

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

Date: April 29, 2008

**REGULATION TITLE AND NUMBER:** Student Code of Conduct (4.007).

**SUMMARY:** The Division of Student Affairs seeks to amend FAU Regulation 4.007, Student Code of Conduct. The Student Code of Conduct is a critical component to the University's efforts to teach civic and social responsibility. This regulation outlines due process for addressing behavior which is counter to the high standards we expect from students attending FAU. This revision was done to further clarify the revision that was done in 2006. This current revision emphasizes the lead role of the Dean of Students in managing and administering the Student Code of Conduct.

The committee, composed of representatives from all Campuses, spent several months revising this regulation.

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

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

**UNIVERSITY OFFICIAL INITIATING THE REGULATION AMENDMENT:**  
Dr. Charles Brown, Vice President for Student Affairs

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

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

# PROPOSED

## Florida Atlantic University

### **Regulation 4.007                      Student Code of Conduct**

#### (1) Statement of Philosophy

Florida Atlantic University is a public university committed through its distributed campus structure to providing access to challenging opportunities in higher education for students in Southeast Florida and beyond. Its mission is to serve its region, state, and nation by preparing students to make meaningful contributions in an increasingly complex global society, by encouraging reflection on and evaluation of emerging needs and priorities, and by supporting research and service that enhances economic, human, and cultural development.

FAU accomplishes its mission primarily through its students, teachers and researchers, its undergraduate educational programs, its graduate and professional offerings, and its linkages to other educational institutions and the community.

The University's Student Code of Conduct is an integral part of the educational mission of the University, emphasizing the development of each individual's acceptance of his or her own personal and social responsibilities and to ensure fairness and due process for all students. Since behavior which is not in keeping with standards acceptable to the University community is often symptomatic of attitudes, misconceptions, and emotional crises; reeducation and rehabilitative activities are an essential elements of the disciplinary process.

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

The University, however, recognizes its responsibilities to all members of the academic community – students, faculty, and staff, and the protection of personal and institutional rights and property is a primary focus of the process.

#### (2) Principles

The University principles address the respect for the law, regulations and policies, and the respect for people.

(a)     -Respect for the Law. Students are expected to respect and obey all

regulations and policies of the University and all local, state and federal laws. If regulations, policies or laws are considered to be unfair or improper, it is expected that students will use appropriate, established, and lawful procedures to effect change.

- (b) ~~\_\_\_\_\_~~—Respect for Self and Others. Students are expected to conduct themselves in a manner which exemplifies respect for people of all races, religions, and ethnic groups, and to adhere to one's personal values without unduly imposing them on others. Respect for one's own mind and body, is essential. In interpersonal relationships, students are expected to respect the rights of others, particularly their right to refuse to participate in any activity. Students should take responsibility to serve as leaders in promoting compassion for others and challenging prejudice.

All students enrolled in the University ~~and~~including all student residents, regardless of institutional or program affiliation, are expected to know and adhere to the regulations and policies of the University, as well as local, state, and federal laws.

(3)– Jurisdiction of the University

A student, registered organization or a person who has submitted an application for admission, housing, or any other service provided by the University which requires student status will be subject to the Student Code of Conduct for any conduct which occurs on University property, at University-sponsored events or off campus under the conditions described in this regulation.

(4) Definitions:

- (a) Academic days - Only those days when the University's classes are in session, excluding holidays and weekend days.
- (b) Advisor - ~~Any~~The term "advisor" refers to any person, including an attorney chosen ~~\_\_\_\_\_~~by the student or the alleged victim at their own expense to assist him/her throughout the process. \_\_\_\_\_
- (c) Chair - One of the faculty/staff members that is selected from the panel to chair the Student Conduct Board Hearing.
- (d) Charged Student - ~~Any~~The term "charged student" refers to any student who has been formally charged with an alleged violation of the Student Code of Conduct.
- (e) Dean of Student Affairs - ~~Any~~The term "Associate Vice President and Dean of Student Affairs" refers to any of the following persons or offices: Dean of Student Affairs, Associate Dean of Student Affairs, ~~or~~ Assistant Dean of Student Affairs, or designee.
- (f) Disciplinary Conference - The term "Disciplinary Conference" refers to the individual meeting with the student and the Dean of Student Affairs or designee after a Notice of Charges has been delivered. This meeting consists primarily of a discussion between the student and the Dean of Student Affairs or designee and affords the student ~~the right~~to choose

Responsible or Not Responsible to the charges listed on the Notice of Charges and ~~determined~~determined the next course of action.

