

**THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES FLORIDA  
BOARD OF GOVERNORS**

**NOTICE OF PROPOSED AMENDMENT TO REGULATION**

**REGULATION NO.:** **FIU-2501**

**REGULATION TITLE:** **Student Code of Conduct**

**SUMMARY:** This Regulation is amended to address changes 1) due to the law, 2) create process improvements, 3) adopt best practices, and 4) restructure the document for easier use.

**TEXT OF REGULATION:** The full text of the Proposed Regulation can be viewed below and on the website of The Florida International University Board of Trustees, <http://regulations.fiu.edu>. If you would like a copy of the Proposed Regulation, please contact Eli Deville, Departmental Administrator, Office of the General Counsel at (305) 348-2103.

**AUTHORITY:** Florida Board of Governors Regulation 6.0105 Student Conduct and Discipline; Florida Board of Governors Regulation 6.010 Student Affairs Administration; Florida Board of Governors Regulation 1.001(4)(a)(10); and Section 7(d), Article IX, Florida Constitution.

**NAME OF PERSON INITIATING PROPOSED REGULATION:** Dr. Larry Lunsford, Vice President for Student Affairs.

ANY PERSON SEEKING TO COMMENT ON THE PROPOSED REGULATION MUST SUBMIT COMMENTS IN WRITING TO THE CONTACT PERSON LISTED BELOW. ALL WRITTEN COMMENTS MUST BE RECEIVED BY THE CONTACT PERSON WITHIN 14 CALENDAR DAYS OF THE DATE OF PUBLICATION OF THIS NOTICE.

**CONTACT PERSON REGARDING THE PROPOSED REGULATION:** Eli Deville, Departmental Administrator, Office of the General Counsel, Florida International University, 11200 SW 8<sup>th</sup> Street, PC 511, Miami, FL 33199. Email: [devillee@fiu.edu](mailto:devillee@fiu.edu) Fax: 305.348.3272; Phone: 305.348.2103.

**DATE OF PUBLICATION:** May 4, 2018

**THE FULL TEXT OF THE REGULATION IS PROVIDED BELOW:**

## FIU-2501 Student Code of Conduct

As an academic community, Florida International University fosters the intellectual exchange of ideas, knowledge, and experience.

The policies, regulations and requirements contained in this Student Code of Conduct may be revised in order to serve the needs of the University Students, faculty and staff, and to respond to changes in the law. The University or the Florida International University Board of Trustees may make changes in policies, regulations and other requirements. It is the responsibility of the University to provide a safe and stimulating environment in which scholarship and personal growth may occur. The desired effect is that Students will take advantage of this environment to develop intellectually as well as to participate as responsible, contributing citizens of our community. Being a contributing Student also comes with responsibility to adhere to the Student Code of Conduct. The ultimate responsibility for knowing University requirements and regulations rests with the Student. For the latest, regardless of institutional or program affiliation. Those charged with and found responsible for violations of the Student Code of Conduct will be subject to appropriate action as outlined herein. For the most current Student Code of Conduct, please refer to the website of the Office of Student Conduct & Conflict Resolution (SCCR) at <http://www2.fiu.edu/~seer/conduct.fiu.edu>.

### ~~STANDARDS OF STUDENT CONDUCT~~

#### ~~(1) Student Code~~ The safety and well-being of **Standards**

A University is a learning our community following a tradition more than 1,000 years old. is the University's foremost concern. Florida International University (the University) is a community dedicated to generating and imparting knowledge through excellent teaching and research, the rigorous and respectful exchange of ideas, and community service.

The University Student Code of Standards and the Statement of Philosophy were developed to embody the values that we hope our students, faculty, staff, administration and alumni will demonstrate. At the same time, the University is strongly committed to freedom of expression. Consequently, the Student Code of Standards and the Statement of Philosophy do not constitute University policy and are not intended to interfere in any way with an individual's academic or personal freedoms. We hope, however, that individuals will respect these common principles thereby contributing to the traditions and scholarly heritage left by those who preceded them making Florida International University a better place has zero tolerance for those who follow.

As a member of the University community, we would hope acts that you would:

Respect the tradition of academic inquiry, the University's rules of conduct, compromise the safety and its mission. Respect the opinions and differences of all well-being of members of the FIU community.

Practice civility and demonstrate conduct that reflects the values of the institution. Respect the rights and property of the University and its members.

Be diligent and honest in your personal and academic endeavors.

#### ~~(2) — STUDENT CODE OF CONDUCT Statement of Philosophy~~

~~As an academic community, Florida International University fosters the intellectual exchange of ideas, knowledge, and experience. University community. It is the responsibility policy of the University to provide a stimulating environment in which scholarship and personal growth may occur. The desired effect is that Students will take advantageacts of this environment to develop intellectually as well as participate as responsible, contributing citizens of our community.~~

### **Statement of Rights and Freedom**

Florida International University recognizes the basic rights and freedoms of Students. They are inherent to the educational process and to the intellectual growth of Students. The following rights and freedoms are recognized as basic to the educational process:

#### **Freedom of Expression and Assembly**

~~Students are guaranteed freedom of expression. Students and Student groups may discuss, pass resolutions, write or distribute literature and leaflets, circulate petitions, sponsor speakers and public forums, and take other orderly actions which do not disrupt the essential function of the University and which are consistent with the University's Regulation 110 Demonstrations and Regulation 114 Commercial Solicitation and Advertising.~~

#### **Freedom of Association**

~~Students are free to form and join University organizations.~~

#### **Freedom in the Classroom**

~~Students are responsible for learning the content of courses of study, but have the right to take reasoned exception to the data or views offered in the classroom. Students have the right to expect that course descriptions will reflect actual course content, to receive a written syllabus for each course, to be informed of the standards on which evaluation in each course will be based, and to be fairly and justly evaluated based only on performance in the course. Students also have the right to consult with faculty during announced office hours.~~

#### **Freedom from Improper Disclosure**

~~In accordance with the federal Family Educational Rights and Privacy Act (FERPA) and the Florida Student Records statute, Students shall have access to records maintained on them and be protected from improper disclosures to third parties without their consent. Academic and Student Conduct records will be maintained separately. The procedures for access will be explicitly stated.~~

#### **Freedom from Discrimination**

~~Students shall not be discriminated against on the basis of race, color, creed, age, sex, sexual orientation, marital status, disability, religion, national origin, or any other legally protected status. Freedom from discrimination includes eligibility to Student Organizations, University activities, academic programs, employment, use of facilities, and housing.~~

#### **Freedom from Sexual Harassment**

~~Students are entitled to work and study in an atmosphere free from sexual harassment. Harassment constitutes, in the aggregate, the incidents that are sufficiently pervasive or persistent or severe that a reasonable person would be adversely affected to a degree that interferes with his/her ability to participate in or to realize the intended benefits of a University activity, employment, or resources. Sex-based cyber harassment and sexual and violence are forms of sexual harassment. Sexual will not be tolerated. Any act of intimidation, threat of violence is defined as physical sexual acts perpetrated, or act of violence committed against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol or where a victim is unable to give consent due to an intellectual or other disability.~~

### **Right to Due Process**

~~Students have members of the University when committed within the right to due process as appropriate for jurisdiction of the Student Code of Conduct situations. This includes Written Notice of hearing, information concerning the charges and allegations against them, the opportunity to present information on their own behalf, and written notice of the decision.~~

### **Statement of is prohibited. Any Student Rights and Responsibilities**

~~All Students regardless of institutional or program affiliation are expected to know and adhere to the regulations of the University as well as applicable laws. Those charged with and/or Student Organization found responsible for violations a violation of this standard may be subject to discipline up to and including expulsion pursuant to the Student Code of Standards and/or the Conduct. Student Code of Conduct (see below) will be subject to Student Conduct action as provided for below. violations in the following list, may lead to suspension or dismissal from the University if a determination of responsibility has been made:~~

### **Principles of Group Responsibility**

~~Any Student Organization can be held responsible for its actions or the actions of a collection of its members acting together. It is recognized that occasional misconduct on the part of individual members will not be attributed to and/or be cause to penalize the organization. However, misconduct on the part of the organization may be addressed when one or more of the following circumstances occur:~~

- ~~a. — Members of the organization act together to violate University Policy.~~
- ~~b. — A violation arises out of an organization sponsored, financed, or otherwise supported activity.~~
- ~~c. — The organization's leadership has knowledge of the incident, behavior, etc., and fails to take corrective or prohibitive action or fails to stop such incident, behavior, etc., while it is occurring.~~
- ~~d. — A violation occurs on premises and/or transportation owned, operated, or rented exclusively by the organization.~~
- ~~e. — A pattern of individual violations has occurred and/or continues to occur without adequate control, response, or sanction on the part of the organization or its leaders.~~
- ~~f. — The organization or related activities provided the context for the violation.~~
- ~~g. — The organization chooses to protect from official action one or more individual offenders who are members, former members, or guests of the organization.~~

It is the responsibility of the Student Organization's President or designee to represent the organization through the conduct process.

(3)

- Drug distribution and/or sales (Section 5(g)(2))
- Endangerment (Section 5(h))
- Hazing (Section 5(m))
- Sexual misconduct (Section 5(s))
- Stalking (Section 5(u))
- Weapons (Section 5(z))

This revised Code is effective the first day of classes for 2018 Summer B (i.e., June 18, 2018).

## 1. DEFINITIONS

- (a) — ~~Advisor~~: Any person chosen by the Charged Student, Charged Student Organization, or the ~~alleged~~ Complainant to assist
- a. ~~him/her~~ throughout the Student Conduct process: (e.g., faculty, staff, parent/guardian, attorney, friend, alumni, or any other person who is not a Witness in the process.
- b. ~~(b) — Business Day~~: A day when the University is open for regular business operations from 8:00 a.m. up to 5:00 p.m. For emailed correspondence, the day of delivery is not included in a designated time period.  
(excluding legal holidays).
- (c) — ~~Complainant~~: Any person who ~~submits a charge alleging that a Student violated the Student Code. When a Student believes that s/he has been a victim of another Student's misconduct, that Student will have the same rights under this Student Code as are provided to the Complainant, even if another member of the University Community submitted the charge itself.~~
- c. ~~(d) — Character Witness Statement~~: A statement relating to the general character and reputation of the person.
- d. Charge: The written statement of the alleged violations of the Student Conduct of Code.
- e. ~~Charged Student~~: Any Student who has been ~~formally~~ charged with an alleged violation of the Student Code of Conduct.
- f. ~~(e) — Coercion~~: Conduct, intimidation, and/or express or implied threats of physical, emotional, financial, or any other type of harm that would reasonably place an individual in fear of immediate or future harm and that is employed to force or compel someone to engage in sexual contact or any other type of involuntary conduct, especially conduct which would endanger or be detrimental to the Complainant. Examples of Coercion include:
- Causing the deliberate Incapacitation (see below for definition) of another person;
  - Conditioning an academic benefit or employment advantage;
  - Threatening to harm oneself if the other party does not engage in sexual contact; or
  - Threatening to disclose an individual's sexual orientation, gender identity, gender expression, or other personal or sensitive information if the other party does not engage in the sexual contact or takes actions involuntarily.
- g. Complainant: Any individual who may have been the subject of any Sexual Misconduct, Dating or Domestic Partner Violence, and/or stalking by the Charged Student regardless of whether the individual makes a report.
- h. Consent: A clear, knowing, and voluntary agreement to engage in specific sexual activity at the time of the activity. Consent can be communicated by words or actions as long as those

words or actions create mutually understandable permission regarding willingness to engage in (and the conditions of) sexual activity. Consent must be ongoing throughout the sexual activity and can be withdrawn at any time. Sexual contact must cease immediately once withdrawal of consent is clearly communicated.

- Consent must be active, not passive.
- Lack of protest or resistance does not mean consent has been granted, nor does silence mean consent has been granted.
- Within each sexual encounter, there may be separate individual sexual acts involved, and consent to one act and/or person(s) by itself does not constitute consent to another act and/or person(s).
- The existence of a dating 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 even in the context of a relationship, there must be mutual consent.
- If coercion or force is used, there is no consent.
- If a person is incapacitated so that the person cannot understand the fact, nature or extent of the sexual situation, there is no consent. This may be affected by conditions due to age, alcohol or drug consumption, unconsciousness, being asleep, physical or developmental disabilities.
- Whether one has taken advantage of a position of influence over another can be a factor in determining whether there was consent.
- In order to give consent, one must be of legal age.
- The question of what the Charged Student should have known as to whether the Complainant was Incapacitated is objectively based on what a reasonable person, sober and/or exercising good judgment, would have known about the condition of the Complainant.

i. **Dating or Domestic Partner Violence:** Any instance of violence or abuse (verbal, physical, or psychological) that occurs between those who are in, or have been in, an intimate relationship with each other.

**Final Agency Action-** The written decision resulting from the Student Conduct process

j. which finally determines the rights or obligations of the Charged Student or Student Organization.

~~(f) — **Greek Organization**— A social organization recognized by Campus Life/Office of Sorority & Fraternity Life which is affiliated with a regional, national, or international organization. Additionally, each chapter must be recognized by one of the following: the Interfraternity Council (IFC), Multicultural Greek Council (MGC), National Pan-Hellenic Council (NPHC), or the Panhellenic Council (PC).~~

k. ~~(g) — **Hearing Body**— Any person or persons authorized by the Vice President for Student Affairs, the:~~ Consists of a Hearing Officer or, if a Student Conduct Committee, two (2) students, a faculty/staff member, and a non-voting Hearing Officer.

