



**FLORIDA
ATLANTIC
UNIVERSITY**

Overview of the CBA and Legal Issues

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Article 5: Academic Freedom & Responsibility

- When teaching or engaging in assigned duties, faculty shall provide an objective and skillful exposition of subject matters, including a variety of scholarly options.
- Faculty have the academic responsibility to act respectfully towards members of the University community to include refraining from statements disparaging the professional capabilities of colleagues and others.
- Contributing to the orderly and effective functioning of the academic unit and/or the University.
- Responsibility not to represent oneself as an institutional representative, unless specifically authorized as such.

Collegiality & Effective Communication

- Remember, this is a long-term relationship.
- What goes around, comes around
- Communication with Chair/Director is important
- University Policy 8.2, Standards of Conduct

Some advice: Don't just remember the Golden Rule, practice it too.



your  cards
someecards.com

Article 6: Nondiscrimination

- The Office of Civil Rights and Title IX (OCR9) is charged with investigating charges of discrimination and harassment, and determining whether a violation of University Policy 1.15 or other University regulations and policies occurred. However, independent of the OCR9's determination, the employee may be disciplined pursuant to Article 16 if factual findings suggest the employee is incompetent or engaged in misconduct. A record of such discipline will be placed in the employee's evaluation file.
- Mandatory reporting – All claims of discrimination and harassment based on membership in a protected class must be reported to OCR9.
- Student Accessibility Services (SAS)

Article 8: Appointments

- Employees who wish to apply for fixed multi-year appointments must submit request by 1/31 in year current appointment ends. Relevant documentation may be required.
- University shall notify the employee in writing of the decision within 60 days, if practicable.

Article 8: Appointments

- Visiting appointments may not exceed three consecutive years, unless a longer duration is recommended by the dean after consulting with the faculty and approved by the Provost's Office
- Faculty assigned to teach a course will not be removed in favor of another faculty member 30 days prior to the first day of class, if practicable.

Article 9: Assignment of Responsibilities

Summer Assignment – upon dean's written approval, other credit generating activities may be offered during the summer term for agreed-to compensation for that specific activity.

Article 10: Employee Performance Evaluations

- Annual evaluations and SPEs must be criteria based, not norm referenced.
- Any changes to the evaluation processes will be made in consultation with the department.

Article 10: Evaluations

- Prep with Interfolio Dossier
- Chairs/Directors, or comparable administrators, who are responsible for an employee's annual assignments, shall also be responsible for evaluating the employee.
- Evaluators may consider, where appropriate, information from the following sources: immediate supervisor, peers, students, employee/self, other University officials who have responsibility for supervision of the employee, and individuals to whom the employee may be responsible in the course of a service assignment.



Article 10: Evaluations

- Know your department evaluation criteria
- Process
 - Self-evaluation
 - Written evaluation with annual assignment within 90 days of end of evaluation period
 - Employee may request meeting before evaluation is placed in file (10 day requirement)
 - Employee may then request meeting with next level administrator
 - Employee may attach a concise comment to evaluation
- 10.3(c)(4)- The University is committed to providing assistance to any faculty member who wants or needs to improve the performance of his/her assignment. If an employee is evaluated as **less than satisfactory in any area of the annual evaluation**, the employee and the supervisor must develop a **written plan** to address the employee's performance. This plan will be **appended to the annual evaluation**.

Article 12: Non-Reappointment

- Acceptance of a tenure-track appointment does not guarantee continued, or any set term of, employment or supersede any employment separation policies.
- Know the correct advanced notice period for non-reappointments. Factors include length of employment, type of appointment, type of compensation, and position title.

Post Tenure Review (PTR)

BOG Reg. 10.003- all tenured faculty must undergo a comprehensive post-tenure review intended to determine whether a faculty member is meeting the responsibilities and expectations associated with assigned duties; recognize and honor faculty achievement; and identify underperforming faculty who may be placed on performance improvement plans towards meeting or exceeding established standards.

Provost must report to the President and BOT on the outcomes. FAU IG must conduct an audit.

