

FLORIDA MEMORIAL UNIVERSITY

Student Code of Conduct

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.

The University 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 code.

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.

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 code. Any action of the University with respect to off-campus conduct shall be taken independently of any off-campus authority.

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 Memorial University holidays.
- (c) **Chair** – One of the faculty/staff members that is selected by the Dean of Students or a University designee, from the Judicial Affairs Committee (JAC) to chair the Judicial Affairs Committee Hearings.
- (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, students on campus residence, or to the student’s FMU email address, if the student is a current student and (2) written or electronic correspondence from the student via the student’s FMU email address.
- (f) **Dean of Students** – The term “Dean of Students” refers to any of the following persons or offices: Vice President and Dean of Students, or designee.
- (g) **Hearing** – The term “Hearing” shall refer to the Judicial Affairs Committee 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 meet with the Dean of Students or a designee to discuss the hearing procedures.
- (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) **Vice President** – The term “Vice President” refers to the Vice President for Student Affairs or designee.
- (m) **Student** – The term "student" refers to any person taking courses at the University. 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 FMU, or have been notified of their acceptance for admission

are considered "students." The term "student" will also refer to student organizations and persons living in University housing, although not enrolled at FMU.

- (n) **Judicial Affairs Committee** – The term "Judicial Affairs Committee " 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) **Judicial Affairs Committee Hearing** – A formal student conduct Hearing conducted by the Judicial Affairs Committee.
- (p) **Student Conduct Conference** – The term "Student Conduct Conference" refers to an optional meeting with the student and the Dean of Students (or designee) after a Notice of Charge(s) 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 "Guilty" or "Not Guilty" to the charges listed on the Notice of Charges, and determines the next course of action in the student conduct process. This process may also take form electronically as deemed necessary or appropriate by the Dean of Students or designee.
- (q) **University or FMU** – The term "University" or FMU refers to Florida Memorial 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** – Refers 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) **Academic Environment** - Any setting where a student is engaged in work toward academic credit, satisfaction of program-based requirements, or related activities including but not limited to on line courses, learning abroad, and field trips.
- (u) **Campus** - All University premises, including all land, buildings, facilities, and other property owned, possessed, leased, used, or controlled by the University, and adjacent streets and sidewalks.
- (v) **Member of the University Community** - Any University faculty member, student, employee, or Trustee, as well as any person on Campus who is an employee of an entity with a continuous relationship with the University.
- (w) **Plagiarism** - Representing the words, creative work, or ideas of another person as one's own without providing proper documentation of source. Examples include, but are not limited to:
 - *copying information word for word from a source without using quotation marks and giving proper acknowledgement by way of footnote, endnote, or in-text citation;*

- *representing the words, ideas, or data of another person as one's own without providing proper attribution to the author through quotation, reference, in-text citation, or footnote;*
- *producing, without proper attribution, any form of work originated by another person such as a musical phrase, a proof, a speech, an image, experimental data, laboratory report, graphic design, or computer code;*
- *paraphrasing, without sufficient acknowledgment, ideas taken from another person that the reader might reasonably mistake as the author's; and borrowing various words, ideas, phrases, or data from original sources and blending them with one's own without acknowledging the sources.*

It is the responsibility of all students to understand the standards and methods of proper attribution and to clarify with each instructor the standards, expectations, and reference techniques appropriate to the subject area and class requirements, including group work and internet use. Students are encouraged to seek out information about these methods from instructors and other resources and to apply this information in all submissions of academic work.

- (x) **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.

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) Burglary, 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, implied possession, use of firearms, or implied 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 (hoax bombs or explosives); 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) Possession, use, delivery to, sale of, distribution of, controlled substances or drug paraphernalia; as defined in Florida Statutes.
- (p) Posting of commercial advertising or engaging in commercial activity without appropriate authorization.
- (q) Endangering the health, safety or welfare of members or guests of the University.
- (r) Engaging in Hazing (Anti-Hazing Policy) – Hazing, is prohibited and includes, but is not limited to, the following:
 - *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.*
 - *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.*
 - *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.*
 - *Pressuring or coercing a student into violating University policies, federal, state, or local law.*
 - *Any other activity prohibited by Florida statutes on hazing.*
 - *Hazing may result in felony or misdemeanor charges.*
- (u) Violation of the FMU Information Resource Management Technology

Policy.

