



Item: AS: A-7

Tuesday, June 4, 2019

**SUBJECT: REQUEST TO AMEND REGULATION 4.007 – STUDENT CONDUCT  
CODE**

---

**PROPOSED BOARD ACTION**

Approve amendments to FAU Regulation 4.007, Student Conduct Code.

**BACKGROUND INFORMATION**

Pursuant to Board of Governors Regulation 6.0105, the University is required to establish a committee, including student representation, for purposes of periodic evaluation of its student disciplinary system. FAU's committee, which included representatives from the Dean of Students' Office, Provost's Office, Office of Residential Education, Fraternity and Sorority Life, Athletics, and two students, met during the Fall 2018 semester and reviewed FAU's Student Code of Conduct for purposes of collaborating on suggested revisions. The Student Code of Conduct is a critical component of the University's efforts to teach civic and social responsibility and outlines the student disciplinary process for addressing behavior that is inconsistent with the high standards we expect from students attending FAU. These revisions are intended to update and reorganize Regulation 4.007, with an emphasis on restorative justice. The proposed changes are summarized as follows:

1. Definitions, code violations, and hearing procedures were reorganized, reformatted, and in some cases revised, for clarity and ease of use.
2. Student Rights were reorganized to reflect the chronological order of the typical Student Conduct Process.
3. The Hazing Policy was updated to reflect new requirements from the Board of Governors, and a statement directing students to the Dean of Students' Medical Amnesty Policy was added.
4. Sanctions for violations related to alcohol or illegal drug use were updated and streamlined to ensure clarity and consistency in application.

**IMPLEMENTATION PLAN/DATE**

If approved by the Board, the regulation will be amended and effective June 4, 2019.

**FISCAL IMPLICATIONS**

N/A

---

<b>Supporting Documentation:</b>	Text of proposed amended Regulation 4.007
<b>Presented by:</b>	David Kian, Vice President & General Counsel
<b>Phone:</b>	561-297-3007

# Florida Atlantic University

## Regulation 4.007 Student Code of Conduct

### (1) Statement of Philosophy.

~~Florida Atlantic University is a public research university with multiple campuses along the southeast Florida coast serving a uniquely diverse community. It promotes academic and personal development, discovery and lifelong learning. FAU fulfills its mission through excellence and innovation in teaching, outstanding research and creative activities, public engagement and distinctive scientific and cultural alliances, all within an environment that fosters inclusiveness. FAU accomplishes its mission primarily through its students, teachers and researchers, its undergraduate educational programs, its graduate and professional offerings, and its linkages to other educational institutions and in the community.~~

The University's Student Code of Conduct is an integral part of the educational mission of the University, emphasizing the development of each individual's acceptance of ~~his or her~~their own personal and social responsibilities, ~~and ensuring.~~ This regulation ensures fairness in the implementation of ~~the~~ procedural requirements ~~described in this regulation and establishes foundational values and expectations~~ for all students.

The University's Student Code of Conduct is designed to provide and help maintain an atmosphere within the University Community that is conducive to academic pursuits, ~~and personal growth.~~ Serious action against a student, such as separation, is considered and invoked only when other remedies fail to meet the needs of the ~~University's mission.~~University Community.

~~The University, however, recognizes its responsibilities to all members of the University Community, and the protection of personal and institutional rights and property is a primary focus of the process described in this Regulation 4.007.~~

Utilizing best practices related to restorative and transformative justice and educational sanctioning, this regulation outlines expectations related to student accountability while focusing on the restoration of any harm done to individuals and/or the community, the development of essential conflict resolution skills, and the development of students as global citizens.

(2) **Principles.**

The University values its role in preparing students for productive lives in the workplace and in society. The Student Code of Conduct provides consistent expectations related to students' personal conduct, both on and off of the University campus. The University principles and this regulation address the respect for the law, laws, policies and regulations and policies, and the respect; for people. and property; for fairness, and integrity.

- (a) ~~(a)~~—Respect for Regulations, Policies and the Law. ~~Students~~All students in the University Community, regardless of institutional or program affiliation, are expected to ~~obey all~~know and adhere to the regulations, ~~rules,~~ and policies of the University ~~and all, as well as~~ local, state, and federal laws. If regulations, policies or laws are considered to be unfair or improper, it is expected that students comply with stated laws and will ~~use~~seek appropriate, established, and lawful procedures to effect change.
- (b) ~~(b)~~—Respect for Self and Others.People. Students are encouraged to conduct themselves in a manner ~~which~~that exemplifies respect for all people and to adhere to ~~one's~~their personal values without unduly imposing them on others. In interpersonal relationships, students are encouraged to respect the rights of others, ~~particularly their right to refuse to participate in any activity.~~ ~~Students are encouraged to~~ and to serve as leaders in promoting compassion ~~for others~~ and challenging prejudice. Student are encouraged to resolve conflicts and address differences with civility. All students in the University Community, regardless of institutional or program affiliation, are expected to know and adhere to the regulations, rules, and policies of the University, as well as local, state, and federal laws.
- (c) Respect for Property. Students are encouraged to conduct themselves in a manner that exemplifies respect for their own property and the property of the University Community.
- (d) Respect for Fairness. The procedures established by the Student Code of Conduct are intended to provide both fundamental fairness and the opportunity for students to engage in a supportive, educational process.
- (e) Restorative Justice. This Student Code of Conduct encourages the facilitation of restorative justice in instances where conflict, harm or damage may have negatively impacted specific individuals or the larger University Community.

(3) **Jurisdiction of the University.**

A student, student organization or a person who has submitted an application for admission, housing, or any other service provided by the University ~~which~~that requires a student or student organization status will be subject to the Student Code of Conduct for any conduct ~~which~~that occurs on University controlled property, at University-sponsored events, or off-campus under the conditions described in this ~~regulation.~~Regulation. Any action of the University ~~with respect to off-campus~~ conduct shall be taken independently of any off-campus authority.

(4) **Definitions:**

- (a) ~~(a) —~~Advisor ~~—The term "advisor" refers to any- Any one~~ person, ~~including an attorney,~~ chosen by the student ~~or the complainant at their own expense and initiative to assist him/her throughout~~to support them in the student conduct process. including, but not limited to, a family member, friend, mentor, or an attorney chosen by the student at their own expense. Both the Respondent and the Complainant have the right to be accompanied by an advisor. Advisors may not be individuals involved in the incident or otherwise participating in the student conduct process.
- (b) ~~(b) —~~Business days ~~— The term "business days" shall be defined~~Defined as Monday through Friday excluding official Florida Atlantic University holidays.
- (c) ~~(c) —~~Chair ~~—One of the- A~~ faculty/ ~~or staff members~~member selected from the Student Conduct Board panel to chair the Student Conduct Board Hearing.
- (d) ~~(d) —~~Charged Student ~~— The term "charged student" refers to any student-Complainant - Any party or entity~~ who has ~~been charged with~~ areported that they are a victim/ survivor of an alleged violation of the Student Code of Conduct.
- ~~(e) —~~Correspondence ~~—The term "correspondence" refers to (1) written or electronic correspondence from the University sent to either the student's physical address on file with the Registrar, or to the student's FAU email address, if the student is a current student and (2) written or electronic correspondence from the student via the student's FAU email address.~~
- ~~(e)~~ (f) —Conflict Resolution - Processes and techniques utilized to aid students in resolving conflict, participating in civil discourse, and enhancing skills to address conflicts productively.
- ~~(e)(f)~~ Dean of Students ~~—The term "Dean of Students" refers to any- Any~~ of the following persons or offices: Associate Vice President and Dean of Students, Associate Dean of Students, Assistant Dean of Students, or

- designee. \_\_\_\_\_, including all student conduct administrators authorized by the Dean of Students to administer this Regulation.
- ~~(g)~~ (g) — Educational Meeting - A required meeting to address conduct without the need for an investigation or formal conduct process. The meeting is utilized to develop a partnering relationship with the student involved, clarify policies, establish boundaries, and offer any needed resources to enhance student success.
- ~~(f)~~(h) Hearing — ~~The term “Hearing” shall refer to a~~ A Hearing by either a Student Conduct Board or a University Hearing Officer, ~~as applicable.~~
- ~~(h)~~ — Hearing Officer — ~~A person authorized by the University to determine whether a student has violated the Student Code of Conduct. Such person may recommend sanctions that may be imposed when a violation has been committed.~~
- ~~(i)~~ — Hearing Officer Hearing — ~~A student conduct Hearing conducted by the Hearing Officer.~~
- ~~(g)~~(i) ~~(j)~~ — Information Session — ~~The term “Information Session” refers to the conference meeting at which the charged student Respondent has the opportunity to review all materials that will be used in his or her their Hearing, and the University has the opportunity to review any witnesses and materials that will be presented by the student Respondent at the hearing Hearing.~~
- ~~(j)~~ (k) — Investigation Conference — ~~The term “Investigation Conference” refers to a conference meeting which~~ A meeting that includes the opportunity for the Dean of Students to interview and gather information with from the accused student and, provide the student with an explanation of the Student Conduct process, the student’s and advise them of their student rights and a review.
- ~~(k)~~ (l) Respondent - Any student who has been charged with an alleged violation of the Student Code of Conduct.
- ~~(h)~~(l) Sanction - An assignment, educational experience, restriction or other measures that may be assigned by the Dean of Students as the resolution to a student conduct incident in which a charged student has taken responsibility for their actions or have been found to be responsible for alleged violations of the Student Code of Conduct via a Hearing process. Sanctions may be either mandatory or voluntary in nature, based on the discretion of the Dean of Students.
- ~~(i)~~(m) ~~(t)~~ — Student – ~~The term “student” refers to any~~ Any person taking courses at FAU on any of its campuses or sites. Persons who withdraw after allegedly violating the Student Code of Conduct, are not officially enrolled for a particular term but who have a continuing relationship or enrollment with FAU, or have been notified of their acceptance for admission are considered “students.” The term “student” will also refer to student

organizations and persons living in University housing, although not enrolled at FAU.

~~(j)(n)~~ ~~(m)~~—Student Conduct Board – ~~The term "Student Conduct Board" means any~~Any person or persons authorized by the University to ~~determine whether a student has violated the Student Code of Conduct. Such person or persons may~~make findings and recommendations to the Dean of Students after review of the evidence presented at a Student Conduct Hearing. A Student Conduct Board will recommend sanctions that may be imposed when a Respondent is found responsible for a violation~~has been committed.~~

~~(n)~~—Student Conduct Board Hearing—~~A formal student conduct Hearing conducted by the Student Conduct Board.~~

~~(k)(o)~~ ~~(o)~~—Student Conduct Conference – The ~~term "Student Conduct Conference" refers to the individual~~ meeting with the ~~student~~Respondent and the Dean of Students ~~(or designee)~~ after a Notice of Charges has been sent. This meeting consists primarily of a discussion between the student and the Dean of Students ~~(or designee)~~ and affords the student the opportunity to ~~choosetake~~ responsibility for the alleged infractions by choosing "Responsible" or, to deny responsibility, by stating that they are not "Not Responsible" tofor the charges listed on the Notice of Charges, and ~~determines~~aides the student in determining the next course of action in the student conduct process.

~~(p)~~ ~~(p)~~—Student Conduct Process - The procedures outlined in this Regulation related to the investigation and resolution of alleged violations of the Student Code of Conduct. The student conduct process includes all formal and informal procedures utilized to assist students in resolving incidents. FAU's primary source of communication with students involved in the Student Conduct Process is through the student's FAU email address, and students are responsible for checking their FAU email on a regular basis.

