

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

Date: July 13, 2020

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

SUMMARY: The Student Code of Conduct is a critical component of the University's efforts to teach civic and social responsibility and outlines the student disciplinary process for addressing behavior that is inconsistent with the high standards we expect from students attending FAU. These revisions are intended to comply with the new Title IX Regulations issued by the Department of Education on May 6, 2020, which become effective on August 14, 2020. The proposed changes are summarized as follows:

1. The University's jurisdiction in Title IX matters was amended to include locations, events, or circumstances over which the University exercised substantial control, and to limit Title IX investigations to cases where the alleged sexual discrimination occurred against a person in the United States.
2. Defines Title IX matters to include cases in which the alleged violation includes sexual harassment, sexual assault, domestic violence, dating violence, or stalking, and where the University's response and procedures are governed by Title IX of the Education Amendments Act of 1972 and its implementing regulations, FAU Regulation 5.010 (7.008, as amended), and University Policy 1.15.
3. Requires the University to provide advisors to Complainants and Respondents in Title IX matters when they have not selected their own advisors, and allows the advisors to conduct cross-examination. Additionally, the amendments allow the University to conduct informal resolution of Title IX matters with the voluntary written consent of both parties.
4. Removes definitions of sexual harassment, sexual assault, domestic violence, dating violence and stalking, which will be included in University Policy 1.15. This will ensure that definitions of all forms of alleged discrimination or harassment are located in a single University policy document.
5. Provides the Respondent an opportunity to challenge an interim removal from the University's education program or activity by submitting a written request to the Dean of Students.
6. Includes the requirement that Respondent be presumed not responsible for the alleged conduct until a determination regarding responsibility is made by the Student Conduct Board or University Hearing Officer.

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comply with stated laws and will seek appropriate, established, and lawful procedures to effect change.

- (b) **Respect for People.** Students are encouraged to conduct themselves in a manner that exemplifies respect for all people and to adhere to their personal values without unduly imposing them on others. In interpersonal relationships, students are encouraged to respect the rights of others and to serve as leaders in promoting compassion and challenging prejudice. Student are encouraged to resolve conflicts and address differences with civility. All students in the University Community, regardless of institutional or program affiliation, are expected to know and adhere to the regulations, rules, and policies of the University, as well as local, state, and federal laws.
- (c) **Respect for Property.** Students are encouraged to conduct themselves in a manner that exemplifies respect for their own property and the property of the University Community.
- (d) **Respect for Fairness.** The procedures established by the Student Code of Conduct are intended to provide both fundamental fairness and the opportunity for students to engage in a supportive, educational process.

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otherwise participating in the student conduct process. In Title IX Matters, the University will provide an advisor when the Complainant or Respondent have not selected their own advisors.

- (b) Business days – Defined as Monday through Friday excluding official Florida Atlantic University holidays.
- (c) Chair - A faculty or staff member selected from the Student Conduct Board panel to chair the Student Conduct Board Hearing.
- (d) Complainant - Any party or entity who has reported that they are a victim/survivor of an alleged violation of the Student Code of Conduct.
- (e) Conflict Resolution - Processes and techniques utilized to aid students in resolving conflict, participating in civil discourse, and enhancing skills to address conflicts productively.
- (f) Dean of Students - Any of the following persons or offices: Associate Vice President and Dean of Students, Associate Dean of Students, Assistant Dean of Students, or designee, including all student conduct administrators authorized by the Dean of Students to administer this Regulation.
- (g) Educational Meeting - A required meeting to address conduct without the need for an investigation or formal conduct process. The meeting is utilized to develop a partnering relationship with the student involved, clarify policies, establish boundaries, and offer any needed resources to enhance student success.
- (h) Hearing - A Hearing by either a Student Conduct Board or a University Hearing Officer.
- (i) Information Session - The meeting at which the Respondent and their advisor has the opportunity to review all materials that will be used in their Hearing, and the University has the opportunity to review any witnesses and materials that will be presented by the Respondent at the Hearing. In Title IX Matters, Respondents and Complainants, and their advisors, will have equal opportunity to review all inculpatory and exculpatory evidence in the case, including evidence not intended to be relied upon in reaching a determination regarding responsibility.
- (j) Informal Resolution - In Title IX Matters, informal resolution, such as mediation, may be utilized at any time prior to reaching a determination regarding responsibility. Participation in an informal resolution must be based on voluntary written consent of both parties. Either party may