- (v) Repeated following, contacting of another person, or stalking (including cyberstalking 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 on the campus is prohibited. This includes all buildings, lobbies, walkways, and grounds of the campus, residential rooms and suites.
 - 3. Hosting – Allowing underage drinking; allowing excessive drinking or allowing an intoxicated person to leave and/or operate a motor vehicle.
- (z) Inappropriate Conduct at University-Sponsored Events – Students are expected to govern their behavior at all University-sponsored events and conduct themselves within the guidelines of the Student Code of Conduct. This applies to events that are held on or off campus.
- (aa) Violation of Probation – Failure to abide by conditions of probation.
- (bb) Obstruction of Student Code of Conduct Process – Acts that disrupt or interfere with the University 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 Memorial 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 the University Policy or Regulation regarding the use, possession or storage of electronic skateboards including self-balancing boards/scooters, hover boards and other similar equipment on University Premises.
- (ff) Violation of any University Policy or Regulation published in hard copy or available electronically on the University's website.
- (gg) Violation of Housing and Residential Life policies and procedures as outlined by the department in either the Residential Life Contract or The Residential Life Handbook.
- (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 nonprofit charitable organizations. Requests for solicitations must be submitted to the Dean of Students, or his/her designee, in advance and must conform to University policies and procedures and to applicable law.
- (ii) Unauthorized Entry into any facility constituted as University property or of the property of members of the University Community.

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.

Court proceedings outside of the University:

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.

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.

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 FMU student conduct proceedings.

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.

Students' Rights

1. A student against whom student conduct action may be taken shall have the following rights.
2. The right to be notified in correspondence of the charges against him/her in sufficient detail to prepare for a Hearing.
3. 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 code or by final disposition in external court proceedings.
4. The right to a fair and impartial Hearing on the charges by the Judicial Affairs Committee or Hearing Officer.
5. The right to present information and to arrange for witnesses to voluntarily present information relevant to his or her defense at the Hearing.
6. 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.
7. 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.
8. The right to request an appeal of University action and the sanction imposed as long as appropriate appeal procedures are followed.
9. 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.
10. The right to be informed of their rights.

Judicial Affairs Committee (JAC) Panel

A Student Disciplinary Committee of a minimum of four and a maximum of seven members, consisting of three(3) students and four (4) faculty/staff members, assigned by the Office of the Dean of Students when a case is to be adjudicated by a panel hearing. Members of the panel are selected and trained members of the Florida Memorial University community. The chair is appointed by the Office of the Dean of Students from among the members of the panel. This may be a faculty or staff member.

In any instance where an initiator or respondent has significant concerns about the identity of specific panel members, a written appeal may be made to the Dean of Students to consider substitutions. The Dean's decision on the appeal, including the individuals selected as substitutions (if any), will be considered final. As an additional safeguard of fairness and impartiality, any member of the panel assigned may request to be excused and replaced. Panel members will be expected to excuse themselves where a conflict of interest or the appearance of a conflict of interest is present. If a respondent willingly pleads in-violation to charges prior to a panel, a panel will convene to hear the student's testimony and plea related to the incident and possible sanctions. In this case, no witnesses will be called to testify at the panel.

Before the hearing, at least 24 hours prior, both parties should submit to the Office of the Dean of Students a full list of any persons who will speak at the hearing as witnesses. The parties will not contact any member of the panel in any way before the hearing nor will the panel members contact the parties in any way before the hearing.

Administrative Panel

An administrative disciplinary panel, conducted by a member(s) of the University administrative staff, including but not limited to the Dean of Students, Vice President of Student Affairs, Provost and Professional Residential Life Staff members.

In any instance where an initiator or respondent has significant concerns about the identity of specific panel members, a written appeal may be made to the Dean of Students to consider substitutions. The Dean's decision on the appeal, including the individuals selected as substitutions (if any), will be considered final. As an additional safeguard of fairness and impartiality, any member of the panel assigned may request to be excused and replaced. Panel members will be expected to excuse themselves where a conflict of interest or the appearance of a conflict of interest is present.

Interim Panels

During periods when the University is not in session, at the beginning of a term, or during the final examination period of each term, the Office of the Dean of Students reserves the right to convene a Student Disciplinary Committee that is different in make-up than described above although every attempt will be made to secure two students and two faculty or staff members.

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. 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.
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.
 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:
 - a. restrict or bar attendance of any or all classes;
 - b. restrict or bar access or contact with individuals in the University Community;
 - c. restrict or bar access to University property, places, facilities or equipment;
 - d. restrict or ban participation in University activities or organizations; or
 - e. Otherwise restrict conduct or ban access to University resources.
 4. If a student's privileges are temporarily revoked as described in this code, but the student is subsequently found not guilty for the violation, the University will:
 - 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 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 ten (10) business days.
 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.

Procedures for Student Conduct Proceedings at Florida Memorial University.