~~(t)(q)~~ University or FAU – ~~The term "University" or "FAU" refers~~Refers to Florida Atlantic University, including all of its campuses and sites. ~~The Student Code of Conduct applies to all campuses and sites of the University.~~

~~(m)(r)~~ ~~(q)~~—University Community – Refers to Trustees, students, faculty, staff and all visitors, contractors and guests to the University or any of its campuses, facilities or events.

~~(s)~~ ~~(r)~~—University Hearing Officer – A faculty or staff member who is authorized and trained by the University to make findings and recommendations to the Dean of Students after review of the evidence presented at a Student Conduct Hearing. The University Hearing Officer

will recommend sanctions that may be imposed when a Respondent is found responsible for a violation.

~~(n)~~(t) University Official – ~~The term "University Official" refers to any~~Any person employed by the University to perform assigned teaching, research, administrative, professional or other responsibilities.

~~(o)~~(u) ~~(s)~~ — Vice President – ~~The term "Vice President" refers~~Refers to the Vice President for Student Affairs and Enrollment Management or designee.

~~(p)~~(v) ~~(t)~~ — Witnesses – The individuals who were present at the time of the incident in question, have information about the incident in question, or who are called upon to ~~voluntarily~~ present testimony at a Hearing. No character witnesses are permitted.

(5) **Violations of the Student Code of Conduct:**

Any of the following actions constitute conduct for which a student, a group of students, or a student organization may be ~~subject to~~held accountable through the student conduct/disciplinary action process:

~~(a)~~ — ~~Violence or threat~~

(a) **Alcoholic Beverages** - Misuse of alcoholic beverages or products containing alcohol, including:

1. **Underage Drinking** - Drinking of alcoholic beverages while under the legal drinking age of twenty-one (21) years of age.

2. **Driving Under the Influence** – Operating a vehicle under the influence of alcohol.

3. **Public Places** - The consumption of any alcoholic beverage in public places on the campus is prohibited except where specifically authorized by the University. All buildings, lobbies, walkways, and grounds of the campus are, for the purpose of this rule considered to be public places. Residential rooms and suites are considered to be private living quarters and are exempt from the public places restriction.

4. **Alcoholic Beverages Policy** - Violation of the Alcoholic Beverages Policy 1.2.

5. **Hosting** – Allowing underage drinking; allowing excessive drinking or allowing an intoxicated person to leave and/or operate a motor vehicle.

(b) **Bullying** - Systematically and chronically inflicting physical hurt or psychological distress by teasing; social exclusion; threats; intimidation; stalking; physical violence to others or actions; theft; sexual, religious or racial harassment; public humiliation or destruction of property.



(c) **Complicity** - Aiding another individual in any action that violates University regulations, policies or state or federal law, or assisting in the concealment of such action.

(d) **Controlled or Illicit Substances** - Use or misuse of illicit or controlled substances, including:

1. **Driving Under the Influence** – Operating a vehicle under the influence of a controlled or illicit substance.
2. **Drug Free Environment Policy** - Violation of University Policy 1.6, Drug Free Environment.
3. **Drug Paraphernalia** - Unlawful possession, use, delivery to, sale of, distribution of, controlled substances, or drug paraphernalia, as defined in Florida Statutes.
4. **Medical Marijuana** - Use or possession of medical marijuana on University campuses or at University sponsored events.
5. **Prescription Drugs** - Unlawful possession, use, delivery, distribution or misuse of prescription drugs.

(a)(e) **Discrimination and Harassment** - Conduct which endanger any member constitutes unlawful discrimination or guest of the harassment and/or a violation University Community Regulation 5.010, *Anti-Discrimination and Anti-Harassment*, including assault, but not limited to, domestic violence or, dating violence, sexual violence, sexual battery, sexual harassment and sexual exploitation. The following definitions will be used to determine a violation of this provision:

1. ~~1. Domestic Violence: means~~ **Coercion** - Any attempt to cause or compel another person to act or think in a certain way by use of force, pressure, threats, or intimidation including, but not limited to:
  - a. Causing the deliberate incapacitation of another person;
  - b. Conditioning an academic benefit or employment advantage on submission to sexual advances;
  - c. Threatening to harm oneself if the other party does not engage in a sexual act; or
  - d. Threatening to disclose an individual's sexual orientation, gender identity or other personal sensitive information if the other party does not engage in sexual contact.
2. **Consent** – Failure to obtain consent that is affirmative, informed, freely given and mutually understood. Consent shall be determined based on the consideration the following factors:
  - a. It is the responsibility of each person involved in any sexual activity to ensure that they have the affirmative consent of the other or others to engage in the sexual activity.

- b. The existence of a dating or sexual relationship between the persons involved, or the fact of past sexual relations, should never by itself be assumed to be an indicator of consent for any current or future sexual encounter.
- c. Consent cannot be obtained by force, threat, coercion, manipulation, reasonable fear of injury, intimidation, use of position of influence, or through the use of one's mental or physical helplessness or incapacity.
- d. Consent must be ongoing throughout a sexual activity and can be revoked at any time.
- e. Within each sexual encounter, there may be separate individual sexual acts involved.
- f. Consent to one act by itself does not constitute consent to another act.
- g. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
- h. Lack of protest or resistance does not mean consent.
- i. Silence does not mean consent has been granted.

3. **Dating Violence** - Engaging in violence toward another with whom the aggressor has had, or currently has, a continuing and significant relationship of a romantic or intimate nature. The violence may include any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. The existence of such a relationship shall be determined based on the consideration the following factors:

~~2. Dating Violence: means violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration the following factors:~~

- a. ~~A dating relationship must have existed within the last six (6) months;~~
- b. ~~The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and~~
- c. ~~The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.~~

~~(b) Theft, conversion, misuse, damage, defacing<sup>4</sup>. **Domestic Violence** - Any assault, aggravated assault, battery, aggravated battery, sexual~~

assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment or destruction any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

5. **Incapacitation** - Engaging in sexual activity with another individual who is in a temporary or permanent state in which they cannot make informed or rational judgments because:

a. That individual lacks the physical or mental capacity to understand the nature or consequences of their words and/or conduct; and/or

b. That person is unable to physically or verbally communicate consent due to factors including but is not limited to conditions due to age, alcohol or drug consumption, being unconscious or asleep, or because of an intellectual or other disability that prevents the individual from having the capacity to give consent. Evidence of incapacitation due to intoxication may include slurred speech, bloodshot eyes, smell of alcohol on breath, shaky equilibrium, vomiting or unconsciousness.

6. **Indecent Exposure** - Exposing genitals in front of another person or engaging in masturbation or other vulgar or indecent sexual conduct in a place likely to be seen by other people.

7. **Sexual Battery** - Engaging in unwanted oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any object (excluding acts done for a bona fide medical purpose). Sexual Battery also includes unwanted touching or kissing of an intimate body part (whether direct or through clothing).

8. **Sexual Exploitation** - Any act whereby one person violates the sexual privacy of another or takes unjust or abusive sexual advantage of another who has not provided consent, and that does not constitute sexual assault or sexual battery. Examples may include:

a. Recording, photographing, transmitting, viewing or distributing intimate or sexual images or sexual information without the knowledge and consent of all parties involved;

b. Voyeurism - spying on others who are in intimate or sexual situations.

9. **Sexual Harassment** - Engaging in unwelcome conduct of a sexual nature. This includes unwelcome sexual advances, requests for

sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature when:

- a. Submission to such conduct or request is made either explicitly or implicitly a term or condition of an individual's employment;
- b. Submission to such conduct or request is made either explicitly or implicitly a term or condition of academic achievement;
- c. Submission to or rejection of such conduct or request by an individual is used as the basis for an employment or academic decision affecting such individual; or
- d. Such conduct or request unreasonably interferes with an individual's work or academic performance or creates an objectively intimidating, hostile, or offensive environment for working or learning.

10. **Sexual Violence** - Engaging in physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., because of the student's age, use of drugs or alcohol, or disability). Sexual violence includes, but is not limited to, rape, sexual assault, sexual battery, sexual abuse and sexual coercion.

11. **Stalking** - Willfully, maliciously and repeatedly following, harassing or cyberstalking another person or engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress.

12. **Unlawful Discrimination and Harassment** - Any act prohibited by Regulation 5.010 based upon an individual's race, color, religion, sex, national origin, age, disability, veteran status, marital status, sexual orientation, gender identity or expression, or other protected status. This violation will not be used to charge a student for speech protected by the First Amendment of the United States Constitution.

(f) **Disruptive Conduct** – Any action that impairs, interferes with or obstructs the mission, purposes, order, academic atmosphere, operations, processes and/or functions of the University property or of the property.

(g) **Endangering Health, Safety or Welfare** - Endangering the health, safety or welfare of members or guests of the University.

(h) **Failing to Comply with Sanctions** - Violating and/or failing to comply with or fulfill student conduct sanctions.

(b)(i) **False Information, Impersonation or Withholding of Information** - Providing false information to University officials, forgery, the withholding

of required information; impersonation of a 3rd party vendor, University Community member or law enforcement officer; or the misuse or alteration of University documents or the University's name or logos. Students are expected to provide identification if requested by University officials.

(j) **Fire Safety or Failure to Evacuate** - Actions which cause or attempt to cause a fire or explosion; falsely reporting a fire, explosion or explosive device; tampering with fire safety equipment or failure to evacuate University buildings during a fire alarm.

(k) **Fraternity and Sorority Life Risk Management Violation** - Violation of any Fraternity and Sorority Life Risk Management policy or procedure.

(l) **Hazing** - Any action or situation, which occurs on or off university property, that recklessly or intentionally endangers the mental or physical health or safety of a student for purposes including, but not limited to, initiation or admission into or affiliation with any University student organization or group whether or not officially recognized by the university. Hazing does not include customary athletic events or other similar contests or competitions or any activity or conduct that furthers a legal and legitimate objective. Hazing includes, but is not limited to:

1. Pressuring or coercing a student into violating state or federal law;
2. any brutality of a physical nature, such as whipping, beating, branding, exposure to the elements, forced consumption of any food, liquor, drug, or other substance; or other forced physical activity that could adversely affect the physical health or safety of the student;
3. Any activity that would subject the student to extreme mental stress, such as sleep deprivation, forced exclusion from social contact, forced conduct that could result in extreme embarrassment, or other forced activity that could adversely affect the mental health or dignity of the student.

The following circumstances do not constitute a defense to allegations of hazing:

1. (e) — The consent of the victim had been obtained;
2. The conduct or activity that resulted in the death or injury of a person was not part of any official organizational event or otherwise sanctioned or approved by the student organization; or
3. The conduct or activity that resulted in the death or injury of a person was not done as a condition of membership into a student organization.

If a student is found responsible for an infraction of Hazing, consequences may include the imposition of educational sanctions, fines, the withholding of diplomas or transcripts pending compliance with the policy or payment

of fines, and the imposition of probation, suspension, dismissal, or expulsion, depending upon the severity of the violation. In the case of an organization that authorizes, allows, permits or encourages hazing in blatant disregard of such regulations, penalties may also include rescission of permission for that organization to operate on university property or to otherwise operate under the sanction of the university. All penalties imposed by the university shall be in addition to any penalty imposed for a violation of section 1006.63, Florida Statutes, and any of the criminal laws of the state, or for a violation of any other regulation of the university to which the student or student organization may be found responsible.