~~**Hearing Officer:** The SCCR Director, the Director of Residential Life or the Director of Campus Life to conduct hearings to determine whether a Charged Student has violated the Student Code and to impose sanctions.~~

~~(h) — **Hearing Officer**— The SCCR Director, the Director of Residential Life, or the Director of~~

~~l. Campus Life or each of their, or a respective designee(s).~~

- m. (i) — **Impact Statement:** A statement (oral or in writing) that describes how the Complainant or Charged Student, or Student Organization has been impacted by the incident that is the basis for the Charge.
- n. **Incapacitation:** Incapacitation is the inability, temporarily or permanently, to give Consent because the individual is mentally and/or physically helpless, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring.
- o. **Interim Suspension-:** An immediate temporary (i.e., a limited period of time) separation from the University.
- (j) — **Member of the University Community-:** Any person who is a currently enrolled Student, faculty or staff, University Official, any other person currently employed by the University, or working on University Premises-:
- p. (k) — or within On-Campus ~~or University Premises~~ Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and Housing, or any participant in a University-sponsored program or activity regardless of the location of the program or activity.
- any building or property that is within or reasonably contiguous to that previously described in this paragraph that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (e.g. a food or other retail vendor):
- q. (l) — **On-Campus Housing:** Such housing owned, controlled, and operated by the University to include, but not limited to, the following: Everglades Hall, Lakeview Halls (North & South), Panther Hall, Parkview Hall, University Apartments, and University Towers. On-Campus Housing also includes Bayview Student Living (BBC), or any fraternity or sorority houses located on University Premises.
- Policy-:** The written procedures, policies, or regulations of the University (as they may be amended from time to time) as found in, but not limited to, the Florida International University Board of Trustees regulations, the Student Code of Conduct, the Undergraduate/Graduate Catalogs, the Student
- r. Handbook, the University Housing Resident Handbook, and ~~the~~/or Campus Life/Wellness & Recreation Center policies.
- s. (m) — **Preponderance of the Evidence-:** When the information that is presented supports a finding that it is more likely than not that a violation occurred.
- (n) — **Receipt of Written Notice-:** When Written Notice (see below for definition) has been sent
- t. electronically to the official University email address.
- u. (o) — **Reporting Party:** Any person (including the Complainant) who reports an alleged violation of the Student Conduct Code by a Student.
- v. **Revenge Porn:** To publish a sexually explicit image of a person, including any depiction that contains or conveys the personal identification or information of the depicted person by any electronic, digital or other means, including to an internet website, by text, by email, and/or by or through social media without the depicted person's Consent.
- SCCR Director-:** The Director of the Office of Student Conduct and Conflict Resolution
- w. (p) — **Student-:** Any person who participates in any course or program of the University, either full-time or part-time, in-person or online, and whether degree-seeking or non-degree seeking.- Persons who withdraw after allegedly violating the Student Code of Conduct, persons who are not officially enrolled at the University for a particular term but who have a

continuing relationship with the University, persons who have been notified of being accepted for admission, and persons who are living in the residence halls but are not enrolled at the University are also considered Students. ~~Student Organizations and Greek Organizations are also considered Students.~~

y. ~~(q)~~ — **Student Organization**—: A ~~Student~~ group of ~~currently enrolled University students who unite~~ that is officially registered or recognized by the University, including, but not limited to promote a common interest. Any group of Students organized for a specific purpose (e.g., political groups, social, groups, honor & professional, honorary) whose membership consists solely of societies, fraternities & sororities, and sport clubs.

z. **Title IX Coordinator**: The individual University Students. ~~Student Organizations includes Student clubs, official with the primary responsibility for coordinating the University's compliance with Title IX. The Deputy Title IX Coordinator is an individual(s) designated by the Title IX Coordinator to support the Title IX Coordinator with respect to the University's efforts to comply with Title IX.~~

~~University recognized Student Organizations, Student Organizations that have not been recognized by the University, and Student sports clubs.~~

aa. ~~(r)~~ — **University** —: Florida International University.

bb. ~~(s)~~ — **University Official**—: Any person employed by the University to perform assigned teaching, research, administrative, professional or other responsibilities (e.g., faculty, staff, administrators, residence hall staff, FIU Police).  
~~administrators, residence hall staff, FIU Police, etc.)-~~

~~(t) — Vice President The Vice President for Student Affairs or designee(s).~~

cc. ~~(u)~~ — **University Premises**: Any building or property owned or controlled by the University within the same reasonably contiguous geographic area and used by the University in direct support of, or in a manner related to, the University's educational purposes, including residence halls; and any building or property that is within or reasonably contiguous to that previously described in this paragraph that is owned by the University, but that is controlled by another person, is frequently used by students, and supports University purposes (e.g., a food or other retail vendor). This definition is designed to conform to the Clery Act definition which can be amended from time to time.

dd. **Witness**: A person(s) who has factual knowledge about the incident which forms the basis of the Charge.

ee. **Written Notice**—: A notification of the charges against the Charged Student sent via email to the Charged Student's official University email address. -A notification to a ~~Greek or~~ Student Organization sent via email to the official University email address of the organization's ~~Student Organization's~~ President. ~~This method of notification will constitute full and adequate notice under the Student Code of Conduct. The SCCR Director retains the discretion to send duplicate notices via letter by other means (e.g., overnight or hand delivery).~~

## **(4)2. JURISDICTION**

(a) — Jurisdiction under the Student Code of Conduct applies to the conduct of any Student,

~~Greek Organization, or Student Organization that occurs on University Premises, at University related activities, on all locations where a University course or program is being conducted, including foreign locations, such as study abroad programs, and/or off-campus conduct that adversely affects the University community and/or the pursuit of its objectives.~~



(b) — Each Student shall be responsible for ~~his/her~~their conduct from the time that he/she has been notified of admission through the actual awarding of a degree even though the conduct may occur before ~~classes begin or after classes end.~~ grades post. Each ~~non-degree-seeking~~ Student shall be responsible for ~~his/her~~ conduct from the time that he/she has been notified of admission and while enrolled in classes even if the conduct occurs before or after classes. Each Student (including non-degree-seeking) is responsible for ~~his/her~~their conduct during the academic year and during periods between terms of actual enrollment. The

a. Student Code of Conduct shall apply to a Student's conduct even if the Student withdraws from the ~~school~~University, while a Student Conduct matter is pending, or if the conduct is not discovered until after a Student has withdrawn or a degree has been awarded.

b. ~~(e)~~ — Jurisdiction under the Student Code of Conduct applies to the conduct of any Student or Student Organization that occurs on University Premises or On-Campus Housing, at University-related activities/events, on all locations where a University course, program, or activity is being conducted, including foreign locations, such as study abroad programs.

c. The University reserves the right to impose discipline based on off-campus conduct. ~~For example, discipline~~ Discipline for off-campus conduct may be imposed pursued under the Code if:

1. (i) — The off-campus conduct is specifically prohibited by law or the Student Code of Conduct;
- (ii) — The off-campus conduct demonstrates that the continued presence of the Student

2. on campus presents a danger to the health, safety, or welfare of the University community, is disruptive to the orderly conduct, processes and functions of the University, is contrary to the University's mission, or is intimidating or threatening to the University community or member of the University community; or
3. ~~(iii) — The off-campus conduct is of such a serious nature that it adversely affects~~has continuing adverse effects on the campus.

~~Student's suitability to remain a part of the University community.~~

~~(d) — The action of the University with respect to off-campus conduct shall be taken independently of any off-campus authority or proceeding. The University Student Conduct proceeding is~~

~~not a criminal or judicial proceeding and. It is designed to address the Charged Student Student's behavior, whether on or off-campus; therefore,~~

~~alleged violations of the University's Student Code of Conduct will be addressed independently of any criminal or~~

- d. ~~judicial proceeding and regardless of whether the criminal charges have been dismissed or reduced: to a lesser offense.~~

### ~~(5)~~3. **AUTHORITY**

~~(a) — The Board of Trustees of Florida International University has been charged with the~~

~~responsibility of, and authority for, providing a Student misconductconduct system.~~

~~Authority for the Student misconductdiscipline and the Student conduct system rests with the University President, who has delegated. Although the University President holds the~~

~~ultimate authority for Student discipline, this authority is delegated to the Vice~~

~~President.~~

~~(b) — Hearing Bodies are authorized by the Vice President to conduct for Student Conduct hearings.~~

~~(c) — All Hearing Bodies have Affairs, who is responsible for implementing the Student disciplinary system. The Vice President for Student Affairs delegates authority to consult with other appropriate University~~

~~Officials in order to effectively resolve a Student Conduct matter.~~

- a. ~~(d) — Any specific procedures used by Hearing Bodies will comply withfor the requirementsexecution and implementation of thisthe Student Code of Conduct to the SCCR Director.~~

~~(e) — Decisions of all Hearing Bodies constitute Final Agency Action unless there is a timely~~

- b. ~~appeal.~~The requirements and procedures in the Student Code of Conduct may be revised. Those revisions may occur in order to serve the needs of the University Students, faculty and/or staff where safety and security issues so demand. In addition, those revisions may occur in circumstances where, in the University's sole discretion, the requirements and procedures described herein are deemed insufficient to meet the objectives of educating and protecting the members of the University community and/or to respond to changes in the law. Nothing in this Code shall be construed as preventing the University President and/or Vice President for Student Affairs from taking any action which may be deemed necessary to meet the goals of this Code. In matters involving charges for drug distribution and/or sales (Section 5(g)(2)), endangerment (Section 5(h)), hazing (Section 5(m)), sexual misconduct (Section 5(s)), stalking (Section 5(v)), and weapons (Section 5(z)) the President and/or Vice President for Student Affairs may change the outcome and/or sanctions to fulfill requirements of the Code, subject to due process (i.e., notice and an opportunity to be heard), and prior to the conclusion of the matter.

- c. The Hearing Body is authorized by the Vice President for Student Affairs or designee to conduct Student Conduct hearings as set forth in this Code.
- d. Decisions of the Hearing Body constitute Final Agency Action unless there is a timely appeal. If a decision is timely appealed, the decision of the appellate body constitutes Final Agency Action.

Action.

e. ~~(f)~~—The Hearing BodiesBody is authorized to conduct Student Conduct hearings are as follows:

- 1. ~~1.~~—The Office of SCCR Director may conduct both informalSummary Resolutions, Administrative Hearings and formal hearings.
- 1. ~~2.~~—The University Student Conduct Committee may conduct formal hearingsHearings as set forth in this Code.
- 3. ~~3.~~—The Department of Residential Life Hearing Officer may conduct both informalSummary Resolutions and formal hearingsAdministrative Hearings regarding cases arising in UniversityOn-Campus Housing and . The Department of Residential Life. If the alleged offense may
  - 2. ~~2.~~ result in a sanction of deferred suspension or greater, the Charged is not authorized to conduct Student will Conduct Committee hearings. Department of Residential Life cases may be referred to the SCCR.
  - 4. ~~4.~~—The Hearing Officer for the Student Government Association (SGA) and all other governing councils within Campus Life may conduct informal or formal hearings regarding cases of

the Campus Life council's alleged violation of the SGA

#### 4. AMNESTY

The University encourages Students to seek medical assistance and/or report sexual misconduct, but it recognizes that Students may be hesitant to make a call or report when they:

- a. Need medical assistance due to their own use of alcohol/drugs,
- b. Witness another student who needs medical assistance and they themselves have used alcohol/drugs, and/or
- c. Want to report sexual misconduct but they themselves (or Witnesses they identify) may have used alcohol/drugs.

Therefore, Students involved in the incident will not be charged with the possession or consumption of alcohol/drugs if they call for assistance for themselves and/or others who have participated in or witnessed the incident and their conduct did not threaten the health or safety of any other individual council constitutions. Amnesty will be granted only one (1) time for a Student. Other charges related to the incident (e.g., alcohol distribution, drug distribution, or other non-alcohol/drug charges) may be determined at the discretion of the SCCR Director. Amnesty is not granted to Student Organizations.

#### ~~(6)~~—OFFENSES

The following offenses5. PROHIBITED CONDUCT

The following conduct is prohibited by this Code. It is a violation of this Code for any Student or Student Organization to engage in behavior that aids, attempts, assists, promotes, condones, encourages, induces, requires, conceals, or facilitates any act prohibited by this Code. Allowing, permitting, or providing an opportunity for a guest to violate University policy is also prohibited. These violations are included in each section below and need not be cited separately. Lack of familiarity with University policy is not a defense to a violation of this Code. Unless specifically noted, intent is not a required element to establish a policy violation. Additionally,

intoxication or impairment caused by use or consumption of alcohol, drugs, or other substances is not a defense to a violation of this Code.

The following prohibited conduct or any attempt to violate these offenses will be used in charging all

Students, or Student Organizations or Greek Organizations.- Nothing in this section shall be interpreted to abridge the right of any member of the University community ~~to~~of freedom of expression protected by the First Amendment of the United States Constitution and/or any other applicable law.

~~First Amendment of the United States Constitution and any other applicable law.~~

~~(a)~~—

**a. Alcohol**

Students who choose to drink will be held fully responsible for their behavior while under the influence of alcohol. Loss of control due to intoxication does not excuse or justify a violation of the state law, University Policy, or the rights of others.

~~1.~~—

~~1.~~ 1. Possession, use and/or consumption of alcohol when under the legal drinking age as provided by Florida Law.

~~2.~~ 2.—Dispensing, selling or supplying alcoholic beverages to an individual who is under the legal drinking age as provided by Florida Law.

~~3.~~ 3.—Any violations of Florida International University ~~Policies~~Policy governing alcohol usage. -See, e.g., FIU-Regulation 2505 Alcoholic Beverages.

~~4.~~ 4.—Use and/or possession of beer kegs and party balls or other common sources of alcohol ~~in On~~.

~~Campus housing facilities.~~

~~5.~~ 5.—Possession of open containers of alcohol or consumption of alcoholic beverages in public areas, such as balconies, courtyards or hallways.

~~6.~~ 6.—Public intoxication (~~i.e.g.~~, appearing in a state of intoxication) and/or excessive drinking.

~~7.~~ 7. ~~Violating any other University Policy while under the influence of alcohol.~~

~~8.~~ 8.—~~Misrepresenting or misstating one's age; using altered identification in order to obtain alcohol when the Student is under the legal drinking age.~~

~~9.~~ 9.—Use and/or possession of devices designed for the rapid or excessive consumption of alcohol, including, but not limited to, funnels, ice luges, and beer bongs.

~~10.~~ 10.—~~Hosting or sponsoring~~ a gathering where underage individuals are drinking alcohol.

~~11.~~ 11.—~~Unlawfully~~ manufacture, trade, and/or intent to sell alcohol.

~~12.~~ 12.—Reporting to classes, work, or related assignments “under the influence” of alcohol.

11. Violating any other University Policy while under the influence of alcohol.

**b. Animals**

The University allows individuals to bring animals on University Premises in accordance with federal laws. A service animal is permitted on campus grounds and within University buildings, including the University housing assignment provided to an individual with a disability. An emotional support animal is permitted on campus to accompany an individual

into his or her University assigned residence in accordance with the U.S. Department of Housing and Urban Development.

1. Failing to obtain approval from Housing and the Disability Resource Center (DRC) for the Student's emotional support animal (as defined by federal law) in a residence hall.
2. Having an approved emotional support animal beyond authorized areas (i.e., within the residence halls and immediate access to outdoor areas).
3. Failing to register the Student's service animal (as defined by federal law) with the DRC if the Student resides on campus.
4. Failing to properly control the service animal and/or emotional support animal such that the animal is disruptive, is not housebroken, or poses a safety or health concern.
5. Bringing pet dogs, cats, or other animals (except non-dangerous fish) to campus or being in possession of stray animals.

**Bribery**The University recognizes that Students may need medical assistance due to excessive use of alcohol but may hesitate to seek assistance because they themselves or others who may have participated or witnessed the event may be charged with violations of this Code. The University does not want to discourage Students from seeking medical assistance. Therefore, Students involved in the event may not be charged with the possession or consumption of alcohol if one of them calls for assistance for themselves or others who have participated or witnessed the event. Other charges related to the incident (e.g., alcohol distribution, or other non-alcohol charges) may be pursued at the discretion of the SCCR Director.

c. (b) —

1. Knowingly making an offer, gift, receipt, or solicitation of money, materials, goods, services or anything of value for the Student or others for the purpose of procuring or providing an advantage to which they are not otherwise legally entitled.

d. Computer Misuse

1. —Unauthorized access, entry or use of a computer, computer system, network, software,
  1. password, account or data.
2. —Unauthorized alteration or degradation of computer equipment, software, network, data or system performance.
3. —Unauthorized copying or distribution of computer software or data.
4. —Unauthorized use, taking, or theft of University computer resources for commercial purposes or personal financial or other gain. This includes, but is not limited to, advertising a product or service on personal web pages, fund-raising or advertising on behalf of unsanctioned non-University organizations, publicizing of unsanctioned non-University activities, the reselling/resale of University resources to any non-
  4. University individuals or organizations, and the unauthorized use of the University's name or logos. Use of the University's network for any of these purposes, even if the user is using his/her/their own personal computer, constitutes an offense.
  5. —Allowing another person to use one's/one's FIU username and password.
  6. —Any other violation of the University computer use and web page policies. —The complete policies are available at <http://security.fiu.edu/training/training3.htm>. (<http://security.fiu.edu/policies>. The website also contains the civil and criminal penalties for distributing, without authority, copyrighted materials (including

unauthorized peer-to-peer file sharing) and the penalties for violating federal copyright law.

