



Item: BF: A-2

BUDGET AND FINANCE COMMITTEE

Tuesday, November 16, 2021

SUBJECT: REQUEST TO APPROVE PROPOSED NEW REGULATION 7.009, FRAUD PREVENTION AND DETECTION

PROPOSED COMMITTEE ACTION

Recommend BOT approval of proposed new Regulation 7.009, Fraud Prevention and Detection.

BACKGROUND INFORMATION

The University seeks approval of the proposed new Regulation 7.009, Fraud Prevention and Detection. This proposed new Regulation is a conversion of FAU's existing Fraud Policy (Policy 1.9), as required by the Board of Governor's Regulation 3.003, Fraud Prevention and Detection. It adds a strategic emphasis on fraud prevention and detection strategies.

IMPLEMENTATION PLAN/DATE

If approved by the Board, the regulation will be effective November 16, 2021.

FISCAL IMPLICATIONS

There are no fiscal implications to this proposed board action.

Supporting Documentation: Text of proposed new Regulation 7.009

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Florida Atlantic University

Regulation 7.009 Fraud Prevention and Detection

- (1) **Overview.** Florida Atlantic University, under the governance of its Board of Trustees (BOT), is committed to creating an organizational culture where risk management structures are established to prevent and detect fraudulent activities within the University. University Regulations 5.011 (University Ethics), 5.012 (Employee Standards and Disciplinary Procedures), and 7.007 (Process for Complaints of Waste, Fraud or Financial Mismanagement), University Policy 8.2. (Standards of Conduct), as well as Chapter 112, Part 3 of Florida Statutes (The Code of Ethics for Public Officers and Employees) articulate standards of behavior and requirements for the disclosure of fraudulent activities. Breaches of these standards, especially acts involving fraudulent behavior, are costly financially and erode the public trust and confidence in the University. Such breaches also impair the University's reputation for operating with efficiency as good custodians of public and private funds.
- (2) **Scope.** This regulation communicates a "zero tolerance" for fraudulent activities; institutes preventive measures designed to deter these activities and/or make them easier to detect and prevent; and provides for the reporting and investigation of such activities, including protecting persons, to the extent legally permitted, who report such violations. This regulation is applicable to all members of the University community including BOT members, University and auxiliary employees, entities contracting with or doing business with the University, vendors, volunteers, and students. Administrators at all levels of management should set the appropriate tone by displaying the proper attitude toward prudent fiscal management, complying with all policies, laws, rules, and regulations, and are responsible for establishing, adhering to and maintaining effective risk management and internal controls which will assure the security and accountability of the personnel, resources and fiscal responsibilities entrusted to them. In addition, administrators should be cognizant of the risks and exposures inherent in their area of responsibility, and be aware of the symptoms and red flags of fraudulent activities, should they occur. Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title, or relationship with the University.
- (3) **Fraud.** Fraud is defined as an intentional misrepresentation or concealment of a material fact for the purpose of obtaining a benefit that would not otherwise be received, or inducement of another to act upon the intentional misrepresentation or concealment to his or her detriment. Fraud includes an impropriety, misappropriation, and/or fiscal wrongdoing, including but not limited to the following:
 - (a) Any fraudulent acts in the course of performing University functions;
 - (b) Forgery or alteration of any document or account belonging to the University;
 - (c) Destruction, alteration, mutilation, concealment, covering up, falsification or making of a false entry in any record, document or tangible object with the intent to impede, obstruct or influence any investigation by the University or by any state, federal or administrative agency.
 - (d) The destruction, alteration or concealment of any records used in the conduct of an audit;
 - (e) Forgery or alteration of a check, bank draft, or any other University or University-related financial document;
 - (f) Misappropriation of funds, securities, supplies, equipment, or other assets of the University;
 - (g) Impropriety in the handling or reporting of University or University-related money or financial transactions;

