

## FIU-2501 Student Code of Conduct

As an academic community, Florida International University fosters the intellectual exchange of ideas, knowledge, and experience. 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, 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 [conduct.fiu.edu](http://conduct.fiu.edu).

The safety and well-being of our community is the University's foremost concern. Florida International University has zero tolerance for acts that compromise the safety and well-being of members of the University community. It is the policy of the University that acts of harassment and violence will not be tolerated. Any act of intimidation, threat of violence, or act of violence committed against other members of the University when committed within the jurisdiction of the Student Code of Conduct is prohibited. Any Student or Student Organization found responsible for a violation of this standard will be subject to discipline up to and including expulsion pursuant to the Student Code of Conduct. Student Code of Conduct violations in the following list, may lead to suspension or dismissal from the University if a determination of responsibility has been made:

- 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 Complainant to assist 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. **Business Day:** A day when the University is open for regular business operations from 8:00 am up to 5:00 pm Eastern Time. For emailed correspondence, the day of delivery is not included in a designated time period.
- c. **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 charged with an alleged violation of the Student Code of Conduct.
- f. **Coercion:** Conduct, intimidation, and/or expressed 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.
- j. **Final Agency Action:** The written decision resulting from the Student Conduct process which finally determines the rights or obligations of the Charged Student or Student Organization.
- k. **Hearing Body:** Consists of a Hearing Officer or, if a Student Conduct Committee, two (2) students, a faculty/staff member, and a non-voting Hearing Officer.
- l. **Hearing Officer:** The SCCR Director, the Director of Residential Life, or respective designee(s).
- m. **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.
- p. **Member of the University Community:** Any person who is a Student, faculty or staff, any other person currently employed by the University, or third party working on University Premises or within On-Campus Housing (i.e. contractor, vendor), or any participant in a University-sponsored program or activity regardless of the location of the program or activity.
- q. **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.
- r. **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 Handbook, the University Housing Resident Handbook, and/or Campus Life/Wellness & Recreation Center policies.
- s. **Preponderance of the Evidence:** When the information that is presented supports a finding that it is more likely than not that a violation occurred.
- t. **Receipt of Written Notice:** When Written Notice (see below for definition) has been sent electronically to the official University email address.
- u. **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.

- w. **SCCR Director:** The Director of the Office of Student Conduct and Conflict Resolution (SCCR) or designee.
- x. **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.
- y. **Student Organization:** A Student group that is officially registered or recognized by the University, including, but not limited to, political groups, social groups, honor & professional societies, fraternities & sororities, and sport clubs.
- z. **Title IX Coordinator:** The individual University 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.
- aa. **University:** Florida International University.
- bb. **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).
- cc. **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 Student Organization sent via email to the official University email address of the Student Organization's President.

## 2. JURISDICTION

- a. Each Student shall be responsible for their conduct from the time that he/she has been notified of admission through the actual awarding of a degree, including the academic year and during periods between terms of actual enrollment. The Student Code of Conduct shall apply to a Student's conduct even if the Student withdraws from the 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. 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. Discipline for off-campus conduct may be pursued under the Code if:
  - The off-campus conduct is specifically prohibited by law or the Student Code of Conduct;
  - The off-campus conduct demonstrates that the continued presence of the Student on campus presents a danger to the health, safety, or welfare of the University community, 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
  - The off-campus conduct has continuing adverse effects on the campus.
- d. The University Student Conduct proceeding is not a criminal or judicial proceeding. It is designed to address the Charged Student's behavior, whether on or off-campus; therefore, alleged violations of the Student Code of Conduct will be addressed independently of any criminal or judicial proceeding and regardless of whether the criminal charges have been dismissed or reduced to a lesser offense.

### **3. AUTHORITY**

- a. The Board of Trustees of Florida International University has been charged with the responsibility of, and authority for, providing a Student conduct system. Authority for Student discipline and the Student conduct system rests with the University President. Although the University President holds the ultimate authority for Student discipline, this authority is delegated to the Vice President for Student Affairs, who is responsible for implementing the Student disciplinary system. The Vice President for Student Affairs delegates authority for the execution and implementation of the Student Code of Conduct to the SCCR Director.
- b. 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 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 may change the outcome and/or sanctions to fulfill requirements of the Code as outlined in Section 16.
- 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.
- e. The Hearing Body is authorized to conduct Student Conduct hearings as follows:

1. The Office of SCCR may conduct Summary Resolutions, Administrative Hearings and Student Conduct Committee Hearings as set forth in this Code.
2. The Department of Residential Life may conduct both Summary Resolutions and Administrative Hearings regarding cases arising in On-Campus Housing. The Department of Residential Life is not authorized to conduct Student Conduct Committee hearings. Department of Residential Life cases may be referred to the SCCR.