7.——Unauthorized distribution or downloading of copyrighted materials, including but not limited to, unauthorized peer-to-peer file sharing. ~~Unauthorized distribution~~ This is a violation whether the user is using his/her their own personal computer or the University's information technology system for the unauthorized

7. \_\_ distributions.

~~(e)~~

**e. Dating or Domestic Partner Violence**

**1. Physical Violence or Abuse:**

- i. Occurs when one intentionally or recklessly (1) causes bodily harm to another person; (2) attempts to cause bodily harm to another person; or (3) puts another in fear of imminent bodily harm. No Student may knowingly or recklessly touch any other person without that person's consent. Punching, slapping, scratching, or otherwise striking any person, including a Dating or Domestic Partner, with any part of one's body or with any object constitutes physical violence.
- ii. Occurs when there is a pattern of engaging in physical violence or abuse as described above.

**2. Psychological Abuse:**

- i. Occurs when a Student intimidates, dominates, terrorizes, humiliates, or isolates any other person, especially a Dating or Domestic Partner.
- ii. Occurs when there is a pattern of engaging in psychological abuse as described above.

**3. Verbal Abuse:**

- i. Occurs when a Student uses extreme or excessive language that is in the form of insults, name-calling, or criticism, designed to mock, shame, or humiliate another person, especially a Dating or Domestic Partner. Verbal behavior must be: (1) objectively endangering and (2) sufficiently severe, persistent, or pervasive to constitute verbal abuse. Singular statements and isolated incidents may fall short of this sufficiency standard.
- ii. Occurs when there is a pattern of engaging in verbal abuse as described above.

**f. Disruptive Conduct**

- 4.——Behavior that substantially and materially disrupts, disturbs, impairs, interferes with or
1. \_\_ obstructs the orderly conduct, processes, and functions of the University or the rights of other Members of the University ~~Community, community.~~
- 2.——Behavior that substantially and materially disrupts, disturbs, impairs, interferes with or obstructs the orderly conduct, processes, and functions of the classroom or laboratory and/or immediate surrounding areas. This includes interfering with the academic mission of the University or individual
2. \_\_ classroom or interfering with a faculty member or instructor's role to carry out the normal academic or educational functions of their classroom laboratory and/or immediate surrounding areas.
- educational functions of his/her classroom laboratory and/or immediate surrounding areas.
3. 3.——Behavior that substantially and materially disrupts ~~or, disturbs, impairs,~~ interferes with or obstructs the University Student Conduct process, including, but not limited to,

harassment and/or intimidation of any member of the Student Conduct Committee, ~~witness~~ Witness or University personnel before, during or after a proceeding, or attempting to coerce or influence any person(s) in order to discourage their participation in any Student Conduct proceeding.

4. ~~4.~~—Any behavior that substantially and materially disturbs the peace.

**g. ~~(d)~~—Drugs**

1. ~~1.~~—Students who choose to use illegal drugs will be held fully responsible for their behavior while under the influence. Loss of control due to being under the influence does not excuse or justify a violation of the state law, University Policy, or the rights of others.

Possession, use, the manufacture, creation and/or the cultivation of illegal drugs or prescription drugs without a prescription. ~~Inhaling~~ Inhalable or ~~ingesting~~ ingestible substances (e.g., nitrous oxide, glue, paint, etc.) that will

1. ~~1.~~ alter a Student’s mental state is also prohibited.

2. ~~2.~~ Distribution, dispensation, delivery Distribute, dispense, deliver, trade, sale, or intent to sell illegal and/or attempt to sell drugs or prescription drugs.

3. ~~3.~~ Possession In possession and/or use of drug paraphernalia (including, but not limited, to bongos, pipes,

3. ~~3.~~ “hookahs,” spoofs, rolling papers, blunts, small plastic baggies, etc.).

4. ~~4.~~ Misuse and/or abuse of prescription drugs.

~~The University recognizes that Students may need medical assistance due to excessive use of drugs but may hesitate to seek assistance because they themselves or others who may have participated or witnessed the event may be charged with violations of this Code. The University does not want to discourage Students from seeking medical assistance. Therefore, Students involved in the event may not be charged with the possession or use of drugs if one of them calls for assistance for themselves or others who may have participated or witnessed the event. Other charges related to the incident (e.g., drug distribution, or other non alcohol charges) may be pursued at the discretion of the SCCR Director.~~

**h. ~~(e)~~—Endangerment**

1. ~~1.~~ Physical violence toward another person or group.

1. ~~2.~~ Action Occurs when one intentionally or recklessly (1) causes bodily harm to another person; (2) attempts to cause bodily harm to another person; or (3) puts another in fear of imminent bodily harm. No Student may knowingly or recklessly touch any other person without that person’s consent. Punching, slapping, scratching, or otherwise striking any person with any part of one’s body or with any object constitutes physical violence.

2. ~~2.~~ Engage in any action(s) that endanger endangers the health, safety, or welfare of self or others.

**i. ~~(f)~~—Failure to Comply**

1. ~~1.~~ Failure to comply with a request or directive of a University Official or non-University law enforcement official in the performance of his/her/their duty.

2. ~~2.~~ Taking action, individually or working with others, which the Student(s) knew or should have known would impede an investigation by the University into possible violations of the Student Code of Conduct committed by a Student and/or Student Organization.

3. Failure to comply with the final decision and sanctions rendered by a Student Conduct hearing or appellate body.
4. ~~3.~~ Failure to comply with a request by ~~when~~ a University official Official requests to identify oneself and/or produce FIU identification.

**j. (g) — Falsification/Fraud/False Testimony**

1. ~~1.~~ Withholding relevant information from any Hearing Body, University Officials, 1. University and/or non-University law enforcement officers, faculty and/or staff.
2. ~~2.~~ Providing false or misleading information (whether oral or written) to any Hearing Body, University Officials, ~~University and/or non-University law enforcement officers, faculty and/or staff.~~ A good-faith report of prohibited conduct does not constitute a Code violation.
3. ~~3.~~ Misuse, reproduction, alteration or forgery of any identification, documents, keys or property.
4. ~~4.~~ Permitting another person to use one's identification information.
5. ~~5.~~ ~~Inappropriate use~~ Misuse or possession of false identification information.
6. ~~6.~~ Purporting to act on behalf of another person, group or the University without authorization or prior consent.
7. ~~7.~~ Providing a worthless check, money order or using a fraudulent credit card or a credit 7. card without authorization.
8. ~~8.~~ Any other acts of falsification/fraud/false testimony or misrepresentation.

**k. (h) — Fire and Safety**

1. ~~1.~~ Inappropriate activation of any emergency warning equipment or the false reporting of 1. any emergency.
2. ~~2.~~ Removing, damaging, interfering and/or tampering with fire safety or other emergency warning equipment, including smoke detectors, sprinklers, and/or fire alarms. Items may not be hung from or block sprinklers or smoke detectors.  
~~or block sprinklers or smoke detectors.~~
3. ~~3.~~ Failure to evacuate a University ~~building, facility~~ Premises or On-Campus ~~housing~~ Housing facility/unit when a fire alarm is ~~sounded~~ activated.
4. ~~4.~~ ~~Action~~ Engaging in action(s) which cause or attempts to cause the release of chemicals or substances that can cause harm to another person's health or would start a fire or explosion.

**l. Gambling(i) —**

1. Soliciting, placing or accepting a bet on any high school, intercollegiate or professional athletic contest on University Premises or On-Campus Housing or at a University or Student Organization-sponsored activity or event.
2. Soliciting, facilitating or participating in any illegal gambling, bookmaking or illegal betting whether through a bookmaker, a parlay card, a pool or any other method of organized gambling on University Premises or On-Campus Housing or at a University or Student Organization-sponsored activity or event.

**m. Hazing**



1. —Any group or individual action or activity that inflicts or intends to inflict physical or mental harm or otherwise endanger or discomfort or which may demean, disgrace, ~~and/or~~ degrade any person, regardless of location, intent, or consent of participant(s). Although hazing is typically related to a person's initiation or admission into, or affiliation with, a Student ~~or Greek~~ Organization, athletic team (intramural, club or intercollegiate), extracurricular activity, or any other University group or organization, it is not necessary

1. to have direct proof that a person's initiation or continued membership is contingent upon participation in the activity for a charge of hazing to be upheld. The actions of either active or associate members (pledges) of ~~an organization~~ a Student Organization may be considered hazing. Hazing includes, but is not limited to:
  - i.  ~~Interference with a Student's academic performance~~
  - ii.  ~~Forced consumption of any food, alcohol, controlled substances, drugs, or any other substance~~
  - iii.  ~~Forced physical activity (e.g., calisthenics, line-ups, walking or marching in formation)~~
  - iv.  ~~Deprivation of food, water or sleep~~
  - ~~Kidnapping, including restricting a person to move about in free and lawful manner~~
  - v.  ~~Not permitting individuals to speak for extended periods of time and/or forced exclusion from social contact~~
  - vi. Engaging in activities which involve compelling an individual or group of individuals to remain at a certain location or transporting anyone anywhere within or outside the University (e.g., road trips, kidnaps, drops)
  - vii. Physical or mental abuse of any nature, including physical discomfort
  - viii.  ~~Sexual misconduct of any nature~~
  - ix. Theft, defacement or destruction of private or public property
  - x. Performing personal chores or errands
  - xi.  ~~Verbal abuse or degradation, including yelling or demands~~
  - xii.  ~~Assigning or endorsing pranks (e.g., stealing, harassing other organizations, defacing property, etc.)~~
  - xiii.  ~~Conducting activities between the hours of 12:00 midnight and 7:00am, or waking individuals during these hours~~
  - xiv. Conducting activities designed to deceive or convince a member that they will not be initiated or that they will be hurt
  - xv. Conducting scavenger hunts, treasure hunts, quests, road trips, big brother/little brother hunts, big sister/little sister hunts
  - xvi. Any action or threatened action that would subject the individual to embarrassment, humiliation or mental distress, including the use of demeaning names
  - xvii.  ~~Any other acts or attempted acts which would constitute hazing pursuant to Section 1006.63 of the Florida Statutes-~~

#### **n. Motorcycles, Bicycles, Pocket Bikes, Rollerblades, or Skateboards**

##### **(j) Littering**

1. —Dispersing litter in any form on University grounds or facilities, including, but is not limited to, cigarette butts, flyers, cans, bottles, etc.

1. ~~(k)~~ Failure to comply with FIU Regulation 115 Skateboards, Skates, Scooters, Ripstiks, Hoverboards and other similar devices and high-risk activities on University Premises or in On-Campus Housing.

**o. On-Campus Housing Violations**

1. Violation(s) of any Department of Housing and Residential Life published in hard copy or available electronically via the Department of Housing and Residence Life website <https://studentaffairs.fiu.edu/campus-services/housing-and-residential-life/policies/index.php>.

**p. Personal Abuse**

1. Verbal or written abuse, threats, intimidation, and/or ~~coercion~~ Coercion that objectively endangers the health, safety, or well-being of others. ~~Fighting~~ Using fighting words and/or statements which reasonably endanger the health and safety of any person that are not protected speech and may result in University action. This definition shall not be interpreted to abridge the right of any member of the University community to freedom of expression protected by the First Amendment of the United States Constitution and/or any other applicable law.
2. Conduct directed at any person, including a Member of the University Community, which is intended to, or would reasonably, cause fear, distress, or intimidation and would cause fear, distress, or injury or intimidation to a reasonable person, or would place a reasonable person in fear of injury or death.
3. Conduct that is sufficiently severe, pervasive, or persistent (when viewed both from a reasonable person in similar circumstances and the person in question) that a reasonable person would be adversely affected to a degree that interferes with or limits a his/her/their ability to participate in or benefit from the services, activities, or opportunities offered by the University school when such conduct is based on race, color, religion, ethnicity, national origin, gender, disability, age, marital status, gender, gender identity, gender expression, pregnancy, genetic information, veteran status or any status group/class protected by federal or Florida law.
4. Interference with the freedom of another person or group to move about in a lawful manner.

1. Notice of the charge(s), including specific code section(s) which

~~(l)~~

~~a. q. Motorcycles, Bicycles, Pocket Bikes, Rollerblades, or Skateboards~~

- ~~1. The use or operation of motorcycles, bicycles, pocket bikes, rollerblades, skateboards, etc. inside of any On-Campus Premises such that they create safety hazards or are secured to non-authorized locations.~~
- ~~2. The use of pocket bikes on sidewalks or roadways such that they create safety hazards or are secured to non-authorized locations.~~

~~(m)~~ **Promotions/Posting**

- ~~1. 4.—Solicitation (i.e.g., passing or handing out flyers/promotional material, etc.) On Campus) on campus, including On-Campus housing Housing facilities, without prior approval from the appropriate University Officials. This includes, but is not limited to, the disbursement distribution of any forms of promotional/informational material on University Premises or On-Campus Housing or objects (e.g., motor vehicles) on University Premises or On-Campus Housing.~~
- ~~on University Premises or objects (e.g., motor vehicles) on University Premises.~~
- ~~2. Posting of flyers, posters, banners, cards or any promotional/informational material on~~
- ~~2. University Premises or On-Campus Premises Housing, including, but not limited to, the exterior and interior of On-Campus housing Housing facilities, buildings, trees, walls, sidewalks, vehicles, windows, stairwells, stairs, display cases, vending machines, doors, classrooms, departmental and unauthorized bulletin boards, railings, elevators, bathrooms, art/sculptures and/or sculptures without prior approval from the appropriate University Officials.~~
- ~~3. Use of chalk and/or powder-like substance on the sidewalks, grass, exterior or interior of any~~
- ~~3. University facility Premises or On-Campus Housing, or any public area without prior approval from the appropriate University Officials.~~
- ~~4. 4.—Use of “A-frame” signs or free-standing signs in public areas, sidewalks, grass, exterior of any University Premises or On-Campus Housing without prior approval from the appropriate University Officials.~~
- ~~University facility without prior approval from the appropriate University Officials.~~

~~(n)~~

~~r. Retaliation~~

- ~~1. Acts or words taken against an individual because of the individual’s participation in a protected activity that would discourage a reasonable person from engaging in protected activity. Protected activity includes an individual’s good faith~~
  - ~~(i) participation in the reporting, investigation, and/or resolution of an alleged violation of this Code; and/or~~
  - ~~(ii) opposition to policies, practices and/or actions that the individual reasonably believes are in violation of the Code. Retaliation may include intimidation, threats, coercion, physical harm and/or adverse employment or educational actions. Retaliation may be found even when an underlying report made in good faith was not substantiated. Retaliation may be committed by the Charged Student, the Complainant, the Reporting Party or any other individual or group of individuals.~~

1. Notice of the charge(s), including specific code section(s) which

**s. Sexual Misconduct**

1. ~~Non-consensual sexual contact which is any sexual touching with any object by any person upon another without consent. Sexual touching is contact of a sexual nature, however slight.~~

2. ~~Sexual misconduct involves failure to comply with FIU Regulation 105 Sexual Misconduct (Title IX) and includes:~~

1. **Non-Consensual Sexual Touching** – any sexual touching without Consent. Sexual touching is any intentional touching of a person’s body, including the breasts, buttocks, groin, genitals or other intimate parts. Touching may be over or under clothing and may include the Charged Student touching the Complainant, the Charged Student making the Complainant touch the Charged Student or another person, or the Charged Student making the Complainant touch the Complainant’s own body.