- (g) Information Session - The term "Information Session" refers to the conference at which that the charged student is afforded the opportunity to review all materials that will be used in his or her Student Conduct Board hearing.
- (h) Student - ~~Any~~The term "student" refers to any person taking courses at FAU on any of its campuses or sites, either full-time or part-time, pursuing undergraduate, graduate, or professional studies. Persons who withdraw after allegedly violating the Student Code of Conduct, who are not officially enrolled for a particular term but who have a continuing relationship with FAU; or who have been notified of their acceptance for admission are considered "students;" as are persons who are living in FAU ~~residence halls~~housing, although not enrolled in this institution. - The term "student" will also refer to student clubs, groups and organizations ~~in~~ appropriate contexts.
- (i) Student Conduct Board - ~~Any~~The term "Student Conduct Board " means any person or persons authorized by the University to determine whether a student has violated the Student Code of Conduct and ~~who~~ may recommend sanctions that may be imposed when a violation has been committed.
- (j) Student Conduct Board Hearing - A formal disciplinary hearing conducted by ~~the~~The Student Conduct Board, Student Organization Conduct Board, Greek Life Conduct Board or any other University Board Hearing.
- (k) University or FAU - The term "University" or FAU refers to Florida Atlantic ~~University~~ University, including all of its campuses and sites. The Student Code of Conduct applies to all campuses of the University.
- (l) University Official - ~~Any~~The term "university official" refers to any person employed by the University to perform assigned teaching, research, administrative, professional or other responsibilities.
- (m) Vice President - The term "Vice President" refers to the Vice President for Student Affairs or designee.

~~(4)~~(n) Hearing Officer – A person authorized by the University to determine whether a student has violated the Student Code of Conduct and may recommend sanctions that may be imposed.

- (5) Violations of the Code of Conduct: Any of the following actions constitute conduct ~~for~~ for which a student, a group of students, or a student organization may be subject to ~~disciplinary action~~ disciplinary action:
  - (a) Violence or threat of violence to others or against oneself or actions which endanger any member or guest of the university community; including physical or sexual assault and relationship/domestic violence.
  - (b) Theft, conversion, misuse, damage, defacing or destruction of University property or of the property of members of the University community.
  - (c) ~~Unlawful interference~~Interference with the freedom of movement of any

- member or guest of the University.
- (d) ~~Unlawful interference~~Interference with the rights of others to carry out their activities or duties at or on behalf of the University.
  - (e) ~~Unlawful interference~~Interference with academic freedom and freedom of speech of any member or guest of the University.
  - (f) Noncompliance with ~~lawful~~ written ~~or~~, oral requests or orders of authorized university officials or law enforcement officers in the performance of their duties.
  - (g) Providing false information to university officials, forgery, the withholding of required information or the misuse or alteration of University documents or the University's name or logos.
  - (h) Misuse or duplication of any University key or access card to any university premises or services.
  - (i) Possession or use of firearms, explosives, ammunition, fireworks, weapons or unauthorized possession or use of hazardous materials or dangerous chemicals on University premises.
  - (j) Actions which cause or attempts to cause a fire or explosion, falsely reporting a fire, explosion or an explosive device; tampering with fire safety equipment or failure to evacuate university buildings during a fire alarm.
  - (k) Disorderly Conduct - Breach of peace, such as causing a disturbance or being unruly.
  - (l) Soliciting, aiding, abetting or inciting others to participate in conduct which violates this regulation.
  - (m) Lewd ~~or~~, obscene, indecent behavior or voyeurism.
  - (n) Acts of verbal, written (including electronic communications) or physical abuse, threats, intimidation, harassment, coercion or other conduct which threaten the health, safety or welfare of any person.
  - (o) Conduct which constitutes unlawful discrimination or harassment and/or violation of the University Equal Employment Opportunity/Affirmative Action Regulation 7.001 or the Sexual Harassment Regulation 5.010.
  - (p) Violation of the University's Student Organization Regulation 4.006.
  - (q) Possession, use, delivery to, sale of, distribution of, controlled substances or drug paraphernalia; as defined in Chapter 893, Florida Statutes.
  - (r) Posting of commercial advertising or engaging in commercial activity without appropriate authorization.
  - (s) Endangering the health, safety or welfare of members or guests of the University.
  - (t) Engaging in Hazing, ~~which~~. Hazing is prohibited. Hazing is defined as an action or situation which recklessly or intentionally endangers the mental or physical health or safety of a person(s), for the purpose of initiation or admission into, affiliation with, or as a condition for the continued membership in a group or organization; whether conducted on or off campus.
  - (u) Violation of the FAU Information Resource Management Technology Policy.

- (v) Repeated following or contacting of another person to the extent that it places that person in reasonable fear for his or her physical or emotional welfare.
- (w) Any sexual act that occurs without the consent of the victim, or that occurs when the victim is unable to give consent.
- (x) Any act which could constitute a violation of any local law or ordinance, State of Florida or Federal law.
- (y) Misuse of Alcoholic Beverages.
  - 1. Underage drinking of alcoholic beverages is prohibited.
  - 2. The consumption of any alcoholic beverage in public places on the campus is prohibited except where specifically authorized by the University. All buildings, lobbies, walkways, and grounds of the campus are, for the purpose of this rule, considered to be public places. Residential rooms and suites are considered to be private living quarters and are exempt from the public places restriction.
  - 3. Violation of ~~any FAU~~ the Alcohol or other drug policy.  
~~Policy.~~
  - 4. Hosting – Allowing underage drinking; allowing excessive drinking or allowing an intoxicated person to leave and/or operate a motor vehicle.
- (z) Inappropriate Conduct at University-Sponsored Events – Students are expected to govern their behavior at all University-sponsored events and conduct themselves within the guidelines of the Student Code of Conduct. This applies to events that are held on or off campus.
- (aa) Violation of probation - failure to abide by conditions of probation.
- (bb) Obstruction of Student Code of Conduct Process – Acts that disrupt or interfere with the University disciplinary process, including but not be limited to:
  - 1. failure to appear at an official university hearing when proper notification has been provided (nothing in this subsection shall be construed to compel self-incrimination);
  - 2. knowingly falsifying, distorting or misrepresenting information before a disciplinary proceeding;
  - 3. deliberate disruption or interference with the orderly conduct of a disciplinary proceeding;
  - 4. knowingly initiating a complaint/referral without cause;
  - 5. use of threats, coercion, or intimidation to discourage an individual's participation in or other proper participation or use of the disciplinary process;
  - 6. tampering with information to be used in a Student Conduct Board Hearing;
  - 7. attempting to influence the impartiality of a member of the disciplinary process prior to or during the course of the disciplinary proceeding;
  - 8. harassment or intimidation of any participant in the