student, provide an explanation of the Student Conduct process, and advise them of their student rights.

~~(k)~~(l) Respondent - Any student who has been charged with an alleged violation of the Student Code of Conduct.

~~(j)~~(m) Sanction - An assignment, educational experience, restriction or other measures that may be assigned by the Dean of Students as the resolution to a student conduct incident in which a charged student has taken responsibility for their actions or have been found to be responsible for alleged violations of the Student Code of Conduct via a Hearing process. Sanctions may be either mandatory or voluntary in nature, based on the discretion of the Dean of Students.

~~(m)~~(n) Student –Any person taking courses at FAU on any of its campuses or sites. Persons who withdraw after allegedly violating the Student Code of Conduct, are not officially enrolled for a particular term but who have a continuing relationship or enrollment with FAU, or have been notified of their acceptance for admission are considered University housing, although not enrolled at FAU.

~~(n)~~(o) Student Conduct Board – Any person or persons authorized by the University to make findings and recommendations to the Dean of Students after review of the evidence presented at a Student Conduct Hearing. A Student Conduct Board will recommend sanctions that may be imposed when a Respondent is found responsible for a violation. In Title IX Matters, the Student Conduct Board will make findings and determinations as to whether the Respondent is Responsible or Not Responsible.

Student Conduct Process is through the student § FAU email address, and students are responsible for checking their FAU email on a regular basis.

(r) **Supportive Measures**

upon to present testimony at a Hearing. No character witnesses are permitted.

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

Any of the following actions constitute conduct for which a student, a group of students, or a student organization may be held accountable through the student conduct process:

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

1. **Underage Drinking** - Drinking of alcoholic beverages while under the legal drinking age of twenty-one (21) years of age.
2. **Driving Under the Influence** – Operating a vehicle under the influence of alcohol.
3. **Public Places** - The consumption of any alcoholic beverage in public places on the campus is prohibited except where specifically authorized by the University. All buildings, lobbies, walkways, and grounds of the campus are, for the purpose of this rule considered to be public places. Residential rooms and suites are considered to be private living quarters and are exempt from the public places restriction.
4. **Alcoholic Beverages Policy** - Violation of the Alcoholic Beverages Policy 1.2.
5. **Hosting** –Allowing underage drinking; allowing excessive drinking or allowing an intoxicated person to leave and/or operate a motor vehicle.

(b) **Bullying** - S52.r1g8u-3(tud)-4(e)4(n)-3y(e)q0.00000912 0 612 792 reW*hBT/F1 12 Tf1 0 0 1 3

3. **Drug Paraphernalia** - Unlawful possession, use, delivery to, sale of, distribution of, controlled substances, or drug paraphernalia, as defined in Florida Statutes.
 4. **Medical Marijuana** - Use or possession of medical marijuana on University campuses or at University sponsored events.
 5. **Prescription Drugs** - Unlawful possession, use, delivery, distribution or misuse of prescription drugs.
- (e) **Discrimination and Harassment** - Conduct which constitutes ~~unlawful prohibited~~ discrimination or harassment ~~as defined in~~ ~~and/or a violation~~ University Regulation ~~5.010~~ 7.008, Anti-Discrimination and Anti Harassment ~~and/or University Policy 1.15, Prohibited Discrimination and Harassment~~. including, but not limited to, domestic violence, dating

- d. ~~Consent must be ongoing throughout a sexual activity and can be revoked at any time.~~
- e. ~~Within each sexual encounter, there may be separate individual sexual acts involved.~~
- f. ~~Consent to one act by itself does not constitute consent to another act.~~
- g. ~~Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.~~
- h. Lack of protest or resistance does not mean consent.