(m) **Housing and Residential Education Policy Violation** - Violation of any Housing and Residential Education policy or procedure, as outlined in either the Housing Contract or The Community Guide.

(n) **Interference with Free Speech** - Interference with academic freedom or freedom of speech of any member or guest of the University.

~~(e)(o)~~ **Interference with the Freedom of Movement** - Interference with the freedom of movement of any member or guest of the University.

~~(d)(p)~~ ~~(d)~~ **Interference with the Rights of Others** - Interference with the rights of others to carry out their activities or duties at or on behalf of the University.

~~(e)~~ ~~Interference with academic freedom and freedom of speech of any member or guest of the University.~~

(q) ~~(f)~~ **Indecent or Voyeuristic Behaviors** - Lewd, obscene, indecent behavior or Voyeurism.

(r) **Misuse or Duplication of University Keys and Access Cards** - Misuse or duplication of any University key or access card to any University premises or services.

~~(e)~~(s) **Noncompliance with Written or Oral Requests** - Noncompliance with written or oral requests or orders of authorized University officials or law enforcement officers in the performance of their duties.

(t) ~~(g)~~ ~~Providing false information to~~ **Obstruction of Student Code of Conduct Process** - Acts that disrupt or interfere with the University officials, forgery, the withholding of required information or the misuse or alteration of student conduct process, including but not limited to:

1. **Failure to Appear** - Failure to appear at an official University ~~documents~~Hearing when proper notification has been provided (nothing in this subsection shall be construed to compel self-incrimination);

2. **Misrepresentation of Information** - Knowingly falsifying, distorting or misrepresenting information before a student conduct proceeding;

3. **Disruption or the University's name Interference** - Deliberate disruption or logos-interference with a student conduct proceeding or harassment, intimidation or retaliation against any participant in the student conduct process;
  4. **False Allegation** - Knowingly initiating a complaint/referral without cause;
  5. **Coercion and Intimidation** - Use of threats, coercion, or intimidation to discourage an individual's participation in or other proper participation or use of the student conduct process;
  6. ~~(h)~~ **Tampering with Information** - Tampering with information to be used in a Hearing;
  7. **Attempting to Influence** - Attempting to influence the impartiality of a member of the student conduct process prior to or during the course of the student conduct proceeding.
- (u) **Soliciting, Aiding, Abetting or Inciting Others** - Soliciting, aiding, abetting or inciting others to participate in conduct which violates this regulation.
- ~~(f)~~(v) **Theft, Conversion, Misuse or duplication of any Damage of Property** - Theft, conversion, misuse, damage, defacing or destruction of University key or access card to any property or of the property of members of the University premises or services Community.
- (w) ~~(i)~~ **Trespass and Loitering** - Unauthorized entry on University property or any portion thereof, violation of Regulation 7.006, *Trespass and Loitering*, and/or violation of a Trespass Warning issued by the University President or their designated personnel.
- (x) **Unauthorized Commercial Activity** - Posting of commercial advertising or engaging in commercial activity without appropriate authorization.
- (y) **Unauthorized Photos, Audio or Video Recording** - Any unauthorized use of electronic or other devices to take pictures or make an audio or video recording of any person without their prior knowledge or without their consent when such recording is likely to cause injury or distress.
- (z) **Unauthorized Solicitation of Funds** - University buildings and campus areas may not be entered for the purpose of raising funds for any person or organization other than officially registered student organizations, recognized University-related organizations, or officially recognized non-profit charitable organizations. Requests for solicitations must be submitted to the Vice President for Student Affairs and Enrollment Management, or their designee, in advance and must conform to University regulations, policies and procedures and to applicable law.

- (aa) Verbal, Written or Physical Abuse - Acts of verbal, written (including electronic communications or internet activity) or physical abuse, threats, intimidation, harassment, coercion, or other conduct, the foregoing of which threaten the health, safety or welfare of any person.
- (bb) Violation of Policy or Regulation - Violation of any University Policy or Regulation.
- (cc) Violation of Probation – Failure to abide by conditions of student conduct probation.
- (dd) Violation of State and/or Federal Law - Any act which could constitute a violation of any local law or ordinance, State of Florida or Federal law.
- (ee) Violation of Student Government and Registered Student Organizations Regulations - Violation of University Regulation 4.006, *Student Government and Registered Student Organizations*.
- (ff) Violation of Technology Policies - Violation of any University technology policies.
- (gg) Violence or Threat of Violence - Violence or threat of violence to others or actions which endanger any member or guest of the University Community.
- ~~(g)(hh)~~ Weapons or Hazardous Materials - Possession or use of firearms, explosives, ammunition, fireworks, weapons or unauthorized possession or use of hazardous materials or dangerous chemicals on University premises (other than as permitted by Florida Statute Section 790.25(5), University Policy 1.7, or other applicable legal authority).
- ~~(j)~~ — Actions which cause or attempt to cause a fire or explosion, falsely reporting a fire, explosion or an explosive device; tampering with fire safety equipment or failure to evacuate University buildings during a fire alarm.
- ~~(k)~~ — Disorderly Conduct — Breach of peace, such as causing a disruption of University processes.
- ~~(l)~~ — Soliciting, aiding, abetting or inciting others to participate in conduct which violates this regulation.
- ~~(m)~~ — Lewd, obscene, indecent behavior or voyeurism.
- ~~(n)~~ — Acts of verbal, written (including electronic communications or internet activity) or physical abuse, threats, intimidation, harassment, coercion, or other conduct, the foregoing of which threaten the health, safety or welfare of any person.
- ~~(o)~~ — Violation of University Regulation 4.006, *Student Government and Registered Student Organizations*.
- ~~(p)~~ — Posting of commercial advertising or engaging in commercial activity without appropriate authorization.
- ~~(q)~~ — Endangering the health, safety or welfare of members or guests of the University.
- ~~(r)~~ — Engaging in Hazing (Anti-Hazing Policy) — Hazing, is prohibited and includes, but is not limited to, the following:



- ~~1. Any action or situation which recklessly or intentionally endangers the mental or physical health or safety of a student for purposes, including, but not limited to, of initiation or admission into, or affiliation with, any organization operating under the sanction of the University.~~
- ~~2. Brutality of a physical nature such as whipping, beating, branding, forced calisthenics, exposure to the elements; forced consumption of any food, liquid, liquor, drug, or other substances; or other forced activity which could adversely affect the mental, emotional or physical health or safety of the individual.~~
- ~~3. Any activity which could subject the individual to mental stress such as sleep deprivation, forced exclusion from social contact, forced contact which could result in embarrassment, or any other forced activity which could adversely affect the mental health or dignity of the individual.~~
- ~~4. Pressuring or coercing a student into violating University policies, federal, state, or local law.~~
- ~~5. Any other activity prohibited by Florida statutes on hazing.~~
- ~~6. Hazing may result in felony or misdemeanor charges.~~
- ~~(s) Bullying: means systematically and chronically inflicting physical hurt or psychological distress on one or more students and may involve: teasing; social exclusion; threat; intimidation; stalking; physical violence; theft; sexual, religious or racial harassment; public humiliation or destruction of property. —~~
- ~~(t) Violation of any University technology policies.~~
- ~~(u) Stalking, which is defined as willfully, maliciously and repeatedly following, harassing or cyberstalking another person.~~
- ~~(v) Conduct which constitutes unlawful discrimination or harassment and/or a violation University Regulation 5.010, *Anti-Discrimination and Anti-Harassment*, including sexual violence, sexual battery, sexual harassment and sexual exploitation. The following definitions will be used to determine a violation of this provision:~~
  - ~~1. Sexual Violence: includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol or because an intellectual or other disability prevents the student from having the capacity to give consent). Acts falling into the category of sexual violence include, but are not limited to, rape, sexual assault, sexual battery, sexual abuse and sexual coercion.~~
  - ~~2. Sexual Battery: means unwanted oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however sexual battery does not include an act done for a bona fide medical purpose.~~
  - ~~3. Sexual Harassment: means unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature when:~~
    - ~~a. Submission to such conduct or request is made either explicitly or implicitly a term or condition of an individual's employment;~~
    - ~~b. Submission to such conduct or request is made either explicitly or implicitly a term or condition of academic achievement;~~

- ~~c. Submission to or rejection of such conduct or request by an individual is used as the basis for an employment or academic decision affecting such individual; or~~
  - ~~d. Such conduct or request unreasonably interferes with an individual's work or academic performance or creates an objectively intimidating, hostile, or offensive environment for working or learning.~~
- ~~4. Sexual Exploitation means any act whereby one person violates the sexual privacy of another or takes unjust or abusive sexual advantage of another who has not provided consent, and that does not constitute sexual assault or sexual battery. Examples may include:~~
  - ~~a. Recording, photographing, transmitting, viewing or distributing intimate or sexual images or sexual information with the knowledge and consent of all parties involved;~~
  - ~~b. Voyeurism (spying on others who are in intimate or sexual situations).~~
- ~~5. Consent: Consent is an affirmative act or statement by each person that is informed, freely given and mutually understood.~~
  - ~~a. It is the responsibility of each person involved in any sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity.~~
  - ~~b. The existence of a dating or sexual relationship between the persons involved, or the fact of past sexual relations, should never by itself be assumed to be an indicator of consent for any current or future sexual encounter.~~
  - ~~c. Consent cannot be obtained by force, threat, coercion, manipulation, reasonable fear of injury, intimidation, use of position of influence, or through the use of one's mental or physical helplessness or incapacity.~~
  - ~~d. Consent must be ongoing throughout a sexual activity and can be revoked at any time.~~
    - ~~1. Within each sexual encounter, there may be separate individual sexual acts involved.~~
    - ~~2. Consent to one act by itself does not constitute consent to another act.~~
    - ~~3. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.~~
    - ~~4. Lack of protest or resistance does not mean consent~~
    - ~~5. Silence does not mean consent has been granted.~~
    - ~~6. Consent can be withdrawn at any time as long as the withdrawal is clearly communicated by the person withdrawing consent through words or actions.~~
- ~~6. Coercion is to attempt to cause another person to act or think in a certain way by use of force, pressure, threats, or intimidation; to compel is to coerce. Examples of coercion include but are not limited to:~~
  - ~~a. Causing the deliberate incapacitation of another person;~~
  - ~~b. Conditioning an academic benefit or employment advantage on submission to sexual advances;~~
  - ~~c. Threatening to harm oneself if the other party does not engage in a sexual act; or~~