disciplinary process; or

- 9. ~~Violating-violating~~ and/or failing to comply with or fulfill disciplinary sanctions.
- (cc) Disruptive Conduct - Any other action that impairs, interferes with or obstructs the mission, purposes, order, academic atmosphere, operations, processes and/or functions of Florida Atlantic University including conduct set forth in the FAU Regulation regarding Disruptive Conduct.
- (dd) Any unauthorized use of electronic or other devices to make an audio or video record of any person while on University premises without his/her prior knowledge or without his/her effective consent when such recording is likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room or restroom.
- (ee) Violation of any University Policy or Regulation published in hard copy or available electronically on the University's website.

~~(5)(ff)~~ Violation of Housing and Residential Life policies and procedures as outlined in either the Housing Contract or The Guidebook.

- (6) Off-Campus Conduct: The University ~~may~~shall take disciplinary action against a student ~~for~~ violations committed off campus if ~~at least~~any one of the following applies:
  - (a) The off-campus conduct is specifically prohibited by law or ~~the University's code of conduct~~violates this Code of Conduct.
  - (b) The off-campus conduct demonstrates that the continued presence of the student on campus presents a danger to the health, safety, or welfare of the university community; is disruptive to the orderly conduct processes and functions of the university; or is intimidating or threatening to the university community or an individual within the university community.
  - (c) The off-campus conduct is of such a serious nature that it adversely affects the student's suitability to remain a part of the university community.

(67) Court proceedings outside of the University:

- (a) University disciplinary proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and this Student Code without regard to the pendency of civil or criminal litigation in court or criminal arrest and prosecution. Proceedings under this Student Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the Dean of Student Affairs. Determinations made or sanctions imposed under this Student Code shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of University rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.
- (b) Any admission of guilt ~~or~~ responsibility or against the student's interest



made by a student at off-campus proceedings shall be conclusive for University purposes.

- (c) A verdict of guilty, ~~adjudication withheld~~, a plea of guilty, a plea of no contest (nolo contendere) or similar ~~disposition~~plea in a court of law by a charged student will operate as a conclusive finding that the student is “responsible” for the purpose of FAU disciplinary proceedings.
- (d) The University may amend its charge(s) based on information obtained through an outside proceeding where that information is relevant to activity adversely affecting the University community.

(78) Students’ Rights. A student against whom disciplinary action may be taken shall have the following rights.

- (a) The right to be notified in writing of the charges against him/her in ~~reasonably~~ sufficient detail to prepare for a hearing.
- (b) The right to a hearing no less than ~~six~~three academic days after the University provides the student with a ~~Notice~~notice of ~~Charges~~charges.
- (c) The right to a fair and impartial hearing on the charges by a duly constituted panel of the Student Conduct Board.
- (d) The right to review, not less than three academic days prior to the hearing, the information which will be used by the University.
- (e) The right to present information and witnesses relevant to his or her defense at the hearing.
- (f) The right to be assisted by an advisor they choose at their own expense. The advisor is not permitted to speak during or to participate ~~directly~~ in any ~~Student Conduct Board Hearing~~part of the disciplinary process.
- (g) The right to question ~~all~~adverse witnesses, unless the student has waived a hearing.
- (h) The right to not be forced to present testimony which would be self-incriminating. However, the University is not required to postpone disciplinary proceedings, ~~including final rulings, if a student chooses to exercise this right pending the outcome of any outside criminal or civil case.~~
- (i) The right to request an appeal of the sanction imposed ~~pursuant to the~~as long as appropriate appeal procedures ~~set forth in this Regulation~~are followed.
- (j) The right to have his or her status remain unchanged pending final disciplinary action except in cases ~~warranting Emergency Interim Measures~~involving the health, safety or welfare of the University community.
- (k) The right to have character witnesses testify at the Student Conduct Board hearing. The maximum number of character witnesses may be limited by the Student Conduct Board depending on the number of witnesses and the time available.

