

**FLORIDA ATLANTIC UNIVERSITY
NOTICE OF PROPOSED NEW REGULATION**

Date: October 13, 2011

REGULATION TITLE AND NUMBER: University Direct Support Organizations (6.013).

SUMMARY: University direct-support organizations (DSOs) are governed by Florida Statute s. 1004.28 and Board of Governors Regulation 6.013. University DSOs are Florida not-for-profit organizations organized and operated exclusively to receive, hold, invest, and administer property and make expenditures to or for the benefit of the university or an affiliated research and development park or authority and certified by the university board of trustees to be operating in a manner consistent with the goals of the university and in the best interest of the state. Each board of trustees is required to establish conditions with which a support organization must comply in order to use university property, facilities or personal services, and may establish additional conditions, controls and requirements as each board deems appropriate for oversight. The proposed regulation establishes the conditions, controls and requirements for Florida Atlantic University DSOs, including requirements for certification, operations, and reporting.

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

AUTHORITY FOR THE REGULATION: Article IX of the Florida Constitution and the Board of Governors Regulation Development Procedure dated July 21, 2005, and Florida Board of Governors Regulations 1.001 and 9.011.

UNIVERSITY OFFICIAL INITIATING THE REGULATION: David L. Kian, Sr. Vice President and General Counsel

COMMENTS CONCERNING THE PROPOSED NEW REGULATION 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 in whole or in part after notice, or proceed with adopting the regulation. The comments must identify the regulation(s) on which you are commenting:

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION 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 NEW REGULATION

Florida Atlantic University

Regulation 6.013 University Direct Support Organizations

- (1) A Direct Support Organization is an organization that is certified by the Florida Atlantic University Board of Trustees as organized and operating to serve the best interests or missions of the University, including the University's research, education and service missions, in a manner consistent with the goals of the University and the best interest of the State.
- (2) To obtain certification as a Direct Support Organization, the organization must submit to the Board of Trustees the proposed Articles of Incorporation and the proposed Bylaws, which shall describe the operating procedures and specific individual responsibilities of the Board of Directors, committees, and officers of the organization. Any subsequent amendments to the Articles of Incorporation or Bylaws of the organization must be submitted to the Board of Trustees for approval prior to becoming effective.
- (3) The Director or Chief Operating Officer of the organization shall be selected and appointed by the President of the University in consultation with the governing board of the organization. The Director or Chief Operating Officer shall report to the President of the University or the President's designee. The governing board of the organization shall provide the President an annual assessment of the Director or Chief Operating Officer's performance, which shall be considered by the President when conducting the Director or Chief Operating Officer's annual evaluation.
- (4) The chair of the Board of Trustees may appoint a representative to the board of directors and executive committee of the organization, and the President of the University or his/her designee will serve on the Board of Directors and executive committee of the organization.
- (5) Upon certification by the Board of Trustees, a Direct Support Organization is authorized to use the property, facilities and personal services of the University to the extent permitted by applicable law.
- (6) The President of the University shall have the authority to monitor and control the use of University name and resources by the organization, monitor compliance of the organization with state and federal laws and rules and regulations of the Board of Trustees and the Board of Governors, as applicable, and approve salary supplements and other compensation or benefits paid to the University faculty and staff from organization assets. Persons employed by the organization shall not be considered to be employees of the State of Florida solely by virtue of employment by the organization.

- (7) A Direct Support Organization shall prepare, at least annually, a budget to be reviewed and approved by the organization's governing board and submitted to the Board of Trustees for review and approval. Significant changes in planned expenditures in the approved budget must be reported to the President of the University as soon as practicable, but in no event later than thirty (30) days after the organization's governing board approves the changes.
- (8) A Direct Support Organization shall provide for an annual audit by an independent certified public accountant pursuant to University regulations and policies, which shall be forwarded to the Board of Trustees or designee, the Board of Governors, and the Auditor General for review.
- (9) The Board of Trustees may decertify a Direct Support Organization if it determines that the organization is no longer serving the best interest of the University. The resolution of decertification shall include a plan for disposition of the organization's assets and liabilities and the return of all University property and facilities as requested by the University.
- (10) The organization shall comply with all other obligations required by law, including but not limited to those required by Section 1004.28, Florida Statutes, and Board of Governors Regulation 9.011.

Specific Authority: BOG Regulations 1.001 and 9.011; Fla. Stat. 1004.28. History: New 11-__-11.