#### **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, others who have participated in or witnessed the incident, or they file a report and their conduct did not threaten the health or safety of any other individual. 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.

#### **5. 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. Nothing in this section shall be interpreted to abridge the right of any member of the University community of freedom of expression protected by the First Amendment of the United States Constitution and/or any other applicable law.

**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. Possession, use and/or consumption of alcohol when under the legal drinking age as provided by Florida Law.
2. Dispensing, selling or supplying alcoholic beverages to an individual who is under the legal drinking age as provided by Florida Law.
3. Any violations of Florida International University Policy governing alcohol usage. See, FIU-Regulation 2505 Alcoholic Beverages.
4. Use and/or possession of beer kegs and party balls or other common sources of alcohol.
5. Possession of open containers of alcohol or consumption of alcoholic beverages in public areas, such as balconies, courtyards or hallways.
6. Public intoxication (e.g., appearing in a state of intoxication) and/or excessive drinking.
7. 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.
8. Hosting or sponsoring a gathering where underage individuals are drinking alcohol.
9. Unlawful manufacture, trade, and/or intent to sell alcohol.
10. 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.

**c. Bribery**

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, 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, resale of University resources to any non-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 their own personal computer, constitutes an offense.
5. Allowing another person to use 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/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. This is a violation whether the user is using their own personal computer or the University's information technology system for the unauthorized distributions.

**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 one 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 one 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**

1. Behavior that substantially and materially disrupts, disturbs, impairs, interferes with or obstructs the orderly conduct, processes and functions of the University or the rights of other Members of the University 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 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.
3. Behavior that substantially and materially disrupts, 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 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. Any behavior that substantially and materially disturbs the peace.

**g. Drugs**

Students who choose to use illegal drugs or use prescription drugs without a prescription 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.

1. Possession, use, the manufacture, creation and/or the cultivation of illegal drugs or prescription drugs without a prescription. Inhalable or ingestible substances (e.g., nitrous oxide, glue, paint) that will alter a Student's mental state.
2. Distribute, dispense, deliver, trade, sell and/or attempt to sell drugs or prescription drugs.
3. In possession and/or use of drug paraphernalia (including, but not limited, to bongos, pipes, "hookahs," spoofs, rolling papers, blunts, small plastic baggies).
4. Misuse and/or abuse prescription drugs.

**h. Endangerment**

1. 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. Engage in any action(s) that endangers the health, safety or welfare of others.

**i. Failure to Comply**

1. Failure to comply with a request or directive of a University Official or non-University law enforcement official in the performance of their duty.
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. Failure to comply when a University Official requests to identify oneself and/or produce FIU identification.

**j. Falsification/Fraudulent Activity/False Testimony**

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

**k. Fire and Safety**

1. Inappropriate activation of any emergency warning equipment or the false reporting of any emergency.
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.
3. Failure to evacuate University Premises or On-Campus Housing facility/unit when a fire alarm is activated.
4. 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**

1. Soliciting, placing or accepting a bet on any high school, intercollegiate or professional athletic contest on University Premises, 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, 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 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 Organization, athletic team (intramural, club or intercollegiate), extracurricular activity or any other University group or organization, it is not necessary 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 active, prospective, or associate members (pledges) of 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;
  - 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);
  - 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. Compelling 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; or
- 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**

- 1. 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 that objectively endangers the health, safety or well-being of others. Using fighting words or statements which reasonably endanger the health and safety of any person that are not protected speech 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, injury or intimidation to a person, or would place a reasonable person in fear of injury or death.
- 3. Conduct that is based on race, color, religion, ethnicity, national origin, disability, age, marital status, gender, gender identity, gender expression, pregnancy, genetic information, veteran status or any group/class protected by federal or Florida law sufficiently severe, pervasive or persistent (when viewed both from a reasonable person in similar circumstances and the person in question) that a person would be adversely affected to a degree that interferes with or limits their ability to participate in or benefit from the services, activities or opportunities offered by the University.
- 4. Interference with the freedom of another person or group to move about in a lawful manner.

