FLORIDA ATLANTIC UNIVERSITY
NOTICE OF PROPOSED REGULATION AMENDMENT

Date: October 7, 2011

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 of the University's efforts to teach civic and social responsibility. This regulation 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 further clarify Regulation 4.007, to conform to the regulation promulgated by the Florida Board of Governors, and to update the regulation in light of recent Title IX guidance. The proposed changes are summarized as follows:

1. The addition of stalking, cyber-stalking and cyber-bullying as enumerated violations under the Student Code of Conduct.
2. The inclusion of contact information for the University's Title IX Coordinator and additional descriptions of the process and rights available to victims under the Student Code of Conduct.
3. The further clarification of minimum sanctions in the form of removal from University housing, probation, or suspension for alcohol/drug abuse violations.

The Division of Student Affairs and representatives from all campuses spent several months revising this regulation.

FULL TEXT OF THE AMENDED REGULATION: The full text of the proposed amended 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. In addition, the full text of the proposed amended 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.

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, Senior Vice President of 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 PROPOSED 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.

PROPOSED

Florida Atlantic University

Regulation 4.007 Student Code of Conduct

(1) Statement of Philosophy.

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

The University's Student Code of Conduct is an integral part of the educational mission of the University, emphasizing the development of each individual's acceptance of his or her own personal and social responsibilities, and ensuring fairness and the satisfaction of certain minimum requirements described in this regulation 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 essential elements of the student conduct 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 University Community, and the protection of personal and institutional rights and property is a primary focus of the process described in this Regulation 4.007.

(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 in the University Community, 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, student organization or a person who has submitted an application for admission, housing, or any other service provided by the University which requires a student or student organization 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. Any action of the University with respect to off-campus conduct shall be taken independently of any off-campus authority.

(4) Definitions:
(a) Advisor – The term "advisor" refers to any person, including an attorney chosen by the student or the alleged victim at their own expense and initiative to assist him/her throughout the student conduct process.
(b) Business days – The term "business days" shall be defined as Monday through Friday excluding official Florida Atlantic University holidays.
(c) Chair – One of the faculty/staff members that is selected from the Student Conduct Board panel to chair the Student Conduct Board Hearing.
(d) Charged Student – The term "charged student" refers to any student who has been charged with an alleged violation of the Student Code of Conduct.
(e) Correspondence – The term "correspondence" refers to (1) written or electronic correspondence from the University sent to either the student's physical address on file with the Registrar, or to the student's FAU email address, if the student is a current student and (2) written or electronic correspondence from the student via the student's FAU email address.
(f) Dean of Students – The term "Dean of Students" refers to any of the following persons or offices: Associate Vice President and Dean of Students, Associate Dean of Students, Assistant Dean of Students, or designee.
(g) Hearing – The term "Hearing" shall refer to the Student Conduct Board Hearing and the Hearing Officer Hearing, as applicable.
(h) Hearing Officer – A person authorized by the University to determine whether a student has violated the Student Code of Conduct. Such person may recommend sanctions that may be imposed when a violation has been committed.
(i) Hearing Officer Hearing – A student conduct Hearing conducted by the

Hearing Officer.

(j) Information Session – The term "Information Session" refers to the conference at which the charged student is afforded the opportunity to review all materials that will be used in his or her Hearing.

(k) Investigation Conference – The term "Investigation Conference" refers to a conference meeting which includes the opportunity for the Dean of Students to interview and gather information with the student and an explanation of the process, the student's rights and a review of the incident.

(l) Senior Vice President – The term "Senior Vice President" refers to the Senior Vice President for Student Affairs or designee.

(m) Student – The term "student" refers to any person taking courses at FAU on any of its campuses or sites. Persons who withdraw after allegedly violating the Student Code of Conduct, are not officially enrolled for a particular term but who have a continuing relationship or enrollment with FAU, or have been notified of their acceptance for admission are considered "students." The term "student" will also refer to student ~~and~~ organizations and ~~individuals~~persons living in University housing, although not enrolled at FAU.