- d. ~~Threatening to disclose an individual's sexual orientation, gender identity or other personal sensitive information if the other party does not engage in sexual contact;~~
- 7. ~~Incapacitation is a temporary or permanent state in which a person cannot make informed, rational judgments because the person lacks the physical or mental capacity to understand the nature or consequences of their words and/or conduct, and/or the person is unable to physically or verbally communicate consent. This includes but is not limited to conditions due to age, alcohol or drug consumption, being unconscious or asleep, or because of an intellectual or other disability that prevents the individual from having the capacity to give consent. Evidence of incapacitation may include:~~
  - a. ~~Slurred speech~~
  - b. ~~Bloodshot eyes~~
  - c. ~~Smell of alcohol on breath~~
  - d. ~~Shaky equilibrium~~
  - e. ~~Vomiting~~
  - f. ~~Unconsciousness~~
- (w) ~~Misuse of Controlled Substances, including:~~
  - 1. ~~Unlawful possession, use, delivery to, sale of, distribution of, controlled substances, or drug paraphernalia, as defined in Florida Statutes.~~
  - 2. ~~Unlawful possession, use, delivery or distribution of prescription drugs.~~
  - 3. ~~Driving under the influence of a controlled substance.~~
  - 4. ~~Violation of University Policy 1.6, Drug Free Environment.~~
- (x) ~~Misuse of Alcoholic Beverages.~~
  - 1. ~~Underage drinking of alcoholic beverages and/or driving under the influence of alcohol is prohibited.~~
  - 2. ~~The consumption of any alcoholic beverage in public places on the campus is prohibited except where specifically authorized by the University. All buildings, lobbies, walkways, and grounds of the campus are, for the purpose of this rule considered to be public places. Residential rooms and suites are considered to be private living quarters and are exempt from the public places restriction.~~
  - 3. ~~Violation of the Alcoholic Beverages Policy 1.2.~~
  - 4. ~~**Hosting** Allowing underage drinking; allowing excessive drinking or allowing an intoxicated person to leave and/or operate a motor vehicle.~~
- (y) ~~Inappropriate Conduct at University Sponsored Events — Students are expected to govern their behavior at all University sponsored events and conduct themselves within the guidelines of the Student Code of Conduct. This applies to events that are held on or off campus.~~
- (z) ~~Any act which could constitute a violation of any local law or ordinance, State of Florida or Federal law.~~
- (aa) ~~Violation of probation — Failure to abide by conditions of probation.~~
- (bb) ~~Obstruction of Student Code of Conduct Process — Acts that disrupt or interfere with the~~

University student conduct process, including but not limited to:

- ~~1. failure to appear at an official University Hearing when proper notification has been provided (nothing in this subsection shall be construed to compel self-incrimination);~~
  - ~~2. knowingly falsifying, distorting or misrepresenting information before a student conduct proceeding;~~
  - ~~3. deliberate disruption or interference with the orderly conduct of a student conduct proceeding;~~
  - ~~4. knowingly initiating a complaint/referral without cause;~~
  - ~~5. use of threats, coercion, or intimidation to discourage an individual's participation in or other proper participation or use of the student conduct process;~~
  - ~~6. tampering with information to be used in a Hearing;~~
  - ~~7. attempting to influence the impartiality of a member of the student conduct process prior to or during the course of the student conduct proceeding;~~
  - ~~8. harassment, intimidation or retaliation against any participant in the student conduct process; or~~
  - ~~9. violating and/or failing to comply with or fulfill student conduct sanctions.~~
- ~~(cc) Disruptive Conduct Any other action that impairs, interferes with or obstructs the mission, purposes, order, academic atmosphere, operations, processes and/or functions of Florida Atlantic University.~~
- ~~(dd) Any unauthorized use of electronic or other devices to make an audio or video recording of any person while on University premises without his/her prior knowledge or without his/her effective consent when such recording is likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room or restroom.~~
- ~~(ee) Violation of any University Policy or Regulation.~~
- ~~(ff) Violation of Housing and Residential Life policies and procedures as outlined in either the Housing Contract or The Guidebook.~~
- ~~(gg) Violation of Greek Risk Management policy and procedure.~~
- ~~(hh) Unauthorized solicitation of funds. University buildings and campus areas may not be entered for the purpose of raising funds for any person or organization other than officially registered student organizations, recognized University related organizations, or officially recognized non-profit charitable organizations. Requests for solicitations must be submitted to the Vice President for Student Affairs, or his/her designee, in advance and must conform to University regulations, policies and procedures and to applicable law.~~

**-(6) Off-Campus Conduct:**

The University ~~shall~~may take student conduct action ~~against a student for violations in~~incidents where the alleged violation(s), as stated in paragraph (5), above, was committed off-campus if any one of the following applies:

- (a) ~~(a)~~—The behavior occurred at a University sponsored event that was held at an off-campus conduct is specifically prohibited by law or violates this Code of Conductlocation.
- (b) ~~(b)~~—The off-campus conduct demonstrates that the continued presence of the student on campus presents a danger to the health, safety, or welfare of the University Community ~~or an individual within the University Community~~, or is disruptive to the orderly processes and functions of the University.
- ~~(c)~~ The off-campus conduct is specifically prohibited by law or violates this Code of Conduct.

(7) ~~Court proceedings outside~~ **Proceedings Outside of the University**:-

- ~~(a)~~ Any admission of guilt, responsibility or statement against the student’s interest made by a student at off-campus proceedings shall be conclusive for University purposes.
- ~~(b)~~ A verdict of guilty, a plea of guilty, a plea of no contest (*nolo contendere*) or similar plea in a court of law by a charged student will operate as a conclusive finding that the student is “responsible” for the purpose of FAU student conduct proceedings.
- ~~(c)~~ The University may amend its charge(s) based on information obtained through an outside proceeding when that information is relevant to activity adversely affecting the University Community.
- ~~(a)(d)~~ ~~(a)~~—University student conduct proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and this Student Code of Conduct, without regard to the pendency of civil or criminal litigation in court or criminal arrest and prosecution. Proceedings under this Student Code of Conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the Dean of Students. Determinations made or sanctions imposed under this Student Code of Conduct shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of University rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.
- ~~(b)(a)~~ ~~(b)~~ ~~Any admission of guilt, responsibility or statement against the student’s interest made by a student at off-campus proceedings shall be conclusive for University purposes.~~
- ~~(c)(a)~~ ~~(c)~~ ~~A verdict of guilty, a plea of guilty, a plea of no contest (*nolo contendere*) or similar plea in a court of law by a charged student will~~

~~operate as a conclusive finding that the student is “responsible” for the purpose of FAU student conduct proceedings.~~

~~(d)(a) (d) — The University may amend its charge(s) based on information obtained through an outside proceeding when that information is relevant to activity adversely affecting the University Community.~~

(8) — Students’ **Respondent Rights**. A student against whom student conduct action may be taken shall

Respondents have the following rights:

(a) —

(a) The right to request reasonable accommodations in compliance with the Americans with Disabilities Act (ADA). Students who require accommodations in order to participate in any aspect of the student conduct process due to a disability should contact the Office of Student Accessibility Services to arrange for appropriate accommodations and advise the Dean of Students Office of their need for additional support.

(b) The right to have their status remain unchanged pending final student conduct action except in cases involving the health, safety or welfare of the University Community.

(c) The right to be notified in ~~correspondence~~ writing of ~~the~~ all alleged charges ~~against him/her~~ in sufficient detail to prepare for ~~at~~ their participation in the student conduct process.

(d) The right to be assisted by an advisor. Any paid advisor will be chosen and paid for at the expense of the student. The advisor is not permitted to speak during or participate in any part of the student conduct process, other than to consult directly with the accused student. The advisor may not be involved in other aspects of the investigation or the student conduct process.

(e) The right not to be forced to present testimony. The University is not required to postpone student conduct proceedings pending the outcome of any outside criminal or civil case.

~~(a)(f)~~ The right to a fair and impartial Hearing on the charges by a Student Conduct Board or University Hearing Officer.

~~(b)(g)~~ ~~(b)~~ — The right to a Hearing no less than five (5) business days after the University provides the student with a ~~notice~~ Notice of ~~charges~~ Charges, unless this right is waived ~~pursuant to this Regulation 4.007 or by final disposition in external court proceedings.~~ the Respondent.

~~(c)~~ — The right to a fair and impartial Hearing on the charges by the Student Conduct Board or Hearing Officer.

~~(e)(h)~~ ~~(d)~~ — The right to review, ~~not~~ no less than three (3) business days prior to the Hearing, the information ~~which~~ that will be ~~used by the University.~~

presented to the Hearing body for consideration, unless this right is waived by the accused student.

- ~~(d)(i) (e)~~—The right to present information and to arrange for witnesses to voluntarily present information relevant to ~~his or her~~their defense at the Hearing.
- ~~(f)~~—The right to be assisted by an advisor chosen at his/her own expense. The advisor is not permitted to speak during or to participate in any part of the student conduct process.
- ~~(e)(j) (g)~~—The right to hear and question adverse witnesses who ~~voluntarily testify at~~participate in the Hearing, ~~unless the student has waived a Hearing.~~
- ~~(h)~~—The right not to be forced to present testimony which would be self-incriminating. However, the University is not required to postpone student conduct proceedings pending the outcome of any outside criminal or civil case.
  - ~~1. (i)~~—The right to request an appeal of University action and the sanction imposed as long as appropriate appeal procedures are followed.
- ~~(j)~~—The right to have his/her status remain unchanged pending final student conduct action except in cases involving the health, safety or welfare of the University Community.
- ~~(k)~~—The right to request accommodations in compliance with the Americans with Disabilities Act (ADA). Students who require special accommodations during the code of conduct process due to a disability should contact the Office of Students with Disabilities, who will coordinate with the Dean of Students Office. Students should make their accommodation requests as soon as possible to allow sufficient time for effective accommodations.
- ~~(k) (l)~~—At the request of the Respondent in cases involving sexual violence, sexual battery, sexual harassment, domestic violence, dating violence, stalking, and bullying, the Respondent may testify in a separate room from the Complainant. At no time during the Hearing will the Respondent and Complainant be permitted to directly question one another, but rather, all questions between the Respondent and Complainant will be submitted to and asked by the Hearing Officer or Student Conduct Hearing Board.
- ~~(l)~~—The right to request an appeal of the student conduct decision(s) and sanction(s) imposed, as long as appropriate appeal procedures are followed.
- ~~(f)(m)~~ The right to be informed of ~~their~~the rights provided in this Regulation 4.007.

(9) **Emergency Measures.**

- ~~(a)~~—The Dean of Students ~~or designee~~ has the authority to take ~~appropriate~~ immediate action when a student poses a danger of imminent or serious physical

harm to others at the University, or where the Dean of Students determines that an emergency exists ~~which~~that affects the health, safety or welfare of a student or the University Community. Emergency Measures include but are not limited to, one or more of the following:

- (a) ~~1.~~ **1.—Interim Suspension.** A student under interim suspension may not attend classes; (including online classes), may not be on or come onto University property, may not participate in any University activities or organizations, and may not use University facilities, equipment or resources.
- (b) ~~2.~~ **2.—Interim Removal from University Housing.** A student under interim removal from University Housing may not reside in University Housing and may not ~~come into~~enter University Housing facilities and/or adjacent areas of University Housing.
  - ~~3.~~ If the Dean of Students determines that other interim measures are appropriate to protect the health, safety, or welfare of the student or the University Community, the Dean of Students may:
- (c) ~~a.~~ restrict or bar attendance of **Other Interim Measures.** Other interim measures include, but are not limited to:
  - ~~1.~~ 1. Restriction from any or all classes;
  - ~~b.~~ restrict or bar **2. Restriction from** access or contact with individuals in the University Community;
  - ~~c.~~ restrict or bar **3. Restriction from** access to University property, places, facilities, services, or equipment; and/or
  - ~~d.~~ restrict or ban **4. Restriction from** participation in University activities or organizations; or,
  - ~~e.~~ otherwise restrict conduct or ban access to University resources.
- (~~e~~)(d) ~~4.~~ **4.—**If a student's privileges are temporarily revoked as described in this Regulation 4.007, but the student is subsequently found not responsible for the ~~violation~~conduct that formed the basis for the interim measures, the University will:
  - ~~a~~1. **1.** Correct any record of the change in enrollment status in the student's permanent records and reports in a manner compliant with state and federal laws; and
  - ~~1.2.~~ b. **2.** Refund to the student; a pro rata portion of any charges for tuition and out-of-state fees, as appropriate, if the temporary revocation or suspension of the student's ability to attend classes lasts for more than ten (10) business days.
- (~~d~~)(e) ~~5.~~ **5.—**A Dean of Students hold on registration may immediately be placed on all students who have Emergency Measures taken against them, which prevents the student from accessing, changing or altering ~~his/her~~their course



registration and/or admission status. A student subject to Emergency Measures shall be furnished:

~~(b)~~ ~~A student subject to Emergency Measures shall be furnished:~~

1. Written notice of the Emergency Measure and the reason(s) for the action.
2. The opportunity to participate in student conduct proceedings or to present relevant information for consideration of ~~his/her~~their case.