~~capacity to give consent. Evidence of incapacitation due to intoxication may include slurred speech, bloodshot eyes, smell of alcohol on breath, shaky equilibrium, vomiting or unconsciousness.~~

~~6. **Indecent Exposure**—Exposing genitals in front of another person or engaging in masturbation or other vulgar or~~

initiation or admission into, ~~or~~ affiliation with, or the perpetuation or furtherance of a tradition or ritual of any University student organization or group whether or not officially recognized by the university. Hazing does not include customary athletic events or other similar contests or competitions or any activity or conduct that furthers a legal and legitimate objective. Hazing includes, but is not limited to:

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

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

1. The consent of the victim had been obtained;
2. The conduct or activity that resulted in the de12 0 6othe2 7928(the)6j cP

PXVW LQFOXGH WKLV SROLF\ DV SDUW RI WKH RUJDQ FAU will make training opportunities available for students and student organizations and groups that are designed to reinforce this policy and increase awareness of the dangers of hazing. The University shall provide an annual report to the Chancellor of the number of hazing incidents that resulted in a student or student organization or group being held responsible for a violation of this anti-hazing policy.

- (m) **Housing and Residential Education Policy Violation** - Violation of any Housing and Residential Education policy or procedure, as outlined in either the Housing Contract or The Community Guide.
- (n) **Interference with Free Speech** - Interference with academic freedom or freedom of speech of any member or guest of the University.
- (o) **Interference with the Freedom of Movement** - Interference with the freedom of movement of any member or guest of the University.
- (p) **Interference with the Rights of Others** - Interference with the rights of others to carry out their activities or duties at or on behalf of the University.
- (q) **Indecent or Voyeuristic Behaviors** - Lewd, obscene, indecent behavior or Voyeurism.
- (r) **Misuse or Duplication of University Keys and Access Cards** - Misuse or duplication of any University key or access card to any University premises or services.
- (s) **Noncompliance with Written or Oral Requests** - Noncompliance with written or oral requests or orders of authorized University officials or law enforcement officers in the performance of their duties.
- (t) **Obstruction of Student Code of Conduct Process** - Acts that disrupt or interfere with the University student conduct process, including but not limited to:
 - 1. **Failure to Appear** - 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. **Misrepresentation of Information** - Knowingly falsifying, distorting or misrepresenting information before a student conduct proceeding;
 - 3. **Disruption or Interference** - Deliberate disruption or interference with a student conduct proceeding or harassment, intimidation or retaliation against any participant in the student conduct process;
 - 4. **False Allegation** - Knowingly initiating a complaint/referral without cause;

5. **Coercion and Intimidation** - Use of threats, coercion, or proper participation or use of the student conduct process;
 6. **Tampering with Information** - Tampering with information to be used in a Hearing;
 7. **Attempting to Influence** - Attempting to influence the impartiality of a member of the student conduct process prior to or during the course of the student conduct proceeding.
- (u) **Sexual Exploitation** - Any act whereby one person violates the sexual privacy of another or takes unjust or abusive sexual advantage of another who has not provided consent, and that does not constitute sexual assault or sexual battery. Examples may include:
1. Recording, photographing, transmitting, viewing or distributing intimate or sexual images or sexual information without the knowledge and consent of all parties involved;
 2. Voyeurism - spying on others who are in intimate or sexual situations.
- (u)(v) **Soliciting, Aiding, Abetting or Inciting Others** - Soliciting, aiding, abetting or inciting others to participate in conduct which violates this regulation.
- (v)(w) **Theft, Conversion, Misuse or Damage of Property** - Theft, conversion, misuse, damage, defacing or destruction of University property or of the property of members of the University Community.
- (w)(x) **Trespass and Loitering** –Unauthorized entry on University property or

their designee, in advance and must conform to University regulations, policies and procedures and to applicable law.