Post Tenure Review (PTR)

AY 2023-2024, 63 tenured faculty were assigned PTR performance ratings:

- 69.8% of faculty (44) received a performance rating of Exceeds Expectations
- 28.6% of faculty (18) received a performance rating of Meets Expectations
- 1.6% of faculty (1) received a performance rating of Does Not Meet Expectations
- No faculty received a performance rating of Unsatisfactory

[10.003-Post-Tenure-Review_032923.pdf \(flbog.edu\)](#)

[https://www.fau.edu/provost/documents/post-tenure-review-policy-11.2023.pdf](#)

Article 14: Promotion Procedure

- Promotion decisions are based on scholarly contribution and past meritorious performance of assigned duties, will follow established written criteria specified by the Board or the University, and be available on the college/unit website.
- Each college/unit shall periodically review its criteria to ensure that they are consistent with the employees' assignments and the mission of the University and the academic unit.
- Changes to a college/unit's promotion criteria must be approved by the Provost (or designee), posted online, and accessible to faculty.

Article 14: Promotion Procedure

- Years in rank and sustained productivity at FAU are particularly important for promotion to full professor.
- Faculty who have part time administrative roles shall follow the established written criteria of the college/unit when applying for full professor.

Article 15: Tenure

Tenure decisions are based on scholarly contribution and past meritorious performance of assigned duties, will follow established written criteria specified by the Board or the University, and be available on the college/unit website.

Article 15: Tenure

- Each college/unit shall periodically review its criteria to ensure that they are consistent with the employees' assignments and the mission of the University and the academic unit.
- Changes to a college/unit's tenure criteria must be approved by the Provost (or designee), posted online, and accessible to faculty.

Article 19: Outside Activity & Conflict of Interest

- No moonlighting
- Workday Outside Activity Form (available to those already on-boarded)
- Conflict of Interest Resource Page - <https://www.fau.edu/compliance/conflict-of-interest/>
- University Policy 8.3, Conflict of Interest, Conflicts of Commitment, and Outside Activity

Article 19: Outside Activity & Conflict of Interest

1012.977 Disclosure of contracts that affect the integrity of state universities or entities; penalties.—

- (1) Any person employed by a state university or entity engaging in research which was created or authorized pursuant to part II of chapter 1004 consents to the policies of the university or entity, the regulations of the Board of Governors, and the laws of this state. At a minimum, such policies shall require employees engaged in the design, conduct, or reporting of research to disclose and receive a determination that the outside activity or financial interest does not affect the integrity of the state university or entity.
- (2)(a) “Financial interest” includes anything of value other than that provided directly by the university or entity. (b) “Outside activity” includes anything an employee does for an organization or an individual, other than the university or entity, that is related to the employee’s expertise.
- (3) An employee who has failed to disclose any outside activity or financial interest as required by subsection (1) shall be suspended without pay pending the outcome of an investigation which shall not exceed 60 days. Upon conclusion of the investigation, the university or entity may terminate the contract of the employee.

Article 19: Outside Activity & Conflict of Interest

- Faculty with at least a 0.5 FTE appointment, and all faculty engaged in the design, conduct, or reporting of research regardless of FTE, are required to annually complete an outside activity form for conflict review.
- All outside activity, including teaching and research activities occurring when the employee has no active appointment (i.e. summer) or is on leave must be reported.
- Financial interests must also be disclosed if: (i) there is a business relationship between the outside entity and the university or its direct-support organizations,
(ii) there is a relationship of such interest with your university responsibilities,
or
(iii) you are engaged in the design, conduct and reporting of research and hold financial interests with a foreign entity.
- If a faculty member has no information to disclose, a report indicating “no activity to report” must be completed each year on or before September 30.
- Failure to report outside activity, and receive required approvals, may result in discipline including termination.


Appendix J: Examples of Reportable and Nonreportable Activities

- An illustrative chart has been created to provide examples of reportable and non-reportable outside activities (see Article 19).

Compensation

- **23.6 Salary Increases** for market equity; *documented* compression/inversion; *verified* counteroffers; increased duties and responsibilities; special achievements; and litigation/settlements.
- Must notify union of any in-unit increase designated for special achievements.
- Must have an Equity Distribution Policy *approved* by the dean and provided to the union for any in-unit increase for market equity or compression/inversion. The Equity Distribution Policy shall state the eligibility and distribution formula and apply to *all* faculty in the department/school. The union has the opportunity to discuss the Equity Distribution Policy in consultation with the President/designee prior to the implementation.

