dealing with the conflict. The employee, along with the supervisor, is responsible for taking steps to ensure unbiased supervision or evaluation of the employee or student. Failure to resolve potential or actual conflict of interest situations as described in this regulation may result in disciplinary action, in accordance with University policies.

### **(2) Definitions:**

(a) For the purpose of this regulation, sexual harassment is defined as any unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature which:

1. Makes submission to or rejection of such conduct either an explicit or implicit basis for employment and/or academic decisions affecting the individual; or
2. Unreasonably interferes with the individual's employment or academic performance by creating an intimidating, hostile or offensive environment.

(b) Conduct which falls into the definition of sexual harassment includes, but is not limited to:

1. Unwelcome physical contact of a sexual nature such as patting, pinching or unnecessary touching.
2. Overt or implied threats against an individual to induce him or her to provide sexual favors or to engage in an unwelcome sexual relationship.
3. Verbal harassment or abuse of a sexual nature, including intimating by way of

~~suggestion a desire for sexual relations, or making jokes or remarks of a sexual nature in the work environment or which are not germane to academic course content.~~

~~4. Use of sexually suggestive terms or gestures to describe a person's body, clothing, or sexual activities.~~

~~5. Displaying or posting through any medium, including, but not limited to, electronic communication, offensive sexually suggestive pictures or materials in the workplace.~~

~~(3) Procedures for Reporting Violations and Conducting Investigations and Complaints. The procedures described in the University regulation concerning non-discrimination shall be followed.~~

~~(4) Prohibition of Retaliation. No University employee or officer shall retaliate against a complainant. Any attempt to penalize a student, employee or agent of the University for initiating a complaint through any form of retaliation shall be treated as a separate allegation of discrimination.~~

~~(5) Frivolous or Malicious Complaints. In the event that a claim of sexual harassment is found to be frivolous or malicious, appropriate University sanctions shall be taken against the complainant, including disciplinary action where appropriate. Disciplinary action against students shall be taken in accordance with the University's Code of Conduct for students.~~

~~(6) General University Responsibility.~~

~~(a) It is expected that vice presidents, deans, chairs, department heads, directors and other supervisors shall continue to monitor and take corrective action whenever instances of sexual harassment are either observed or reported to them. While the decision regarding resolution remains within the unit, all allegations of sexual harassment are to be immediately reported to the Office of Equal Opportunity Programs, which will provide advice and monitor the administrator's actions and/or take appropriate action.~~

~~(b) There may be instances in which a potential complainant is unable or unwilling to pursue a complaint of sexual harassment, but where the University administration is aware of the behavior. In such instances, the Office of Equal Opportunity Programs may choose to pursue an investigation of the alleged offense. The decision of whether or not to pursue an administrative complaint will be based on the egregiousness of the alleged offense, the basis for the aggrieved party's decision not to pursue a complaint, and the apparent evidence supporting the allegations. The decision to pursue an administrative complaint shall be made by the director of the Office of Equal Opportunity Programs in consultation with the Vice President in charge of the aggrieved party's unit and the Vice President in charge of the alleged offender's unit, in the event that the two parties are in different units. An administrative complaint will follow the same procedures as formal complaints except that no complainant will be named.~~

~~(7) Education and Notification.~~

~~(a) Copies of this regulation shall be widely disseminated in order that the University Community clearly understand which acts constitute sexual harassment and recognize that the University regards sexual harassment as a serious offense.~~

~~(b) This regulation shall be included in the University catalog and the student handbook. Periodic workshops and other educational programs are offered to University personnel regarding the topic of sexual harassment.~~

*Specific Authority Resolution of the Board of Governors dated January 7, 2003.*

*History New 7-6-97, Formerly 6C8-1.010, Amended 9-12-08.*