~~(aa)~~(bb) **Verbal, Written or Physical Abuse** - Acts of verbal, written (including electronic communications or internet activity) or physical abuse, threats, intimidation, harassment, coercion, or other conduct, the foregoing of which threaten the health, safety or welfare of any person.

~~(bb)~~(cc) **Violation of Policy or Regulation** - Violation of any University Policy or Regulation.

~~(ee)~~(dd) **Violation of Probation** –Failure to abide by conditions of student conduct probation.

~~(dd)~~(ee) **Violation of State and/or Federal Law** - Any act which could constitute a violation of any local law or ordinance, State of Florida or Federal law.

~~(ee)~~(ff) **Violation of Student Government and Registered Student Organizations Regulations** - Violation of University Regulation 4.006, Student Government and Registered Student Organizations

~~(ff)~~(gg) **Violation of Technology Policies** - Violation of any University technology policies.

~~(gg)~~(hh) **Violence or Threat of Violence** - Violence or threat of violence to others or actions which endanger any member or guest of the University Community.

~~(hh)~~(ii) **Weapons or Hazardous Materials** - Possession or use of firearms, explosives, ammunition, fireworks, weapons or unauthorized possession or use of hazardous materials or dangerous chemicals on University premises (other than as permitted by Florida Statute Section 790.25(5), University Policy 1.7, or other applicable legal authority).

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

For alleged violations other than Title IX Matters, ~~t~~The University may take student conduct action in incidents where the alleged violation(s), as stated in paragraph (5), above, was committed off-campus if any one of the following applies:

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

In Title IX Matters, the University may take student conduct action where the alleged violations occurred in locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the allegations occurred, including but not limited to any building owned or controlled by a student organization that is officially recognized by the University. Investigation pursuant to Title IX and its implementing regulations will only be conducted when the alleged sexual discrimination occurred against a person in the United States.

(7) **Court Proceedings Outside of the University.**

- (a) § Q \ DG PL V V LR Q RI J X L O W U H V S R Q V L E L O L W \ R U V W D interest made by a student at off-campus proceedings shall be conclusive for University purposes.
- (b) A verdict of guilty, a plea of guilty, a plea of no contest (*nolo contendere*) or similar plea in a court of law by a charged student will operate as a conclusive finding that the student L V ‡ U H V S R Q V L E O H F A R U W K H S X U S I student conduct proceedings.
- (c) The University may amend its charge(s) based on information obtained through an outside proceeding when that information is relevant to activity adversely affecting the University Community.
- (d) University student conduct proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and this Student Code of Conduct, without regard to the pendency of civil or criminal litigation in court or criminal arrest and prosecution. Proceedings under this Student Code of Conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the Dean of Students. Determinations made or sanctions imposed under this Student Code of Conduct shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of University rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

(8) **Respondent Rights.**

Respondents have the following rights:

- (a) The right to request reasonable accommodations in compliance with the Americans with Disabilities Act (ADA). Students who require

accommodations in order to participate in any aspect of the student conduct process due to a disability should contact the Office of Student Accessibility Services to arrange for appropriate accommodations and advise the Dean of Students Office of their need for additional support.

(b) The right to have their status remain unchanged pending final student

(d) If a student's privileges are temporarily revoked as described in this Regulation 4.007, but the student is subsequently found not responsible for the conduct that formed the basis for the interim measures, the University will:

1. Correct any record of the change in enrollment status in the student's permanent records and reports in a manner compliant with state and federal laws; and
2. Refund to the student a pro rata portion of any charges for tuition and out-of-state fees, as appropriate, if the temporary revocation or V X V S H Q V L R Q R I W K H V W X G H Q W ¶ V D E L O L W \ W R D V than ten (10) business days.