(89) Emergency ~~Interim~~ Measures

- (a) ~~Where~~The Dean of Student Affairs or designee has the authority to



take appropriate immediate action against a student who poses a significant danger of imminent or serious physical harm to himself/herself or others at the University, or where the Dean of Student Affairs determines that an emergency exists which affects the health, safety or welfare of a student or the university community, ~~he or she may, with the approval of the Vice President for Student Affairs, temporarily suspend.~~

1. Emergency Measures include but are not limited to, one or more of the following:

~~a student.~~ Interim Suspension. A student ~~temporarily suspended under interim suspension~~ may not attend classes, may not be on or come onto University property, may not participate in any University activities or organizations, ~~may not modify his/her registration status,~~ and may not use University facilities, equipment or resources.

Alternatively, if b. Interim Suspension from University Housing. A student under interim suspension from University Housing may not reside in University Housing and may not come into University Housing facilities and/or adjacent areas of University Housing.

c. If the Dean of Student Affairs and Vice President for Student Affairs ~~determined~~ determines that other interim measures are more appropriate to protect the health, safety, or welfare of the student or the University community, the Dean of Student Affairs may-:

1. restrict or bar attendance of any or all classes;
2. restrict or bar access or contact with individuals;
3. restrict or bar access to University property, places, facilities or equipment;
4. restrict or ban participation in University activities or organizations; or
5. otherwise restrict or ban access to University resources or conduct including, but not limited to placing a Student Affairs hold on registration.

~~(b)~~ A student subject to Emergency Measures shall be furnished:  
1. Written notice of the Emergency Measure and the reason(s) for the action.

2. The opportunity to participate in disciplinary proceedings or to present relevant information for consideration of his/her case.

(c) Emergency Interim Measures may be taken at any time prior to the conclusion of the University Disciplinary -process, including during the appeal process.

~~(e)~~ Notice of the Emergency Interim measure must be provided as soon as practical to the student or student organization in writing.

(9(d) A Dean of Student Affairs hold on registration may immediately be placed

on all students who have Emergency Measures taken against them, which prevents the student from accessing, changing or altering his/her course registration and/or admission status.

(10) Procedures for the Conduct of Disciplinary Proceedings at Florida Atlantic University.

(a) Complaints. Any person or entity may request charges be filed against a student for alleged violation of law -or University regulations or policies. An investigation may take place of the circumstances of the complaint. The complaint regarding a student's conduct must be submitted as follows:

1. Filing a police report with the University Police Department or requesting that a report from another law enforcement agency be sent to the University Police Department and referral to the Dean of Student Affairs; or providing a written and signed statement to the Dean of Student Affairs. Written statements should include all information and evidence the person making the complaint can produce.

2. Reports must be made to either law enforcement or the appropriate administrator within 6 months of the incident, or knowledge about the incident. No student may be charged with a violation to the Student Code of Conduct if the report is made past the 6 month period. This provision shall apply except in incidents involving patterns of behavior (i.e. stalking, sexual misconduct, domestic violence, etc.). These incidents must be reported within one (1) calendar year from the date of the incident or knowledge about the incident.

(b) When a complaint against a student is received by the Dean of Student Affairs, all other administrative processes and petitions at the University are suspended and may not be processed further until final disposition of the complaint or special permission by the Dean of Student Affairs.

(c) The Dean of Student Affairs will determine if there are reasonable grounds to believe that the allegations of the complaint are true, and if true, would constitute a violation of the University's Code of Conduct. ~~At any time after making such determinations, the Dean of Student Affairs may place a Student Affairs Hold on Registration on the accused student's registration. No student may modify his/her registration status in any way while a Student Affairs Hold on Registration is in place.~~

1. The Dean of Student Affairs may conduct an Investigation Conference with the student. This conference shall include an explanation of the process, the student's rights and a review of the incident. No student shall be required to testify against him/herself.

2.- The Dean of Student Affairs may ~~direct~~conduct an investigation with others as related to the incident or complaint.

3. Nothing in this regulation shall prevent the mediation of a

complaint when deemed appropriate by the University.

~~3. The Dean of Student Affairs may dispose~~ 4. Nothing in this regulation shall prevent the disposition of a complaint administratively by written agreement with mutual consent of the parties involved. ~~Such disposition shall be final and there shall be no subsequent proceedings.~~

~~4. The Dean of Student Affairs may determine that there is insufficient information to proceed and may close the complaint without taking further action.~~ Such disposition shall be final and there shall be no subsequent proceedings.

~~5. If the charges cannot be disposed of by mutual consent and the Dean of Student Affairs determines there may be a violation of the Student Code of Conduct, the Dean of Student Affairs shall prepare a~~ 5. If an alleged violation of the Code of Conduct is not handled through other appropriate channels, is not dismissed, or is not settled informally, then the Dean of Student Affairs shall present in writing formal charges to the student.

(d) Notice of Charges.

~~(e) Notice of Charges.~~ The notification of charges shall be in writing and include: the specific conduct code violations, a brief description of alleged offenses, the student's rights, and an invitation to attend a Disciplinary Conference; the date and time of this Disciplinary Conference is also included.

1. The Disciplinary Conference shall take place no sooner than three academic days, excluding holidays and weekends, from the date of Notice of Charges.