(n) Student Conduct Board – 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. Such person or persons may recommend sanctions that may be imposed when a violation has been committed.

(o) Student Conduct Board Hearing – A formal student conduct Hearing conducted by the Student Conduct Board.

(p) Student Conduct Conference – The term "Student Conduct Conference" refers to the individual meeting with the student and the Dean of Students (or designee) after a Notice of Charges has been delivered. This meeting consists primarily of a discussion between the student and the Dean of Students (or designee) and affords the student the opportunity to choose "Responsible" or "Not Responsible" to the charges listed on the Notice of Charges, and determines the next course of action in the student conduct process.

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

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

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

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

(5) Violations of the Code of Conduct: Any of the following actions constitute

conduct for which a student, a group of students, or a student organization may be subject to student conduct/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) Interference with the freedom of movement of any member or guest of the University.

(d) Interference with the rights of others to carry out their activities or duties at or on behalf of the University.

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

(f) Noncompliance with written, 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 attempt to cause a fire or explosion, falsely reporting a fire, explosion or an explosive device; tampering with fire safety equipment or failure to evacuate University buildings during a fire alarm.

(k) Disorderly Conduct – Breach of peace, such as causing a disturbance or being unruly.

(l) Soliciting, aiding, abetting or inciting others to participate in conduct which violates this regulation.

(m) Lewd, obscene, indecent behavior or voyeurism.

(n) Acts of verbal, written (including electronic communications or internet activity) or physical abuse, threats, intimidation, harassment, coercion, or other conduct which threaten the health, safety or welfare of any person.

(o) Conduct which constitutes unlawful discrimination or harassment and/or violation of the University Regulation 7.001, Equal Employment Opportunity/Affirmative Action Regulation 7.001 or University Regulation 5.010, Anti-Discrimination and Anti-Harassment the Sexual Harassment Regulation 5.010.(.

(p) Violation of the University Regulation 4.006, Student Government and 's Student Organization Regulation 4.006s.

(q) Possession, use, delivery to, sale of, distribution of, controlled substances or drug paraphernalia; as defined in 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 (Anti-Hazing Policy) – Hazing, is prohibited and includes, but is not limited to, the following:

1. Any action or situation which recklessly or intentionally endangers the mental or physical health or safety of a student for purposes, including, but not limited to, of initiation or admission into, or affiliation with, any organization operating under the sanction of the University.
2. Brutality of a physical nature such as whipping, beating, branding, forced calisthenics, exposure to the elements; forced consumption of any food, liquid, liquor, drug, or other substances; or other forced activity which could adversely affect the mental, emotional or physical health or safety of the individual.
3. Any activity which could subject the individual to mental stress such as sleep deprivation, forced exclusion from social contact, forced contact which could result in embarrassment, or any other forced activity which could adversely affect the mental health or dignity of the individual.
4. Pressuring or coercing a student into violating University policies, federal, state, or local law.
5. Any other activity prohibited by Florida statutes on hazing. ~~law Section 1006.63, as it may be amended from time to time.~~
6. Hazing may result in felony or misdemeanor charges.

(u) Violation of the FAU Information Resource Management Technology Policy.

(v) Repeated following ~~or,~~ contacting of another person, or stalking (including cyber-stalking or cyber-bullying) or other inappropriate pursuit 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 the Alcoholic Beverages Policy 1.2~~1~~.
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 – ~~f~~Failure to abide by conditions of probation.

