

# FLORIDA GULF COAST UNIVERSITY

## NOTICE OF REGULATORY ACTION

DECEMBER 10, 2008

**REGULATION TITLE:**

Sexual Harassment

**REGULATION NO.:**

FGCU-PR1.004

**SUMMARY:**

This FGCU regulation is being repealed and consolidated with FGCU-PR1.003, Non-Discrimination and Anti-Harassment.

**FULL TEXT:**

The full text of the regulation being proposed is attached and can also be found at <http://www.fgcu.edu/generalcounsel/promulgation.asp>

**LAW IMPLEMENTED:**

§760.10 Florida Statutes

**UNIVERSITY OFFICIAL INITIATING THE PROPOSED REVISED REGULATION:**

Cheryl Seals-Gonzalez, Director Institutional Equity and Compliance

**UNIVERSITY OFFICIAL APPROVING THE PROPOSED REGULATION:**

Wilson G. Bradshaw, President

**PERSON TO BE CONTACTED REGARDING THE PROPOSED NEW REGULATION:**

Diane St. John, Administrative Assistant, [dstjohn@fgcu.edu](mailto:dstjohn@fgcu.edu); (239) 590-1101 (Phone), (239) 590-7470 (Facsimile); 10501 FGCU Blvd. South, Fort Myers, FL 33965-6565

**ANY COMMENTS REGARDING THE PROPOSED NEW REGULATION SHOULD BE SUBMITTED IN WRITING ON OR BEFORE JANUARY 5, 2009 BY 5:00 P.M. THE COMMENTS MUST IDENTIFY THE REGULATION ON WHICH YOU ARE COMMENTING.**

**THIS NOTICE WAS POSTED ON THE FGCU WEBSITE ON: DECEMBER 10, 2008.**



## REGULATION: ~~FGCU-PR1.004~~

*Effective  
Date of  
Regulation:*

### **Sexual Harassment**

*01/15/08  
REPEAL*

#### ~~(1) General Statement.~~

- ~~a. Sexual harassment underlines 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 innuendoes 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 rule for any officer, employee, student, or agent to sexually harass, as sexual harassment is hereinafter defined, any other officer, employee, student visitor or agent. Sexual harassment is a type of misconduct which shall result in disciplinary action pursuant to University Regulation FGCU-PR5.016 and FGCU-PR5.022, and the terms of any applicable collective bargaining agreement, or other corrective measures such as a requirement to undergo training or counseling.~~
- ~~c. When an individual evaluates or supervises another individual with whom he or she has an amorous or sexual relationship, a conflict is created. The University discourages such amorous or sexual relations between employees and students. Such relationships, even when consensual, may be exploitive, and jeopardize the integrity of the educational process or work environment and may lead to charges of sexual harassment. The University requires the resolution of any conflict of interest created by these relationships.~~
- ~~d. The employee in a position of authority must resolve any actual or potential conflict of interest by taking necessary steps, including removing himself or herself from evaluative decisions concerning the other individual. If the person in authority is unable to resolve the conflict of interest, he or she is required to inform his/her immediate supervisor promptly. Failure to resolve potential or actual conflicts of interest as described in this rule shall result in disciplinary action pursuant to University Regulations FGCU-PR5.016 and FGCU-PR5.011 and the terms of any applicable collective bargaining agreement.~~
- ~~e. It is expected that 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 shall provide advice and monitor the administrator's actions and/or take action as required by Title VII of the Civil Rights Act of 1964, as amended, and Chapter 760, F.S.~~

- (2) ~~Definition of Sexual Harassment.~~
- a. ~~For the purpose of this rule, sexual harassment is defined as conduct of a sexual nature which includes:~~
    - i. ~~Verbal harassment or abuse of a sexual nature, including intimating by way of suggesting a desire for sexual relations, or making jokes or remarks of a sexual nature which are not germane to the workplace or to academic course content.~~
    - ii. ~~Displaying or posting through any medium, including, but not limited to, electronic communication, offensive sexually suggestive pictures or materials in the workplace.~~
    - iii. ~~Use of sexually suggestive terms or gestures to describe a person's body, clothing, or sexual activities.~~
    - iv. ~~Unwelcome physical contact of a sexual nature such as patting, pinching or unnecessary touching.~~
    - v. ~~Overt or implied threats against an individual to induce him or her to provide sexual favors or to engage in an unwelcome sexual relationship.~~
  - b. ~~For purposes of employment, sexual harassment is defined as unwelcome sexual advances, requests for sexual contact, and other verbal or physical conduct of a sexual nature from any person when:~~
    - i. ~~Submission to such conduct is either explicitly or implicitly a term or condition of an individual's hire or employment, salary increase, position advancement or other employment-related benefits; or~~
    - ii. ~~Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or~~
    - iii. ~~Such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.~~
  - c. ~~For purposes of enrollment as a student at the University, sexual harassment is defined as any unwelcome sexual advances, requests for sexual contact, and other verbal or physical conduct of a sexual nature, including, but not limited to, instances where:~~
    - i. ~~Submission to such conduct is made either explicitly or implicitly a term or condition of a student's academic achievement; or~~
    - ii. ~~Submission to or rejection of such conduct is used as a basis for decisions regarding the evaluation of a student's academic achievement; or~~
    - iii. ~~Such conduct has the purpose or effect of interfering with an individual's academic performance or creating an intimidating, hostile, or offensive academic environment.~~
  - d. ~~Retaliation. It shall be a violation of the University's policy against sexual harassment for an employee or student to retaliate against someone who has made or filed a complaint against them alleging they have engaged in sexual harassment.~~