~~(e)(f)~~ ~~(e)~~ Emergency Interim Measures may be taken at any time prior to the conclusion of the University student conduct process including during the appeal process.

(10) **Procedures for Student Conduct Proceedings** ~~at Florida Atlantic University.~~

(a) ~~(a)~~ Complaints. Any person or entity may request that student conduct charges be filed against a student for alleged violation of law or University regulations or policies. An investigation ~~may take place of~~into the circumstances ~~of~~surrounding the complaint. may be conducted to determine whether there is sufficient information to move forward with student conduct action. The complaint regarding a student's conduct must be submitted as follows:

1. ~~1.~~ Filing a police report with the University Police Department or requesting that a report from another law enforcement agency be sent to the University Police Department and referral to the Dean of Students; or providing a written or oral statement to the Dean of Students. All oral reports made to the Dean of Students ~~must~~will be documented by the student affairs staff member receiving the statement. Written statements made by the Complainant (and written summaries of oral statements made by the Complainant) should include all information and evidence the Complainant can produce.
2. ~~2.~~ Reports must be made to either law enforcement or the appropriate administrator, within six (6) months of the incident, or knowledge ~~about~~of the incident. No student may be charged with a violation of the Student Code of Conduct if the report is made past the six (6) month period. The foregoing time limit shall not apply, however, when the Dean of Students ~~or his/her designee~~ determines that the ~~circumstance~~circumstances warrant a waiver of the six (6) month time limit.
3. ~~3.~~ In compliance with Title IX, Florida Atlantic University prohibits discrimination and harassment on the basis of sex. In addition to the procedures for investigation of Title IX complaints

outlined in this regulation, individuals with questions or concerns about Title IX may contact the University's Title IX Coordinator and may file a complaint directly with ~~that~~the Equity, Inclusion and Compliance office.

Contact information for FAU's ~~Title IX Coordinator~~office of Equity, Inclusion and Compliance is as follows:

~~Katrina Oliver~~

Donald Kamm, Executive Director  
Equity, Inclusion and Compliance  
~~adu~~rojaiyedkamm@fau.edu  
<http://www.fau.edu/EIC/>

~~(561)~~ 297-3004

~~(b)~~

(b) Medical Amnesty. In the interest of promoting a safe and healthy environment, the Dean of Students maintains a Medical Amnesty Policy, consistent with state and federal law, designed to encourage students to make responsible decisions and seek prompt, professional, medical assistance and treatment in serious or life-threatening situations that result from alcohol and/or other drug misuse. The Medical Amnesty Policy is available on the Dean of Students' website.

~~(b)(c)~~ Administrative Holds. Once the Student Code of Conduct process has been initiated by the Dean of Students (through a request for an Investigation Conference or Notice of Charges), a hold on registration may be placed on a student's account and all other administrative processes and petitions at the University are suspended and may not be processed further until final disposition of the complaint or upon special permission by the Dean of Students.

~~(e)(d)~~ ~~(e)~~ Investigation. The Dean of Students will determine if there are reasonable grounds to believe that the allegations of the complaint are true, and if true, would constitute a violation of the University's Code of Conduct.

1. ~~1.~~ The Dean of Students may conduct an Investigation Conference with the student. This conference shall include the opportunity for the Dean of Students to explain the conduct process and the student's rights, discuss the nature of the complaint, ~~interview~~ and gather information from the student, ~~and explain e the~~

~~conduct process and the student's rights. —. The Investigation Conference is not audio taped or recorded.~~

2. ~~2. —~~The Dean of Students may conduct an investigation with others as related to the incident or complaint.
3. ~~3. —~~Nothing in this regulation shall prevent the ~~disposition~~Dean of ~~Students from resolving~~ a complaint by ~~an educational meeting,~~ mediation ~~process~~ or administratively by written agreement ~~with mutual consent of the parties involved~~; such disposition, if utilized, must be consistent with all laws and regulations. Such disposition shall be final and there shall be no subsequent proceedings.
4. ~~4. —~~If an alleged violation of the Student Code of Conduct is not handled through other appropriate channels, is not dismissed, or is not settled informally, then the Dean of Students may ~~present in correspondence~~issue formal charges to the student ~~in writing~~.
5. ~~5. —~~The University will complete investigations involving sexual violence, sexual battery, sexual harassment, dating violence, domestic violence and stalking ~~promptly. In situations where the investigation cannot be completed~~ within ~~sixty (60)~~ninety (90) days ~~or after~~ notification of the alleged incident, ~~or the Respondent and Complainant~~ will ~~provide notice~~be notified that additional time is needed.

~~(d)(e) (d) —~~Notice of Charges. The notification of charges shall be in ~~correspondence~~writing and include: the specific Student Code of Conduct violations, a brief description of alleged offenses, the student's rights, and an invitation to attend a Student Conduct Conference; ~~the on a specified date and time of this Student Conduct Conference is also included. —~~

~~(e)(f) (e) —~~Student Conduct Conference. ~~After the Notice of Charges has been issued, a Student Conduct Conference may be scheduled. —~~ The Student Conduct Conference shall take place no sooner than five (5) business days from the date of Notice of Charges, except in cases of emergency as described ~~below in this Regulation~~, or unless waived by the student.

- ~~1. —~~There are no witnesses called and it consists primarily of a discussion between the ~~charged student~~Respondent and the Dean of Students in an effort to resolve the matter.
1. ~~2. —~~The Student Conduct Conference is not audio taped or recorded.
2. ~~3. —~~At the conclusion of the Student Conduct conference, the ~~charged student~~Respondent may accept or deny responsibility for

the alleged Student Code of Conduct violations listed on the Notice of Charges.

3. ~~4.~~—If the ~~charged student~~Respondent chooses to accept responsibility on forms provided by the University (~~which these~~ forms ~~shall~~will describe the effect of waiving a Hearing), or fails to attend the Student Conduct Conference, thereby accepting responsibility for the charges, the Dean of Students may assess such sanctions as are deemed appropriate. This acceptance of responsibility or failure to appear shall constitute the charged student's waiver of a formal Hearing and right of appeal. The student retains the right only to appeal the severity of the sanction imposed.
4. ~~5.~~—Any sanctions imposed in cases where the ~~charged student~~Respondent accepts responsibility or fails to attend the Student Conduct Conference will be communicated in correspondence to the charged student within seven (7) business days of the Student Conduct Conference.

~~(f)(g)~~ (f)—Formal Disposition by Hearing. When a ~~charged student~~Respondent denies responsibility, a Hearing ~~shall~~will be scheduled no less than five (5) business days after the date of the Student Conduct Conference, except in cases of emergency as specified below, or unless waived by the student.

1. ~~1.~~—A formal disposition by Hearing is defined as any Hearing before the Student Conduct Board or a University Hearing Officer.
2. ~~2.~~—The student may choose to have ~~his/her~~their Hearing before the Student Conduct Board or a University Hearing Officer. This choice ~~shall~~will be made at the Student Conduct Conference.
3. ~~3.~~—If the student does not choose an option, the Hearing shall be heard by a University Hearing Officer.

~~(g)(h)~~ (g)—Notice of Hearing. The notification of Hearing shall be in ~~correspondence~~writing and include:

1. ~~1.~~—The date, time, and location of the ~~Student Conduct Board or Hearing Officer Hearing.~~
2. ~~2.~~—Reference to this Regulation 4.007, ~~his/her~~their student rights and the Hearing procedures.
3. ~~3.~~—~~A reasonable~~The date, time, and location for an Information Session, during which the student and ~~his/her~~their advisor, if any, may review a potential witness list and all materials to be used by the University in ~~his/her~~their case, which shall be no less than three (3) business days prior to the Hearing. ~~The~~During the Information Session the University ~~shall also~~will have the right to review all of

the student's materials and list of witnesses to be used in the ~~case~~Hearing. In cases where the Hearing is heard by a University Hearing Officer, the charged student shall have the opportunity to challenge the impartiality of the University Hearing Officer within three (3) business days of notification. The student ~~shall~~must state in ~~correspondence~~writing the basis for such challenge. A University Hearing Officer so challenged may be replaced with another faculty or staff member by the Dean of Students for good cause shown. In the event that a student has opted not to challenge the impartiality of ~~the~~ University Hearing Officer prior to the allotted three (3) business days, the assigned Hearing Officer shall remain as scheduled.

~~(h)(i)~~ ~~(h)~~—Postponement of Hearing. The student may request postponement of a ~~hearing~~Hearing by the Student Conduct Board Hearing or University Hearing Officer in ~~correspondence~~writing to the Dean of Students. The Dean of Students may grant a postponement when the circumstances presented demonstrate that a postponement is necessary to ensure fairness to the process or on any other reasonable grounds. The Dean of Students may postpone the Hearing on the University's behalf for administrative reasons.

#### (11) **Structure of the Student Conduct Board.**

The Student Conduct Board shall consist of the following persons: two students, one faculty member/administrator and an optional fourth member who may be a student or a faculty member/administrator. The chairperson of a Student Conduct Board Hearing shall be one of the faculty members/administrators that serve on the panel. Faculty members, administrators, and students shall be selected by the Dean of Students Office for ~~the~~ Hearing. The student board members are selected through an annual application process, with the exception of the student justices from the Student Government Judicial Branch. All Student Conduct Board members, including Student Government Justices, will receive training from the Dean of Students Office.