2. **Obscene or indecent behavior**, which includes, but is not limited to, exposure **Indecent Behavior**

i. Exposure of one’s sexual organs or the display of sexual behavior that would reasonably be offensive ~~obscene or indecent~~ to others. -Other forms of obscene or indecent behavior include sexual exhibitionism, engaging in prostitution or the facilitation or solicitation of a prostitute, prostitute, peeping or other voyeurism (video or otherwise), and going beyond the boundaries of consent, e.g., by allowing others to view consensual sex or the nonconsensual video or audio taping of sexual activity.

3. ~~Sexual harassment constitutes, in the aggregate, incidents that are sufficiently pervasive, persistent, or severe that a reasonable person would be adversely affected to a degree that interferes with~~

~~his/her ability to participate in or to realize the intended benefits of a University activity, employment, or resources. Sex-based cyber harassment and sexual violence also constitutes sexual harassment. Sexual violence refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to the usage of drugs or alcohol or intellectual or other disability. Sexual violence~~

ii. includes rape, sexual assault, sexual battery, and ~~Observing another individual’s nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved.~~

iii. Recording, photographing, transmitting, showing, viewing, streaming or distributing intimate or sexual images, audio recordings or sexual information of another person in any form without the knowledge and Consent of all parties involved.

iv. Publishing a sexually explicit image of a person that contains or conveys the personal identification or information of the depicted person to an internet website, text, email and/or social media without the depicted person’s Consent.

3. **Sexual Harassment** – any unwelcome sexual advance, request for sexual favors and/or other verbal or physical conduct of a sexual nature:

i. Submission to, or rejection of, such conduct is made implicitly or explicitly a term or condition of a person’s instruction, academic standing or

1. Notice of the charge(s), including specific code section(s) which participation in any University program, activity or benefit;
- ii. Submission to, or rejection of, such conduct by an individual is used as a basis for academic or work evaluation;
- iii. Such conduct creates a hostile environment. A hostile environment exists when the conduct is sufficiently severe, persistent or pervasive that it unreasonably interferes with, limits or deprives an individual from participating in or benefiting from the University's educational and/or campus-residential experience when viewed both from a reasonable person in similar circumstances and the person in question.
- iv. Gender-based harassment is harassment based on gender, sexual orientation, gender identity or gender expression, including acts of aggression, intimidation or hostility, whether verbal or non-verbal, graphic, physical or otherwise, even if the acts do not involve contact of a sexual nature.
4. Sexual coercion is defined as Coercion – the act of using pressure or force to have sexual contact with someone who has already refused. Sexual assault constitutes the non-consensual sexual intercourse which is
5. Sexual Battery – any sexual intercourse by any person upon another without consent. Consent. Sexual intercourse includes oral, anal and vaginal or anal penetration, however slight, by a person's penis, finger, other body part or an object, or any oral-genital contact (regardless of whether it involves penetration).
6. Sexual Assault – the threat to commit sexual battery with any object the immediate capacity to do so.

Consent means informed, freely given agreement, communicated by clearly understandable words or actions, to participate in each form of sexual activity. Consent cannot be inferred from silence, passivity, or lack of active resistance. A current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. By definition, there is no consent when there is a threat of force or violence or any other form of coercion or intimidation, physical or psychological. A person who is the object of sexual aggression is not required to physically or otherwise resist the aggressor; the lack of informed, freely given consent to sexual contact constitutes sexual misconduct. Intoxication is not an excuse for failure to obtain consent. A person incapacitated by alcohol or drug consumption, or who is unconscious or asleep or otherwise physically impaired, is incapable of giving consent.

4. Retaliation against or harassment of someone alleging sexual misconduct or otherwise obstructing the reporting of sexual misconduct or the participation in proceedings relating to sexual misconduct.

The University recognizes that Students may be hesitant to report sexual misconduct because they themselves (or witnesses they identify) may be charged with violations of other provisions of the Code (e.g., alcohol or drugs). The University may not pursue a disciplinary action for an alcohol or drug violation against a Charged Student, the Complainant, or any Student(s) who may have witnessed the incident.

(e)

#### t. Smoking and Use of Tobacco-Related Products

1. Notice of the charge(s), including specific code section(s) which
1. 4.—Failure to comply with FIU Regulation 113 Smoke and Tobacco-Free Campus by smoking in or on any University Premises or On-Campus Housing. “Smoking means possession of a lighted cigarette, cigar, pipe, water pipe or hookah, or the use of an electronic cigarette, cigar, pipe, vape or any other device intended to simulate smoked tobacco.
  2. Use of smokeless tobacco, snuff, chewing tobacco, smokeless pouches and any other form of loose-leaf or smokeless tobacco.

## u. Stalking

### ~~(p)~~ **Stalking**

1. ~~Activities occurring on more than one occasion that collectively instill fear in an individual and/or threaten his/her safety, mental health, or physical health, including, but not limited to, the following:~~
  - ~~Nonconsensual communication, including face to face, telephone calls, voice messages, electronic communication media, written letters/notes, unwanted gifts, etc.~~
  - ~~Making threatening or obscene gestures to an individual~~
  - ~~Pursuing or following an individual Complainant~~
  - ~~Surveillance or other types of observation of an individual~~
  - ~~Trespassing~~
  - ~~Vandalism~~
  - ~~Noneconsensual touching~~
  - ~~Contacting a person after a sanction has been issued prohibiting contact with that person, including, but not limited to, verbal, written or third party communication, or physical contact~~
  - ~~Cyber-stalking which means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose~~
2. ~~Other conduct considered stalking under the stalking laws as outlined in Section 784.048, Florida Statutes.~~

1. ~~(q)~~Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for the person’s safety or the safety of others; or (b) suffer substantial emotional distress. For the purposes of this prohibited conduct (a) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about a person, or interferes with a person’s property; (b) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

## v. Student Organization Policies

1. Members of the Student Organization acting together to violate University Policy.
2. More than one Student working together to impede an investigation by the University into possible violations of the Student Code of Conduct committed by a Student Organization.

- ~~1.~~ Notice of the charge(s), including specific code section(s) which
3. Acting to protect from official action one or more alleged individual offenders who are members, former members or guests of the Student Organization.
4. Leaders of the Student Organization who fail to report and/or take reasonable action against guests and/or members responsible for alleged violations.
5. Violation(s) of any Campus Life/Fraternity and Sorority Life/Sports Club Policies published in hard copy or available electronically via the appropriate website. See <https://studentaffairs.fiu.edu/get-involved/campus-life/index.php>, <https://studentaffairs.fiu.edu/get-involved/sorority-and-fraternity-life/index.php>, or <https://studentaffairs.fiu.edu/health-and-fitness/recreation/index.php>.

**w. Theft and Theft-Related Conduct**

1. ~~1.~~ Removal/Taking, or use of, the property or services of another person or of the University without prior written consent or authorization of the person or of the appropriate authority.
2. ~~—~~ Possession and/or sale of property or services of another person or of the University without
2. prior written consent or authorization.

**(~~r~~)x. Trespassing/Unauthorized Use**

1. Unauthorized presence in or unauthorized use of University Premises or On-Campus Housing, facility or restricted area.

**y. Vandalism/Damage/Littering**

1. ~~1.~~ Damage, destruction or defacing of property of another person, group or the University.
2. ~~(s)~~ Dispersing litter in any form on University grounds or facilities, including, but not limited to, cigarette butts, flyers, cans, bottles.

**z. Weapons, Firearms, Explosives**

1. ~~—~~ Possession, storage or use of firearms ~~(, except as provided in (6)(s)(2)),~~ below, explosives,
1. ammunition or other weapons or dangerous articles or substances, including, but not limited to tasers, switchblade knives and non-lethal weapons such as fireworks, paintball guns, air guns, ~~archery equipment,~~ BB guns, any dangerous chemical or biological agents, corrosive agents, compressed gas, sling shots, Chinese stars, or any other item used as a weapon.
2. ~~—~~ In accordance with Florida Statutes Section 790.115, students are prohibited from possessing possession of firearms on University property (i.e., land, buildings, facilities, and other property in the
  - i. possession of Premises or owned, used, or controlled by the University) On-Campus Housing (except as provided by Florida Statutes Section 790.25(5)).
  - ii. Possession of a concealed weapon or firearm on the University Premises or On-Campus Housing even if the Student possesses a concealed weapon license.
2. ~~3.~~ Notwithstanding the foregoing, weapons, including non-functioning antique display weapons, may be used for classroom instructional purposes or other University sanctioned activities (e.g., firearms under the direct supervision of ROTC, a diver's knife

1. Notice of the charge(s), including specific code section(s) which  
for a scuba divers' class) but only with prior approval by the appropriate University  
Official.

~~(t) — **On-Campus Housing** (Threat of the use of a weapon or weapons that could, or would,  
cause distress or injury to a member or members of the University **Housing and Greek Houses**)  
**Policies**~~

~~1. — Violation(s) of any Department of Housing and Residential Life or Sorority  
and Fraternity Life/Campus Life Policies published in hard copy or available electronically  
via the Department of Housing and Residence Life website <http://www.housing.fiu.edu/>  
and/or Sorority and  
Fraternity Life/Campus Life website [campuslife.fiu.edu/greeks.fiu.edu](http://campuslife.fiu.edu/greeks.fiu.edu).~~

~~(u) — **Student and Greek Organizations/Clubs Policies**~~

~~1. — Violation(s) of any Campus Life/Sorority and Fraternity Life Policies published in  
hard  
copy or available electronically via the Campus Life/Sorority and Fraternity Life  
website. See [campuslife.fiu.edu/greeks.fiu.edu](http://campuslife.fiu.edu/greeks.fiu.edu).~~

~~(v) — **community Gambling**~~

- ~~1. — Soliciting, placing or accepting a bet on any high school, intercollegiate or  
professional  
3. athletic contest on~~damage to~~ University Premises or at a University or Student or Greek  
Organization sponsored activity or event. Soliciting, facilitating or participating in any  
illegal gambling, bookmaking or illegal betting whether through a bookmaker, a parlay  
card, a pool or any other method of organized gambling on University Premises or at a  
University or Student or Greek Organization sponsored activity or event On-Campus  
Housing.~~

~~(w) — **Trespassing/Unauthorized Use**~~

~~1. — Unauthorized presence in or unauthorized use of University Premises, facilities, or  
restricted areas.~~

~~(x) **aa. Other Violations**~~

- ~~1. — Attempt or intent to commit any violation outlined in the Student Code of Conduct  
of  
1. Conduct.  
2. 2. — Involvement in any violation outlined in the Student Code of Conduct. This includes  
prompting, facilitating or encouraging others to commit acts prohibited by this Code  
and/or the failure to remove oneself from the area/incident where the offense is being  
committed or attempted.  
area/incident where the offense is being committed or attempted.  
3. — Aids or abets another in any violation of federal law, state law, local ordinance;  
and/or  
3. University Policy.  
4. 4. — Violation Violations of federal, and/or state law laws, local ordinance, or Florida  
International University and/or Policy.~~

~~Policies.~~

~~(y) —~~



**6. Bribery**  
1. Notice of the charge(s), including specific code section(s) which

1. — An offer, gift, receipt, or solicitation of a bribe of money, materials, goods, services or anything of value for the Student or others for the purpose of procuring or providing an advantage to which he/she is not otherwise legally entitled.

**(7) PRE-HEARING PROCEDURES**

**(a) — Initiating Charges:** Any person or entity (including University departments, offices, officials, community members, etc.) may submit information regarding report an alleged violation(s) of the

a. Student Conduct Code for review by the SCCR in the following ways by:

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.

1. 2. — Submitting a police report that has been filed with any police department.

Providing a signed SCCR incident report (see <http://www2.fiu.edu/~sccr/> for <http://conduct.fiu.edu> for report) along with accompanying supporting witness(es)

statements and/or documentation to the office listed below based on the stated factors:

a) — If the incident occurred in any of the University's residential housing, submit the incident

Making an oral report to the Office of Residential Life.

b) — If the incident involved a member of a Greek Organization and/or occurred in one of the On-Campus Greek houses, submit the incident report to Sorority and Fraternity Life.

c) — If the incident occurs elsewhere and does not fall within the categories of

3. (a) or (b) above, submit the incident report to the SCCR.

b. 3. — **Preliminary Review:** The SCCR Director will determine, in his/her at their discretion, whether further fact-finding is needed and whether there is enough sufficient information to file charges and which Hearing Body is appropriate to handle the matter. When two or more Charged Students are charged in the same incident, the appropriate Hearing Officer, in his/her discretion, may hold a separate hearing for each Charged Student or may hold a joint hearing regardless of the participation of any party in the proceedings.

4. — When a police or incident report relates to a charge of sexual misconduct, the

SCCR Director will inform the University's Title IX Coordinator for the purpose of compliance with federal regulations. The SCCR will advise the Complainant of the referral. The SCCR Director will advise the Title IX Coordinator of the results of the fact finding that SCCR conducts.

**(b) — Filing Time:** Anyone may file an incident report of an alleged Code violation with the applicable office designated in (a)(2) of this section within ninety (90) calendar days of the incident or

obtaining knowledge about the incident, whichever is later. However For conduct under Section 5.e (Dating or Domestic Partner Violence), 5.s (Sexual Misconduct) and 5.u (Stalking), there is no time limit for reporting. In addition, the SCCR Director may extend this the filing time in certain cases, including but not limited to, stalking, sexual misconduct, domestic violence,

c. endangerment, or where the delay may be related to issues of victimization or beyond the control of the University.

1. Notice of the charge(s), including specific code section(s) which  
University.

d. ~~(e)~~ **Written Notice (Investigations):** The SCCR Director retains the discretion to determine whether an investigation should be conducted, and the scope of such investigation based on the alleged violations. The investigation will be a neutral fact-finding process used to determine if there is sufficient information to warrant action by the University.