Compensation

- **8.4 (d) & 23.8 Overloads** define additional compensation as, “compensation for any duties in excess of a full appointment (1.0 FTE).”
- Above established FTE for the position  compensated through temporary employment (OPS), not salary
- Univ. Policy 7.2 <https://www.fau.edu/policies/documents/files/7-2-additional-assignment-compensation.pdf>
- Provost Memo 2.4.7. <https://www.fau.edu/provost/documents/faculty-overload-assignments-and-additional-compensation.pdf>

Compensation

- **Regulation 5.016 Bonuses**

<https://www.fau.edu/regulations/documents/chapter5/regulation-5-016-effective-11-16-21.pdf>

- Must be approved by the Provost or Vice President. President/designee must approve when requested bonus is for a direct report to the Provost/Vice President.
- General Rules: Bonus should not exceed 15% of an employee's annual salary or \$5,000, whichever is greater. One bonus within a 12-month period per employee. There may be exceptions if approved by the President/designee.
- Work performance, recruitment, and retention. Criteria for each category.

Reporting requirement- In the first quarter of each fiscal year, the President/designee shall report to the BOT the total amount paid during the prior fiscal year for performance, recruitment, and retention bonuses, and certify that the bonuses paid complied with the University's bonus plan criteria and were paid from funds contained within the University's budget as approved by the BOT.

Article 24: Benefits

- The University retains the discretion to offer voluntary retirement incentive programs.
- Employees may enroll in up to six credit hours per term without tuition charges if the employee earns a grade of at least a C in undergraduate courses; a B in graduate courses; and a P in P-F graded courses. Employees may elect to allow an IRS qualified dependent child or spouse to utilize this benefit in lieu of the employee. A dependent child must enroll in a minimum of thirty credit hours in undergraduate classes per academic year (unless a SAS accommodation dictates otherwise), and maintain a 2.0 GPA. A dependent spouse may enroll in either undergraduate or graduate level courses for at least six credits per semester, fees for three credits will be waived while the remaining three credits must be paid out-of-pocket.

Instruction

SPOT (STUDENT PERCEPTION OF TEACHING)




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STUDENT
PERCEPTION
OF
TEACHING

- Syllabus is a contract with the students
- Teach to your course objectives
- Prompt constructive feedback/SPOTs
- Ask for help! University resources are available to you

Faculty Absence

- University Policy 7.5
- CBA Article 17
- Faculty leave request form
 - BOG
 - SACSCOC
 - Faculty Absence Form


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UNIVERSITY

Faculty Absence Notification/Leave Report Form

This form must be submitted if faculty will miss instructional time and/or designated office hours. In case of emergency, the form shall be submitted no less than three (3) days from the date(s) of absence.

Name _____ Z# _____

College _____

Date(s) of Reported Leave: _____ to _____

Purpose of Reported Leave: sick academic/professional other

If the leave is for academic/professional purposes, please provide a brief statement regarding the value to (a) your professional/academic development and (b) Department/College and University community. _____

****Faculty may be required to provide copies of the seminar or conference materials upon returning to work. ****

If other is selected, please identify in detail the extraordinary circumstances for your reported leave (i.e. bereavement, jury duty, etc.). _____

Will you miss class time? Yes No If yes, list the class(es) below:

Course 1 title: _____ Course number: _____

Was the class cancelled?
 Yes. Please explain when the class time will be made up or otherwise identify the activity or assignment which will substitute the cancelled class. _____

Florida Sunshine Laws

- Florida Statutes, Chapter 286, the “Open Meetings Act,” provides a right of access to governmental meetings.
- Florida Statutes, Chapter 119, the “Public Records Law,” creates a right of access to records made or received in connection with official business of a public body.
- Refer all public records requests to the Media Relations office
 - Requests need not be in writing or directed to any particular individual or office

Florida Sunshine Laws

Florida Statutes, Chapter 119 defines Public Records as:

- all documents, drafts, emails, texts, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material
 - regardless of physical form or means of transmission
- made or received pursuant to law in connection with transaction of official business by the agency
- Includes drafts
- Not applicable to truly personal records

Florida Sunshine Laws

Some public records are exempt from public disclosure due to statutory exemptions.