(bb) Obstruction of Student Code of Conduct Process – Acts that disrupt or interfere with the University student conduct process, including but not limited to:

1. failure to appear at an official University Hearing when proper notification has been provided (nothing in this subsection shall be construed to compel self-incrimination);
2. knowingly falsifying, distorting or misrepresenting information before a student conduct proceeding;
3. deliberate disruption or interference with the orderly conduct of a student conduct proceeding;
4. knowingly initiating a complaint/referral without cause;
5. use of threats, coercion, or intimidation to discourage an individual's participation in or other proper participation or use of the student conduct process;
6. tampering with information to be used in a Hearing;
7. attempting to influence the impartiality of a member of the student conduct process prior to or during the course of the student conduct proceeding;
8. harassment or intimidation of any participant in the student conduct process; or
9. violating and/or failing to comply with or fulfill student conduct sanctions.

(cc) Disruptive Conduct – —Any other action that impairs, interferes with or obstructs the mission, purposes, order, academic atmosphere, operations, processes and/or functions of Florida Atlantic University.

(dd) Any unauthorized use of electronic or other devices to make an audio or video recording of any person while on University premises without his/her prior knowledge or without his/her effective consent when such recording is likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room or restroom.

(ee) Violation of any University Policy or Regulation published in hard copy or available electronically on the University's website.

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

(gg) Violation of Greek Risk Management policy and procedure as outlined in hard copy or available electronically on the University's website.

(hh) Unauthorized solicitation of funds. University buildings and campus areas may not be entered for the purpose of raising funds for any person or organization other than officially registered student organizations, recognized University-related organizations, or officially recognized non-profit charitable organizations. Requests for solicitations must be submitted to the Senior Vice President for Student Affairs, or his/her designee, in advance and must conform to University policies and procedures and to applicable law.

(6) Off-Campus Conduct: The University shall take student conduct action against a student for violations committed off campus if any one of the following applies:

(a) The off-campus conduct is specifically prohibited by law or 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 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.

(7) Court proceedings outside of the University:

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

(b) Any admission of guilt, responsibility or statement against the student's interest made by a student at off-campus proceedings shall be conclusive for University purposes.

(c) A verdict of guilty, a plea of guilty, a plea of no contest *(nolo contendere*) or similar plea in a court of law by a charged student will operate as a conclusive finding that the student is "responsible" for the purpose of FAU student conduct proceedings.

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

(8) Students' Rights. A student against whom student conduct action may be taken shall have the following rights.

(a) The right to be notified in correspondence of the charges against him/her in sufficient detail to prepare for a Hearing.

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

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

(d) The right to review, not less than three (3) business days prior to the Hearing, the information which will be used by the University.

(e) The right to present information and to arrange for witnesses to voluntarily present information relevant to his or her defense at the Hearing.

(f) The right to be assisted by an advisor chosen at his/her own expense. The advisor is not permitted to speak during or to participate in any part of the student conduct process.

(g) The right to hear and question adverse witnesses who voluntarily testify at the Hearing, unless the student has waived a Hearing.

(h) The right not to be forced to present testimony which would be self-incriminating. However, the University is not required to postpone student conduct proceedings pending the outcome of any outside criminal or civil case.

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

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

(k) The right to be informed of their rights provided in this Regulation 4.007.

(9) Emergency Measures.

~~-~~(a) The Dean of Students or designee has the authority to take appropriate immediate action against a student who poses a~~–~~ danger of imminent or serious physical harm to himself/herself or others at the University, or where the Dean of Students determines that an emergency exists which affects the health, safety or welfare of a student or the University Community. Emergency Measures include but are not limited to, one or more of the following:

~~1.~~

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

~~a~~1. Interim Suspension. A student 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, and may not use University facilities, equipment or resources.

~~b~~2. Interim Removal from University Housing. A student under interim removal from University Housing may not reside in University Housing and may not come into University Housing facilities and/or adjacent areas of University Housing.

~~c~~3. If the Dean of Students determines that other interim measures are~~–~~ appropriate to protect the health, safety, or welfare of the student or the University Community, the Dean of Students may:

~~1~~a. restrict or bar attendance of any or all classes;

~~2~~b. restrict or bar access or contact with individuals in the University Community;

~~3~~c. restrict or bar access to University property, places, facilities or equipment;

~~4~~d. restrict or ban participation in University activities or organizations; or

~~5~~e. otherwise restrict conduct or ban access to University resources.