**Charge Letter):** The Charged Student, or Student Organization, or Greek Organization will be given a ~~Written Notice~~ written notice of the Charges no less than five (5) Business Days prior to the hearing, unless waived by the student, or shortened in the case of an Interim Suspension. The Written

e. ~~Notice~~ Charge Letter will include the following:

Notice of the charge(s), including specific code section(s) which constitutes the alleged violation(s) of the Student Conduct of Code, an allegations statement and any other detail in order to prepare for a Student

1. Conduct proceeding; and

2. 2.—An opportunity appointment to attend an information session.

f. ~~(d)~~ **Consolidation:** When two or more Charged Students are charged in the same incident, the Hearing Body, in their discretion, may hold a separate hearing for each Charged Student or may hold a joint hearing if all Charged Students agree.

g. **Information Session:** -An information session is designed to provide the Charged Student, or Student Organization, or Greek Organization with information about the hearing process and his/her or its rights as well as giving access to the ~~documents~~ information supporting the charge(s) available at that time.

1. ~~4.—~~ The Charged Student, or Student Organization, or Greek Organization will have an opportunity to review all information in the Student Conduct file at the information session with his/her their Advisor, including the names of Witnesses to be called and the information to be used in the Student Conduct matter.

or its Advisor (if any), including the names of witnesses to be called and the information to be used in the Student Conduct matter.

i. ~~a)~~ Subsequent to the information session, the ~~SCCR Director or~~ Hearing Officer may conduct any further fact-finding regarding the incident that is subject to the charge. This information will be communicated to the Charged Student/Student Organization prior to the hearing.

2. ~~The~~ If a Charged Student, or Student Organization, or Greek Organization will also receive information regarding the resources available for preparing for the hearing.

3. ~~—~~ If a Charged Student, Student Organization, or Greek Organization fails to respond to a request to schedule an information session and/or fails to attend a scheduled information session, the Charged Student, or Student Organization, or Greek Organization will be deemed to have waived his/her their right to an information session. -Under those circumstances, a hearing may will be scheduled in the Charged Student's absence. Failure to attend to an information session will result in the SCCR Director/Hearing Officer determining the type of hearing. The hearing type will be determined based on the severity of

~~1. Notice of the charge(s), including specific code section(s) which~~  
the possible sanctions (e.g., suspension/expulsion cases ~~will~~may be referred to the Student Conduct

~~2. Committee).~~

~~3. 4.—If the Charged Student fails to attend the information session, the SCCR~~  
~~Director~~Hearing Officer may place a hold/service indicator on the Charged Student's record until the conclusion of the hearing. If sanctions are imposed as a result of the hearing, the hold/service indicator will be retained until the Charged Student fulfills all of the sanctions.

~~(e) — Right to Review Information to be used at a Hearing. The~~

## 7. RESOLUTION OPTIONS

~~A Charged Student, Student~~  
~~Organization, or Greek Organization and Advisor, if any, have the right to inspect all is entitled~~  
~~to a resolution of the information that will be presented against the Charged Student, Student~~  
~~Organization, or Greek Organization at least three (3) Business Days before the Student~~  
~~Conduct~~any alleged violation of the Student Code of Conduct through a disciplinary  
~~proceeding. The University has the right to review any information the Charged Student,~~  
~~Student Organization, or Greek Organization intends to use at a hearing at least three (3)~~  
~~Business Days before the Student Conduct proceeding.~~

## ~~(8) — TYPES OF HEARINGS~~

~~unless waived as set forth below. Two (2) types of hearingsresolution options are provided by~~  
~~the Student Code of Conduct: formal and informal.~~

### ~~(a) — Informal Hearing:~~

~~1. An informal hearing is only~~

#### ~~a. Summary Resolution~~

~~A summary resolution is available when the Charged Student, or Student~~

~~1. Organization, or Greek Organization waives the right to a formal hearing and requests~~  
~~that the Hearing Officer conducting the information session determine the findings and~~  
~~sanctions if applicable. The Hearing Officer reserves the right to conduct fact-finding to~~  
~~make an informed decision. When the possible sanctions include suspension or~~  
~~expulsion, or there is a Complainant with rights defined in the Complainant's Rights~~  
~~section, an informal hearing is not an option.~~

~~2. If a Charged Student, Student Organization, or Greek Organization~~  
~~waives the right to a formal hearing conducted, he/she or it must indicate the waiver on a form~~  
~~provided by the~~  
~~SCCR during information session.~~

~~2. 3.—The following apply to an informal hearinga summary resolution:~~

~~i. a) —The meeting(s) will not be recorded.~~

~~ii. e) —The written decision will serve as the official record of informalthe Summary~~  
~~Resolution.~~

~~hearings.~~

- d) ~~The written decision will be sent to the Charged Student within~~
- iii. ~~The written decision will be sent to the Charged Student or Student Organization within fourteen (14) Business Days from the conclusion date of the Hearing Officer's deliberation~~ Summary Resolution.
3. ~~4.~~ If the Charged Student or Student Organization does not ~~choose~~ choose the ~~summary resolution~~ Summary Resolution (or the option is unavailable), the Charged Student or Student Organization may indicate ~~his/her~~ their preference for one of the two (2) types of ~~formal~~ hearings.
- b. ~~(b)~~ **Formal Hearings.** ~~The formal hearings are:~~ Hearings include: 1) an ~~Administrative~~ administrative hearing, or 2) ~~the~~ a Student Conduct Committee hearing. -All procedures described in the Hearing Procedures section apply to these types of ~~hearing~~ hearings.
1. ~~An Administrative hearing is~~ conducted by a Hearing Officer who serves as the
1. He 2. ~~A Student Conduct Committee hearing is~~ conducted by a committee which
- ari
- ng
- Bo
- dy.

2. serves as the Hearing Body. -The committee is comprised of two (2) Students and one (1) faculty or staff member. -A non-voting Hearing Officer will moderate the hearing.
- c. ~~(e)~~—The SCCR Director retains the discretion to ultimately determine which hearing forum is appropriate.
- d. ~~(d)~~—All hearing(s) will be conducted in private or in accordance with applicable law.

~~(9)~~

## **8. HEARING NOTIFICATION**

- (a) —Scheduling:** Hearings may be scheduled during class periods. Every effort will be made
- a. to avoid a class conflict; however, due to availability of persons involved in the hearing and a meeting room, it may not be possible.
- (b) —Hearing Notice:** The notice of a hearing, including date, time, and location will be sent
- b. to the official University email address of the Charged Student, or to the official University email address of the President of the Student Organization ~~or Greek Organization~~, at least five (5) Business Days prior to the hearing. -The Hearing Officer has the discretion to provide notice through additional means: (e.g., overnight or hand delivery). The ~~receipt~~ delivery notification of the hearing notice through the official University email will constitute full and adequate notice under the Student Code of Conduct. The Charged Student, ~~or Student Organization, or Greek Organization~~ may waive the notice period by indicating the waiver in writing.
1. —The notice will include the names of ~~witnesses~~ Witnesses to be called by the University and information to be used in his/her or its matter.
1. ~~2. The hearing notice will indicate whether the Hearing Officer received any additional a list of information to be used in the hearing after the information session was conducted and will~~ Hearing.
- ~~indicate when the additional information may be viewed.~~
2. ~~3.~~—The notice will also indicate the name(s) of the Hearing Body member(s).
- c. **(e) —Witnesses and Evidence**
1. In addition to Witnesses to be called by the University, the Charged Student or Student Organization may request the presence of additional Witnesses to voluntarily present relevant information on their behalf.
- i. The Charged Student or Student Organization must provide the Hearing Officer with the names of all additional Witnesses in writing at least three (3) Business Days prior to the hearing.
- ii. The Hearing Officer will determine the admissibility of testimony from additional Witnesses. Character Witnesses or Witnesses to other incidents outside the specific incident in question will not be allowed to testify at a hearing. The Charged Student or Student Organization may provide the Hearing Body with Character Witness Statements (which will only be considered during the sanctioning phase, if any).
- iii. The Charged Student or Student Organization is responsible for contacting and notifying the additional Witnesses they wish to call for the hearing.
- iv. The proceedings shall not be delayed due to scheduling conflicts of Witnesses. Failure of any Witness to appear shall not require a delay or affect the validity of the proceedings. If called Witnesses do not appear, their written statements, if they

- exist, will be considered by the Hearing Body. Witnesses can appear in person or by contemporaneous alternative means (e.g., Skype, phone).
- v. The Hearing Officer has the discretion to limit the number of Witnesses whose testimony may be duplicative, redundant or not in dispute.
  - vi. The Hearing Officer may place limits on the length of testimony and also may advise to the scope, direction or tone of questioning.
2. The Charged Student or Student Organization may inspect all of the information that will be presented at the Hearing at least three (3) Business Days before the hearing.
    - i. The Charged Student or Student Organization must submit any information they intend to use at a hearing at least three (3) Business Days before the hearing. Relevant records, exhibits and statements may be accepted at the discretion of the Hearing Officer. The University will not consider polygraph reports.
  3. Acceptance or denial of witnesses and/or evidence is within the discretion of the Hearing Officer.
  4. Evidence and/or the names of Witnesses will be provided to the Hearing Body prior to the Hearing.
- d. **Challenging a Member of the Hearing Body/Change of a Hearing Body Member-**
1. ~~1.~~ The Charged Student, or Student Organization, or Greek Organization has the right to may challenge the inclusion of any member at least three (3) Business Days prior to the scheduled hearing. The challenge must be in writing and must show actual bias (such as a conflict of interest, animosity, pressure, or influence) that would preclude a fair and impartial hearing. -The Hearing Officer will determine whether to grant such challenge in his/her/their discretion, and such decision is final and not appealable.
  2. ~~2.~~ If a Hearing Body member is unable to serve due to an emergency or unforeseeable occurrence, the Hearing Officer ~~may~~will appoint a new Hearing Body member prior to the scheduled hearing, and notify the Charged Student as soon as possible. The Charged Student, or Student Organization, or Greek Organization may challenge the inclusion of this member at the time of the hearing. -The challenge must be on the basis/bases outlined above.
- e. ~~(d)~~ **Request for a Postponement-**: Any request to postpone a hearing must be submitted in writing or by email and must be received by the SCCR Director at least ~~24 hours~~two (2) Business Days prior to the hearing ~~and~~. The request must state the reason(s) for the ~~request~~postponement. The granting of such requests shall be at the discretion of the SCCR Director. The University is not required to postpone a Student Conduct proceeding pending the outcome of a criminal prosecution.

(10)

**9. ADVISOR FOR THE CHARGED STUDENT, OR STUDENT ORGANIZATION, OR GREEK ORGANIZATION**

(a) — The Charged Student, or Student Organization, ~~or Greek Organization~~ may be accompanied by an Advisor of ~~his/her or its~~their choosing and at ~~his/her or its~~their expense.

↳

a. If at any time during the Charged Student, Student Organization, or Greek Organization is the subject of a pending criminal matter arising from the same incident, the Charged Student, Student Organization, or Greek Organization Conduct process.

may have an attorney as an Advisor provided that the attorney complies with the same restrictions imposed on any other Advisor.

1. ~~2)~~—It is the responsibility of the Charged Student, or Student Organization, or Greek Organization to make appropriate arrangements for the Advisor to attend the proceeding. The proceedings shall not be delayed due to scheduling conflicts of the chosen Advisor. If the Advisor is an attorney, the attorney must comply with the same restrictions imposed on any other Advisor.
2. ~~3)~~—The Charged Student, or Student Organization, or Greek Organization is responsible for presenting ~~in person his/her~~ their own information, and therefore, Advisors are **not** permitted to speak or to participate directly in any Student Conduct process.
3. ~~4)~~—Although the Charged Student, or Student Organization, or Greek Organization may consult with ~~his/her or its~~ the Advisor during the hearing, this consultation must take place in a manner that does not disrupt the proceedings.
4. ~~5)~~—The Advisor chosen by the Charged Student, or Student Organization, or Greek Organization cannot be a ~~witness~~ Witness in the matter.
5. ~~6)~~—The SCCR ~~will~~ can provide the Charged Student, ~~Student Organization or Greek Organization~~ with a list of Advisors who ~~could~~ can provide assistance ~~to~~ in preparing ~~the~~ a response to the reported Code violation.

## **10. (11) — THE DUE PROCESS RIGHTS OF THE CHARGED STUDENT, OR STUDENT ORGANIZATION OR GREEK ORGANIZATION**

~~Below is a summary of the~~ The Charged Student or Student Organization has the following rights of Students:

- a. Reasonable, written notice of the Student Code of Conduct charge(s) and the allegations upon which the charge(s) is/are based.
- b. A fair and impartial hearing.
- c. Accompanied by an Advisor of their choice and expense at any time during the Student Conduct process.
- d. The opportunity to review all relevant information or evidence to be used in the Student Conduct hearing prior to the hearing.
- e. The ability to participate in the Student Conduct hearing either physically or by contemporaneous alternative means (e.g., Skype, phone).
- f. The opportunity to present relevant Witnesses and information at the hearing.
- g. The opportunity to question Witnesses in accordance with the Hearing Procedures.
- h. Not to provide self-incriminating testimony. (This right does not apply to Student Organizations, and/or Greek Organizations.) Invoking the right against self-incrimination will not be considered as a negative factor in the decision of the Hearing Officer or Hearing Body.
- i. Receive notification of the decision of the Hearing Body in writing within fourteen (14) Business Days of the hearing.
- j. Appeal the decision via the process established by the University.

## **11. PRINCIPLES OF GROUP RESPONSIBILITY**

- a. Any Student Organization can be held responsible under the Student Code of Conduct for its actions or those of its members acting together. Misconduct on the part of the organization will be addressed when one or more of the following circumstances occur:
  1. An alleged violation arises out of a Student Organization-sponsored, financed or otherwise supported activity.
  2. An alleged violation occurs on University Premises or On-Campus Housing and/or transportation owned, operated or rented exclusively by the Student Organization.
  3. A pattern of individual alleged violations has occurred and/or continues to occur without adequate control, response or sanction on the part of the Student Organization or its leaders.
  4. The Student Organization or its related activities provided the context for the alleged violation.
  5. The action resulting in the alleged violation has received either the implied or overt consent of the Student Organization and/or its leaders.
  6. The Student Organization overtly places or implicitly allows active members of the Student Organization to be in a position to act on behalf or with the authority of the Student Organization.
- b. The actions of either active or associate members (pledges) of a Student Organization may be considered hazing. Refer to Section 5.i for full details on Hazing.
- c. It is the responsibility of the Student Organization's President or Student-member designee to represent the organization through the conduct process.

