

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

NOTICE OF PROPOSED REGULATION

REGULATION NO.: FIU-103

REGULATION TITLE: Intimate Relationships

SUMMARY: The proposed regulation establishes that Employees with Authority may not engage in, initiate, or attempt to initiate an Intimate Relationship with a person over whom they exercise authority. It mandates procedures to be followed if an employee with Authority pursues or has an Intimate Relationship with another University Community Member. Such relationships must be disclosed immediately to the Office of Employee and Labor Relations (ELR) by the person in authority. ELR will set up a management plan to provide objective supervision of the community member. The regulation describes consequences for persons with authority that do not immediately disclose the relationship.

TEXT OF REGULATION: The full text of the Proposed 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 Regulation, please contact Eli Deville, Departmental Administrator, Office of the General Counsel, 305.348.2103.

AUTHORITY: Board of Governors Regulation 1.001.

NAME OF PERSON INITIATING PROPOSED REGULATION: El pagnier Hudson, Sr.
Vice President, Human Resources, Vice-Provost, Diversity, Equity, and Inclusion.

ANY PERSON SEEKING TO COMMENT ON THE PROPOSED 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 REGULATION:
Eli Deville, Departmental Administrator, Office of the General Counsel,
Florida International University, 11200 SW 8th Street, PC 511, Miami, FL 33199.
Email: devillee@fiu.edu | Phone: 305.348.2103 | Fax: 305.348.3272.

DATE OF PUBLICATION: August 22, 2022

THE FULL TEXT OF THE REGULATION IS PROVIDED BELOW:

FIU-103 Intimate Relationships

I. POLICY STATEMENT

Employees with Authority are prohibited from engaging in, initiating, or attempting to initiate an Intimate Relationship with any other University Community Members including, but not limited to, faculty, staff, administrator, affiliates, and students, over whom they exercise authority. Should any such Intimate Relationship pre-date this Regulation or arise as result of a change in employment or academic circumstances, the Employee with Authority must immediately disclose the relationship to and seek guidance from the Office of Employee and Labor Relations (ELR). An Employee with Authority that engages in, initiates, attempts to initiate and/or fails to disclose an Intimate Relationship with a person over whom they exercise authority is in violation of this Regulation.

This Regulation works in conjunction with the University's Nepotism Policy 1710.205 and Nepotism in Research Policy and Procedure 2320.060, to further Florida International University's commitment to maintaining an educational and workplace environment that is inclusive and free from abuse of authority, conflict of interest, coercion, sexual harassment, and favoritism.

II. DEFINITIONS

Affiliates - An affiliate is an individual who is not an employee or student but requires a Panther ID to perform duties as assigned by the department and/or receive access, if approved, to applicable university systems, resources, or facilities.

Employee with Authority - Any University employee who instructs, hires, fires, oversees, directs, coaches, trains, counsels, supervises, or evaluates another University community member, directly, indirectly, or functionally, including, but not limited to instructors, officers, supervisors, managers, administrators, directors, principal investigators, advisors, residential life staff, physicians, deans, chairs, and faculty. The term "Employee with Authority" may also include faculty members in their roles as instructors, researchers, supervisors of staff, members of tenure or college executive committees, and participants in decisions affecting the careers of other faculty or staff members or the educational activities of students; coaches who coach student athletes, or physicians who direct the work of others in an administrative, patient care, or training environment. An "Employee with Authority" is someone who has the authority to influence the career, academics, educational activities, or employment status of another University Community member.

Intimate Relationship - Any relationship that may reasonably be described as including, but not limited to, sexual, romantic, amorous, and/or dating or the pursuit thereof. Physical contact is not a required element of such relationships. An Intimate Relationship may exist on the basis of a single interaction.

Management Plan - A plan tailored to the individual circumstances, to remove supervision and/or influence by the Employee in Authority over the other party to the Intimate Relationship. It

might involve (a) assisting one of the individuals to change to another position in the University; (b) removing exercise of authority by the Employee with Authority by having someone else designated as a substitute for supervision, advising, evaluation etc.; (c) recusal from committees or from discreet decisions; or (d) any other arrangements which are reasonable under the circumstances to achieve the purposes of a Management Plan.