~~(3) — Dissemination of Policy.~~

- ~~a. — Employees. It shall be the responsibility of the Director of Human Resources to disseminate the University's Sexual Harassment policy to all employees of the University through the following means:
  - ~~i. — Each employee shall be furnished with a copy of this rule. The University shall publish and disseminate notice of changes to the rule to all employees.~~
  - ~~ii. — Employees shall have the opportunity to discuss and ask questions about the interpretation and application of the policy, and shall be apprised of possible discipline for any violation thereof during periodic seminars.~~
  - ~~iii. — It shall be the obligation of the University to train its administrators and supervisors in implementation of this rule.~~~~
- ~~b. — Students. The University's Sexual Harassment Policy shall be published in the University's academic catalog(s), Student Information Handbook or in other publications of general circulation to students. The University shall publish and widely disseminate notice of changes in the policy.~~
- ~~c. — Vendors. The Director of Purchasing is responsible for disseminating the University's Policy against Sexual Harassment to university vendors by means of its incorporation by reference in contracts and purchase orders.~~
- ~~d. — Contractors.
  - ~~i. — Any authorized employee or student who enters into a contract with third parties for the provision of goods or services to the University is responsible for informing them of the University's policy against Sexual Harassment.~~
  - ~~ii. — Contractors to the University are responsible for apprising others under their purview, including but not limited to consultants, sub-contractors and employees, of the University's policy against Sexual Harassment.~~~~

~~(4) — Disciplinary Actions.~~

- ~~a. — Any employee of the University who is found to have sexually harassed a student, another employee or an applicant for employment shall be subject to disciplinary action up to and including dismissal in accordance with University Regulation FGCU-PR5.016 and FGCU-PR5.022, and the terms of any applicable collective bargaining agreement. The level of the punishment shall be guided by the seriousness of the offense.~~
- ~~b. — Any student who engages in sexual harassment of an employee or another student shall be subject to disciplinary action up to and including expulsion as provided in University Regulation FGCU-PR4.003.~~
- ~~c. — Any employee with supervisory authority who fails to take corrective action or report a complaint or incident of sexual harassment shall be subject to discipline up to and including dismissal as provided in University Regulation FGCU-PR5.016 and FGCU-PR5.022, and the terms of any applicable collective bargaining agreement. The level of the punishment shall be guided by the seriousness of the offense.~~

- ~~d. Anyone who knowingly files a false complaint of sexual harassment or who knowingly provides false testimony shall be subject to discipline up to and including dismissal or expulsion as provided in University Regulation FGCU-PR5.016 and FGCU-PR5.022, and the terms of any applicable collective bargaining agreement as to employees, and Regulation FGCU-PR4.003, as to students. The level of the punishment shall be guided by the seriousness of the offense.~~
- ~~(5) Procedure for filing a Complaint.~~
- ~~a. The procedures described in Regulation FGCU-PR1.003, Non-discrimination Policy and Discrimination Complaint Procedures shall be followed.~~
- ~~b. Any formal written complaint filed under this section must be filed with the President's designee within sixty (60) calendar days after the alleged occurrence of the harassment incident, or in the case of a student complaint against a faculty member, within fourteen (14) calendar days of the beginning of class of the following semester.~~
- ~~(6) Frivolous or Malicious Complaints. In the event that a claim of sexual harassment is found to be frivolous or malicious, disciplinary action shall be taken against the complainant, in accordance with University Rules FGCU-PR5.016 and FGCU-PR5.022, and the terms of any applicable collective bargaining agreement as to employees, and Regulation FGCU-PR4.003, as to students.~~
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Law Implemented:

~~§240.261, 760.10 FS.~~

History of Rule:

~~Nov 4-17-97~~

History of Regulation:

~~Nov 1-15-08~~

Effective Date of Regulation:

~~January 15, 2008~~