FAU
BOARD OF TRUSTEES
Florida Atlantic University

Item: V. AF: A-1

Wednesday, January 30, 2008

SUBJECT: REQUEST APPROVAL OF PROPOSED AMENDMENTS TO REGULATIONS 7.006, TRESPASS AND LOITERING.

PROPOSED BOARD ACTION

Authorize approval of the proposed amendments to University Regulation 7.006, Trespass and Loitering, and authorize the University President to amend the regulations, consistent with Legislative and Board of Governors' directives and guidelines.

BACKGROUND INFORMATION

Regulation 7.006 (Trespass and Loitering) was last amended in November 1987 and requires amendment to conform to new administrative titles. Under Regulation 7.006 the Vice President for Financial Affairs acts as the President's designee to administer policies outlined in the regulation.

The proposed amendment also adds a process for reconsideration or revocation of a trespass notice.

IMPLEMENTATION PLAN/DATE

Upon approval by the Board of Trustees.

FISCAL IMPLICATIONS

Not Applicable.

Supporting Documentation: Proposed Amendments to University Regulations 7.006, Trespass and Loitering.

Presented by: Dr. Kenneth Jessell **Phone:** 561-297-3266

FLORIDA ATLANTIC UNIVERSITY
NOTICE OF PROPOSED REGULATION AMENDMENT

Date: December 19, 2007

REGULATION TITLE AND NUMBER: Trespass and Loitering (7.006).

SUMMARY: Regulation 7.006, Trespass and Loitering, was last amended in November 1987 and requires amendment to conform with new administrative titles. Under Regulation 7.006 the Vice President for Financial Affairs acts as the President's designee to administer and policies outlined in the regulation. The amended regulation also adds a process for reconsideration or revocation of a trespass notice.

FULL TEXT OF THE REGULATION: The full text of the proposed regulation is attached below to this Notice. The full text of the existing regulation is posted on FAU's website at www.fau.edu/regulations. In addition, the full text of the proposed regulation and current regulation are available upon request to the Office of the General Counsel, which can be contacted at (561) 297-3007 or GeneralCounsel@fau.edu.

AUTHORITY TO AMEND THE REGULATION: Article IX of the Florida Constitution and the Board of Governors Regulation Development Procedure dated July 21, 2005.

UNIVERSITY OFFICIAL INITIATING THE REGULATION AMENDMENT: Dr. Kenneth A. Jessell, Vice President for Financial Affairs.

COMMENTS CONCERNING THE PROPOSED REGULATION AMENDMENT SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. In response, the University may solicit additional written comments, schedule a public hearing, withdraw or modify the proposed regulation amendment in whole or in part after notice, or proceed with adopting the regulation amendment. The comments must identify the regulation(s) on which you are commenting:

THE PERSON TO BE CONTACTED REGARDING THE AMENDMENT/REPEAL OF REGULATIONS IS: Myrlande Dessalines, Paralegal, Office of the General Counsel, 777 Glades Road, Boca Raton, Florida, 33431, (561) 297-3007 (phone), (561) 297-2787 (fax), GeneralCounsel@fau.edu.

PROPOSED

Florida Atlantic University

Regulation 7.006 Trespass and Loitering

(1) Florida Atlantic University is a member of the State University System. The President, as the chief ~~administrative~~ executive officer of the University, has the responsibility for the operation and administration of the University, and may issue trespass warnings pursuant to Florida law. The Vice ~~-~~President for ~~Administrative~~ Financial Affairs is ~~hereby appointed and~~ designated as the representative of the President to ~~effect the purposes and policies of~~ implement and enforce this regulation. ~~ule.~~

(2) Definitions.

(A) University persons. Those persons who are faculty, staff, students or employees of Florida Atlantic University, ~~or Palm Beach Junior College~~ and persons on campuses fulfilling contractual obligations or acting as members of registered University organizations.

(B) Non-University persons. All other persons who are not classified above as University persons.