~~(d2. If a hold on registration is not already in effect, as an Emergency Measure, upon issuing the Notice of Charges the Dean of Student Affairs may place a Student Affairs hold on registration until final disposition of the complaint.~~

(e) Disciplinary Conference. After the Notice of Charges has been issued, a Disciplinary Conference will-may be scheduled.

~~1.~~ 1. There are no witnesses called and it consists primarily of a discussion between the charged student and the Dean of Student Affairs in an effort to resolve the matter.

~~2.-~~ 2. The Disciplinary Conference is not audio taped or recorded.

~~3.~~ 3. At the conclusion of the disciplinary conference, the charged student may accept or deny responsibility to the student code of conduct violations on the Notice of Charges.

~~4.~~ 4. If the charged student chooses to accept responsibility, the Dean of Student Affairs or fails to attend the disciplinary conference, the authority may assess such sanctions as are deemed appropriate. This acceptance of responsibility or failure to appear shall constitute as the charged student's waiver of a hearing before the Student Conduct Board, formal hearing and right of appeal. The student retains the right only to ~~an~~ appeal

~~based on the~~ severity of the sanction.

5. ~~If the charged student chooses to deny responsibility or fails to attend the Disciplinary Conference, the Dean of Student Affairs shall convene a Student Conduct Board to hear the charges.~~

~~6.~~ Brief written decisions (including findings of fact) will serve as records of ~~Disciplinary Conferences~~disciplinary conference and will be communicated in writing within 7 academic days of the Disciplinary Conference.

~~(e) Notice of Hearing.~~ (f) Formal Disposition by Hearing: When a charged student denies responsibility ~~or fails to attend the Disciplinary Conference~~, a hearing ~~date before the Student Conduct Board will~~shall be ~~promptly set but is~~not scheduled no ~~event~~ less than three ~~academic~~(3) days after the date of the Disciplinary Conference.

1. A Formal Hearing is defined as any hearing before the Student Conduct Board or a University Hearing Officer.

2. The student may choose to have his/her hearing before the Student Conduct Board or a University Hearing Officer. This choice shall be made at the Disciplinary Conference.

3. If the student does not choose an option, the hearing shall be heard by a Hearing Officer.

(g) Notice of Hearing. The notification of hearing shall be in writing and include:

1.- The date, time and location of the Student Conduct Board or Hearing Officer hearing

2.- Reference to this Regulation ~~to put the student on notice,~~ of his/her rights and the hearing procedures.

3.- A reasonable date, time and location for an Information Session, during which the student may review a potential witness list and all materials to be used by the University in his or her case, which shall be no less than 3 academic days prior to the ~~Student Conduct Board~~ hearing.

If the student chooses to review the materials provided at the Information Session, the charged student shall allow the University to also review all of his or her materials and witnesses to be used in the case.- Any materials or witnesses not provided at the Information Session by either the University or the student may not be used at any time thereafter during the student disciplinary proceedings.

4. ~~The charged student shall have the opportunity to challenge the impartiality of the hearing officer within three (3) academic days of notification. In the event that a student has opted not to challenge the impartiality of a hearing officer prior to the allotted three (3) academic days, the assigned hearing officer shall remain~~

as scheduled. The student shall state in writing the basis for such challenge. A hearing officer so challenged maybe replaced by the Dean of Student Affairs for good cause shown.

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

~~(1011)~~ (11) Structure of the Student Conduct Board

The Student Conduct Board shall consist of the following persons: two students, one faculty member/administrator and an optional fourth member who may be a student or a faculty member/administrator. ~~The chairperson of a Student Conduct Board hearing shall be one of the faculty members/administrators that serves on the panel. Faculty members/administrators are chosen by the Dean of Student Affairs Office.~~

The students shall be appointed by the Student Government President. If, however, the Student Government President fails to provide a list of students to serve for disciplinary proceedings or if the student charged is an officer in student government, the Dean of Student Affairs or designee may select students from the Judicial branch of the Student Government Association or other interested impartial students to serve on the Student Conduct Board or to serve as Board members for a particular disciplinary proceeding.

~~(11)~~ ~~Student Conduct Board~~ (12) Hearing Procedures—

~~(a)~~ (a) The hearing is not a legal proceeding. ~~Civil or criminal~~ Formal rules of process, procedure, or evidence do not apply.

~~(a)(b)~~ (b) Objectives of the Hearing. Requisite levels of due process and fairness will be provided to all participants during these proceedings. The hearing shall have the following objectives.

1. Inform the student of the charges
2. Give the accused student an opportunity to respond to the charges
3. Review the facts of the case
4. Determine if any violation of the Student Code of Conduct was committed
5. Recommend any Disciplinary Sanction(s) to be imposed based upon the facts, as determined at the hearing.

~~(c)~~ (c) Witnesses. Witnesses at hearings ~~before the Student Conduct Board~~ will not be sworn in. Each witness will be admonished that he or she is required to tell the truth. A student, ~~faculty or staff member~~ giving untrue testimony at a hearing is subject to disciplinary charges.

~~(b)(d)~~ (d) Information. Pertinent records, exhibits, and written statements may be accepted as information for consideration by the Hearing Officer

or the Student Conduct Board at the discretion of the Chair.