(e) A Dean of Students hold on registration may immediately be placed on all students who have Emergency Measures taken against them, which prevents the student from accessing, changing or altering their course registration and/or admission status. A student subject to Emergency Measures shall be furnished:

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

(f)

c. The alleged conduct did not occur against a person in the United States.

The University may dismiss a formal complaint when:

a. At any time during the investigation, the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;

b. The Respondent is no longer enrolled or employed by the University; or

c. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

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

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

(d) Investigation. The Dean of Students will determine if there are reasonable grounds to believe that the allegations of the complaint are true, and if true,

1. The Dean of Students may conduct an Investigation Conference with

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and right of appeal. The student retains the right only to appeal the severity of the sanction imposed.

4. Any sanctions imposed in cases where the Respondent accepts responsibility or fails to attend the Student Conduct Conference will be communicated in correspondence to the charged student within seven (7) business days of the Student Conduct Conference.
- (g) Formal Disposition by Hearing. When a Respondent denies responsibility, a live Hearing will be scheduled no less than five (5) business days after the date of the Student Conduct Conference, except in cases of emergency as specified below, or unless waived by the student.
1. A formal disposition by Hearing is defined as any Hearing before the Student Conduct Board or a University Hearing Officer.
 2. The student may choose to have their Hearing before the Student Conduct Board or a University Hearing Officer. This choice will be made at the Student Conduct Conference.
 3. If the student does not choose an option, the Hearing shall be heard by a University Hearing Officer.
- (h) Notice of Hearing. The notification of Hearing shall be in writing and include:
1. The date, time, and location of the Hearing.
 2. Reference to this Regulation 4.007, their student rights and the Hearing procedures.
 3. The date, time, and location for an Information Session, ~~during~~

- (i) Postponement of Hearing. The student may request postponement of a Hearing by the Student Conduct Board Hearing or University Hearing Officer in writing to the Dean of Students. The Dean of Students may grant a postponement when the circumstances presented demonstrate that a postponement is necessary to ensure fairness to the process or on any other reasonable grounds. The Dean of Students may postpone the Hearing on

(11) Structure of the Student Conduct Board.

The Student Conduct Board shall consist of the following persons: two students, one faculty member/administrator or other individual appointed by the University, 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 or other individuals appointed by the University that serve on the panel. ~~Faculty members, administrators, and students~~Board members shall be selected by the Dean of Students Office for the Hearing. The student board members are selected through an annual application process, with the exception of the student justices from the Student Government Judicial Branch. All Student Conduct Board members, including Student Government Justices, will receive training ~~from the Dean of Students Office~~consistent with applicable laws and regulations.

(12) Hearing Procedures.

- (a) The Hearing is not a legal proceeding. Formal rules of process, procedure, and evidence do not apply.
- (b) Objectives of the Hearing. The Hearing will be held with the following objectives:
 1. Inform the Respondent of the charges.
 2. Give the Respondent an opportunity to respond to the charges.
 3. Review the evidence presented.
 4. Determine if any violation(s) of the Student Code of Conduct was committed and communicate these findings to the Dean of Students.
 5. If the Respondent is found responsible for one or more violations, the Student Conduct Board or University Hearing Officer will recommend, or determine in Title IX Matters, any sanction(s) to be imposed based upon the facts, as determined at the Hearing. In making a recommendation or determination for sanctions, the

Student Conduct Board or University Hearing Officer will consider

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- (c) Witnesses. All parties to the Hearing may arrange for witnesses to voluntarily present relevant information during the Hearing. The questioning of witnesses shall be facilitated by the University Hearing Officer or Student Conduct Board chair, as applicable. Such witnesses at Hearings will not be sworn in. Each witness will be informed of the requirement to tell the truth. A student giving untrue testimony at a Hearing is subject to student conduct charges. In Title IX Matters, if a party or witness does not submit to cross-examination at the live hearing, the Student Conduct Board or Hearing Officer must not rely on any statement of that party or witness in reaching a

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for the Respondent or Complainant, present statements or arguments, question witnesses or otherwise participate in the process

in cases where responsibility is found, will determine the sanctions to be imposed.