**q. Promotions/Posting**

- 1. Solicitation of commercial speech on campus, including On-Campus Housing facilities, without prior approval from the appropriate University Officials. This includes, but is not limited to, the distribution of any forms of promotional/informational commercial speech material on University Premises or On-Campus Housing or objects (e.g., motor vehicles).
- 2. Posting of flyers, posters, banners, cards or any promotional/informational material on University Premises or On-Campus Housing, including, but not limited to, the

exterior and interior of On-Campus 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 and/or sculptures without prior approval from the appropriate University Officials.

**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
  - Participation in the reporting, investigation, and/or resolution of an alleged violation of this Code; and/or
  - 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.

**s. Sexual Misconduct**

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**
  - i. Exposure of one's sexual organs or the display of sexual behavior that would reasonably be 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.
  - ii. 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 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.
  4. **Gender-based Harassment** – any 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.
  5. **Sexual Coercion** – the act of using pressure or force to have sexual contact with someone who has already refused.
  6. **Sexual Assault** – the threat to commit sexual battery with the immediate capacity to do so.
  7. **Sexual Battery** – any sexual intercourse by any person upon another without Consent. Sexual intercourse includes 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).
- t. Smoking and Use of Tobacco-Related Products**
1. 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**
1. 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.
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. 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 prior written consent or authorization.

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

**z. Weapons, Firearms, Explosives**

1. Possession, storage or use of firearms, except as provided in below, explosives, 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, BB guns, any dangerous chemical or biological agents, corrosive agents, compressed gas, sling shots, brass knuckles, Chinese stars, or any other item used as a weapon.
  - In accordance with Florida Statutes section 790.115, possession of firearms on University Premises or On-Campus Housing (except as provided by Florida Statutes section 790.25(5)).
  - Possession of a concealed weapon or firearm on University Premises or On-Campus Housing even if the Student possesses a concealed weapon license.

2. 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 for a scuba divers' class) but only with prior approval by the appropriate University Official.
3. 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 community or damage to University Premises or On-Campus Housing.

**aa. Other Violations**

1. Attempt or intent to commit any violation outlined in the Student Code of Conduct of Conduct.
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.
3. Aids or abets another in any violation of federal law, state law, local ordinance, and/or Policy.
4. Violations of federal and/or state laws, local ordinance, and/or Policy.

**6. PRE-HEARING PROCEDURES**

- a. **Initiating Charges:** Any person or entity (including University departments, offices, officials, community members) may report an alleged violation(s) of the Student Conduct Code for review by the SCCR by:
  1. Submitting a police report that has been filed with any police department;
  2. Providing a SCCR incident report (see <http://conduct.fiu.edu> for report) along with accompanying documentation; or
  3. Making an oral report to SCCR.
- b. **Preliminary Review:** The SCCR Director will determine, at their discretion, whether further fact-finding is needed and whether there is sufficient information to file charges regardless of the participation of any party in the proceedings.
- c. **Filing Time:** Anyone may report an alleged Code violation within ninety (90) calendar days of the incident or obtaining knowledge about the incident, whichever is later. 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 the filing time where the delay may be related to issues of victimization or beyond the control of the University.
- d. **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.
- e. **Charge Letter:** The Charged Student or Student Organization will be given a written notice of the Charges. The Charge Letter will include the following:



1. 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 Conduct proceeding; and
  2. An appointment to attend an information session.
- f. **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 with information about the hearing process as well as giving access to the information supporting the charge(s) available at that time.
1. The Charged Student or Student Organization will have an opportunity to review all information in the Student Conduct file at the information session with their Advisor, including the names of Witnesses to be called and the information to be used in the Student Conduct matter.
    - i. Subsequent to the information session, the Hearing Officer may conduct 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. If a Charged Student or Student Organization fails to attend a scheduled information session, the Charged Student or Student Organization will be deemed to have waived their right to an information session. Under those circumstances, a hearing will be scheduled. Failure to attend an information session will result in the Hearing Officer determining the type of hearing. The hearing type will be determined based on the severity of the possible sanctions (e.g., suspension/expulsion cases may be referred to the Student Conduct Committee).
  3. If the Charged Student fails to attend the information session, the 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.

## 7. RESOLUTION OPTIONS

A Charged Student is entitled to a resolution of any alleged violation of the Student Code of Conduct through a disciplinary proceeding unless waived as set forth below. Two (2) types of resolution options are provided by the Student Code of Conduct.