Any person or entity may request that charges be filed against a student for alleged violation(s) of law or University regulation(s) 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:

PROCEDURE:

An incident report will be filed by a complainant, who may be described as a Campus Safety Officer, another university staff member, a student or other. After an incident report is filed, it will be referred to the Office of Student Conduct via the Office of the Dean of Students.

Notification of an incident regarding Disciplinary action can be brought to the Office of Student Conduct (3) three ways:

- a) Campus Safety Report: Official Report compiled through the Office of Campus Safety.
- b) Residential Life Report: Official Report compiled through the Department of Residential Life.
- c) Official University Conduct Violation Form: Official Report submitted by any person providing an electronically submitted or written and signed statement to the Dean of Students. Written statements should include all information and evidence the person making the complaint can produce.

Reports must be made to either law enforcement or the appropriate administrator, within six 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 six 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.

The administrator, in this case, may be the Dean of Students will review the case and decide whether the case will be handled through an Administrative Hearing or a Judicial Affairs Committee (JAC) Panel Hearing.

A respondent refers to the student who has been charged with a violation of university policy. A complainant refers to any person who reports an alleged policy violation. The respondent(s), victim(s), complainant(s) and witness(s) identified in the incident report will be notified as well. All parties will be asked to provide written and/or verbal testimony and to explain occurrences. A determination of responsibility will be based on the preliminary evidence gathered. The standard used to determine responsibility is a preponderance of the evidence, whether it is "more likely than not" that the respondent has violated the policy.

Notifications to the individuals involved, from the Office of Student Conduct (JAS) are to be done three ways:

- a) Commuter Student:
 - o By way of Local Address
 - o Through the use of the Official University Assigned Email
 - o Notice to Professors and/or Judicial Hold on Student Account

b) Residential Student:

- By way of the Residential Life Department and/ or by way of local address
- Email through the use of the Official University Email
- Notice to Professors and/or Judicial Hold on Student Account

Communications to the student may be verbal but must subsequently be confirmed in writing.

When a complaint against a student is received by the Dean of Students, all other administrative processes and petitions at the University may be suspended and may not be processed further until final disposition of the complaint or upon special permission by the Dean of Students and/ or a University designee.

Preliminary Investigation

The preliminary investigation into a violation of University policy or the Code of Conduct will be conducted by the Office of the Dean of Students or a designee. It is expected that all members of the campus community will cooperate fully in the investigation; this includes responding fully and truthfully to requests for information. If the result of the investigation is such that a panel hearing must be convened, the Office of the Dean of Students, or its designee, will provide written notice to the student clearly outlining the alleged violations and the time and date on which the administrative hearing or the panel hearing will convene. Every attempt will be made so as to avoid conflicts with classes. Students are expected to make arrangements for other schedule conflicts.

PROCEDURE

1. Any member of the University community may officially report allegations against any student for violating the Code of Conduct. Allegations shall be submitted electronically, via the Official reporting portal and/or prepared in writing and directed to the Dean of Students. Reports should be submitted as soon as possible after the event takes place.

2. The Dean of Students will conduct an investigation to determine if the charges have merit and/or if they can be disposed of administratively by mutual consent of the parties involved. Such disposition shall be final and there shall be no subsequent proceedings. If the charges cannot be disposed of by mutual consent, the Dean of Students shall refer the matter to the Judicial Affairs Committee (JAC).

All charges shall be presented to the accused student in written form. A time shall be set for a hearing, no less than five (5) and no more than fifteen (15) business days after the student has been notified. Maximum time limits for scheduling of hearings may be extended at the discretion of the Dean of Students or the Chairperson of the Judicial Affairs Committee (JAC).

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.

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 request a Student Conduct Conference; the date and time of this Student Conduct Conference will be scheduled by the Dean of Students. Students are also given the option to waive the Student Conduct conference and respond to a served Notice of Charge in writing.

- 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.
- 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.

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 through correspondence, 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, thereby accepting responsibility for the charges, the Dean of Students may assess such sanctions as are deemed appropriate. This acceptance of responsibility may 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 will be communicated in correspondence to the charged student within, at the least, seven (7) business days of the Student Conduct Conference.

Formal Disposition by Hearing. When a charged student denies responsibility, a Hearing may be scheduled no less than five (5) business days after the Notice of Charge(s), except in cases of emergency as specified below, or unless waived by the student. A formal disposition by Hearing is defined as any Hearing before the Judicial Affairs Committee (JAC) or a University Hearing Officer.