## **12. HEARING PROCEDURES**

- a. During the hearing, the Hearing Officer presides over the Student Conduct hearing and makes all procedural decisions.
- b. The burden of proof in a hearing rests with the University. The standard of proof is a Preponderance of the Evidence. The determination of "responsible" or "not responsible" will be based solely on the information and/or testimony presented.
- c. Formal rules of process, procedure and/or technical rules of evidence (including hearsay rules) applicable in the criminal or civil court process are not used in Student Conduct proceedings.
- d. Witnesses only participate in the hearing to the degree that a question is posed to them. They may not speak or otherwise participate in the Hearing.
- e. The hearing will be recorded. The recording will serve as the only official record of the proceedings. No other recordings are permitted.
- f. If the Charged Student or Student Organization fails to appear at the scheduled hearing, the hearing will be held, and a decision will be rendered in their absence.
- g. Upon request by the Charged Student, the Complainant or Witnesses, the Hearing Officer may permit the individual to provide relevant information during the hearing in a manner that avoids direct contact with the Charged Student, the Complainant or Witnesses.
- h. The Hearing Officer has the discretion to determine the order of the hearings which may involve the following:
  1. Introductory statement by Hearing Officer including a reading of the allegations and charge(s), introduction of information that is the basis for the charges and identification of the hearing participants.
  2. Statement by the Charged Student or Student Organization and submission of any previously submitted relevant written information (e.g., records, exhibits, written



- statements) except for Witness statements (see below) for consideration by the Hearing Body.
3. Questions directed to the Charged Student or Student Organization by the Hearing Body.
  4. Presentation of Witnesses and any results of fact-finding conducted prior to the hearing.
  5. The Charged Student or Student Organization may pose questions directly to the Witness. In certain circumstances to be determined by the Hearing Officer, questions may be presented in writing to the Hearing Officer who ~~have~~ will then ask the Witness the question(s).
  6. Submission by the Charged Student or Student Organization of written statements (if any) of Witnesses who are not present.
  7. Follow-up questions (if any) directed to the Charged Student or Student Organization by the Hearing Body.
  8. Final statement by the Charged Student or Student Organization.
  9. Hearing Officer brings hearing to closure.
  - i. Deliberation by the Hearing Body is not part of the hearing.
  - j. Prior Student Conduct records, Character Witness Statements and/or Impact Statements are considered only in determining the appropriate sanction(s).
  - k. In Student Conduct Committee hearings, the Committee will make a recommendation of the decision and sanctions to the Hearing Officer. The Hearing Officer may take one of these actions with respect to the recommendation:
    - Adopt
    - Modify
    - Reject the findings and sanctions, or
    - Remand for a rehearing.
- If the Committee decision is not adopted, the Hearing Officer will include the reasons for any differences between the recommendations of the Committee and the Hearing Officer's final decision as part of the decision letter.
- l. A decision letter will be sent to the Charged Student or Student Organization within fourteen (14) Business Days from the conclusion of the Hearing Body's deliberation. The hearing decision will include the decision, sanctions imposed (if applicable) and the explanation of the right to appeal.

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### **13. TITLE IX PROCEDURES**

The University's Title IX Coordinator has designated the SCCR Director to serve as Deputy Title IX Coordinator. It is the responsibility of the Title IX Coordinator and Deputy Title IX Coordinator to ensure that the process relating to alleged Title IX/VAWA violations is reliable, impartial, thorough, prompt and conducted in an equitable manner. The general Student Code of Conduct procedures has been ~~charged with~~ tailored for the investigation and resolution of reported violations of the University prohibitions against Sexual Misconduct, dating or domestic partner violence, stalking and/or Retaliation. These tailored procedures require equitable access for both a Complainant and Charged Student as well as notice requirements and other considerations.

- a. **Prohibited Conduct:** Title IX cases include prohibited conduct listed in Section 5. e (Dating or Domestic Partner Violence), 5.r (Retaliation), 5.s (Sexual Misconduct), and 5.u (Stalking).
- b. **Pre-Hearing Procedures**

1. **Investigations:** If the SCCR Director determines that an investigation is necessary into the alleged violations, the procedures below will be followed. All fact finding will occur during the investigation stage prior to the hearing. There will be no additional documents or testimony presented at the hearing.
  - i. The SCCR Director will select a trained investigator(s) to gather sufficient evidence to reach a fair, impartial determination as to whether there is enough information to move forward with charging a student with a violation of the Student Code of Conduct based on the preponderance of the evidence. The investigator(s) will be trained to gather and document the available evidence to support reliable decisions, synthesize all available evidence (including both supportive and non-supportive evidence) and take into account the unique and complex circumstances of each case.
  - ii. The SCCR Director will select investigator(s) who are free of actual or reasonably perceived conflicts of interest and biases for or against any party. The Charged Student or Complainant may raise any concerns about bias or conflict of interests within three (3) business days to the SCCR Director.
2. **The Notice of Investigation:** Prior to the initial investigation meeting, the SCCR will send to the Charged Student and Complainant written notice about the allegations constituting a potential violation of the Student Code of Conduct. ~~These rights are as describe in the Code,~~ in order for the parties to prepare for meaningful participation in the investigation.

The Charged Student, Student Organization, or Greek Organization has the right to:
3. (a) **Investigative Procedures:** During an investigation, the investigator(s) will seek to meet separately with the Complainant, the Charged Student, and any Witnesses. Witnesses are individuals who may have information relevant to the incident, including individuals who may have observed the acts in question, may be able to provide contextual information or may have other information related to the incident, the disclosure or related matters. Character witness statements will not be considered by the investigator(s). The investigator(s) will also gather other relevant information or evidence, including documents, photographs, communications between the parties, medical records (subject to the consent of the applicable person) and other electronic records as appropriate. The investigator(s), not the parties, are responsible for gathering relevant evidence to the extent reasonably possible. Both the Complainant and Charged Student are encouraged to promptly submit any relevant information, including Witnesses' names. If a party declines to provide relevant information, the University's ability to conduct a prompt, thorough and equitable investigation may be impaired.
4. **Prior Sexual History.** The sexual history of the Complainant and/or the Charged Student will never be used to prove character or reputation. Evidence related to the prior sexual history of the parties is generally not used in determining whether a violation of this Code has occurred and will only be considered under limited circumstances. For example, prior sexual history may be relevant to explain injury, to provide proof of a pattern or to address another specific issue raised in the investigation. The investigator(s) will determine the relevance of this information, and both parties will be informed if evidence of prior or subsequent conduct is deemed relevant.
5. **Written Investigation Report:** Upon conclusion of the investigation, the investigator(s) will prepare a written report summarizing the relevant information which will include any evidence and/or a list of Witnesses that are supportive or not supportive of a violation. The Charged Student, the Complainant and/or any Witnesses will have the

opportunity to review the report before it becomes final. Upon notice of the availability of the investigation report, the Charged Student and the Complainant will have five (5) Business Days to:

- i. Meet again with the investigator,
- ii. Provide written comment or feedback on the facts as gathered,
- iii. Submit additional information, and/or
- iv. Identify additional Witnesses and/or request the collection of other information by the investigator. If any party provides a written response or makes a request for additional information, the content will be shared as appropriate and incorporated in the final investigation report. Participation in this iterative process is important given that the investigation report will be the only evidence submitted at the Hearing. Once the investigation report is final, a copy will be provided to the Charged Student and Complainant at the same time. This report will be used in the hearing. Unless there are extenuating circumstances, information not provided by any party during the investigation or not included in the report will not be permitted to be introduced at the hearing.

6. **Charge Letter:** At the time of the issuing the charge letter to the Charged Student, the Complainant will also be notified of the charges and be offered an Information Session.

**c. Due Process Rights of The Complainant:**

1. Reasonable, written notice of the Student Code of Conduct charge and the allegations upon which the charge is based.
2. ~~(b)~~ A fair and impartial hearing.
  - ~~(e)~~ — An opportunity to review all information with his/her or its Advisor (if any) to be used in his/her Student Conduct matter before a hearing.
  - ~~(d)~~ — Present witnesses at the hearing.
  - ~~(e)~~ — Question witnesses in accordance with the Formal Hearing Procedures.
3. ~~(f)~~ Be accompanied/Accompaniment by an Advisor of his/her or its/their choosing and at his/her or its expense. ~~(g)~~ at any time during the Student Conduct process.
4. The opportunity to review all relevant information to be used in their Student Conduct process prior to the hearing.
5. The ability to participate in the Student Conduct hearing either physically or by contemporaneous alternative means (e.g., Skype, phone).
6. Not to provide self-incriminating testimony. -(This right does not apply to Student Organizations or Greek Organizations.)
7. ~~(h)~~ Notification/Receive notification of the decision of the Hearing Body in writing. ~~(i)~~ — within fourteen (14) Business Days of the hearing.
8. Appeal the decision, in writing, via the process established by the University.

**(12) HEARING PROCEDURES**

9. ~~(a)~~ In addition to these due process rights, the Complainant has the same responsibilities as those provided by the Student Code of Conduct to the Charged Student.

**d. Due Process Rights of the Charged Student:** See Section 10.

1. **Additional Due Process Rights for Charged Students and Complainants:** Both parties have the additional right to submit an Impact Statement for use solely in the sanctioning phase if the Charged Student is found responsible for the Charge(s).

e. **Hearing Notifications:** At the time of issuing the hearing notice to the Charged Student, the Complainant will also be notified of the hearing.

**f. Hearing Procedures:**

1. Hearing: To avoid re-victimizing the Charged Student and/or Complainant by having to retell their version of the events, the University determined that the traditional hearing should not be used for Title IX cases.
2. The Hearing Body, the Charged Student, and the Complainant will be given the final investigation report at least three (3) Business Days prior to the hearing. During the hearing, the investigator(s) will provide a summary statement of the final investigation report. The Hearing Body, the Charged Student and the Complainant may ask questions about the report.
3. During the hearing, the Hearing Officer presides over the Student Conduct hearing; and makes all procedural decisions.

(b) — The burden of proof in a hearing rests with the University. ~~The burden~~ standard of proof is a

Preponderance of the Evidence (i.e., the evidence is more likely or not). The determination of g. “responsible” or “not responsible” will be based solely on the information and/or testimony presented. (c) — investigation report.

Formal rules of process, procedure, and/or technical rules of evidence (including rules regarding hearsay) applicable in the

h. criminal or civil court process are not used in ~~Student Conduct~~ this hearing.

The hearing will be recorded. The recording will serve as the only official record of the proceedings.

~~i. (d) — The hearing will be recorded. The recording will serve as the only official record of the proceedings. No other recordings are permitted.~~

~~j. (e) — If the Charged Student, Student Organization, or Greek Organization fails or Complainant fail to appear at the scheduled hearing, the hearing will be held and a decision will be rendered in the ~~their~~ absence of the Charged~~

~~Student, Student Organization, or Greek Organization.~~

~~(f) — The Charged Student, Student Organization, or Greek Organization may arrange for witness(es) to voluntarily present relevant information on her/his or its behalf.~~

~~1.~~

~~Witness(es) must be able to speak to the incident in question only. — 2.~~

~~Character witness(es) or witness(es) to other incidents outside the specific incident in question will not be allowed to testify at a hearing. The Charged Student, Student Organization, or Greek~~

~~Organization may provide the Hearing Body with a written statement from these witness(es).~~

~~3. — The Charged Student, Student Organization, or Greek Organization must provide the Hearing Officer with the names of all witness(es) in writing at least three (3) Business Days prior to the hearing.~~

~~4. — The Charged Student, Student Organization, or Greek Organization is responsible for contacting and notifying the witness(es) he/she or it wishes to call for the hearing.~~

~~5. — The proceedings shall not be delayed due to scheduling conflicts of the witness(es). Failure of any witness to appear shall not require a delay or affect the validity of the proceedings. If called witness(es) do not appear, their written statements, if they exist, will be considered by the Hearing Body.~~

6. — The Charged Student may choose not to provide self-incriminating testimony which will not constitute an admission of responsibility. The protection from self-incrimination does not extend to Student or Greek Organizations.

7. — The Hearing Officer has the discretion to ~~limit~~determine the ~~number~~order of witnesses whose testimony ~~the hearing which~~ may be duplicative.

(g) — Pertinent records, exhibits, and written statements may be accepted by the Hearing Body ~~at~~involve the discretion of the Hearing Officer.

(h) — The Hearing Officer may place ~~limits on the amount of information accepted and the~~ length of testimony and also may advise that the tone of questioning be changed.

(i) — All procedural questions are subject to the final decision of the Hearing Officer.

k. (j) — The following order of presentation will be followed in formal hearings. Exceptions may be made by the Hearing Officer due to extenuating circumstances.:

1. — Introductory statement by Hearing Officer including a reading of the allegations

1. and charge(s) and, introduction of information that is the basis for the charges and identification of the hearing participants.

2. — Statement, if any, by the Charged Student, ~~Student Organization, or Greek Organization.~~ This is intended to be a concise statement to identify key facts and submission of any pertinent written information (e.g., records, exhibits, written statements) except questions for

2. witness statements (see below) for consideration by the Hearing Body; it is not intended to be a full recounting of the incident.

3. 3. Questions Statement, if any, by the Complainant. This is intended to be a concise statement to identify key facts and questions for the Hearing Body; it is not intended to be a full recounting of the incident.

4. Summary of the relevant portions of the final investigation report by the investigator.

Relevant questions directed to the Charged Student, Student Organization, or Greek Organization by the Hearing Body and/or Hearing Officer.

4. — Presentation of witnesses Complainant and any results of fact finding conducted prior to the

hearing.

5. — Questioning of witness(es) or investigator(s) by the Hearing Body ~~or~~ Hearing Officer. The

5. Charged Student, Student Organization, or Greek Organization. The purpose of these questions is to clarify information in the final investigation report. Any party may pose questions directly to the witness except in situation where the witness feels uncomfortable or is the Complainant. In these situations, the questions will be presented in writing to also request that the Hearing Body or Hearing Officer who will then ask the witness the pose relevant questions of the other party concerning clarifications about information in the final investigation report. The Hearing Officer makes the determination whether any question- is relevant and will be asked.

6. — Submission of written statements (if any) of witnesses who are not present Final statement by the

6. Charged Student, Student Organization, or Greek Organization.

7. — Follow up questions (if any) directed to the Charged Student, Student Organization, or Greek Organization by the Hearing Body and/or Hearing Officer.

Organization

:

~~7.~~ 8.—Final statement by ~~Charged Student, Student Organization, or the Greek~~ the Complainant.

~~8.~~ 9.—Hearing Officer brings hearing to closure.

- l. ~~(k)~~ — Deliberation by the Hearing Body is not part of the hearing.
- m. ~~(l)~~ — Prior Student Conduct records, ~~character statements,~~ Character Witness Statements and/or ~~Complainant impact statements~~ Impact Statements are considered only in determining the appropriate sanction(s).
  - ~~(m)~~ — ~~The~~ In Student Conduct Committee hearings, the Committee will make a recommendation of the decision and
- n. sanctions to the Hearing Officer. The Hearing Officer may take one of these actions with respect to the recommendation:
  - 1. — Adopt;
  - 2. — Modify;
  - 3. — Reject the ~~decision~~ findings and sanctions; or
  - 4. — Remand for a rehearing.

~~The~~ If the Committee decision is not adopted, the Hearing Officer will include the reasons for any differences between the recommendations of the Committee and the Hearing Officer's final decision as part of the decision letter.

~~(n)~~ — ~~A formal decision letter will be sent to the Charged Student, Student Organization, or Greek Organization within and the Complainant on the same day but no later than~~ fourteen (14) Business Days from the conclusion of the Hearing Body's deliberation. The hearing decision will include the decision, sanctions imposed (if applicable), and the right to appeal.