~~d~~4. If a student's privileges are temporarily revoked as described in this Regulation 4.007, but the student is

subsequently found not responsible for the violation, the University will:

~~1~~a. 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~~b. Refund to the student, a pro rata portion of any charges for tuition and out-of-state fees, as appropriate, if the temporary revocation or suspension of the student's ability to attend classes lasts for more than 10 ~~school~~business days.

~~e~~5. A Dean of Students hold on registration may immediately be placed on all students who have Emergency Measures taken against them, which prevents the student from accessing, changing or altering his/her course registration and/or admission status.

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

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

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

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

(a) Complaints. Any person or entity may request that 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 Students; or providing a written and signed statement to the Dean of Students. 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. The forgoing time limit shall not apply, however, when a University official in his/her reasonable professional discretion determines that the circumstance warrant a waiver of the 6 month time limit.

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

complaint or upon special permission by the Dean of Students.

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

1. The Dean of Students may conduct an Investigation Conference with the student. This conference shall include the opportunity for the Dean of Students to interview and gather information from the student and an explanation of the process, the student's rights and a review of the incident with the student. No student shall be required to testify against him/her.
2. The Dean of Students may 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.
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.
5. If an alleged violation of the Student Code of Conduct is not handled through other appropriate channels, is not dismissed, or is not settled informally, then the Dean of Students may present in correspondence formal charges to the student.

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

1. The Student Conduct Conference shall take place no sooner than five (5) business days, excluding holidays and weekends, from the date of Notice of Charges, except in cases of emergency as described below, or unless waived by the student.
2. If a hold on registration is not already in effect, as an Emergency Measure, upon issuing the Notice of Charges the Dean of Students may place a hold on registration until final disposition of the complaint.

(e) Student Conduct Conference. After the Notice of Charges has been issued, a Student Conduct Conference may be scheduled.

1. There are no witnesses called and it consists primarily of a discussion between the charged student and the Dean of Students in an effort to resolve the matter.
2. The Student Conduct Conference is not audio taped or recorded.
3. At the conclusion of the Student Conduct conference, the charged student may accept or deny responsibility for the Student Code of Conduct violations listed on the Notice of Charges.
4. If the charged student chooses to accept responsibility on forms provided by the University (which forms shall describe the effect of waiving a Hearing), or fails to attend the Student Conduct Conference, thereby accepting responsibility for the charges, the Dean of Students may assess such sanctions as are deemed

appropriate. This acceptance of responsibility or failure to appear shall constitute the charged student's waiver of a formal Hearing and right of appeal. The student retains the right only to appeal the severity of the sanction imposed.

5. Any sanctions imposed in cases where the charged student accepts responsibility or fails to attend the Student Conduct Conference will be communicated in correspondence to the charged student within seven (7) business days of the Student Conduct Conference.

(f) Formal Disposition by Hearing.~~:~~ When a charged student denies responsibility, a Hearing shall 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 his/her Hearing before the Student Conduct Board or a University Hearing Officer. This choice shall be made at the Student Conduct 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 correspondence and include:

1. The date, time, and location of the Student Conduct Board or Hearing Officer Hearing.
2. Reference to this Regulation 4.007, his/her rights and the Hearing procedures.
3. A reasonable date, time, and location for an Information Session, during which the student and his/her advisor may review a potential witness list and all materials to be used by the University in his/her case, which shall be no less than three (3) business days prior to the Hearing. The University shall also have the right to review all of the student's materials and list of witnesses to be used in the case. In cases where the Hearing is heard by a Hearing Officer, the charged student shall have the opportunity to challenge the impartiality of the Hearing Officer within three (3) business days of notification. The student shall state in correspondence the basis for such challenge. A Hearing Officer so challenged may be replaced by the Dean of Students for good cause shown. In the event that a student has opted not to challenge the impartiality of a Hearing Officer prior to the allotted three (3) business days, the assigned Hearing Officer shall remain as scheduled.