A hearing is a formal process of resolving a violation of University policy or the Code of Conduct. Two kinds of hearings are possible, an administrative hearing or a Judicial Affairs committee (JAC) panel hearing. Minor violations of University policy or the Code of Conduct may often be resolved through an administrative hearing. All academic integrity cases will be resolved through an administrative

hearing with the instructor and the Provost or designee. Hearing panels will be convened to address repeated policy violations or to resolve more serious matters, *i.e.*, those that may result in a student being suspended or dismissed from the University or permanently dismissed from the residence halls. The University may refer any matter, regardless of potential outcome, to a hearing panel for resolution.

ADMINISTRATIVE HEARING

Administrative hearings are conducted by members of the University administrative staff, including, but not limited to the Dean of Students, the Vice President for Student Affairs, Provost and professional residence life staff members. A hearing will be convened no later than seven (7) days from panel assignment, barring unusual circumstances. However, the panel or the Office of the Dean of Students may consider and allow reasonable requests for postponement. All administrative hearings and panel hearings will be closed to non-parties, excepting witnesses, victims, and other members of the Administrative Committee. A hearing will proceed in the absence of a respondent who was given proper notice, who does not request a postponement, and who does not attend the hearing.

Notice of Hearing. The notification of hearing shall be in correspondence and include:

1. The date, time, and location of the JAC Hearing.
2. Reference to this code, 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 material 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.

Postponement of Hearing. The student may request postponement of a 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.

In compliance with Title IX, Florida Memorial 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. Information relative to such can be obtained from the University's website.

Structure of the Judicial Affairs Committee

Students serving on the JAC are selected through an annual application and interview process, with the exception of the student justices from the Student Government Judicial Branch. All Judicial Affairs Committee members, including Student Government Justices, will receive training from the Dean of Students Office.

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, 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 Judicial Affairs Committee 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(s) at their discretion.

Hearings normally shall be conducted in private.

Admission of any person to the hearing shall be at the discretion of the Chairperson of the Judicial Affairs Committee (JAC).

In hearings involving more than one accused student, the Chairperson, at his or her discretion, may permit the hearings concerning each student to be conducted separately.

- (e) Burdens of Proof. The JAC 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 Judicial Affairs Committee 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 may be advised by a University attorney as well.

- (g) Hearings.

1. All Hearings before the JAC 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 JAC or Hearing Officer may change the order, if necessary. The JAC 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 Judicial Affairs Committee or Hearing Officer.
 - f. Closing statement by the charged student.
 - g. Deliberation by the Board or Hearing Officer (not taped).
 - h. The Judicial Affairs Committee 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 Judicial Affairs Committee or Hearing Officer.

- (h) The Judicial Affairs Committee or Hearing Officer will find the student "Guilty" or "Not Guilty" for each of the alleged violations listed on the Notice of Charges, based solely on the information presented at the Hearing. The Judicial Affairs Committee or Hearing Officer will inform the Dean of Students of its findings and

any recommendation for sanctions based on its findings. If the Judicial Affairs Committee cannot reach a finding of “Guilty” or “Not Guilty” 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 Judicial Affairs Committee 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 Judicial Affairs Committee or Hearing Officer, or remanding the matter for rehearing. The Dean of Students will send a correspondence (referred to as a “Hearing Outcome, Notice of Decision and Sanction”) informing the student of the final decision and sanctions. Such correspondence will be sent to the student within a reasonable period of time after the conclusion of the Hearing.

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 “Guilty” 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 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 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 Deferred Termination in University Housing Contract/Assignment – Students remain financially responsible for obligations under the housing contract.

5. Restitution – Payment made for damage or loss caused by the responsible student.
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.
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.
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.
9. Suspension – Mandatory separation from the University. During the period of suspension the student is barred from all FMU 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.

Automatic Suspension – Automatic separation from the University. Due to the nature of some antisocial behaviors and/ or actions, certain violations of University rules and regulations by a student will subject him/her to automatic suspension from the University, pending a judicial hearing before the appropriate University body. The Vice President for Student Affairs, the Dean of Students and/or a University designee, may impose automatic suspension of any student suspected of the following behaviors and/or actions:

- Commission of Rape
- Possession of Firearms or weapons
- Physical assault/ threats/ verbal assault upon an administrator, faculty, staff member or another student
- Commission of a major crime (Felony)

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 FMU may be revoked for fraud, misrepresentation or other violation of FMU standards in obtaining the degree or for other serious violations committed by a student prior to graduation.
11. Withholding Degree – FMU 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.
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 FMU campuses.
13. Deactivation of the Student Organization’s status at the University.
14. Involuntary Withdrawal from individual courses or all courses registered for at the University – Students remain financially responsible for tuition and fees.
15. Other Appropriate Action – A student conduct action not specifically set out above, but deemed proper by the Dean of Students.
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 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 and Psychological Services.