**(13) — COMPLAINANTS' RIGHTS**

- 1. (a) These rights apply to outcome, the following types of cases: rationale for the outcome, the sanctions and the rationale for the sanctions.
  - 1. — ~~Sexual Misconduct~~
  - 2. — ~~Endangerment~~
  - 3. — ~~Personal Abuse~~

**4 Interim Suspension: — Stalking**

5. — ~~Hazing~~

6. — ~~A crime of violence under Section 16~~ Complainant will be notified of the Interim Suspension of Title 18 of the United States Code (i.e., arson, assault offenses, burglary, criminal homicide — manslaughter by negligence, criminal homicide — murder the Charged Student and non-negligent manslaughter, destruction/damage/vandalism of property, kidnapping/abduction, robbery, forcible sex offenses) or a non-forcible sex offense (i.e., statutory rape, incest).

(b) — Rights

- o. 1. — Have will have the same rights afforded as the Charged Student to the Charged Student, Student Organization, or participate in the subsequent hearing.
- p. Greek Organization as described above. — Appeals:

~~The Complainant wishing to appeal must adhere to complete the same responsibilities required of appeal form in full, indicating the Charged Student, Student Organization, or Greek Organizations as set forth above.~~

- 1. 2 — Have unrelated past behavior excluded from basis for the hearing. The Hearing Officer will decide if such information is unrelated. Unless there was a prior relationship between appeal, explain in detail the parties, past relationships of reasons for the Charged Student or Complainant will not be considered in the hearing appeal and attach supporting relevant documentation.
- 3. — ~~To be present throughout the entire hearing or any portions thereof. If the~~

2. ~~Complainant does not want~~The SCCR will notify the Complainant if the Charged Student appeals, and vice versa. Both parties may submit a written statement within seven (7) Business Days.

The appellate decision is issued in writing to be present in the same room as the Charged Student, the Hearing Officer will make alternative arrangements, if possible.

4. ~~Testify in limited privacy. In lieu of testifying in person or via telephone, the~~  
~~and~~ Complainant may submit a written or recorded statement. The determination of whether the testimony will be given in limited privacy is made at the discretion of the SCCR Director in consultation with the University Victim Advocate.

5. ~~Submit a within twenty-one (21) Business Days of receipt of the written impact statement to the Hearing Body. This information will be used only in the sanctioning phase of deliberations if the Charged Student is found responsible for the charge(s)~~

6. ~~Be notified of the final determination to the extent permitted by law. Be notified of the final determination in cases involving alleged sexual misconduct. If the alleged Complainant is~~

~~deceased as a result of a crime of violence or non-forcible sex offense, the University will provide the results of the disciplinary hearing to the Complainant's next of kin, if so requested.~~

7. ~~A Complainant of sexual misconduct is entitled to a review by the Title IX Coordinator to determine whether the Complainant is also entitled to a remedy under Title IX which is~~

3. ~~not available under the Student Conduct Code. The SCCR Director will forward the Title IX Coordinator a copy of the decision letter request for appeal unless notification is given that additional time is necessary for consideration of the record on the same day that the Charged Party and Complainant receive the letter appeal.~~

8. ~~Appeal the decision using the process described in Appeals Section.~~  
(c) ~~Support and Assistance Programs. The University provides support and assistance programs for Complainants through its Victim Advocacy Center (see website <http://vac.fiu.edu>).~~

## 14) SANCTIONS

(a) In light of the facts and circumstances of each case, the following sanctions or

- a. combination of sanctions (with or without appropriate modifications) will be imposed upon any Charged Student and/or Student/~~Greek Organizations~~ Organization found to have violated the Student Code of Conduct. Sanctions will be commensurate with the offense prohibited conduct with consideration given to any aggravating and mitigating circumstances, including, but not limited to, the Charged Student's or Student Organization's conduct record. Fees may be associated with certain sanctions (e.g., counseling consultation, online programs) and are the Student's or Student Organization's responsibility.

1. General



1. **Written Reprimand**—: the University takes official notice that such actions are inappropriate and not in accordance with our community standards.
2. ~~Service Hours assignment to complete task(s) or service(s) under the supervision of a University department or outside agency.~~
3. **Educational Activities**—: attendance at in-person and/or online educational program(s)/workshop(s); interview(s) with appropriate officials; written research assignments; behavior reflection papers; planning and implementing educational program(s); or
  2. other educational activities.
  3. ~~4. Restrictions/No Contact Order~~—: the requirement that the Charged Student and/or friends have no contact with the Complainant. This restriction can be imposed at any time during the Student Conduct process.
4. ~~University Counseling and Psychological Services~~ **CAPS** or the licensed psychologist/psychiatrist, as applicable. The Charged Student must permit the consulting professional to provide official documentation on letterhead verifying attendance and to share the recommendations with the SCCR.
5. **Counseling Screening/Consultation**—: referral for screening and/or consultation with the University Counseling and Psychological Services (CAPS) (or a licensed psychologist/psychiatrist if the Charged Student is no longer enrolled when sanctioned or is seeking readmission) for alcohol/drug dependence, anger management, general mental health or other counseling issues. Charged Student must follow through with recommendations made by the
  4. ~~University Counseling and Psychological Services~~ **CAPS** or the licensed psychologist/psychiatrist, as applicable. The Charged Student must permit the consulting professional to provide official documentation on letterhead verifying attendance and to share the recommendations with the SCCR.
  6. **Psychological Evaluation**—: referral for an evaluation and recommendation by a licensed psychologist or psychiatrist which may include the ~~University Counseling and Psychological Services Center.~~ **CAPS**. The Charged Student must follow through with any recommendations made by the
    5. psychologist or psychiatrist. The Charged Student must permit the professional to provide official documentation on letterhead verifying attendance and share the recommendations with the SCCR.
    7. **Restitution**—: requirement to reimburse the University or person for damage to or
      6. misappropriation of property owned or in possession of the University or other persons. Any such payment on restitution will be limited to actual cost of repair or replacement.
      8. ~~Fees~~ requirement to pay all fees associated with any sanction delivered (e.g., counseling consultation, psychological evaluation, educational seminars/ programs, etc.).
      9. ~~Residence Hall Reassignment~~ required change in University residence hall assignment. The Charged Student will be responsible for any additional charges for the new Housing assignment.
      10. ~~On-Campus Housing Exclusion~~ exclusion from University residence halls or Greek houses for a specified length of time. A Charged Student that is excluded from the residence halls is not eligible for fee reimbursement of pre-paid fees.
      11. **Restrictions/Loss of Privileges**—: restrictions or loss of privileges which may be imposed upon a Charged Student for a specified amount of time, including but not limited to,

7. participation in Student activities, University or Student events, representation of the University on athletic teams, or in other leadership positions, presence at University residence halls or other buildings/areas of campus, contact with specified person(s), participation as a peer advisor, resident assistant, or elected/appointed Student leadership leader in Student government; Government or other Student Organizations, and/or participation in study abroad or alternative break programs. Additional restrictions on University privileges and/or activities may be imposed on the Charged Student based on their current or potential future activities.

**Conduct Probation:** a temporary interruption of the Student's status with the University. A Charged Student who is on conduct probation is considered not in good standing with the University, resulting in applicable restrictions on privileges and/or activities which may include, but are not limited to, being prohibited from participating in study abroad or alternative break, as a peer advisor, resident assistant or elected/appointed a Student leader in Student Government or other Student Organizations. Additional restrictions on University privileges and/or activities may be imposed on the Charged Student based on his/her current or potential future activities.

~~12. — Restrictions/Loss of Privileges (Student/Greek Organization Only) — For an organization, restrictions or loss of privileges including, but not limited to, participation in Student activities, social events, intramural activities, alcohol functions, or facilities. This does not affect an individual's status with the University or attendance at classes unless the individual has been charged and sanctioned independently of the Student/Greek Organization.~~

~~13. — Conduct Probation — a temporary interruption of the Student's status with the University. — A Charged Student that is on conduct probation is considered not in good standing with the University, resulting in applicable restrictions on privileges and/or activities including, but not limited, to prohibited from participating in study abroad or alternative spring break, as a peer advisor, resident assistant, or elected/appointed to a Student government or other organizational leadership position. Additional restrictions on University privileges and/or activities may be imposed on the Charged Student based on his/her their current or potential future activities. The conduct probation period is a time for the Charged Student to reflect on his/her their behavior and demonstrate that he/she can once again be a responsible Member of the University Community community. While on conduct probation, further violations of the Student Code of Conduct or other University Policies may result in suspension or expulsion.~~

9. **Deferred Suspension:** period of time in which suspension is temporarily withheld or withheld pending completion of other sanctions by a specified deadline date. A Charged Student who is on deferred suspension is considered not in good standing with the University, resulting in applicable restrictions on privileges and/or activities which may include, but are not limited to, being prohibited from participating in study abroad or alternative break, as a peer advisor, resident assistant or elected/appointed a Student leader in Student Government or other Student Organizations. Additional restrictions on University privileges and/or activities may be imposed on the Charged Student based on their current or potential future activities. If the Charged Student fails to fulfill the sanctions described in the decision letter (including failure to timely fulfill the sanction), the Charged Student will no longer be considered on deferred suspension but will be automatically suspended with no further appeal.

10. **Suspension:** separation from the University for a specified period of time. A Charged Student is considered not in good standing with the University while suspended. The Charged Student may not attend classes (either in person or online) and is banned from being on or in any University Premises or On-Campus Housing. The suspended Charged Student is also banned from participation in any University-sponsored/related event or activity and their FIU OneCard will be deactivated. This sanction is recorded on the Charged Student's academic transcript during the period of suspension. A Charged Student who is suspended from the University is not eligible for tuition and/or registration fee reimbursement except as provided by University Policies. The Charged Student will be administratively withdrawn from courses and will lose respective credit hours.

11. **Expulsion:** permanent separation from the University with no possibility of readmission. This sanction is recorded on the Charged Student's academic transcript permanently. A Charged Student is considered not in good standing with the University after being expelled. The Charged Student may not attend classes (either in person or online) and is banned from being on or in any University Premises or On-Campus Housing. The expelled Charged Student is also banned from participation in any University-sponsored/related activity or event and their FIU OneCard will be deactivated. A Charged Student who is expelled from the University is not eligible for tuition nor registration fee reimbursement except as provided by University Policy. The Charged Student will be administratively withdrawn from courses and will lose respective credit hours.

14.

#### **Student Organization Sanctions**

12. **Restrictions/Loss of Privileges (Student Organizations):** for an organization, restrictions or loss of privileges including, but not limited to, participation in or exclusion from Student activities, social events, intramural activities, alcohol functions or in campus facilities. This does not affect an individual Student's status with the University or attendance at classes unless the individual Student has been charged and sanctioned independently of the Student Organization.

13. **Conduct Probation (Student/~~Greek Organization Only~~)– Organizations):** temporary interruption of the organization's status with the University.- An organization that is on conduct probation is considered not in good standing with the University, resulting in applicable restrictions ~~and~~ of privileges and/or activities including, but not limited to, participation in or exclusion from Student activities, social events, intramural activities, alcohol functions, or in campus facilities. -Further violations of Interfraternity Council (IFC<sub>γ</sub>), Panhellenic Council (PC<sub>γ</sub>), National Panhellenic Council (NPHC<sub>γ</sub>), Wellness & Recreation Center (WRC), or Multicultural Greek Council (MGC) Policies, Student Code of Conduct or other University Policies may result in suspension or expulsion of the Charged Student/~~Greek Organization~~ from the University. –This does not affect an ~~individual's~~ individual Student's status with the University or attendance at classes unless the individual Student has been charged and sanctioned independently of the Charged Student/~~Greek Organization~~.

15. —**Deferred Suspension– (Student Organizations):** period of time in which suspension is temporarily withheld or withheld pending completion of other sanctions by a specified deadline date. A Charged Student on deferred suspension is considered not in good standing with the University, resulting in applicable

restrictions or privileges including, but not limited, to prohibited from participating in study abroad or alternative spring break, as a peer advisor, resident assistant, or elected/appointed to a Student government or other organizational leadership position. Additional restrictions on University privileges and/or activities may be imposed on the Charged Student based on his/her current or potential future activities. ~~If the Charged Student fails to fulfill the sanctions described in the decision letter (including failure to timely fulfill the sanction), the Charged Student will no longer be considered on deferred suspension but will be automatically suspended with no further appeal. If a Charged Student commits another violation of the Student Conduct Code while on deferred suspension, the Charged Student will be taken through the conduct process for that additional violation.~~

~~16. — Deferred Suspension (Student/Greek Organization Only) — period of time in which~~

~~14. the organization's suspension is temporarily withheld or withheld pending completion of other sanctions by a specified deadline date. An organization on deferred suspension is considered not in good standing with the University, resulting in applicable restrictions or privileges and/or activities including, but not limited to, participation in or exclusion from Student activities, social events, intramural activities, alcohol functions, or in campus facilities. - If the organization fails to fulfill the sanctions described in the decision letter (including failure to timely fulfill the sanction), the organization will no longer be considered on deferred suspension but will be automatically suspended with no further appeal. - If the organization commits another violation of the Student Conduct Code while on deferred suspension, the organization~~This does not affect an individual Student's status with the University or attendance at classes unless the individual Student has been charged and sanctioned independent of the Student Organization.

~~will be taken through the conduct process for that additional violation. This does not affect an individual's status with the University or attendance at classes unless the individual has been charged and sanctioned independent of the Student/Greek Organization.~~

~~17. — Suspension – (Student Organizations): separation from the University for a specified period of time. ~~A Charged Student is considered not in good standing with the University while suspended. The Charged Student may not attend classes and is banned from being on or in any On-Campus Premises. The suspended Charged Student is also banned from participation in any FIU sponsored/related event or~~~~

~~1. — activity. This sanction is recorded on the Charged Student's academic transcript during the period of suspension. A Charged Student that is suspended from the University is not eligible for tuition and or registration fee reimbursement except as provided by University Policies. The Charged Student will be administratively withdrawn from courses and will lose respective credit hours.~~

~~18. — Suspension (Student/Greek Organization only) — separation from the University for a specified period of time. An organization while suspended is considered not in good standing with the University. - A suspended Organization may not participate in any University activities or events and is not recognized as a University organization during the suspension period. This does not affect an individual Student's status with the University, academic area or attendance at~~

classes unless the individual Student has been charged and sanctioned independently of the Student/Greek Organization.