2. Findings and Recommendations. The Student Conduct Board or University Hearing Officer recommendation(s) or decision(s) will L Q F O X G H D I L Q G L Q J R I ‡ 5 H V S R Q V L E O H · R U ‡ 1 R W 5 of the alleged violations listed on the Notice of Charges, based solely on the information presented at the Hearing. The Student Conduct Board or University Hearing Officer will inform the Dean of Students of its findings and any recommendation(s) or decision(s) for sanctions based on its findings. In Title IX Matters, the written decision must comply with the requirements of University Policy 1.15. If the Student Conduct Board cannot reach D I L Q G L Q J R I ‡ 5 H V S R Q V L E O H · R U ‡ 1 R W 5 H V S R Q V within a reasonable time period based on the complexity of the case, the chairperson shall call the Board as deadlocked and the Dean of Students may call a new Hearing date with new Board members to hear that charge. No person serving on the first Board shall serve on the second Board. If the second Board also deadlocks, then the charges against the Respondent shall be dismissed.
3. Failure to Appear. In cases other than Title IX Matters, if the

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any changes to recommended decision(s) or sanction(s) are made
by the Dean of Students. Such notice will be sent to the student
within a reasonable period of time after the conclusion of the
Hearing.

(13) **Student Conduct Sanctioning.**

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

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2. Educate the student so they do not commit the violation again.
3. Offer the student the opportunity to restore any harm resulting from the incident.
4. Ensure that University expectations regarding appropriate behavior are clear.
5. Educate the student concerning how their behavior impacts others in the University Community.

(b) Student Conduct Sanctions. The following sanctions or combination of sanctions may be imposed by the Dean of Students upon any individual

4. Deactivation of the Student Orga Q L] D W L R Q ¶ V V W D W X V D W W K H 8
5. Deferred Suspension –The student will be officially suspended from the University, but the suspension will be deferred. If a student commits a subsequent violation of the Student Code of Conduct while on deferred suspension and is found responsible, then the student will be immediately suspended in addition to any other sanctions imposed for the subsequent violation, unless the Dean of Students determines that exceptional circumstances warrant otherwise. Suspensions can be deferred for a semester or indefinitely.
6. Educational Activities – required attendance at educational programs, meeting with appropriate officials, workbook completion, reflection papers, development of a plan for success, written research assignments, planning and 100that egnments,

other violation of FAU standards in obtaining the degree or for other serious violations committed by a student prior to graduation.

14. **Student Conduct Probation** –A student conduct sanction notifying a student that their behavior is in serious violation of University standards and that restrictions are being placed on their activities. Some restrictions that may be placed on a student during a probationary period include, but are not limited to, restriction of the privilege to: participate in student activities or in student organizations; represent the University on athletic teams, student organizations or in other leadership positions; gain access to University Housing buildings or other areas of campus; use University resources and/or equipment; or contact specified

20. Alcohol Violations – A student found responsible for offenses regarding the use, possession, sale or distribution of alcohol may be sanctioned as follows, at the discretion of University officials, in accordance with this Regulation. The sanctions listed below serve only as guidelines.
 - a. First Violation or incident of a Low Level of Severity
 - i. Completion of an educational program and payment of