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

(i) In compliance with Title IX, Florida Atlantic University prohibits discrimination and harassment on the basis of sex. Individuals with questions or concerns about Title IX, and/or those who wish to file a complaint under Title IX, may contact the University's Title IX Coordinator as follows:

Director
Equal Opportunity Programs
http://www.fau.edu/eop/
(561) 297-3004

(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~~serve on the panel. Faculty members, administrators, and students shall be selected~~-~~ by the Dean of Students Office for a Hearing.

The student board members are selected through an annual application and interview process, with the exception of the student justices from the Student Government Judicial Branch. All Student Conduct Board members, including Student Government Justices, will receive training from the Dean of Students Office.

(12) Hearing Procedures.
(a) The Hearing is not a legal proceeding. Formal rules of process, procedure, and/or evidence do not apply.
(b) Objectives of the Hearing. Requisite levels of fairness and the satisfaction of certain minimum requirements will be provided to all participants during these proceedings. The Hearing shall have 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 and communicate its findings to the Dean of Students.
5. Recommend any ~~-~~sanction(s) to be imposed based upon the facts, as determined at the Hearing, ~~any~~and communicate any recommendations to the Dean of Students.

(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 Hearing Officer or Student Conduct Board chair, as applicable. Such witnesses at Hearings will not be sworn in. Each witness will be admonished that he or she is required to tell the truth. A student giving untrue testimony at a Hearing is subject to student conduct charges.
(d) Information.
1. The charged student and his/her adviser, if any, have the right to

inspect all of the information that will be presented against the student at least three (3) business days before the Hearing. The University also has the right to review any information that the student intends to use at least three (3) business days before the Hearing.

2. The charged student may present information on his/her own behalf. Pertinent records, exhibits, and written statements may be accepted as information for consideration by the Hearing Officer or the Student Conduct Board at their discretion.

(e) Burdens of Proof. The Student Conduct 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. This means that the information presented supports the finding that it is more likely than not that the violation occurred. The burden of proof is not on the charged student.

(f) The charged student or the alleged victim may choose one advisor to be present during the process at the student's or alleged victim's expense and initiative. It is the student's or alleged victim's responsibility to make appropriate arrangements for the adviser to attend the Hearing, which shall not be delayed due to scheduling conflicts of the chosen adviser. The adviser may be present to advise the student or alleged victim but may not speak for or present the case for the student or alleged victim, present statements or arguments, question witnesses or otherwise participate in the process.

1. Members of the Student Conduct Board may not serve as a student's advisor at the Hearing.
2. If the charged student or alleged victim chooses an attorney as his/her advisor at the Hearing, he or she must inform the Dean of Students at least three (3) business days before the Hearing. In such cases the University will be advised by a University attorney as well.

(g) Hearings.

1. All Hearings before the Student Conduct Board or Hearing Officer will be digitally 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. The Student Conduct Board or Hearing Officer may change the order if necessary. The Student Conduct 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 information by the charged student.
    d. Questioning of voluntary University witnesses, followed by the questioning of charged student's voluntary witnesses.
    e. Questions directed to the charged student by the Student Conduct Board or Hearing Officer.

f. Closing statement by the charged student.
g. Deliberation by the Board or Hearing Officer (not taped).
h. The Student Conduct Board or Hearing Officer may recommend a decision(s) and a sanction(s) to the Dean of Students. Such recommendation of decision(s) and sanction(s) may be presented to the student by the Student Conduct Board or Hearing Officer.