~~19. — **Expulsion** permanent separation from the University with no possibility of readmission. This sanction is recorded on the Charged Student's academic transcript permanently.~~

~~A Charged Student is considered not in good standing with the University after being expelled. The Charged Student may not attend classes and is banned from being on or in any On-Campus Premises. The expelled Charged Student is also banned from participation in any FIU sponsored/related event or activity. A Charged Student that is expelled from the University is not eligible for tuition and/or registration fee reimbursement except as provided by University Policies. The Charged Student will be administratively withdrawn from courses and will lose respective credit hours.~~

~~20. — **Expulsion (Student/Greek Organization Only)** Permanent separation from the~~

~~15. **University with no possibility of re-chartering or re-registering.** An organization that has been expelled is considered not in good standing with the University. An expelled organization may not participate in any University activities or events and is not recognized as a University organization. This does not affect an individual Student's status with the University, academic area or attendance at classes unless the individual Student has been charged and sanctioned independently of the Student/Greek Organization.~~

~~16. (b) **Expulsion (Student Organizations):** permanent separation from the University with no possibility of re-chartering or re-registering. An organization that has been expelled is considered not in good standing with the University. An expelled organization is not recognized as a University organization and may not participate in any University-sponsored activity or event. This does not affect an individual Student's status with the University, academic area or attendance at classes unless the individual Student has been charged and sanctioned independently of the Student Organization.~~

### **Housing Sanctions**

~~17. **On-Campus Housing Reassignment:** required change in University residence hall assignment. The Charged Student must move out by the date and time provided and will be responsible for any additional room rental charges for the new Housing assignment.~~

~~18. **On-Campus Housing Probation:** a temporary interruption of the Charged Student's status with On-Campus Housing. Future violation(s) of the student Code of Conduct or other Housing/University policies may result in additional sanctions such as Housing Agreement Termination, University suspension or expulsion. A person on Housing Probation is considered not in good standing with University Housing, resulting in applicable restrictions on privileges and/or activities including, but not limited to, ineligibility for Residence Hall Association (RHA) leadership positions and student employment within Housing and Residential Life (including Resident Assistants, Clerical Assistants and Housing Ambassadors).~~

~~19. **Deferred On-Campus Housing Termination:** period of time in which the Charged Student is allowed to continue to reside in On-Campus Housing notwithstanding the fact that, but for the Deferred On-Campus Housing Termination (DOCHT), the Housing Agreement would have been immediately terminated. At the end of the current semester, the current Housing Agreement with the student is effectively terminated and the Student is ineligible to reside in any On-Campus Housing for the remainder of the~~

Student's career at FIU. The Student is also excluded from all On-Campus Housing premises for the remainder of the Student's career at FIU. This exclusion applies to all buildings, grounds and the parking lots surrounding the buildings. If another violation of the Code of Conduct occurs in the semester while the Charged Student is on DOCHT, the Charged Student's Housing Agreement will be immediately terminated and the remaining sanctions of this provision apply (i.e., exclusion from housing and premises).

**20. On-Campus Housing Exclusion:** exclusion from On-Campus Housing for the remainder of the Student's career at FIU. This exclusion applies to all buildings, grounds and the parking lots surrounding the buildings.

b. Violations of the Student Code of Conduct that are motivated by prejudice toward a person or group because of such factors such as race, color, creed, religion, ethnicity, disability, national origin, disability, age, marital status, gendersex, sexual orientation, sexual identity or expression, pregnancy, genetic information, veteran status or any group/class protected by state or federal law may result in stronger sanctions.

c. ~~(c)~~ — Sanctions take immediate effect immediately unless appealed. (except for suspensions or expulsions).

d. ~~(d)~~ — Proof of the completion of the sanction(s) should must be provided as directed in the decision letter. -It is the responsibility of the Charged Student or Student/Greek Organization to ensure that such proof of completion is provided by the specified time date. Failure of the Charged Student or Student/Greek Organization to provide proof by the specified date may result in a charge of failure to comply, which will result in the placement of a Student Conduct hold on the a Charged Student's academic records, and will result in suspension if the Charged Student or Student/Greek Organization had been on deferred suspension.

## **15. (15) — INTERIM SUSPENSION**

Where the Vice President for Student Affairs or designee determines that the health, safety or welfare of the Charged Student, the Student Organization or University community are in jeopardy or in danger, an interim (temporary) suspension will be imposed. This includes, but is not limited to, sexual misconduct, physical assault, hazing, possession of a firearm or explosives, illegal drug possession and other acts of a similar nature. A Charged Student or Student Organization under Interim Suspension is considered not in good standing with the University, resulting in applicable restrictions on privileges and/or activities. The Charged Student may neither attend nor participate in any classes, including any online components, during this time. The Charged Student or Student Organization is also banned from being on or in any University Premises and/or On-Campus Housing, and from participation in any University-sponsored/related event or activity.

a. The Charged Student under Interim Suspension shall not be allowed on Campus except with the permission of the SCCR Director.

b. Once an Interim Suspension is imposed, a hearing must be held within a reasonable time. The Interim Suspension does not replace the regular conduct process, which shall proceed up to and through a hearing, if required.

## **16. APPEALS**

a. ~~(a)~~ — **Appellate Officer:** The appellate officer for all appeals is the Vice President. for Student Affairs or designee.

**(b) — Appeal Form/Basis for Appeals:** The Charged Student, ~~or Student/Greek Organization, or a Complainant of sexual misconduct, endangerment, personal abuse, stalking, hazing, a crime of violence, or non-forcible sex offense (if any)~~ wishing to appeal must complete the appeal form in full, indicating

- b. the basis for the appeal, explain in detail the reasons for the appeal; and attached/attach supporting relevant documentation. The burden of proof rests with the person appealing to clearly demonstrate the reason for appeal as set forth below. Appeals are not a re-hearing of the Student Conduct matter but are only a file and/or document review. The reason for the appeal must be based on at least one of the following:

~~appeal as set forth below. Appeals are not a re-hearing of the Student Conduct matter but only a file and/or document review. The reason for the appeal must be at least one of the following:~~

1. ~~Violations of the appealing party's rights or other failure to follow the Student~~
  1. Conduct procedures that substantially affected the outcome of the initial hearing. Appeals based on this reason will be limited solely to a review of the record of the hearing.
  2. ~~New information; which was not available at the time of the hearing and would~~
    2. could not have been presented. - In addition, the appealing party must show that the new information could have substantially affected the outcome.
  3. ~~The severity of the sanction is disproportionate to the nature of the offense.Charge(s).~~

c. **(e) — Appeal Requests:** All appeals must be written and submitted using the appeal form available ~~from the SCCR or via the following website:~~

~~[http://www2.fiu.edu/~seer/appeal\\_process.html](http://www2.fiu.edu/~seer/appeal_process.html)~~ in the decision letter.

1. ~~The person wishing to appeal must complete the appeals/appeal form in full and send it~~
  1. to the Appellate Officer within seven (7) ~~Appellate Officer for receipt no later than 5:00pm of the seventh (7th) Business Days of Day after the receipt/delivery date of the hearing decision- letter.~~ If the appeal form is submitted and/or signed by any ~~other~~ individual other than the appealing party, it will not be accepted.
  2. ~~The SCCR will notify the Complainant of sexual misconduct, endangerment, personal abuse, stalking, hazing, a crime of violence, or non-forcible sex offense of a sexual misconduct, a crime of violence, or non-forcible sex offense (if any) if the Charged Student appeals, and vice versa.~~

~~Both parties may submit a written statement.~~

**(d) —** If a hearing decision is not appealed within the timeframe, the original decision becomes

d. Final Agency Action.

e. **(e) — The Charged Student's Status Pending Appeal, Once:**

1. An appeal has no effect on a Charged Student's status when the sanction was suspension or expulsion. The sanction(s) are effective immediately from the date of the decision.
2. If the Charged Student appeals in any other case, once an appeal is requested, the ~~sanction/sanction(s)~~ will be stayed and will not take effect until the appeal process has been completed. ~~Under these circumstances, if no appeal is requested, the sanctions~~

~~will take effect immediately.~~ A Charged Student shall remain eligible to attend classes and University activities pending the appeal.

3. If a Charged Student's privileges are temporarily revoked through an Interim Suspension and the Charged Student is subsequently found not responsible for the violation, the University must to the extent possible:
  - i. ~~1.~~—Correct any record of the change in enrollment status in the Charged Student's permanent records and reports in a manner compliant with state and federal laws; and
  - ii. ~~2.~~—Refund to the Charged Student a pro rata portion of any charges for tuition, and out-of-state fees, as appropriate, relating to the temporary revocation or suspension which affected the Charged Student's ability to attend classes for more than ten (10) Business Days.

~~If no appeal is requested, the sanctions will take effect immediately. Charged Student's ability to attend classes for more than ten (10) Business Days.~~

~~4. (f)~~

**f. Appellate Review/Decision:**

1. ~~1.~~—No person may hear or decide an appeal if ~~he/she~~they conducted or participated in the

1. Student Conduct proceeding being reviewed on appeal.

2. ~~2.~~—The Appellate Officer shall first determine if sufficient grounds for the appeal exists and then, if so, may either deny the appeal, thus sustaining the initial decision and sanction(s), or do one of the following:

~~one of the following:~~

i. ~~i.~~—If the basis of the appeal is that the severity of the sanction was disproportionate to the nature of the offense and the Appellate Officer finds the appealing party proved ~~his/her~~their allegation, the Appellate Officer may modify the sanction.

ii. ~~ii.~~—If the basis of the appeal is that there was a ~~violation of the appealing party's rights or other~~ failure to follow the Student Conduct procedures that substantially affected the outcome, or that there was new information which was not reasonably available at the time of the hearing and could not have been presenteddiscovered through the exercise of due diligence, which would have substantially affected the outcome and the Appellate Officer finds that the appealing party proved ~~his/her~~their allegation, the Appellate Officer will order a new hearing.

g. ~~(g)~~—**Written Decision on Appeal:** The appellate decision is issued in writing to the Charged Student, ~~or Student/Greek Organization and the Complainant of sexual misconduct, endangerment, personal abuse, stalking, hazing, a crime of violence, or non-forcible sex offense (if any)~~ Organization within twenty-one (21) Business Days of receipt of the written request for appeal unless notification is given that additional time is necessary for consideration of the record on appeal.



- h. ~~(h)~~—**Effect of the Final Appellate Decision:** The decision of the Appellate Officer constitutes Final Agency Action.- In the case of a suspension or expulsion of a Charged Student, the decision of the Appellate Officer will include notice to the Charged Student of the Charged Student’s right to appeal to an external judicial forum.

**(16) — INTERIM SUSPENSION**

~~In situations where the Vice President determines that an emergency exists which affects the health, safety, or welfare of the Charged Student, Student Organization, Greek Organization or University community, an interim (temporary) suspension will be imposed. This includes, but not limited to, sexual misconduct, physical assault, hazing, possession of a firearm or explosives, illegal drug possession, and other acts of a similar nature. A Charged Student, Student Organization, or Greek Organization under Interim Suspension is considered not in good standing with the University, resulting in applicable restrictions on privileges and/or activities. The Charged Student may not attend classes. The Charged Student, Student Organization, or Greek Organization is also banned from being on or in any On-Campus Premises and from participation in any FIU sponsored/related event or activity. A Complainant of sexual misconduct, endangerment, personal abuse, stalking, hazing, a crime of violence, or non-forcible sex offense (if any) will be notified of the Interim Suspension of the Charged Student and will have the same rights as the Charged Student to participate in the subsequent Student Conduct Committee Hearing described in this section.~~

~~(a) — The Charged Student under Interim Suspension shall not be allowed on Campus except with the permission of the University Police Chief or designee.~~

~~(b) — Once an Interim Suspension is imposed, a formal Student Conduct Committee Hearing must be held within a reasonable time. The Interim Suspension does not replace the regular process, which shall proceed on the normal schedule, up to and through a Student Conduct Committee Hearing, if required.~~

**(17) — RECORDS**

~~(a) — Decision letters (e.g., hearing outcome, sanctions and appeals) of all Student Conduct matters, including Housing/Residential Life and Sorority and Fraternity Life, will be maintained in the SCCR.~~

~~(b) — Complete Student Conduct records regarding cases heard by Housing/Residential Life will be maintained by the Director of University Housing/Residential Life. Complete Student Conduct records regarding cases heard by IFC, NPHC, PC, and/or MGC will be maintained in the Office of Sorority and Fraternity Life.~~

~~(c) — Complete Student Conduct records of Student Organizations or clubs will be maintained in the SCCR.~~

~~(d) — **17. RECORDS**~~

a. All conduct-related records will be housed in the web-based system maintained by SCCR.

b. The release of Student Conduct records will be governed by applicable federal and state laws regarding the privacy of education records.



to foster mutual respect and understanding when differences arise is ~~mediation-~~  
MediationConflict Resolution. Conflict Resolution through SCCR is an informal and confidential process.

- b. ~~(b)~~ — ~~Mediation is~~Conflict Resolution may be utilized where the incident in question is minor in nature, and the parties involved chose not to proceed with ~~formal~~ charges through the University Student Conduct system. ~~The~~The SCCR reserves the right to determine if charges will be filed or whether Conflict Resolution is the appropriate option in each matter.

~~SCCR reserves the right to determine if formal charges will be filed or whether mediation is the appropriate venue in each matter.~~

- ~~(c)~~ — ~~Mediation~~Conflict Resolution cases handled through SCCR will not be identified or filed as a Student

~~Conduct matter.~~ MediationConflict Resolution records will be maintained separate from Student Conduct files and will not

- c. ~~be~~ recorded or reported as part of a Charged Student's record. All ~~mediation~~Conflict Resolution files are confidential and will not be released without written consent except in cases where the conduct or behavior is a repeat offense. In repeat cases, this information is only released to the Hearing ~~Officer or committee conducting a formal hearing~~Body and only used if the Charged Student is found responsible for a violation of the Student Code of Conduct.

- d. ~~(d)~~ — ~~Mediation~~Conflict Resolution files are kept for seven (7) years from the date of the ~~mediation-~~resolution.

~~(e)~~ — Incident(s) considered serious in nature, and; consequently not suitable for ~~mediation~~Conflict Resolution, include, but are not limited to: sexual misconduct, endangerment, personal abuse, ~~stalking,~~ hazing, a ~~crime of violence, or non forcible sex offense~~ illegal drugs, alcohol, weapons; or other violations of

- e. ~~federal,~~ state and local ordinances.

- f. Participation must be voluntary, and either party can request to end Conflict Resolution at any time which may result in the initiation of the Student Conduct process for the behavior.

## 20.

### ~~(20)~~ — **Interpretation and Revision**

#### ~~(a)~~ — **INTERPRETATION AND REVISION**

- a. ~~Any~~ question of interpretation or application of the Student Code of Conduct shall be referred to the Vice President for Student Affairs or designee for final determination.

~~(b)~~ — The Student Code of Conduct shall be reviewed periodically by a committee which shall

- b. ~~include~~ Student representation under the direction of the SCCR Director.

Contact: Director, Office of Student Conduct and Conflict Resolution

Location: GC 311

Phone: (305-) 348-3939

Fax: (305-) 348-6477

Web Page: www.fiu.edu/~sccr

Email: conduct@fiu.edu

Web Page: conduct.fiu.edu

*Authority: Florida Board of Governors Regulation 6.0105 Student Conduct and Discipline; Florida Board of Governors Regulation 6.010 Student Affairs Administration; Florida Board of Governors Regulation 1.001(4)(a)(10); and Section 7(d), Article IX, Florida Constitution. History—New June 19, 2012, Amended September 17, 2012, Amended 4-8-14.*