University - Any campus of Florida International University or any University sponsored, compensated, or approved programs, activities, or services.

University Community Member - All members of the University community including, but not limited to, faculty, staff, administrator, affiliates, and students.

III. MANDATORY DISCLOSURE

If an Intimate Relationship began prior to implementation of this Regulation or a change in employment or academic circumstances causes an Employee with Authority in a pre-existing Intimate Relationship to conflict with this Regulation, the Employee with Authority must immediately disclose the relationship to ELR. In matters regarding faculty, ELR will coordinate with Academic Affairs to coordinate the appropriate response or Management Plan. Failure to agree and abide by the Management Plan may result in discipline including termination.

If there is any doubt whether a relationship is covered by this Regulation, the Employee with Authority must seek guidance from ELR.

IV. MANAGEMENT PLANS

If it is determined that the potential for conflict of interest and favoritism can be successfully mitigated and managed, a written Management Plan will be implemented as soon as possible. If one or more faculty members are involved, ELR will collaborate with Academic Affairs in creating and implementing a Management Plan. The Management Plan will:

- (i) Provide an alternative means for managing, supervising, evaluating and/or advising the person not in authority or otherwise mitigate the potential for conflict of interest, favoritism, and the appearance of conflict of interest or favoritism;
- (ii) Give priority to the interest of the person not in authority;
- (iii) Be in writing and signed by both parties to the Intimate Relationship; and
- (iv) Be reassessed on an annual basis (or sooner if circumstances warrant) by the parties, and the applicable department/unit for necessary modification.

ELR has ultimate responsibility for preparing and monitoring the Management Plan and must review and re-evaluate the Management Plan at least annually to ensure that it continues to effectively mitigate the potential for conflict of interest, favoritism, and the appearance of conflict of interest. If the potential for conflict of interest and favoritism cannot be successfully mitigated and managed, the Intimate Relationship is prohibited or a transition plan to remove the Employee with Authority from the position will be necessary.

V. VIOLATIONS

An Employee with Authority that engages in, initiates, attempts to initiate and/or fails to disclose an Intimate Relationship with a person over whom they exercise authority is in violation of this Regulation. The obligation to report an Intimate Relationship, cooperate in the development of the Management Plan, and abide by its terms rests with the Employee with Authority. The obligation to prepare and monitor a Management Plan rests with ELR. An Employee with Authority that violates this Regulation will be subject to disciplinary action pursuant to applicable collective bargaining agreements or applicable personnel regulations, policies, or procedures. Sanctions include, but are not limited to letters of reprimand, training, performance improvement plans, reassignment, demotion, suspension with or without pay, and termination.

VI. REPORTING AND PROTECTIONS FROM RETALIATION

Any person who reasonably believes that an Employee with Authority is in violation of this Regulation, is encouraged to report the concern directly to ELR, or through the Ethical Panther Hotline, which allows for the option of submitting a confidential report, by visiting <https://fiu.i-sight.com/portal> or by calling 1-888-520-0570 (24 hours a day, 365 days a year).

Retaliation is expressly prohibited and the University will take immediate and responsive action to any report of retaliation. No University employee shall retaliate against any person who in good faith reports or assists in reporting a potential violation of this Regulation or participates in an investigation or resolution pursuant to this Regulation. Any attempt to penalize anyone involved in the process through any form of retaliation shall be treated as a separate violation.

VII. RELATED REGULATIONS AND POLICIES

Incidents involving unwelcome or harassing sexual conduct that potentially are a violation of FIU-105 Sexual Harassment (Title IX) and Sexual Misconduct should be reported to the Office of Civil Rights Compliance and Accessibility by reporting via <https://report.fiu.edu>. Nothing in this regulation shall be deemed as supplanting or otherwise affecting compliance with University Regulation 105, Nepotism Policy 1710.205 on the employment of relatives, Nepotism in Research Policy and Procedure 2320.060, or other applicable regulations, policies, and procedures.

Specific Authority: Board of Governors Regulation 1.001. History – New