(C) Authorized University business. Activity which furthers the mission and purposes of the University and which has been approved by the appropriate University ~~officers~~officials. ~~mentioned below.~~

(3) Non-University persons are allowed to use the public areas of the University during normal business hours or when present on campus for authorized University business, and are allowed to attend lectures, plays and other activities on the University campus in the designated buildings or areas when such attendance is permitted by the sponsoring organization. It is the responsibility of the Vice ~~-~~President for ~~Administrative~~ Financial Affairs or his/her designee to control the use of all campus areas. Non-University persons are not allowed on campus except as authorized by this regulation~~rule~~. Non-University persons on campus for other than authorized University business, or ~~will be ordered to leave~~ if their continued presence on the campus is deemed by the Vice ~~-~~President for ~~Administrative~~Financial Affairs or his/her designee to be disruptive to the orderly conduct of the University, may be asked to leave. ~~.~~

(4) The presence of non-University persons in offices of the University is permitted when on authorized University business. The ~~S~~supervisor of each office as the designee of the Vice ~~-~~President for ~~Administrative~~Financial Affairs is delegated the authority to warn those persons present not on University business that they must leave the campus or be subject to arrest for trespassing. The University Police is to be notified of any such

incidents.

(5) Only students registered for a class may be in attendance in instructional areas unless permission of the Instructor is given. The Instructor as the designee of the Vice ~~-~~ President for ~~Administrative~~Financial Affairs is authorized to warn non-students that they are trespassing and must leave the area of instruction or be arrested for trespass. Any such incident will be reported to the University Police. Non-University persons are not allowed in classroom buildings unless present on authorized University business.

(6) The Director of the Library or his/her designee is designated by the Vice ~~-~~President for ~~Administrative~~Financial Affairs to warn those n~~N~~on-University persons who are not using the Library in an appropriate manner or who are creating an atmosphere not conducive to its use by University students and personnel, that they must leave the campus or they will be subject to arrest for trespassing.

(7) Athletic, intra-mural and recreational facilities are for the use of University students, faculty, staff and their authorized invited guests. Identification may be requested for the use of these facilities. The Director of Athletics or the Vice President for Student Affairs, or his/her designees are ~~is~~ hereby designated by the Vice ~~-~~President for ~~Administrative~~Financial Affairs as the person to warn all unauthorized persons found at these facilities that they must leave the campus or be subject to arrest for trespassing. Any such incidents will be reported to the University Police.

(8) Residence halls are considered to be the home of students. No one is allowed in a residence hall except authorized University personnel, resident students, and resident students' guests according to published visitation policies. The Director of Housing or his/her designee is designated by the Vice ~~-~~President for ~~Administrative~~Financial Affairs to warn all other persons to leave the residence hall facility and to have such persons arrested for trespassing if they do not comply.

~~(9) Section 856.021(1), F.S., specifies that "It is unlawful for any person to loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity."~~

(9~~10~~) ~~Non-University~~Any person~~s~~ who, in the opinion of ~~the~~ University officials~~, designated above,~~are violating the law, violating University regulations or policies, prowling, loitering, ~~do~~ not us~~e~~ing FAU facilities in an appropriate manner or who are creating an atmosphere not conducive to the use of such facilities by other University persons or guests, may be warned by ~~the~~ authorized persons ~~designated above~~ to leave the facility or campus or be arrested.

(10) The notice or warning to any person to leave or vacate University property is indefinite and may only be lifted or revoked by the President, the Vice President for Financial Affairs, or the Vice President for Student Affairs, or their respective designees.

(11) Any person who receives a notice or warning to leave or vacate University property

may request reconsideration, revision, and/or revocation in writing no more than once every six months. Students shall direct such requests to the Vice President for Student Affairs, and non-students to the Vice President for Financial Affairs.

(12~~1~~) All persons who have been notified by an authorized University~~designated~~ official to leave and remain out of a specified area or areas and are subsequently found in the specified area or areas, are subject to arrest for trespass and/or loitering without further warning pursuant to law.~~.~~

(13~~2~~) Nothing in the foregoing shall preclude or be interpreted to preclude or otherwise diminish the exercise of the statutory authority of University Police ~~O~~officers to arrest in accordance with the laws of this state any person for violation of state law or applicable county or city ordinances when such violations occur on any property or facilities which are under the jurisdiction of the University Police.~~ guidance, supervision, regulation, or control of the State University System~~

(14~~3~~) The University Police Department is designated as authorized representatives of the President and Vice ~~-~~President for ~~Administrative~~Financial Affairs, to issue notices and warnings to leave and/or vacate~~effect the purposes and policies of this rule~~, for all campus facilities and areas.

Specific Authority: Article IX of the Florida Constitution, Florida Board of Governors Resolution dated January 7, 2003, 1001.706, 1001.74, 1012.97 FS.; Law Implemented 1001.74, 810.08, 810.09, 856.021, 856.031, 1012.97 FS. History–New 9-14-81, Formerly 6C5-7.08, Amended 11-11-87, Formerly 6C5-7.008, Amended 1-__-08.