- (h) Deliberately and inappropriately disclosing University or University-related confidential or proprietary information to outside parties;
 - (i) Accepting or seeking gifts or any other items of value from contractors, vendors, or persons providing goods or services to the University where it is understood that such gifts or items are intended to influence the judgment or official action of the University employee.
 - (j) Unauthorized destruction, removal or inappropriate use of records, furniture, fixtures, equipment and other University property;
 - (k) Improperly influencing or attempting to improperly influence the conduct of any audit of University finances, operations or accounts;
 - (l) Taking information, using it or providing information that would lead to identity theft; and
 - (m) Any similar or related inappropriate conduct.
- (4) **Anti-Fraud Framework and Strategies.** The University shall adopt anti-fraud framework and strategies, which shall include, but not be limited to: committing to combating fraud by creating an organizational culture and structure conducive to fraud risk management, planning regular fraud risk assessments and assessing risks to determine the University's fraud risk profile, designing and implementing a strategy with specific control activities to mitigate assessed fraud risks and fostering collaboration at all levels to help ensure effective implementation of strategies and control activities; and evaluating outcomes using a risk-based approach and adapting activities to improve fraud risk management.
- (5) **University Community Member Responsibilities.** The University's Chief Financial Officer (CFO) and respective manager(s) are responsible for designing, implementing, and overseeing the University's system of internal controls and other anti-fraud framework strategies. These individuals should work with the Chief Audit Executive/Inspector General to assure the risk mitigation strategies and internal controls are properly designed and operating effectively. Management is responsible for the detection and prevention of fraud and misappropriations of University resources, and/or other inappropriate conduct that involves a willful or deliberate act or omission with the intention of obtaining unauthorized benefits, services or something of value through unethical or unlawful means. Management is also responsible for creating a responsible environment to prevent inappropriate behavior by displaying the proper attitude toward complying with policies, rules, regulations and laws and by maintaining proper internal controls that will provide for the accountability and security of resources. All University employees should be familiar with the types of improprieties that might occur within his or her area of responsibility and be alert for any indications of irregularity. Any university employee who has knowledge of such activity is responsible for immediately reporting the suspected fraud.
- (6) **Reporting.** Reports may be made in person, using standard University e-mail and telephone communication, through the anonymous complaint form on the Office of Inspector General's website, or through the University's Compliance and Ethics Hotline. Reports may also be submitted by contacting the Office of Inspector General directly, or by contacting the Chief Compliance Officer, as more specifically set forth in University Regulation 7.007. The reporting community member will refrain from further examination or investigation of the suspected wrongdoing, confrontation of the alleged perpetrator, or further discussion of the incident with anyone other than the Chief Audit Executive/Inspector General and/or law enforcement.
- (7) **Investigation Responsibilities and Authority.** The Chief Audit Executive/Inspector General—in consultation with University management, the Office of the General Counsel, and the University Police Department—has the primary responsibility for independently and objectively evaluating all allegations of fraudulent activities and to act on such in accordance applicable regulations, rules

and laws and in accordance with University Regulation 7.007. The investigation may utilize internal and/or external resources considered necessary. Individuals assigned to investigate suspected fraud will have free or unrestricted access to all relevant University records and premises. If suspected fraud or other wrongdoing involves programs funded in whole or in part with state, federal or private funds, additional responsibilities, such as special reporting and disclosure to the awarding agency, may apply. In those instances where the investigation by the Inspector General indicates criminal activity, the investigation shall be turned over to the University Police Department.

- (8) **Actions.** If an investigation substantiates that fraudulent activity has occurred, the senior area administrator shall take appropriate action in consultation with the Inspector General, Office of the General Counsel, University Police Department and the Provost's Office or Department of Human Resources, as appropriate. Employees determined to have participated in fraudulent activities will be subject to disciplinary action in accordance with University policies and regulations and in accordance with any applicable collective bargaining agreements. Decisions regarding demotion, suspension or termination will be made in consultation with the Office of the General Counsel and the Provost's Office or the Department of Human Resources, as appropriate. Failure to comply by a consultant, vendor, contractor, outside agency, or person doing business with the University or in any other relationship with the University could result in cancellation of the business or other relationship. Criminal, civil and/or other administrative actions may also be taken against any person or entity who are found to have participated in unlawful acts or who knowingly withheld information that would have revealed fraudulent activities. In accordance with Board of Governors (BOG) Regulations 4.001-4.003 and University Regulation 7.007, the Inspector General will keep the BOT and BOG informed of any credible and significant allegations of fraudulent activities within the University.
- (9) **Confidentiality and Whistle-blower Protections.** The University will treat all information received pertaining to suspected fraud confidential to the extent permitted by law. Employees should not attempt to personally conduct investigations or interviews/interrogations related to any fraudulent activities. To the extent permitted by law, investigation results will not be disclosed or discussed with anyone other than those individuals who have a legitimate need to know or as otherwise required by applicable law or regulation. An employee or other person who lawfully, appropriately, and in good faith reports suspected fraudulent activities shall not suffer discharge, demotion, suspension, threats or harassment or be discriminated against in any other way because of such employee's lawful actions in providing information or assistance to an investigation into fraudulent activities. Under Florida Statute 112.3187 (Whistle-blower's Act), an employee who, in good faith, reports wrongful activity is protected against retaliation for making such a report.
- (10) **Administration.** The University's Chief Financial Officer (CFO) or designee is responsible for the administration, revision, interpretation, and application of this regulation. The regulation will be reviewed every five (5) years for currency and consistency with applicable BOG and University regulations and revised as necessary. The CFO will provide a periodic evaluation and report to the BOT, at least annually, of the status of the antifraud framework used and any necessary revisions to improve the framework.

Specific Authority: Article IX, Sec. 7, Fla. Constitution; Fla. Stat. Chapter 112; Fla. Board of Governors Regulation 1.001 and 3.003. New _____-2021.