Examples of exemptions:

- Student education records
- Certain materials relating to faculty tenure applications
- Certain investigative records during the pendency of an investigation
- Certain confidential trade secret or proprietary information

FERPA – The Opposite of the Sunshine

- Under the public records law, *all university records* are “public” unless there is an express exemption making the record confidential. FERPA is an exemption.
- Under FERPA, *all student records* are “confidential” unless there is an express exemption making the information public.
- Under state law, all applicant records are also “confidential.”

You are Bound by FERPA. What are Your Responsibilities?

- To maintain confidential student educational records in an appropriate manner.
- To limit access to student educational records to those with a “legitimate educational interest.”
- Generally, you may only share the contents of student educational records with non-FAU officials where the student has provided written consent for such disclosure.

What “Educational Records” Must Be Kept Confidential?

Any “personally identifiable” information that would make a student’s identity easily traceable including:

- Social Security Number or Z number
- Grades and GPA
- Class schedules
- Transcripts
- Student Conduct records

What Educational Records May Be Released to the Public?

Directory Information

- FERPA defines “Directory information” as information that if disclosed to third parties will not violate a student’s privacy. This is set by the school.
- NOTE: Requests for Public Records including Directory Information should be referred to the Media Relations office.

What Educational *Information* Is Not Protected By FERPA?

- Personal knowledge derived from direct, personal experience with a student is not protected.
- For example, a faculty or staff member who personally observes a student engaging in erratic and threatening behavior is not prohibited by FERPA from disclosing that observation.
- But you would not be permitted to disclose the record of the observation unless one of the exceptions to FERPA applied.

Parties to Whom Educational Records May Be Disclosed Without Prior Consent

- A FAU official with an “educational interest.”
- Another institution where the student is seeking to be enrolled.
- To a necessary party for health or safety emergency.
- The DOE or state/local educational authorities (to meet legal requirements).

(Continued on ³⁶next slide.)

“Legitimate Educational Interest” in Student Educational Records

Who *has* a legitimate interest?

- A school official that has a need to review the educational record to fulfill his/her job duties.

Who *does not* have a legitimate interest?

- Parents, spouses, siblings, girlfriends, boyfriends, roommates, etc.

Final FERPA Thoughts

- Always be very careful to protect the confidentiality of student information
- When in doubt about your responsibilities under FERPA, call the Registrar.

WHAT IS DUE PROCESS?

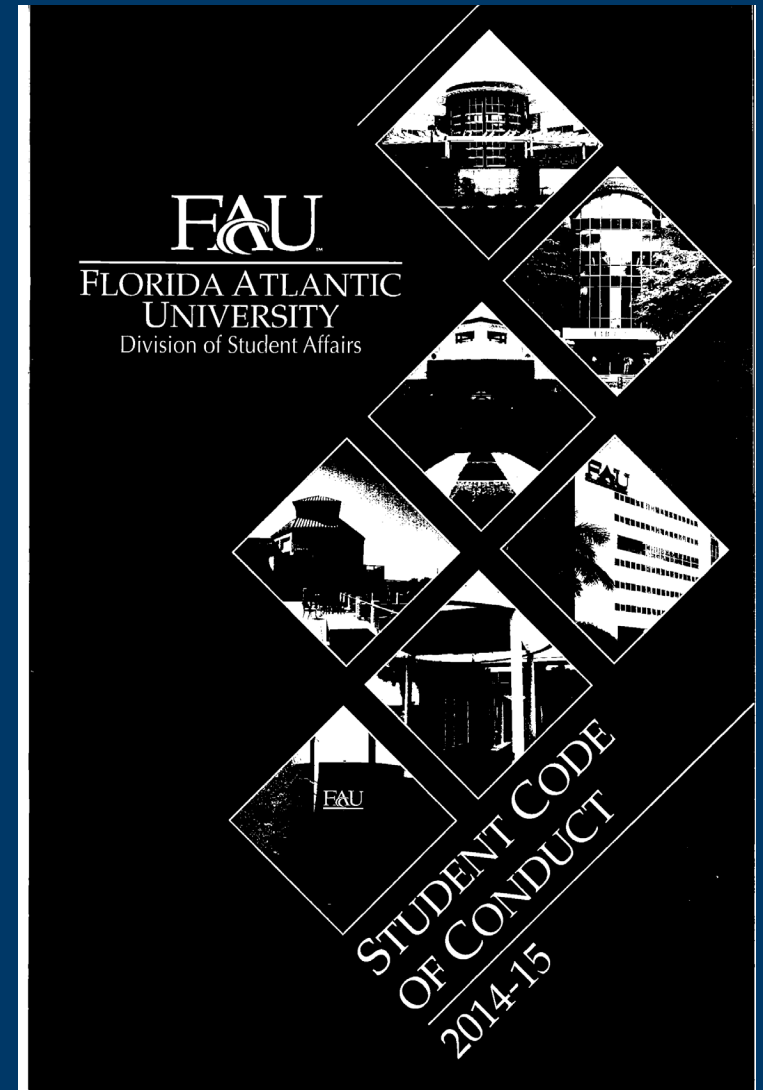
Elements of due process:

- Notice
- Opportunity to be heard

WHAT PROCESS IS DUE?

Student Code of Conduct FAU Regulation 4.007

www.fau.edu/regulations



STUDENT CODE OF CONDUCT

Regulation 4.007

- Processed by Student Affairs – Office of Student Conduct
- 6 step process:
 - (1) Identification of a potential violation and report
 - (2) Investigation Conference
 - (3) Notice of Charges
 - (4) Student Conduct Conference (more than 5 days after notice of charges)
 - (5) Hearing (no less than five days after SCC)
 - (6) Appeal to the Vice President for Student Affairs

****Note: More to come on proposed changes**

WHAT PROCESS IS DUE?

Code of Academic Integrity FAU Regulation 4.001

Florida Atlantic University

Regulation 4.001 **Code of Academic Integrity**

(1) Purpose. Students at Florida Atlantic University are expected to maintain the highest ethical standards. Dishonesty is considered a serious breach of these ethical standards, because it interferes with the University mission to provide a high quality education in which no student enjoys an unfair advantage over any other. Dishonesty is also destructive of the University community, which is grounded in a system of mutual trust and places high value on personal integrity and individual responsibility.

(2) Definitions. The FAU Code of Academic Integrity prohibits dishonesty and requires a faculty member, student, or staff member to notify an instructor when there is reason to believe dishonesty has occurred in a course/program requirement. The instructor must pursue any reasonable allegation, taking action where appropriate. Examples of academic dishonesty include, but are not limited to, the following:

(A) Cheating

1. The unauthorized use of notes, books, electronic devices, or other study aids while taking an examination or working on an assignment.
2. Providing unauthorized assistance to or receiving assistance from another student during an examination or while working on an assignment.
3. Having someone take an exam or complete an assignment in one's place.
4. Securing an exam, receiving an unauthorized copy of an exam, or sharing a copy of an exam.

(B) Plagiarism

1. The presentation of words from any other source or another person as one's own without proper quotation and citation.
2. Putting someone else's ideas or facts into your own words (paraphrasing) without proper citation.
3. Turning in someone else's work as one's own, including the buying and selling of term papers or assignments.

(C) Other Forms of Dishonesty

1. Falsifying or inventing information, data, or citations.
2. Failing to comply with examination regulations or failing to obey the instructions of an examination proctor.
3. Submitting the same paper or assignment, or part thereof, in more than one class without the written consent of both instructors.
4. Any other form of academic cheating, plagiarism, or dishonesty.

(3) Procedures.