### a. Summary Resolution

1. A summary resolution is available when the Charged Student or Student Organization waives the right to a 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.
2. The following apply to a summary resolution:
  - i. The meeting(s) will not be recorded.
  - ii. The written decision will serve as the official record of the Summary Resolution.

- iii. The written decision will be sent to the Charged Student or Student Organization within fourteen (14) Business Days from the date of the Summary Resolution.
3. If the Charged Student or Student Organization does not choose the Summary Resolution (or the option is unavailable), the Charged Student or Student Organization may indicate their preference for one of the two (2) types of hearings.
- b. **Hearings:** Hearings include: 1) an administrative hearing, or 2) a Student Conduct Committee hearing. All procedures described in the Hearing Procedures section apply to these types of hearings.
  1. Administrative hearing - conducted by a Hearing Officer who serves as the Hearing Body.
  2. Student Conduct Committee hearing - conducted by a committee which 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. The SCCR Director retains the discretion to ultimately determine which hearing forum is appropriate.
- d. All hearing(s) will be conducted in private or in accordance with applicable law.

## 8. HEARING NOTIFICATION

- a. **Scheduling:** Hearings may be scheduled during class periods. Every effort will be made to avoid a class conflict; however, due to availability of persons involved in the hearing and meeting room, it may not be possible.
- b. **Hearing Notice:** The notice of a hearing, including date, time and location will be sent to the official University email address of the Charged Student, or to the official University email address of the President of the Student 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 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 may waive the notice period by indicating the waiver in writing.
  1. The notice will include the names of Witnesses to be called by the University and a list of information to be used in the Hearing.
  2. The notice will also indicate the name(s) of the Hearing Body member(s).
  3. The notice may include information related to additional evidence, witnesses, or change of charge(s) different from what was presented in the information session.
- c. **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. The Charged Student or Student Organization 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 their discretion, and such decision is final and not appealable.
  2. If a Hearing Body member is unable to serve due to an emergency or unforeseeable occurrence, the Hearing Officer 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 may challenge the inclusion of this member at the time of the hearing. The challenge must be on the bases outlined above.
- e. **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 two (2) Business Days prior to the hearing. The request must state the reason(s) for the 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.

## 9. **ADVISOR FOR THE CHARGED STUDENT OR STUDENT ORGANIZATION**

- a. The Charged Student or Student Organization may be accompanied by an Advisor of their choosing and at their expense at any time during the Student Conduct process.

1. It is the responsibility of the Charged Student or Student 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. The Charged Student or Student Organization is responsible for presenting their own information, and therefore, Advisors are **not** permitted to speak or to participate directly in any Student Conduct process.
3. Although the Charged Student or Student Organization may consult with the Advisor during the hearing, this consultation must take place in a manner that does not disrupt the proceedings.
4. The Advisor chosen by the Charged Student or Student Organization cannot be a Witness in the matter.
5. The SCCR can provide the Charged Student or Student Organization with a list of Advisors who can provide assistance in preparing a response to the reported Code violation.

## **10. DUE PROCESS RIGHTS OF THE CHARGED STUDENT OR STUDENT ORGANIZATION**

The Charged Student or Student Organization has the following rights:

- 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.) 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 active, prospective, 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 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 held outside the presence of the Charged Student.
- 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.

### 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 are 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 in order for the parties to prepare for meaningful participation in the investigation.
3. **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.
  - v. 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. A fair and impartial hearing.
  3. Accompaniment by an Advisor of their choosing and expense 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.)
  7. Receive notification of the decision of the Hearing Body in writing within fourteen (14) Business Days of the hearing.
  8. Appeal the decision via the process established by the University.
  9. 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.
- g. 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 investigation report.
- h. Formal rules of process, procedure and/or technical rules of evidence (including rules regarding hearsay) applicable in the criminal or civil court process are not used in this hearing.

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

- i. No other recordings are permitted.
- j. If the Charged Student or Complainant fail to appear at the scheduled hearing, the hearing will be held and a decision will be rendered in their absence.
- k. The Hearing Officer has the discretion to determine the order of the hearing 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, if any, by the Charged Student. 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.
  3. 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.
  5. Relevant questions directed to the Charged Student, Complainant and/or investigator(s) by the Hearing Body. The purpose of these questions is to clarify information in the final investigation report. Any party may also request that the Hearing Body 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. Final statement by the Charged Student.
  7. Final statement by the Complainant.
  8. Hearing Officer brings hearing to closure.
- l. Deliberation by the Hearing Body is not part of the hearing.
- m. Prior Student Conduct records, Character Witness Statements and/or Impact Statements are considered only in determining the appropriate sanction(s).