(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, based solely on the information presented at the Hearing. The Student Conduct Board or Hearing Officer will inform the Dean of Students of its findings and any recommendation for sanctions based on its findings. If the Student Conduct Board– cannot reach a finding of "Responsible" or "Not Responsible" to a charge within a reasonable time period based on the complexity of the case, the chairperson shall call the Board as deadlocked and the Dean of Students may call a new Hearing date with new Board members to hear that charge. No person serving on the first Board shall serve on the second Board. If the second Board also deadlocks, then the charges against the charged student shall be dismissed.

(i) If the charged student fails to appear at the scheduled Hearing (after proper notice), the 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.

(j) The Dean of Students will review the findings and recommendations of the Student Conduct Board or Hearing Officer, as applicable. The Dean of Students will then make a decision as to the violation(s) in question and sanctions imposed, which decision which may consist of adopting, modifying, or rejecting the recommended decision and sanctions of the Student Conduct Board or Hearing Officer, or remanding the matter for rehearing. The Dean of Students will send a correspondence (referred to as a "Notice of Decision and Sanction") informing the student of the Dean of Students' final decision and sanctions and explaining any differences between the recommendation of the Student Conduct Hearing Board or Hearing Officer and the Dean of Students' final decision. Such correspondence will be sent to the student within a reasonable period of time after the conclusion of the Hearing.

(13) (a) Student Conduct 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 University Community.

6. To protect the University Community from people who may harm others in the University Community or who may substantially interfere with the educational mission of the University or other institutions.

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

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~~and Psychological Services office 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~~Deferred Termination in University Housing Contract/~~—~~Assignment – Students remain financially responsible for obligations under the housing contract.

~~5. Fines not to exceed $250.00 per case.~~

~~6~~5. Restitution – Payment made for damage or loss caused by the responsible student.

~~7~~6. Restriction or Revocation of Privileges – Temporary or permanent loss of privileges, including, but not limited to the use of a particular University facility, resources, equipment or other privileges.

~~8~~7. Student Conduct Warning – A student conduct sanction in correspondence notifying a student that the student's behavior did not meet University standards. All student conduct warnings will be taken into consideration if further violations occur.

~~9~~8. Student Conduct Probation – A student conduct sanction in correspondence notifying a student that his/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 University resources and/or equipment; or contact specified person(s). If the student is found "responsible" for another violation of the code of conduct during the period of Student Conduct Probation, the University may consider increasing the level of the subsequent sanction.

~~10~~9. Suspension – Mandatory separation from the University. During the period of suspension the student is barred from all FAU campuses unless specific permission is granted by the Dean of Students. Once the entire period of suspension has been served, the student may seek readmission by submitting a written request to the Dean of Students.

~~11~~

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

10. 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.~~11. 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~~12. 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~~13. Deactivation of the Student Organization's status at the University.

~~15. Administrative~~14. Involuntary Withdrawal from individual courses or all courses registered for at the University – Students remain financially responsible for tuition and fees.

~~16.~~15. Other Appropriate Action – A student conduct action not specifically set out above, but deemed proper by the Dean of Students.

~~17.~~16. Alcohol Abuse Sanction Guidelines: Depending on the amount of alcohol involved and those cases involving severe intoxication and/or police or emergency medical response, dependent students (pursuant to the Internal Revenue Code) found responsible for offenses regarding the use, possession, sale or distribution of alcohol may be sanctioned as follows, at the

discretion of University officials, in accordance with this Regulation. These violations are per academic year. The sanctions listed below serve only as guidelines.

a. First Violation
   1. Completion of an Educational program and ~~a Fine to pay~~payment of the administrative costs for providing this 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 ~~-~~Community/ University Service.

b. Second Violation
   1. Completion of evaluation and recommended treatment from Counseling ~~Center~~and Psychological Services.
   2. Termination or Deferred Termination of ~~-~~University Housing Contract~~/Assignment~~ for a period of one year. Students are still financially responsible for obligations under the housing contract.
   3. Parental Notification.
   ~~4.~~ Student Conduct Probation for ~~at least~~a minimum of 1 semester.
   5. Completion of 15 - 30 hours of ~~-~~Community/ University Service.
   6. Completion of an educational program and ~~a fine to pay the~~payment of administrative costs for providing this program.

c. Third Violation
   1. Termination of Housing Contract~~/Assignment~~ for a minimum of 1 year – 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.~~ Student Conduct Probation for a minimum of 1 year.
   4. Completion of up to 50 hours of Community/ University Service.
   5. Completion of an Educational program and ~~a Fine to pay the~~payment of administrative costs for providing this program.