- financially responsible for obligations under their Housing Contract (for residential students only).
 - iv. Suspension for a minimum of three (3) months.
 - v. Expulsion from the University.
21. Controlled and Illicit Substance(s) Sanctioning Guidelines - Depending on the amount and type of illicit or illegal substance involved, a student may be suspended or expelled from the University. At the minimum, a student may be sanctioned as follows. The sanctions listed below serve only as guidelines.
- a. First Violation or incident of a Low Level of Severity
 - i. Completion of an educational program and payment of administrative costs for participation in this program.
 - ii. Parent/Legal Guardian Notification (for dependent students only, in accordance with the Internal Revenue Code).
 - iii. Completion of twenty-five (25) hours of Community/University Service.
 - iv. Student Conduct Probation for a minimum of six (6) months.
 - b. Second Violation or Incident of a Moderate Level of Severity - May include any or all of the sanctions listed above, in addition to:
 - i. Completion of a substance use assessment and voluntary completion of recommended treatment from FAU Counseling and Psychological Services
RU DQRWKHU FOLQLFDO WUHDWPHQW DJH expense.
 - ii. Completion of fifty (50) hours of Community/University service.
 - iii. Probation for a minimum of one (1) year.
 - iv. Deferred Termination of University Housing Contract (for residential students only).
 - c. Third Violation or Incident of an Elevated Level of Severity - May include any or all of the sanctions listed above, in addition to:
 - i. Termination of Housing Contract for a minimum of one (1) year, during which time the student will be suspended from Campus Housing and trespassed from all residential areas. Students will be

financially responsible for obligations under their
Housing Contract (for residential students only).

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2. Severity of the sanction.
3. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter—material or information that could not be discovered at the time of the Hearing.
- 3.4. The Title IX Coordinator, investigator(s), or the Student Conduct Board of University Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

(b) All appeals must be received in writing within five (5) business days of the Student Affairs and Enrollment Management for consideration. All appeals must specify the basis for the appeal. No person may decide an appeal if they conducted or participated in the Hearing.

~~(e) — The burden of proof at the appellate level rests with the Respondent.~~

~~(d)(c)~~ 7 K H V W X G H C S W H M a t u s W H I I remain unchanged pending the appeal determination by the Vice President for Student Affairs and Enrollment Management (that is, a student will remain eligible to attend the student conduct proceeding), except where the Dean of Students determines that the safety, health or general welfare of the student or the University, including the ability to attend classes or engage in University activities, may be suspended on an interim basis as described under the Emergency Measures provisions of this Regulation. In that case, the provisions under Section 9, Emergency Measures, will also apply.

~~(e)(d)~~ After considering the appeal, the Vice President for Student Affairs and Enrollment Management may reopen the Hearing, order a new Hearing with the same or new Conduct Board or University Hearing Officer, uphold, or reverse the prior decision of the Dean of Students or revise the sanction(s). The Vice President for Student Affairs and Enrollment Management will provide the student written notice of their decision within a reasonable period of time after receipt of the appeal request.

~~(f)(e)~~ The appeal determination of the Vice President for Student Affairs and Enrollment Management is final and binding on all parties. There are no further appeals within the University. The student has a right to appeal the

(16) **Complainant Rights and Proceedings.**

(a) The University will provide notice to the Complainant of their rights as soon as possible after notification of an alleged violation.

(b) 6 R P H R I W K H F D V H V W R Z K L F K & R P S O D ~~bu~~ Q D Q W V ¶ U L J K are not limited to, the following types of cases:

- ~~1. Sexual Violence~~
- ~~2. Sexual Battery~~
- ~~3. Sexual Harassment~~
- ~~4. Sexual Exploitation~~
- ~~5. Domestic Violence~~
- ~~6. Dating Violence~~
- ~~7.1. Stalking~~ Title IX Matters
- ~~8.2.~~ Bullying
- ~~9.3.~~ Harassment
- ~~10.4.~~ Hazing
- ~~11.5.~~ Property (damage)
- ~~12.6.~~ Property (theft)

(c) To the extent appropriate, Complainants shall have rights equivalent to those of a Respondent, including the following:

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

2. The right to have equivalent access to pre-hearing meetings with the Dean of Students, as permitted by law, as that granted to the Respondent.