~~(e)~~ Burdens of Proof. The Student Conduct ~~Board~~Board or Hearing Officer shall determine whether it is more likely than not that the accused student violated the Student Code of Conduct by a preponderance of evidence.

~~(d)~~ The charged student may choose one advisor to be present at the hearing at the student's expense. The advisor/attorney may not present statements, arguments, or question witnesses or participate directly in any Student Conduct Board Hearing.

1. Members of the Student Conduct Board may not serve as a student's advisor at the hearing.
2. If the charged student chooses ~~-an attorney as his/her advisor -~~at the hearing, he or she must inform the Dean of Student Affairs ~~in writing~~in writing at least three academic days before the hearing. In such cases the Student Conduct Board, ~~-the Dean of Student Affairs;~~ or both will be advised by an attorney as well. ~~Failure by a student to provide the Dean of Student Affairs written notice of intent to use an attorney as his/her advisor shall constitute an absolute waiver of the option to use an attorney.~~

~~(e)~~ Hearings.

1. All hearings before the Student Conduct Board will be audio tape recorded by the University. ~~-That recording will serve as the only official record of these proceedings and shall be the property of the University. No other recordings are permitted. Deliberations shall not be recorded.~~
2. The following is a guide to the format of events for hearings ~~by the Student Conduct Board~~. The Board or Hearing Officer may change the order if necessary. The ~~Board~~Board or Hearing Officer may question any party or witness directly.

~~\_\_\_\_\_~~ a. Review of Hearing procedures.

~~\_\_\_\_\_~~ b. Reading of Charges.

~~\_\_\_\_\_~~ c. ~~-~~ Opening statement and presentation of evidence by the University, followed by the opening statement and presentation of evidence by the charged student.

~~\_\_\_\_\_~~ d. Questioning of ~~university~~University witnesses.

~~\_\_\_\_\_~~ e. Questioning, followed by the questioning of charged student's witnesses.

~~\_\_\_\_\_~~ f. Questions directed to the charged student and the University by the Student Conduct Board or Hearing Officer.

~~\_\_\_\_\_~~ g. Closing statement by the University, followed by the closing statement of the charged student.

~~\_\_\_\_\_~~ h. Deliberation by the Board or Hearing Officer (not taped).

~~\_\_\_\_\_~~ i.h. Decision and optional recommendation of sanction by the Board or Hearing Officer.

~~\_\_\_\_\_~~ ~~(f)~~(h) The Student Conduct Board or Hearing Officer will find the student “Responsible” or “Not Responsible” for each of the alleged violations listed on the Notice of Charges. If the Board or Hearing Officer can not reach a finding of “Responsible” or “Not Responsible” to a charge within a reasonable time period based on the complexity of the case, the chairperson shall ~~declare~~ call the Board as deadlocked and the Dean of Student Affairs may ~~call~~ a new hearing date with new board members to hear that charge. No person serving on the first board shall serve on the second board. If the second board also deadlocks, then the charges against the charged student shall be dismissed.

~~\_\_\_\_\_~~ ~~(g)~~(i) If the charged student fails to appear at the scheduled hearing ~~of the Student Conduct Board~~ (after proper notice), the ~~hearing will proceed as scheduled~~ student shall be found Responsible for each of the alleged violations listed on the Notice of Charges and may not appeal the finding of responsibility. The student retains the right only to appeal the severity of the sanction.

~~\_\_\_\_\_~~ ~~(h)~~(j) The Dean of Student Affairs shall send a notification in writing (Notice of Decision and Sanction) to the student of the decision of the Student Conduct Board and the sanction(s) imposed within five (5) academic days of the conclusion of the hearing.

~~(1213)~~ (1213) (a) Disciplinary Sanctioning is intended:

1. To make sure the student sanctioned has learned from the experience.
2. To educate the student so he or she does not commit the violation again.
3. To offer the student the opportunity to make good on a mistake.
4. To ensure that University expectations regarding appropriate behavior are clear.
5. To educate the student concerning how his or her behavior impacts others in the community.
6. To protect the University community from people who may harm others in the community or who may substantially interfere with the educational mission of the University or other institutions.

~~\_\_\_\_\_~~ (b) Disciplinary Sanctions. In light of the facts and circumstances of each case, a Student Affairs ~~Holdhold~~ Holdhold on Registration (if not already in place) and the following sanctions or combination of sanctions ~~may~~ shall be imposed upon any individual student or student organization found “Responsible” to violations of this Code.