~~18~~17. 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. Termination of Housing Contract ~~–~~ Student is suspended from University Housing~~.~~ for a minimum

of 1 year. Students are still financially responsible for obligations under the housing contract.

2. Student Conduct Probation for ~~one~~a minimum of 1 year.
3. Mandatory completion of evaluation and treatment from Counseling ~~Center~~and Psychological Services.
4. Parental Notification.
5. Completion of 25 hours of ~~-~~Community/University Service.
6. Completion of an educational program and ~~a fine to pay the~~payment of administrative costs for providing this program.

b. Second Violation

1. Completion of 50 hours of ~~-~~Community/University service.
2. ~~Deferred~~ Suspension or deferred suspension for ~~one~~a minimum of 1 academic year.
3. Completion of an educational program and ~~a fine to pay the~~payment of administrative costs for providing this program.

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

(14) Parental Notification Policy.

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

(a) In non-emergency situations, parents of dependent students, under the age of 21, will be notified in writing. However, in emergency situations, parents may be notified by an immediate phone call from the Dean for Students or his/her designee.

(b) These guidelines do not preclude Parental Notification for other policy violations that may endanger the health, safety and well~~--~~being of a student or other individuals in the University Community. In addition, Parental Notification may occur in health and safety emergencies regardless of the student's age or dependent status.

(c) Students, whose parents are to be notified under these guidelines, will be informed, when possible, before such notification occurs and given an opportunity to initiate contact with their parents.

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

(a) Standards for Appeal.

1. Failure to receive the ~~-~~minimum requirements of process, as described under this Regulation.
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 postmarked or received in correspondence within five (5) business days of the date of the "Notice of Decision~~"~~ and Sanction" to the Senior Vice President for Student Affairs or designee for consideration. All appeals must specify the basis for the appeal. No person may hear or decide an appeal if he/she conducted or participated in the Hearing.

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

(d) The student's pre-decision status will remain unchanged pending the appeal determination by the Senior Vice President for Student Affairs or designee (that is, a student shall remain eligible to attend classes and University activities pending the University's final decision in the student conduct proceeding), except where the Senior Vice President for Student Affairs or designee determines that the safety, health or general welfare of the student or the University Community is involved, in which case a student's privileges at the University, including the ability to attend classes or engage in University activities, may be suspended on an interim basis as described under the Emergency Measures provisions of this Regulation. In that case, the provisions under Section 9 will also apply.

(e) After considering the appeal, the Senior Vice President for Student Affairs or designee may reopen the Hearing, order a new Hearing with the same or new Conduct Board or Hearing Officer, uphold or reverse the prior decision of the Dean of Students or revise the sanction. The Senior Vice President for Student Affairs or designee shall provide the student written notice of his or her decision within ten (10) business days of receipt of the appeal request~~..~~.

(f) The appeal determination of the Senior Vice President for Student Affairs or designee is final and binding on all parties. There are no further appeals within the University. ~~In the case of suspension and expulsions, the~~The student has a right to appeal the University's final decision to an external judicial forum.

(16) Victims' Rights~~.~~ and Proceedings.

The University shall provide notice to the alleged Victim of his/her rights at least five (5) business days prior to the student conduct proceeding.