- n. 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.

1. A decision letter will be sent to the Charged Student 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 decision will include outcome, the rationale for the outcome, the sanctions and the rationale for the sanctions.
- o. **Interim Suspension:** A Complainant 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 hearing.
- p. **Appeals:**
1. The Complainant wishing to appeal must complete the appeal form in full, indicating the basis for the appeal, explain in detail the reasons for the appeal, and attach supporting relevant documentation.
  2. 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.
  3. The appellate decision is issued in writing to the Charged Student and Complainant 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.

## 14. SANCTIONS

- a. In light of the facts and circumstances of each case, the following sanctions or combination of sanctions (with or without appropriate modifications) will be imposed upon any Charged Student or Student Organization found to have violated the Student Code of Conduct. Sanctions will be commensurate with the 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.

### General

1. **Written Reprimand:** the University takes official notice that such actions are inappropriate and not in accordance with our community standards.
2. **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 other educational activities.

3. **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. **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 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. **Psychological Evaluation:** referral for an evaluation and recommendation by a licensed psychologist or psychiatrist which may include CAPS. The Charged Student must follow through with any recommendations made by the 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.
6. **Restitution:** requirement to reimburse the University or person for damage to or 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.
7. **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, participation in Student activities, University or Student events, representation of the University on athletic teams or in leadership positions, presence at University residence halls or other buildings/areas of campus, participation as a peer advisor, resident assistant or elected/appointed Student leader in Student 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.
8. **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, or serving as a peer advisor, resident assistant or elected/appointed 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. The conduct probation period is a time for the Charged Student to reflect on their behavior and demonstrate that he/she can once again be a responsible Member of the University 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, or serving as a peer advisor, resident assistant or elected/appointed 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. While on deferred suspension, further violations of the Student Code of Conduct or other University Policies may result in suspension or expulsion.
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.

### **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 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 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), Panhellenic Council (PC), National Panhellenic Council (NPHC), 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 Organization from the University. 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 Charged Student Organization.
14. **Deferred Suspension (Student Organizations):** period of time in which 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. 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.
  15. **Suspension (Student Organizations):** 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 Organization.
  16. **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 period of probation for the remainder of the Student's time in 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, national origin, disability, age, marital status, sex, 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. Sanctions take immediate effect unless appealed (except for suspensions or expulsions).
- d. Proof of the completion of the sanction(s) must be provided as directed in the decision letter. It is the responsibility of the Charged Student or Student Organization to ensure that such proof is provided by the specified date. Failure of the Charged Student or Student 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 a Charged Student's academic records, and suspension if the Charged Student or Student Organization had been on deferred suspension.

## 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. PROCESS OF PRESIDENTIAL REVIEW**

- a. The President will notify the SCCR Director within three (3) Business Days of notification of a disciplinary outcome if he/she wishes to review the underlying disciplinary matter. This review will serve as the appeal process for the Charged Student/Student Organization and Complainant (if applicable). Any other appeal process will immediately cease.
- b. No later than one (1) Business Day after the President notifies the SCCR Director and the Appellate Officer, the SCCR Director shall notify the Charged Student/Student Organization and the Complainant (if applicable) of the President's decision to review the underlying disciplinary matter including sanctions. The Charged Student/Student Organization and Complainant (if applicable) may provide the President with any information (including any documents supporting an appeal if not previously submitted) within three (3) Business Days of the SCCR Director's notification.
- c. The President may only consider the information included in the Student Conduct file, any appeals submitted by the Charged Student/Student Organization and Complainant (if applicable), and any information that was not reasonably available at the time of the hearing.
- d. The President shall issue a written decision to the Charged Student/Student Organization, Complainant (if applicable), Appellate Officer, and SCCR Director within 14 Business Days of notification of a disciplinary outcome. Decisions based on charges involving Hazing (Section (5)(m)) and Sexual Misconduct (Section (5)(s)) will include an explanation for the decision and sanctions. The President's decision constitutes Final Agency Action and will include notice of the Charged Student/Student Organization's right to appeal to an external judicial forum if the sanction is suspension or expulsion.