#### (12) **Hearing Procedures.**

- (a) ~~(a)~~—The Hearing is not a legal proceeding. Formal rules of process, procedure, and evidence do not apply.
- (b) ~~(b)~~—Objectives of the Hearing. ~~Requisite levels of fairness and the satisfaction of certain minimum requirements will be provided to all participants~~

~~during these proceedings.~~ The Hearing ~~shall have~~will be held with the following objectives:

1. ~~1.~~ Inform the ~~student~~Respondent of the charges.
  2. ~~2.~~ Give the ~~accused student~~Respondent an opportunity to respond to the charges.
  3. ~~3.~~ Review the ~~facts of the case~~evidence presented.
  4. ~~4.~~ Determine if any violation(s) of the Student Code of Conduct was committed and communicate ~~it~~these findings to the Dean of Students.
  5. ~~5.~~ RecommendIf the Respondent is found responsible for one or more violations, the Student Conduct Board or University Hearing Officer will recommend any sanction(s) to be imposed based upon the facts, as determined at the Hearing, ~~and~~ communicate. In making a recommendation for sanctions, the Student Conduct Board or University Hearing Officer will consider any recommendations to the Dean of Students previous sanctions in the Respondent's student conduct record.
- (c) ~~(e)~~ Witnesses. All parties to the Hearing may arrange for witnesses to voluntarily present relevant information during the Hearing. The questioning of witnesses shall be facilitated by the University Hearing Officer or Student Conduct Board chair, as applicable. Such witnesses at Hearings will not be sworn in. Each witness will be ~~admonished that he or she is required~~informed of the requirement to tell the truth. A student giving untrue testimony at a Hearing is subject to student conduct charges.
- ~~(d)~~ Information.
1. ~~The charged student and his/her~~ adviser, if any, have the right to inspect all of the information that will be presented against the student at least three (3) business days before the Hearing. The University also has the right to review any information that the student intends to use at least three (3) business days before the Hearing.
- (d) ~~2.~~ ~~The charged student~~Respondent may present information on ~~his/her~~their own behalf. Pertinent records, exhibits, and written statements may be accepted as information for consideration by the University Hearing Officer or the Student Conduct Board at their discretion.
- (e) ~~(e)~~ Burdens of Proof. The Student Conduct Board or University Hearing Officer ~~shall~~will determine whether, by a preponderance of the evidence, it is more likely than not that the ~~accused student~~Respondent violated the Student Code of Conduct. This means that the information presented supports the finding that it is more likely than not that the violation occurred. The University bears the burden of proof.

- (f) ~~(f)~~ Advisor. The ~~charged student~~Respondent and the ~~complainant~~Complainant may each choose one advisor to be present during the process at the ~~student's~~Respondent's or ~~complainant's~~Complainant's expense and initiative. It is the ~~student's~~Respondent's or ~~complainant's~~Complainant's responsibility to make appropriate arrangements for the ~~adviser~~advisor to attend the Hearing, which ~~shall~~will not be delayed due to scheduling conflicts of the chosen ~~adviser~~advisor. The ~~adviser~~advisor may be present to advise the ~~student~~Respondent or ~~complainant~~Complainant but may not speak for or present the case for the ~~student~~Respondent or ~~complainant~~Complainant, present statements or arguments, question witnesses or otherwise participate in the process.
1. ~~1.~~ Members of the Student Conduct Board, or other persons involved in the student conduct process, may not serve as a student's advisor at the Hearing.
  2. ~~2.~~ If the charged student Respondent or complainant Complainant chooses an attorney as his/her/their advisor at the Hearing, he or she, they must inform the Dean of Students at least three (3) business days before the Hearing. In such cases the University will be advised by a University attorney as well.

~~(g)~~ Hearings.

- (g) ~~1.~~ All Hearings before the Student Conduct Board or University Hearing Officer will be digitally recorded by the University. That recording will serve as the only official record of these proceedings and shall will be the property of the University. No other recordings are permitted. Deliberations shall will not be recorded.
1. ~~2.~~ The following is a guide to the format of events for Hearings. The Student Conduct Board or University Hearing Officer may change the order if necessary. The Student Conduct Board or University Hearing Officer may question any party or witness directly.
    - a. ~~a.~~ Review of Hearing procedures.
    - b. ~~b.~~ Reading of Charges.
    - c. ~~e.~~ Opening statement and presentation of information by the charged student Respondent.
    - d. ~~d.~~ Questioning of University's witnesses, followed by the questioning of charged student's Respondent's voluntary witnesses.
    - e. ~~e.~~ Questions directed to the charged student Respondent by the Student Conduct Board or University Hearing Officer.

- f. ~~f.~~ Closing statement by the ~~charged student.~~  
Respondent.
  - g. ~~g.~~ Deliberation by the Student Conduct Board or University Hearing Officer (not taped).
  - h. ~~h.~~ The Student Conduct Board or University Hearing Officer ~~may will~~ recommend a decision(s) and a sanction(s) to the Dean of Students. Such recommendation of decision(s) and sanction(s) ~~may will~~ be presented to the student by the Student Conduct Board or University Hearing Officer. ~~following deliberations.~~
2. ~~(h)~~ Findings and Recommendations. The Student Conduct Board or University Hearing Officer recommendation(s) will include a finding of “Responsible” or “Not Responsible” for each of the alleged violations listed on the Notice of Charges, based solely on the information presented at the Hearing. The Student Conduct Board or University Hearing Officer will inform the Dean of Students of its findings and any recommendation(s) for sanctions based on its findings. If the Student Conduct Board cannot reach a finding of “Responsible” or “Not Responsible” to a charge within a reasonable time period based on the complexity of the case, the chairperson shall call the Board as deadlocked and the Dean of Students may call a new Hearing date with new Board members to hear that charge. No person serving on the first Board shall serve on the second Board. If the second Board also deadlocks, then the charges against the ~~charged student~~Respondent shall be dismissed.
  3. ~~(i)~~ Failure to Appear. If the ~~charged student~~Respondent fails to appear at the scheduled Hearing (after proper notice), ~~the student shall they will~~ be found Responsible for each of the alleged violations listed on the Notice of Charges and ~~may not appeal the finding of responsibility.~~ ~~The student~~the Respondent retains the right only to appeal the severity of the sanction.
  4. ~~(j)~~ Decision and Outcome. The Dean of Students will review the findings and recommendations of the Student Conduct Board or University Hearing Officer, as applicable. The Dean of Students will then make a decision as to the violation(s) in question and sanctions imposed, which decision ~~which(s)~~ may consist of adopting, modifying, or rejecting the recommended decision(s) and ~~sanctions~~sanction(s) of the Student Conduct Board or University Hearing Officer, or remanding the matter for



rehearing. The Dean of Students will send a ~~correspondence~~ (referred notice of outcome in writing to as a “Notice of Decision and Sanction”) ~~the Respondent~~ informing the student of the ~~Dean of Students’ final decision and findings, any related~~ sanctions, and ~~explaining~~ any differences between the recommendation of the Student Conduct Hearing Board or University Hearing Officer and the Dean of Students’ ~~final decision, if any changes to recommended~~ decision-(s) or sanction(s) are made by the Dean of Students. Such ~~correspondence~~ notice will be sent to the student within a reasonable period of time after the conclusion of the Hearing.

(13) **Student Conduct Sanctioning.**

(a) Purpose. Student Conduct sanctioning is intended to:

1. ~~1. — To promote~~ Promote the student’s education regarding the experience.
2. ~~2. — To educate~~ Educate the student so ~~he or she does~~ they do not commit the violation again.
3. ~~3. — To offer~~ Offer the student the opportunity to ~~make good on a mistake~~ restore any harm resulting from the incident.
4. ~~4. — To ensure~~ Ensure that University expectations regarding appropriate behavior are clear.
5. ~~5. — To educate~~ Educate the student concerning how ~~his or her~~ their behavior impacts others in the University Community.
6. ~~To protect the University Community from people who may harm others in the University Community or who may substantially interfere with the educational mission of the University or other institutions.~~

(b) ~~(b)~~ — Student Conduct Sanctions. The following sanctions or combination of sanctions may be imposed by the Dean of Students upon any individual student or student organization found “Responsible” for violations of this Code. In light of the facts and circumstances of each case, a Student Affairs hold may be placed by the Dean of Students Office on Registration (if not already in place) upon receiving sanctions or failure to comply with the imposed sanctions. A student found responsible for a violation of the Student Code of Conduct ~~shall~~ will be subject to sanctions ~~commensurate with~~ proportionate to the offense with consideration given to any aggravating and mitigating circumstances, including but not limited to the student’s conduct record. The assignment of any sanction may be

delayed at the discretion of the Dean of Students. Potential sanctions to be imposed by the Dean of Students include:

1. 1. Community/University Service – required completion of a specified number of hours of service to the campus or general community.
2. Counseling Assessment – referral to the University Counseling and Psychological Services Office, or another agency at the student’s expense, for assessment, and/or voluntary treatment.
3. Connection to University Programs, Students Organizations or Mentoring Options - required investigation of resources available to student that may enhance their positive University involvement or provide mentoring options to assist with continued growth.
- 1.4. Deactivation of the Student Organization’s status at the University.
5. Deferred Suspension – The student will be officially suspended from the University, but the suspension will be deferred. If a student commits a subsequent violation of the Student Code of Conduct while on deferred suspension and is found responsible, then the student will be immediately suspended in addition to any other sanctions imposed for the subsequent violation, unless the Dean of Students determines that exceptional circumstances warrant otherwise. Suspensions can be deferred for a semester or indefinitely.
- 2.6. Educational Activities – required attendance at educational programs, meeting with appropriate officials, workbook completion, reflection papers, development of a plan for success, written research assignments, planning and implementing educational programs, or other educational activities at the student’s or student organization’s own expense.
7. Expulsion – Permanent dismissal from the University with no right for future readmission under any circumstances. A student who has been expelled is barred from all FAU campuses.
8. Formal Mediation Processes - in cases where students are found to be responsible for one or more violations, and all parties are voluntarily willing to participate, Respondent may be sanctioned to voluntary participation in a formal mediation process. The completion of any conditions mutually agreed upon in the mediation will become required sanctions.
9. Involuntary Withdrawal from individual courses or all courses registered for at the University – Students remain financially responsible for tuition and fees.
2. Counseling Assessment, Consultation, and/or Recommended Treatment – referral

- ~~for assessment, consultation, and/or treatment to the University Counseling and Psychological Services office or another agency at the student's expense.~~
- ~~3.1. 3. Community/University Service – required completion of a specified number of hours of service to the campus or general community.~~
- ~~4. Termination or Deferred Termination of University Housing Contract/Assignment – Students remain financially responsible for obligations under the housing contract.~~
10. 5. Psycho-social Educational Classes, Workshops or Seminars - psycho-social learning experiences focused on specific areas of growth such as anger management, biofeedback, coping skill development, and stress management.
- 4.11. Restitution – Payment ~~made~~ for damage or loss ~~caused by the responsible student.~~
- 5.12. 6. Restriction or Revocation of Privileges – Temporary or permanent loss of privileges, including, but not limited to the use of a particular University facility, resources, equipment or other privileges.
13. Revocation of Admission and/or Degree – Admission to or a degree awarded from FAU may be revoked for fraud, misrepresentation or other violation of FAU standards in obtaining the degree or for other serious violations committed by a student prior to graduation.
- ~~7. Student Conduct Warning – A student conduct sanction in correspondence notifying a student that the student's behavior did not meet University standards. All student conduct warnings will be taken into consideration if further violations occur.~~
- 6.14. 8. Student Conduct Probation – A student conduct sanction ~~in correspondence~~ notifying a student that ~~his/her~~their behavior is in serious violation of University standards and that restrictions are being placed on ~~his or her~~their activities. Some ~~sanctions~~restrictions that may be placed on a student during a probationary period include, but are not limited to, restriction of the privilege to: participate in student activities or in student organizations; represent the University on athletic teams, student organizations or in other leadership positions; gain access to University Housing buildings or other areas of campus; use University resources and/or equipment; or contact specified person(s). If the student is found “responsible” for another violation of the code of conduct during the period of Student Conduct Probation, the University may consider increasing the level of the subsequent sanction.

~~15. 9.~~ Student Conduct Warning – A student conduct sanction notifying a student that the student’s behavior did not meet University standards. All student conduct warnings will be taken into consideration as an aggravating factor if further violations occur.