(a) Some of the cases to which Victims' rights may apply include but are not limited 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 the extent applicable, victims shall have ~~an advisor~~ rights equivalent to those of ~~the alleged victim's choice accompany her/him when presenting information~~ a charged student, including the following rights:

1. The right to have equivalent access to pre-hearing meetings with the Dean of Students or designee, as permitted by law, as that granted to the charged student.
2. The right to review, not less than three (3) business days prior to the Hearing ~~body~~, the information which will be used by the University.
3. The right to participate in the Hearing, present information, and to arrange for witnesses to voluntarily present information at the Hearing.
4. The right to hear and question adverse witnesses who voluntarily testify at the Hearing, unless the charged student has waived a Hearing.
5. The right not to be forced to present testimony which would be self-incriminating. However, the University is not required to postpone student conduct proceedings pending the outcome of any ~~other relevant meetings held throughout~~outside criminal or civil case.
6. The right to request an appeal of University action and the sanction imposed as long as appropriate appeal procedures are followed.
7. The right to be informed of their rights provided in this Regulation 4.007.
8. To be assisted by an advisor chosen at his/her expense. The advisor is not permitted to speak during or to participate in any part of the student conduct process.

~~2.~~ ~~To~~ 9. The right 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~~10. The right to have unrelated past behavior excluded from the Hearing. The chair of the Student Conduct Board or Hearing Officer 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 Student Conduct Board or Hearing Officer . The Student Conduct Board or Hearing Officer will then consider posing those questions to the charged student.~~

~~5.~~ 11. At the request of the victim in cases involving sexual misconduct, physical violence, harassment, bullying or stalking charges, the victim may request to testify in a separate room from the charged student so long as the process does not unduly compromise the charged student.

~~6.~~ ~~To~~12. The right to be notified of the Student Code of Conduct outcome~~.~~ in correspondence.

Additional support services are provided to the victim through the Victim Services Office

upon request of the victim through the Dean of Students Office.

(17) 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 Regulation 4.007 to the Senior Vice President for Student Affairs. This committee shall be appointed by the Senior Vice President for Student Affairs and shall include student representation ~~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 4.007 to determine that it ensures fairness and the satisfaction of certain minimum requirements in the student conduct proceedings at the University.

(18) Student Conduct Records.

(a) The record of student conduct~~–~~ proceedings are part of a student's educational record and are subject to educational records confidentiality laws. Conduct records and law violations are kept in the Dean of Students Office. These files are separate from academic transcripts.

(b) Issuance of Transcripts, Hold of Records, and Retention of Records in Cases of ~~-~~Student Conduct Action. The transcripts and future registration records of students subject to~~–~~ student conduct action are flagged in accordance with the following guidelines:

1. The Dean of Student Affairs 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, Student Conduct Board or Hearing Officer, when reasonably notified as to his/her involvement in student conduct matters; or
   c. A student with severe behavior problems is no longer attending the University, and it is the determination of the Dean of Students that a complete review of his/her record is to be made prior to readmission.
2. 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~~–~~ student conduct 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 Students."
3. The Dean of Students Office has adopted the following Retention of Records Policy: Student conduct records will be maintained in the Dean of Students Office for a period of six (6) years from the end of the student's matriculation at the University. Student conduct records shall be retained for longer periods of time or

permanently if the student was expelled, dismissed, suspended or blocked from enrollment and in situations that may result in future litigation.

a. Notwithstanding the foregoing, if during the semester of the student's graduation, the student requests in correspondence that his or her student conduct record be destroyed, that record will be evaluated.

b. No record may be destroyed when the ~~–~~student conduct violation resulted in:

1. P~~p~~ersonal injury;
2. P~~p~~roperty damage;
3. A~~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: Article IX of the Florida Constitution, 1001.706, ~~1001.74 F.S.,~~ and Board of Governors Regulations 1.001, 6.010, and 6.0105. History–New 10-1-75; Amended 12-17-78, 6-9-83; Formerly 6C5-4.08; Amended 11-11-87, 6-7-88, 9-16-03; Formerly 6C5-4.008; Amended 5-10-06, 5-28-08, 6-23-10~~.
, 11- -11.