## **17. APPEALS**

- 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 Organization wishing to appeal must complete the appeal form in full, indicating the basis for the appeal, explain in detail the reasons for the appeal and 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:

1. Violations of the appealing party's rights or other failure to follow the Student 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 could not have been presented. In addition, the appealing party must show that the new information could have substantially affected the outcome; or
  3. The severity of the sanction is disproportionate to the nature of the Charge(s).
- c. **Appeal Requests:** All appeals must be written and submitted using the appeal form available in the decision letter.
1. The person wishing to appeal must complete the appeal form in full and send it to the appellate officer for receipt no later than 5:00pm of the seventh (7th) Business Day after the delivery date of the hearing decision letter. If the appeal form is submitted and/or signed by any individual other than the appealing party, it will not be accepted.
- d. If a hearing decision is not appealed within the timeframe, the original decision becomes Final Agency Action.
- e. **The Charged Student's Status Pending Appeal:**
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(s) will be stayed and will not take effect until the appeal process has been completed. Under these circumstances, 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. 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. 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.
  4. If no appeal is requested, the sanctions will take effect immediately.
- f. **Appellate Review/Decision**
1. No person may hear or decide an appeal if they conducted or participated in the Student Conduct proceeding being reviewed on appeal.
  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:
    - 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 their allegation, the Appellate Officer may modify the sanction.
    - ii. If the basis of the appeal is that there was a 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 discovered through the exercise of due diligence, which would have substantially affected the outcome and the Appellate Officer finds that the appealing party proved their allegation, the Appellate Officer will order a new hearing.

- g. **Written Decision on Appeal:** The appellate decision is issued in writing to the Charged Student or Student 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. **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.

## **18. 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.
- c. The SCCR may place a Student Conduct hold on the records and registration of any Charged Student who has a pending Student Conduct matter, including any outstanding sanctions. Charged Students may not be allowed to graduate, receive grades nor have transcripts released until pending Student Conduct matter(s), including any outstanding sanctions, are resolved.
- d. The official University email address on file with the Registrar's Office will be used for all Student Conduct correspondence sent to the Charged Student. For Student Organizations, the official University email address on file with the Registrar's Office for the organization's respective President will be used. The Hearing Officer may, in their discretion, decide to send the notices via additional means (e.g., overnight delivery) and/or to other authorized University Officials.
- e. Expulsion will be noted permanently on a Student's academic transcript. Suspension will be noted on the Student's transcript during the period of suspension. Student Conduct files are kept in compliance with General Records Schedule GS5, but not for less than seven (7) years from the date of the last incident(s) that the Charged Student or Student Organization was involved in that resulted in
- f. Student Code of Conduct charges. However, in the case of expulsion or suspension, the files shall be permanently retained.
- g. Students may have access to the information in their Student Conduct file by submitting a written request to the SCCR Director. The access will be provided in accordance with federal and state laws regarding the privacy of education records (FERPA) and University regulation (see Florida International University Regulation 108).

## **19. AUXILIARY AIDS AND SERVICES**

- a. Students with disabilities as defined by the Americans with Disabilities Act who require special accommodations for meetings/hearings should notify the SCCR and the Disability

Resource Center in writing at least three (3) Business Days prior to any meeting or hearing.

## **20. CONFLICT RESOLUTION**

- a. Not every matter processed through SCCR is required to go through summary resolution or a hearing. An overall goal of the SCCR is to provide a learning process which entails understanding and respecting the rights of others. An avenue utilized by the SCCR to foster mutual respect and understanding when differences arise is Conflict Resolution. Conflict Resolution through SCCR is an informal and confidential process.
- b. Conflict Resolution may be utilized where the incident in question is minor in nature, and the parties involved chose not to proceed with charges through the University Student Conduct system. The SCCR reserves the right to determine if charges will be filed or whether Conflict Resolution is the appropriate option in each matter.
- c. Conflict Resolution cases handled through SCCR will not be identified or filed as a Student Conduct matter. Conflict Resolution records will be maintained separate from Student Conduct files and will not be recorded or reported as part of a Charged Student's record. All 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 Body and only used if the Charged Student is found responsible for a violation of the Student Code of Conduct.
- d. Conflict Resolution files are kept for seven (7) years from the date of the resolution.
- e. Incident(s) considered serious in nature, and consequently not suitable for Conflict Resolution, include, but are not limited to, sexual misconduct, endangerment, personal abuse, hazing, a crime of violence, illegal drugs, alcohol, weapons or other violations of 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.

## **21. 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 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  
Email: [conduct@fiu.edu](mailto:conduct@fiu.edu)  
Web Page: [conduct.fiu.edu](http://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, Amended 6-8-18.