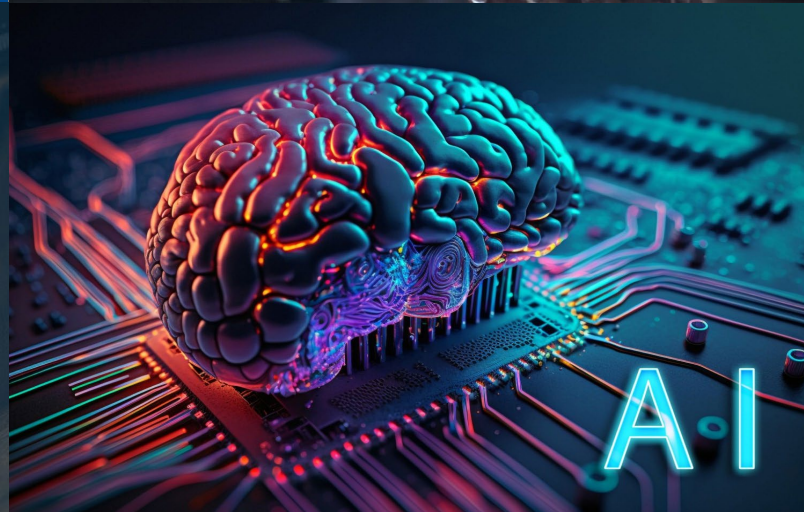
(A) If the instructor determines that there is sufficient evidence to believe that a student engaged in dishonesty, the instructor will meet with the student at the earliest possible opportunity and provide notice to the student of the instructor's perception of the

ACADEMIC INTEGRITY

Regulation 4.001

- Processed by the College, with the assistance of Student Affairs
- 6 step process:
 - (1) Perceived act of dishonesty, including cheating, plagiarism or other form of dishonesty
 - (2) Professor meets w/ Student to discuss and provide notice
 - (3) Written notice of the charges and the penalty
 - (4) Opportunity to be heard by chair and instructor
 - (5) Appeal to the Dean – convening of a Council
 - (6) Appeal to the Provost

AI & Regulation 4.001



Change is on the way!

- Updates the examples of academic dishonesty to include unauthorized use of artificial intelligence.
- Clarifies that students may not apply the University's forgiveness policy, drop, or withdraw from courses in which a violation of the Code of Academic Integrity occurred.

Recording Class Lectures

Under a law enacted by the Florida Legislature in 2021, a state university student may, without prior notice, audio or video record a class lecture for a course in which the student is enrolled if the recording is for one of the following purposes:

- personal educational use of the student;
- in connection with a complaint to the university where the recording is made; or
- as evidence in, or in preparation for, a criminal or civil proceeding.

Recording Class Lectures

A recording of a class lecture may not be published without the consent of the lecturer, except it may be shared with university officials in connection with a complaint to the university or as evidence in a criminal or civil proceeding.

What is a “class lecture”?

What is “publication”?

Recording Class Lectures

A class lecture is defined as a formal or methodical oral presentation as part of a university course intended to present information or teach students about a particular subject.

Class lecture does not include student presentations (whether individually or as part of a group), class discussion (except when incidental to and incorporated within a class lecture), labs, clinical presentations such as patient history, academic exercises involving student participation, test or examination administrations, field trips, and private conversations between students in the class or between a student and the lecturer.

To publish means to share, transmit, circulate, distribute or otherwise provide access to the recording, regardless of format or medium, to another person (or other persons), including but not limited to another student in the class.

Additionally, a recording, or transcript of the recording, is published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, picket signs, or any mode of print.

Duty to Report Child Abuse

- Florida law (§ 39.201) requires *all* persons to report knowledge or reasonable suspicion that a child is abused, abandoned, or neglected to the Florida Department of Children and Family Services (DCF).
- The law further prohibits any person from preventing another person from meeting their reporting obligation to DCF.
- A person who knowingly and willfully violates the law is subject to *criminal prosecution*.

TITLE IX

The Basics:

- Protects people from discrimination based on sex in education programs and activities that receive federal financial assistance (Education Amendments 1972).
- DOE Regulations, effective August 14, 2020.
- New Regulations on hold pending legal challenges.

Title IX

Reporting Requirements:

- If you become aware of any incident of sexual assault, violence, and/or harassment, you must report to the Title IX Coordinator.

Bobby Brown

Office of Civil Rights and Title IX

Florida Atlantic University

Administration Bldg., Suite 265

brownb@fau.edu

561-297-4644

Students in Crisis

Students In Distress

- <https://www.fau.edu/studentsindistress/>

Kognito Interactive

- <https://www.fau.edu/training/kognito/>

Report a Concern

- <http://fau.edu/report/>

Questions?