1. Educational Activities - required attendance at educational programs, meeting with appropriate officials, written research



- assignments, planning and implementing educational programs, or other educational activities at the student's or student organization's own expense.
2. Counseling Assessment and Recommended Treatment - referral for assessment and treatment to the University Counseling Center or another agency at the student's expense.
  3. Community/University Service - required completion of a specified number of hours of service to the campus or general community.
  4. Termination or Change in University Housing Assignment. Students remain financially responsible for obligations under the housing contract.
  5. Fines not to exceed \$250.00 per case.
  6. Restitution - Payment made for damage or loss caused by the responsible student.
  7. Restriction or Revocation of Privileges. Temporary or permanent loss of privileges, including, but not limited to the use of a particular University facility, resources, equipment or visitation privileges.
  8. Disciplinary Warning - -A disciplinary sanction in writing notifying a student that the student's behavior did not meet University standards. All disciplinary warnings will be taken into consideration if further violations occur.
  9. Disciplinary Probation - A disciplinary sanction in writing notifying a student that his or her behavior is in serious violation of University standards and that restrictions are being placed on his or her activities. Some sanctions that may be placed on a student during a probationary period include, but are not limited to, restriction of the privilege to: participate in student activities or in student organizations; represent the University on athletic teams, student organizations or in other leadership positions; gain access to University Housing buildings or other areas of campus; use of University resources and/or equipment; or contact with specified person(s). If the student is found "responsible" for another violation of the code of conduct during the period of Disciplinary Probation, the university will consider increasing the level of the subsequent sanction.
  10. Suspension - -Mandatory separation from the University. During the period of suspension the student is barred from all FAU campuses unless specific permission is granted by the Dean of Student Affairs . Once the entire period of suspension has been served, the student may seek readmission by submitting a written request to the Dean of Student Affairs.
  11. Revocation of Admission and/or Degree – Admission to or a degree awarded from FAU may be revoked for fraud, misrepresentation or other violation of FAU standards in obtaining

the degree or for other serious violations committed by a student prior to graduation.

12. Withholding Degree – FAU may withhold awarding a degree otherwise earned until completion of the process set forth in this Student Conduct Code, including completion of all sanctions imposed, if any.
13. Expulsion - -Permanent dismissal from the University with no right for future readmission under any circumstances. A student who has been expelled is barred from all FAU campuses.
14. Deactivation of the Student Organization’s status at the University.
15. Administrative Withdrawal from individual courses or all courses registered for at the university. Students remain financially responsible for tuition and fees.
16. Other Appropriate Action. A disciplinary action not specifically set out above, but deemed proper by the Dean of Student Affairs.

~~(13)17.~~ Alcohol Abuse Sanction Guidelines: Depending on the amount of alcohol involved and those involving severe intoxication and/or police or emergency medical response, dependent students, found responsible for offenses regarding the use, possession, sale or distribution of alcohol, may be sanctioned as follows at the discretion of University officials. These violations are per academic year.

a. First Violation

1. Completion of an educational program
2. Parental Notification \*\* (Parental Notification may be implemented depending on the severity or nature of the first violation.)
3. Completion of 5 - 15 hours of campus or community service

b. Second Violation

1. Completion of evaluation and treatment from Counseling Center
2. Deferred Removal from University Housing for a period of one year
3. Parental Notification
4. Disciplinary Probation for at least 1 semester
5. Completion of 15 - 30 hours of campus or community service

c. Third Violation

1. Termination of Housing Contract – Student is suspended from campus housing and may be suspended from the University. Students are still financially responsible for obligations under the housing contract.
2. Parental Notification

3. Disciplinary Probation for 1 year

4. Completion of up to 50 hours of campus or community service

18. Drug Abuse Sanction Guidelines: Depending on the amount of illegal substance involved, the student may be suspended or expelled from the University, as well as prosecuted. At the minimum, a student may be sanctioned as follows:

a. First Violation

1. Removal from University Housing

2. Disciplinary Probation for one year

3. Mandatory completion of evaluation and treatment from Counseling Center

4. Parental Notification

5. Completion of 25 hours of campus or community service

b. Second Violation

1. Completion of 50 hours of campus or community service

2. Deferred Disciplinary Suspension for one year

c. Persons found to be involved in the sale of illegal drugs will be subject to permanent dismissal from the University.

(14) Appeals. A student may appeal the finding of the Student Conduct Board or Hearing Officer hearing (Responsible/Not responsible) or the sanctions imposed by the Dean of Student Affairs.

(a) Standards for Appeal.

1. Failure to receive the due process required by law.

2. Severity of the sanction.

3. New material or information that could not be discovered at the time of the hearing.

(b) All appeals must be submitted postmarked or received in writing within five academic days of the date of the Notice of Decision/Sanction to the Vice President for Student Affairs for consideration. All appeals must specify the basis for the appeal.

(c) The burden of proof at the appellate level rests with the charged student.    

(d) The student's pre-decision status, ~~including any Emergency Interim Measures or Student Affairs Holds on Registration,~~ will remain unchanged pending the appeal -determination by the Vice President for Student Affairs or designee, except where the Vice President for Student Affairs or designee, determines that the safety, health or general welfare of the student or the university community is involved.

(e) After considering the appeal, the Vice President for Student Affairs may reopen the hearing, order a new hearing with the same or new Conduct Board, or Hearing Officer, uphold the prior decision- or revise the sanction. The Vice President for Student Affairs shall provide the student written notice of his decision- within five (5) academic days.

—(f) The appeal determination of the Vice President for Student Affairs is final and binding on all parties. There are no further appeals within the University.

(1415) Victims' Rights. ~~Alleged victims~~Victims must notify the Dean of Student Affairs if they wish to exercise any of the rights listed in this section at least three academic days prior to any scheduled hearings.