~~7.16.~~ Suspension – Mandatory separation from the University. During the period of suspension the student is barred from all FAU campuses unless specific permission is granted by the Dean of Students. Once the entire period of suspension has been served, the student may seek ~~readmission by submitting a written request to the Dean of Students (for re-enrollment or re-admission to the University.~~ For suspensions less than three consecutive semesters) or, the student may seek re-enrollment by submitting a request to the Dean of Students Office. For suspensions greater than three consecutive semesters, the student may seek readmission by reapplying to the University through the Office of Admissions (for suspensions greater than three consecutive semesters).

~~17. 10.~~ Termination or Deferred Termination of University Housing Contract/Assignment – Students remain financially responsible for obligations under their Housing contract.

~~8.1.~~ Deferred Suspension – The student will be officially suspended from the University, but the suspension will be deferred. If a student commits a subsequent violation of the Student Code of Conduct, while on deferred suspension and is found responsible, then, unless the Dean of Students determines otherwise in exceptional circumstances, the student will be immediately suspended in addition to any other sanctions imposed for the subsequent violation. Suspensions can be deferred for a semester or indefinitely.

~~9.1.~~ 11. Revocation of Admission and/or Degree – Admission to or a degree awarded from FAU may be revoked for fraud, misrepresentation or other violation of FAU standards in obtaining the degree or for other serious violations committed by a student prior to graduation.

~~10.18. 12.~~ Withholding Degree – FAU may withhold awarding a degree otherwise earned until completion of the process set forth in this Student Conduct Code, including completion of all sanctions imposed, if any.

~~11.1.~~ 13. Expulsion – Permanent dismissal from the University with no right for future readmission under any circumstances. A student who has been expelled is barred from all FAU campuses.

~~14.~~ Deactivation of the Student Organization’s status at the University.

~~12.1.15. Involuntary Withdrawal from individual courses or all courses registered for at the University. Students remain financially responsible for tuition and fees.~~

~~13.19.16. Other Appropriate Action – A student conduct action not specifically set out above, but deemed proper by the Dean of Students.~~

~~14.20.17. Alcohol Abuse Sanction Guidelines: Depending on the amount of alcohol involved and those cases involving severe intoxication and/or police or emergency medical response, dependent students (pursuant to the Internal Revenue Code) Alcohol Violations – A student found responsible for offenses regarding the use, possession, sale or distribution of alcohol may be sanctioned as follows, at the discretion of University officials, in accordance with this Regulation. These violations are per academic year. The sanctions listed below serve only as guidelines.~~

~~a. First Violation~~

~~a. 1. Completion or incident of an Educational program and payment a Low Level of the administrative costs for providing this program. Severity~~

~~i. 2. Parental Completion of an educational program and payment of administrative costs for participation in this program.~~

~~i.ii. Parent/Legal Guardian Notification (Parental Notification may be implemented depending on for dependent students only, in accordance with the severity or nature of the first violation). Internal Revenue Code).~~

~~ii.iii. 3. Completion of between five (5) and fifteen (15) hours of Community/University Service.~~

~~b. Second Violation~~

~~b. 1. Second Violation or Incident of a Moderate Level of Severity - May include any or all of the sanctions listed above, in addition to:~~

~~iii.i. Completion of evaluation a substance use assessment and voluntary completion of recommended treatment from FAU Counseling and Psychological Services or another clinical treatment agency at the student's expense.~~

~~ii. 2. Termination or Completion of between fifteen (15) and thirty (30) hours of Community/University Service.~~

iii. Student Conduct Probation for a minimum of three (3) months.

iv. Deferred Termination of University Housing Contract for a period of one year. Students are still financially responsible for obligations under the housing contract.(for residential students only).

3. Parental Notification.

c. 4. Third Violation or Incident of an Elevated Level of Severity - May include any or all of the sanctions listed above, in addition to:

i. Completion of up to fifty (50) hours of Community/University Service.

v.ii. Student Conduct Probation for a minimum of 4 semester:twelve (12) months.

5. Completion of 15-30 hours of Community/ University Service.

6. Completion of an educational program and payment of administrative costs for providing this program.

c. Third Violation

vi.iii. 1. Termination of Housing Contract for a minimum of one (1) year—Student is, during which time the student will be suspended from campus housingHousing and may be suspendedtrespassed from the University-all residential areas. Students are stillwill be financially responsible for obligations under the housing contract.their Housing Contract (for residential students only).

2. Parental Notification.

vii.iv. 3. Student Conduct ProbationSuspension for a minimum of 1 year:three (3) months.

viii.v. 4. Completion of up to 50 hours of Community/Expulsion from the University Service.

5. Completion of an Educational program and payment of administrative costs for providing this program.

15:21. 18. Drug Abuse SanctionControlled and Illicit Substance(s) Sanctioning Guidelines:- - Depending on the amount and type of illicit or illegal substance involved, thea student may be suspended or expelled from the University, as well as prosecuted. At the minimum, a student may be sanctioned as follows: The sanctions listed below serve only as guidelines.

a. First Violation

- a. ~~1. Termination or incident of Housing Contract— Student is suspended from University Housing for a minimum of 1 year. Students are still financially responsible for obligations under the housing contract.~~ a Low Level of Severity
  - i. ~~2. Completion of an educational program and payment of administrative costs for participation in this program.~~
  - ii. Parent/Legal Guardian Notification (for dependent students only, in accordance with the Internal Revenue Code).
  - iii. Completion of twenty-five (25) hours of Community/University Service.
  - ~~iv. Student Conduct Probation for a minimum of 1 year.~~ six (6) months.
- b. ~~3. Second Violation or Incident of a Moderate Level of Severity - May include any or all of the sanctions listed above, in addition to:~~
  - ~~ii.i. Completion of evaluation and a substance use assessment and voluntary completion of recommended treatment from FAU Counseling and Psychological Services or another clinical treatment agency at the student's expense.~~
  - ~~4. Parental Notification.~~
  - ~~5. Completion of 25 hours of Community/University Service.~~
  - ~~6. Completion of an educational program and payment of administrative costs for providing this program.~~
- ~~b. Second Violation~~
  - ~~iii.ii. 1. Completion of fifty (50) hours of Community/University service.~~
  - ~~iii. 2. Suspension or deferred suspension Probation for a minimum of one (1) year.~~
  - ~~iv. Deferred Termination of University Housing Contract (for residential students only).~~
- c. Third Violation or Incident of an Elevated Level of Severity - May include any or all of the sanctions listed above, in addition to:
  - i. Termination of Housing Contract for a minimum of one (1) year, during which time the student will be suspended from Campus Housing and trespassed from all residential areas. Students will be

- financially responsible for obligations under their Housing Contract (for residential students only).
- ~~iv.ii.~~ Probation for the duration of the student's current academic year-program.
- ~~3.~~ Completion of an educational program and payment of administrative costs for providing this program.
- ~~iii. e.~~ Persons found to be involved in the sale of illegal drugs will be suspended or expelledSuspension for a minimum of six (6) months.
- ~~v.iv.~~ Expulsion from the University.

(14) ~~Parental~~ Parent/Legal Guardian Notification Policy.

Florida Atlantic University is committed to the success of its students both inside and outside of the classroom. Therefore, it is our goal to maximize students' learning and development, and promote their health, safety and welfare. In this regard, FAU has implemented a Parental/Legal Guardian Notification policy ~~in compliance with the request of the Florida Board of Governors.~~ The Parental Notification policy permits the University ~~the right to~~ may inform parents or legal guardians when their dependent student (~~pursuant to~~ in accordance with the Internal Revenue Code), under the age of twenty-one (21), has been found in violation of the University Alcoholic Beverages and Drug-Free Environment policy.

- (a) In non-emergency situations, parents or legal guardians of dependent students, under the age of twenty-one (21), will be notified in writing. However, in emergency situations, parents may be notified by an immediate phone call from the Dean for Students ~~or his/her designee.~~
- (b) These guidelines do not preclude Parental/Legal Guardian Notification for other policy violations that may endanger the health, safety and well-being of a student or other individuals in the University Community. ~~In addition,~~ Parental/Legal Guardian Notification may occur in health and safety emergencies regardless of the student's age or dependent status.
- (c) Students, whose parents or legal guardians are to be notified under these guidelines, will be informed, when possible, before such notification occurs and given an opportunity to initiate contact with their parents.

(15) **Appeals.**

A student may appeal the decision of the Dean of Students (as to whether the student has been found responsible or not responsible) and/or the sanctions imposed by the Dean of Students.

- (a) ~~(a)~~ Standards for Appeal.



1. ~~1.~~ Failure to receive the minimum requirements of process, as described under this Regulation.
  2. ~~2.~~ Severity of the sanction.
  3. ~~3.~~ New material or information that could not be discovered at the time of the Hearing.
- (b) ~~(b)~~ All appeals must be ~~postmarked or~~ received in ~~correspondence~~ writing within five (5) business days of the date of the “Notice of Decision and Sanction” to the Vice President for Student Affairs ~~or designee~~ and Enrollment Management for consideration. All appeals must specify the basis for the appeal. No person may ~~hear or~~ decide an appeal if ~~he/she/they~~ conducted or participated in the Hearing.
- (c) ~~(c)~~ The burden of proof at the appellate level rests with the ~~charged student.~~ Respondent.
- (d) ~~(d)~~ The student’s pre-decision status will remain unchanged pending the appeal determination by the Vice President for Student Affairs ~~or designee~~ and Enrollment Management (that is, a student ~~shall~~ will remain eligible to attend classes and University activities pending the University’s final decision in the student conduct proceeding), except where the ~~Vice President for Student Affairs or designee~~ Dean of Students determines that the safety, health or general welfare of the student or the University Community is involved, in which case a student’s privileges at the University, including the ability to attend classes or engage in University activities, may be suspended on an interim basis as described under the Emergency Measures provisions of this Regulation. In that case, the provisions under Section 9, Emergency Measures, will also apply.
- (e) ~~(e)~~ After considering the appeal, the Vice President for Student Affairs ~~or designee~~ and Enrollment Management may reopen the Hearing, order a new Hearing with the same or new Conduct Board or University Hearing Officer, uphold, or reverse the prior decision of the Dean of Students or revise the sanction. ~~(s).~~ The Vice President for Student Affairs ~~or designee~~ shall and Enrollment Management will provide the student written notice of ~~his or her~~ their decision within a reasonable period of time after receipt of the appeal request.
- (f) ~~(f)~~ The appeal determination of the Vice President for Student Affairs ~~or designee~~ and Enrollment Management is final and binding on all parties. There are no further appeals within the University. The student has a right to appeal the University’s final decision to an external judicial forum.

(16) ~~Complainants’~~ Complainant Rights and Proceedings.

~~(b)~~(a) The University ~~shall~~will provide notice to the ~~complainant~~Complainant of ~~his/her~~their rights as soon as possible after notification of an alleged violation~~;~~.