3. In Title IX Matters, the right to request supportive measures consistent with University Policy 1.15.

3.4. The right to be assisted by an advisor. Any ~~paid~~ advisor will be chosen and paid for at the expense of the student, or assigned by the University in Title IX Matters. The advisor is not permitted to speak during or to participate in any part of the student conduct process, other than to consult directly with the Complainant, except as specifically permitted in this Regulation. The advisor may not be involved in other aspects of the investigation or the student conduct process.

- ~~4.5.~~ The right not to be forced to present testimony that would be self-incriminating. However, the University is not required to postpone student conduct proceedings pending the outcome of any outside criminal or civil case.
- ~~5.6.~~ The right to participate in a fair and impartial Hearing on the charges by a Student Conduct Board or University Hearing Officer, unless the Hearing is waived by the Respondent.
- ~~6.7.~~ The right to review, not less than three (3) business days prior to the Hearing, the information that will be presented to the Hearing body for consideration, unless the right is waived by the Complainant.
- ~~7.8.~~ The right to hear and question adverse witnesses who voluntarily testify at the Hearing, unless the Respondent has waived a Hearing. In Title IX Matters, the advisors for the Respondent and Complainant may conduct cross-examination.
- ~~8.9.~~ The right to be informed of their rights provided in this Regulation 4.007.
- ~~9.10.~~ The right to submit a written impact statement. This information would be used only in sanctioning if the Respondent is found responsible for one or more violations.
- ~~10.11.~~ The right to have unrelated past behavior excluded from the Hearing. The chair of the Student Conduct Board or the University Hearing Officer will decide if such information is unrelated. 4XHVWLRQV DQG HYLGHQFH DERXW WKH & RPSODLQDQW¶V SULRU VH[XDO predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant¶V SULRU VH[XDO behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the & RPSODLQDQW¶V SULRU VH[XDO EHKDYLRU ZLWK U and are offered to prove consent. The past sexual history of the Complainant is not usually considered relevant.
- ~~11.12.~~ At the request of the Complainant in ~~cases involving sexual violence, sexual battery, sexual harassment, domestic violence, dating violence, stalking, and Title IX Matters~~ or cases where the alleged violation includes bullying, the Complainant may testify in a separate room from the Respondent. When testifying in separate rooms, all participants, including the Student Conduct Board or University Hearing Officer, will have the ability to view the Complainant and the Respondent via live video. At no time during the Hearing will the Respondent and Complainant be permitted to

~~directly question one another, but rather, all questions between the Respondent and Complainant will be submitted to and asked by the Hearing Officer or Student Conduct Hearing Board.~~

~~12. In cases involving sexual violence, sexual harassment, domestic~~

(c) Resources: In cases involving allegations of prohibited sexual conduct, Complainants will be provided information from the Dean of Students Office regarding immediate steps and all available resources, including:

1. Counseling –) \$ 8 ¶ V 2 I I L F H R I & R X Q V H O L Q J D Q G 3 V \ F K Services (CAPS) provides a complete range of mental health

records of students subject to student conduct action are flagged in accordance with the following guidelines:

1. The Dean of Students Office will place a hold on the records where:
 - a. A student has committed student conduct acts culminating in interim suspension, suspension and/or expulsion;
 - b. A student has failed to appear before the Dean of Students,

- i. Personal injury;
 - ii. Significant Property damage;
 - iii. A felony violation of a state controlled substance law;
 - iv. Disruption of the orderly operation of the University;
 - v. Violation of the firearm, explosives, dangerous chemicals, and ammunition or weaponry regulations or policies of the University;
 - vi. Suspension or expulsion from the University;
 - vii. Endangering the health, safety, or welfare of members or guests of the University; or
 - viii. Comes within the jurisdiction of the off-campus conduct section of the Student Code of Conduct.
- d. The decision to expunge a Student conduct record is at the sole discretion of the Dean of Students. The decision to