(a) Victims' rights apply to the following types of cases:

1. Sexual Misconduct
2. Endangerment
3. Harassment
4. Hazing
5. Property (damage)
6. Property (theft)

—(b) Rights

1. To have an advisor of the alleged victim's choice accompany her/him when presenting information to the hearing body and to any other relevant meetings held throughout the disciplinary process.
2. To submit a victim impact statement. This information would be used only in sanctioning, if the charged student is found responsible for the charge(s).
3. To have unrelated past behavior excluded from the hearing. The chair of the hearing board will decide if such information is unrelated. The past sexual history of the alleged victim is not usually considered relevant.
4. To submit questions to the hearing board. The hearing board will then consider posing those questions to the charged student.
5. At the request of ~~alleged the~~ victims in cases involving sexual misconduct, physical violence or stalking charges, the ~~alleged~~ victim may request to testify in a separate room from the charged student so long as the ~~charged student may hear all of the alleged victim's testimony and the~~ process does not unduly compromise the charged student.
6. To be notified of the outcome.
7. Additional support services are provided to the ~~alleged~~-victim through the Victim Advocacy office upon request of the ~~alleged~~ victim through the Dean of Student Affairs office.

(15)16) Regulation Review. Florida Atlantic University shall establish a committee at least once every five years beginning five years after the adoption of this regulation to review, evaluate and recommend changes to this rule to the Vice President for Student Affairs. This committee shall be appointed by the Vice President for Student Affairs with at least one-half of the committee being students appointed by the Student Government President. This committee shall

have as its charge to review and evaluate this regulation to determine that it ensures fairness and due process in disciplinary proceedings at the University.

~~(16)~~17

Disciplinary Records.

- (a) The record of student disciplinary proceedings are part of a student's educational record and are subject to educational records ~~confidentiality~~confidentially laws. ~~Student~~Conduct records, disciplinary records and law violations are kept in the Dean of Student Affairs Office. These files are separate from academic transcripts.
- (b) ~~Student Affairs Holds on Registration~~, Issuance of Transcripts, Flagging of Records, and Retention of Records in Cases of Disciplinary Action. The transcripts and future registration records of students subject to disciplinary action are flagged in accordance with the following guidelines:
  - 1. ~~In the event that the Dean of Student Affairs places a Student Affairs Hold on Registration on a student's record, the Registrar of the University will block all activity to the student's records. No student, faculty or staff member may enter or alter any aspect of the student's record or process any administrative activity until the Student Affairs Hold on Registration is lifted by the Dean of Student Affairs. During the Hold, grades may not be entered or changed, courses may not be added or dropped, transcripts may not be released, petitions may not be processed, registration requests will not be accepted, and no other activity may occur regarding the student's records.~~
  - 2. The Dean of Student Affairs Office will flag the records where:
    - a. A student has committed disciplinary acts culminating in suspension and/or expulsion;
    - b. A student has failed to appear before the Dean of Student Affairs, when reasonably notified as to his or her involvement in disciplinary matters;
    - c. A student with severe behavior problems is no longer attending the University, and it is the determination of the Dean of Student Affairs that a complete review of his or her record is to be made prior to readmission.
  - 3. When a student requests issuance of his or her transcript to another educational institution, outside agency or individual, such transcript shall be issued subject to the following guidelines:
    - a. If the student has had a disciplinary action taken against him/her which falls under paragraph (1) above, the transcript can only be sent with an overlay.
    - b. The overlay states: "This transcript reflects only the academic record of the student; this student currently is not in good standing and further information should be requested from the Dean of Student Affairs."

43. The Dean of Student Affairs Office has adopted the following Retention of Records Policy: Student disciplinary records will be maintained in the Dean of Student Affairs Office for a period of six years from the end of the student's matriculation at the University. Student conduct records shall be retained for longer periods of time or permanently if the student was expelled, dismissed, suspended or blocked from enrollment and in situations that may result in future litigation. The disciplinary -file of an accused student shall be destroyed if the student is not found responsible for violating the Student Code of Conduct.
- a. Notwithstanding the foregoing, if during the semester of the student's graduation, the student requests in writing that his or her disciplinary record be destroyed, that record will be evaluated.
  - b. No record may be destroyed when the disciplinary violation resulted in:
    1. personal injury;
    2. property damage;
    3. a felony violation of a state controlled substance law;
    4. Disruption to the orderly operation of the University;
    5. Violation of the firearm, explosives, dangerous chemicals, and ammunition or weaponry regulations of the University;
    6. Suspension or expulsion from the University;
    7. Endangering the health, safety, or welfare of members or guests of the University; or
    8. Comes within the jurisdiction of the Off-Campus Conduct section of the Student Code of Conduct.

*Specific Authority: 1001.74(4), 1006.60(1), (2), (5) F.S.; Law Implemented 1001.74(10)(e), 1006.60, 1006.61, 1006.62, 1006.63 F.S.; History—New 10-1-75; Amended 12-17-78, 6-9-83; Formerly 6C5-4.08; Amended 11-11-87, 6-7-88, 9-16-03; Formerly 6C5-4.008; Amended 5-10-06, 5-15-08.*