~~(c)~~(b) (a) — Some of the cases to which ~~complainants'~~Complainants' rights may apply include~~,~~, but are not limited to~~,~~, the following types of cases:

1. ~~1.~~ — Sexual Violence
2. ~~2.~~ Sexual Battery
3. ~~3.~~ Sexual Harassment
4. ~~4.~~ Sexual Exploitation
5. ~~5.~~ Domestic Violence
6. ~~6.~~ — Dating Violence
7. ~~7.~~ Stalking
8. ~~8.~~ Bullying
9. ~~9.~~ Harassment
10. ~~10.~~ — Hazing~~;~~
11. ~~11.~~ — Property (damage)
12. ~~12.~~ — Property (theft)

~~(d)~~(c) ~~(b)~~ — ~~Rights:~~ To the extent appropriate, ~~and in all cases involving sexual violence, sexual battery, sexual harassment, domestic violence, dating violence, stalking and bullying, complainants~~Complainants shall have rights equivalent to those of a ~~charged student~~Respondent, including the following ~~rights:~~

1. ~~1.~~ — The right to request reasonable accommodations in compliance with the Americans with Disabilities Act (ADA). Students who require accommodations in order to participate in any aspect of the student conduct process(es), due to a documented disability, should contact the Office of Student Accessibility Services to arrange for appropriate accommodations and advise the Dean of Students Office of their need for additional supports.
- ~~1.2.~~ The right to have equivalent access to pre-hearing meetings with the Dean of Students ~~or designee~~, as permitted by law, as that granted to the ~~charged student.~~ Respondent.
- ~~2.~~ — ~~The right to review, not less than three (3) business days prior to the Hearing, the information which will be used by the University.~~
- ~~3.~~ — ~~The right to participate in a fair, prompt and impartial Hearing, present information at the Hearing, and to arrange for witnesses to voluntarily present information at the Hearing.~~
- ~~4.~~ — ~~The right to hear and question adverse witnesses who voluntarily testify at the Hearing, unless the charged student has waived a Hearing.~~
- ~~3.~~ 5. — The right to be assisted by an advisor. Any paid advisor will be chosen and paid for at the expense of the student. The advisor

is not permitted to speak during or to participate in any part of the student conduct process, other than to consult directly with the Complainant. The advisor may not be involved in other aspects of the investigation or the student conduct process.

- ~~2.4.~~ The right not to be forced to present testimony ~~which~~that would be self-incriminating. However, the University is not required to postpone student conduct proceedings pending the outcome of any outside criminal or civil case.
- ~~6.~~ ~~The right to request an appeal of University action and the sanction imposed as long as appropriate appeal procedures are followed.~~
- ~~5.~~ ~~7.~~ The right to participate in a fair and impartial Hearing on the charges by a Student Conduct Board or University Hearing Officer, unless the Hearing is waived by the Respondent.
- ~~6.~~ The right to review, not less than three (3) business days prior to the Hearing, the information that will be presented to the Hearing body for consideration, unless the right is waived by the Complainant.
- ~~7.~~ The right to hear and question adverse witnesses who voluntarily testify at the Hearing, unless the Respondent has waived a Hearing.
- ~~3.8.~~ The right to be informed of their rights provided in this Regulation 4.007.
- ~~8.~~ ~~The right to be assisted by an advisor chosen at his/her expense. The advisor is not permitted to speak during or to participate in any part of the student conduct process.~~
- ~~4.9.~~ 9. The right to submit a written impact statement. This information would be used only in sanctioning; if the ~~charged student~~Respondent is found responsible for ~~the charge(s)~~one or more violations.
- ~~5.10.~~ ~~10.~~ The right to have unrelated past behavior excluded from the Hearing. The chair of the Student Conduct Board or the University Hearing Officer will decide if such information is unrelated. The past sexual history of the ~~complainant~~Complainant is not usually considered relevant.
- ~~6.11.~~ ~~11.~~ At the request of the ~~complainant~~Complainant in cases involving sexual violence, sexual battery, sexual harassment, domestic violence, dating violence, stalking, and bullying ~~charges~~, the ~~complainant~~Complainant may ~~request to~~ testify in a separate room from the ~~charged student so long as the process does not unduly compromise the charged student.~~Respondent. At no time during the ~~hearing~~Hearing will the ~~charged student~~Respondent and ~~complainant~~Complainant be permitted to directly question one another, but rather, all questions between the ~~charged~~

~~student~~Respondent and ~~complainant~~Complainant will be submitted to and asked by the Hearing Officer or Student Conduct Hearing Board.

~~7.12. 12.~~—In cases involving sexual violence, sexual harassment, domestic violence, dating violence, stalking, and bullying the ~~complainant~~Complainant may request confidentiality in the investigation. The Dean of Students will respect the request for confidentiality to the greatest extent possible. However, the Dean of Students will evaluate the request for confidentiality in the context of the responsibility to provide a safe and nondiscriminatory environment for students.

a. ~~— a. — In cases where the complainant of~~When the Complaint requests confidentiality in cases involving sexual violence, sexual harassment, domestic violence, dating violence, stalking, and bullying, ~~request confidentiality, the complainant~~the Complainant will be notified that the ability of the Dean of Students to conduct a thorough investigation may be limited.

b. ~~— b. —~~ In cases where the ~~complainant~~Complainant requests confidentiality, but the Dean of Students finds a threat to the health, safety, and welfare of a student or the University ~~community~~Community, allegations of sexual violence, sexual harassment, domestic violence, dating violence, stalking and/or bullying will be reported to University law enforcement.

~~8.13. 13.~~—The right to be notified of the Student Code of Conduct outcome in ~~correspondence-writing.~~

~~14. The right to request an appeal of University action and the sanction imposed as long as appropriate appeal procedures are followed.~~

~~(c) — The following additional provisions apply to cases involving sexual violence, sexual harassment, sexual battery, domestic violence, dating violence and stalking: —~~

~~±~~

### (17) Resources, Services, and Training.

(a) Bystander Intervention: FAU provides training for students related to safe and positive options for students to intervene in situations where they perceive the potential for sexual violence ~~- or sexual harassment.~~ For more information on the training available, please visit ~~www.fau.edu/wellness-~~www.fau.edu/wellness.

(b) ~~2.~~—Risk Reduction: It is FAU policy to take affirmative steps to reduce the risk of sexual violence and sexual harassment on its campus and within the campus community. All members of the FAU community, including

students, faculty and staff are required to undergo training related to issues of sexual violence and sexual harassment including training on resources available to ~~complainants.~~ Complainants and Respondents.

(c) ~~3.~~ 3.—Resources: In cases involving allegations of prohibited sexual violence, complainants conduct, Complainants will be provided information from the Dean of ~~Student's~~ Students Office regarding immediate steps and all available resources, including:

1. ~~(a)~~ (a)—Counseling – FAU’s Office of Counseling and Psychological Services (CAPS) provides a complete range of mental health treatment and referrals to community providers. Records and information at CAPS are highly confidential and separate from all other University records.

2. ~~(b)~~ (b)—Health – FAU’s Student Health Services Center provides a full range of medical health services as well as referral services to local hospitals and medical providers.

~~(c) Victim’s Services—The Victim Services Office within the University Police Department is intended to assist students with the traumatizing consequences of being a victim of a crime.~~

3. ~~(d)~~ (d)—Victim Services – Offers support and resources to Complainants.

4. Respondent Services – Offers support and resources to Respondents.

~~3.5.~~ 3.5. University Police – FAU’s University Police Department is tasked with providing public safety services for the ~~campus~~ community University Community, and is fully prepared to deal with all forms of prohibited sexual violence conduct from a law enforcement perspective including reporting, investigation and crime prevention.

~~(17)~~

#### (18) **Regulation Review.**

Florida Atlantic University ~~shall~~ will establish a committee at least once every five years beginning five years after the adoption of this regulation to review, evaluate and recommend changes to this Regulation 4.007 to the Vice President for Student Affairs ~~and Enrollment Management.~~ This committee ~~shall~~ will be appointed by the Vice President for Student Affairs and ~~shall~~ Enrollment Management and will include student representation. This committee ~~shall~~ will have as its charge to review and evaluate this Regulation 4.007 to determine that it ensures fairness and the satisfaction of certain minimum requirements in the student conduct proceedings at the University.

~~(18)~~

**(19) Student Conduct Records.**

- (a) ~~(a)~~—The record of student conduct proceedings are part of a student’s educational record and are subject to educational records confidentiality laws. Conduct records are kept in the Dean of Students Office. These files are separate from academic transcripts.
- (b) ~~(b)~~—Issuance of Transcripts, Hold of Records, and Retention of Records in Cases of Student Conduct Action. The transcripts and future registration records of students subject to student conduct action are flagged in accordance with the following guidelines:
  - 1. ~~1.~~—The Dean of Students Office will place a hold on the records where:
    - a. ~~a.~~—A student has committed student conduct acts culminating in interim suspension, suspension and/or expulsion;
    - b. ~~b.~~—A student has failed to appear before the Dean of Students, Student Conduct Board or Hearing Officer, when reasonably notified as to his/her involvement in student conduct matters; or
    - c. ~~c.~~—A student with severe behavior problems is no longer attending the University, and it is the determination of the Dean of Students that a complete review of ~~his/her~~the student’s record is to be made prior to readmission.
    - d. ~~d.~~—A student conduct sanction is not completed by the deadline.
  - 2. ~~2.~~—When a student requests issuance of ~~his or her~~their transcript to another educational institution, outside agency or individual, ~~such~~the transcript ~~shall~~will be issued subject to the following guidelines:
    - a. ~~a.~~—If the student has had a student conduct action taken against ~~him/her~~them, which falls under paragraph one (1) above, the transcript can only be sent with an overlay.
    - b. ~~b.~~—The overlay states: “This transcript reflects only the academic record of the student; this student currently is not in good standing and further information should be requested from the Dean of Students.”
  - 3. ~~3.~~—The Dean of Students Office has adopted the following Retention of Records Policy for accurate and complete preservation of records for each student conduct proceeding:

- a. Student conduct records will be maintained in the Dean of Students Office for a period of six (6) years from the end of the student's matriculation at the University. Student conduct records shall be retained for longer periods of time as required by law or permanently if the student was expelled, dismissed, suspended or blocked from enrollment and in situations that may result in future litigation.
- b. ~~a.~~ Notwithstanding the foregoing, if during the semester of the student's graduation, the student requests in ~~correspondence writing~~ that ~~his or her~~their student conduct record be ~~destroyed~~expunged, that ~~record request~~ will be evaluated by the Dean of Students.
- c. ~~b.~~ No record may be ~~destroyed~~considered for expungement when the student conduct violation resulted in:
  - i. ~~1.~~ Personal injury;
  - ii. ~~2.~~ Significant Property damage;
  - iii. ~~3.~~ A felony violation of a state controlled substance law;
  - iv. ~~4.~~ Disruption of the orderly operation of the University;
  - v. ~~5.~~ Violation of the firearm, explosives, dangerous chemicals, and ammunition or weaponry regulations or policies of the University;
  - vi. ~~6.~~ Suspension or expulsion from the University;
  - vii. ~~7.~~ Endangering the health, safety, or welfare of members or guests of the University; or
  - viii. ~~8.~~ Comes within the jurisdiction of the off-campus conduct section of the Student Code of Conduct.
- d. The decision to expunge a Student conduct record is at the sole discretion of the Dean of Students. The decision to expunge or not expunge a student conduct record is final and is not appealable.

*Specific Authority: Article IX of the Florida Constitution, 1001.706, and Board of Governors Regulations 1.001, 6.010, and 6.0105. History—New 10-1-75; Amended 12-17-78, 6-9-83; Formerly 6C5-4.08; Amended 11-11-87, 6-7-88, 9-16-03; Formerly 6C5-4.008; Amended 5-10-06, 5-28-08, 6-23-10, 11-16-11, 6-17-14, 7-01-15, 6-4-19.*