2. Termination or Deferred Termination of University Housing Contract 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 a minimum of 1 semester.
 5. Completion of 15 - 30 hours of Community/ University Service.
 6. Completion of an educational program and payment of administrative costs for providing this program.
- c. Third Violation
1. Termination of Housing Contract 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 payment of administrative costs for providing this program.
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 a minimum of 1 year.
 3. Mandatory completion of evaluation and treatment from Counseling and Psychological Services.
 4. Parental Notification.
 5. Completion of 25 hours of Community/University Service.
 6. Completion of an educational program and payment of administrative costs for providing this program.
 - b. Second Violation
 1. Completion of 50 hours of Community/University service.
 2. Suspension or deferred suspension for a minimum of 1 academic year.

3. Completion of an educational program and payment of administrative costs for providing this program.
- c. Persons found to be involved in the sale of illegal drugs will be suspended or expelled from the University.

(More than one of the sanctions listed above may be imposed for any single violation). All sanctions listed may be imposed upon groups or organizations

Parental Notification

Florida Memorial 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, FMU 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 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.

Appeals

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

The bases of appeals include only the following:

- There was a denial of a fair hearing.
- There was insufficient evidence to establish responsibility.
- There is new information available that was not available at the time of the hearing which effects the disciplinary decision.
- Severity of the sanction
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All appeals must be received in correspondence (electronic (preferred) and/or physical) within five (5) business days of the date of the "Hearing Outcome, Notice of Decision and Sanction" to the Vice President for Student Affairs or designee for consideration. All appeals must specify the basis for the appeal.

The appeal must be in writing and must contain the following: □

An Official Letter of Appeal.

- A statement explaining in detail why the student is contesting the findings or the action(s).
- Copies of any documents that will substantiate or clarify the appeal request.

No person may hear or decide an appeal if he/she conducted or participated in the Hearing.

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

The student's pre-decision status will remain unchanged pending the appeal determination by the 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 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 code.

After considering the appeal, the Vice President for Student Affairs or designee may reopen the Hearing, order a new Hearing with the same or new Committee or Hearing Officer, uphold or reverse the prior decision of the Dean of Students or revise the sanction. The 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. If a delay occurs, or additional time is needed, this administrator will notify the student of the delay.

The appeal determination of the Vice President for Student Affairs or designee is final and binding on all parties. There are no further appeals within the University. The student has a right to appeal the University's final decision to an external judicial forum.

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.

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)

Rights:

To the extent applicable, victims shall have rights equivalent to those of a charged student, including the following rights:

- 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.
- The right to request review, not less than three (3) business days prior to the Hearing, the information which will be used by the University.
- The right to participate in the Hearing, present information, and to arrange for witnesses to voluntarily present information at the Hearing.
- The right to hear and question adverse witnesses who voluntarily testify at the Hearing, unless the charged student has waived a Hearing.
- The right not to be forced to present testimony which would be selfincriminating. However, the University is not required to postpone student conduct proceedings pending the outcome of any outside criminal or civil case.
- The right to request an appeal of University action and the sanction imposed as long as appropriate appeal procedures are followed.
- The right to be informed of their rights provided in this code.
- 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.
- 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).
- The right to have unrelated past behavior excluded from the Hearing. The chair of the Judicial Affairs Committee or Hearing Officer will decide if such information is unrelated. The past sexual history of the alleged victim is not usually considered relevant.
- At the request of the victim in cases involving sexual misconduct, physical violence, harassment, bullying or stalking charges, and 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.
- The right to be notified of the Student Code of Conduct outcome in correspondence.

Additional support services may be provided to the victim, upon request of the victim, through the Dean of Students Office.

Regulation Review

Florida Memorial University may establish a committee at least once every five years beginning five years after the adoption of this code to review, evaluate and recommend changes to this code to

the Vice President for Student Affairs. This committee shall be appointed by the Vice President for Student Affairs or a University Designee and shall include student representation. This committee shall have as its charge to review and evaluate this code to determine that it ensures fairness and the satisfaction of certain minimum requirements in the student conduct proceedings at the University.

Student Conduct Records

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.

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 student has committed student conduct acts culminating in interim suspension, suspension and/or expulsion;
 - A student has failed to appear before the Dean of Students, Judicial Affairs Committee or Hearing Officer, when reasonably notified as to his/her involvement in student conduct matters; or
 - 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."

The Dean of Students Office has adopted the following Retention of Records Policy: Disciplinary records are maintained or expunged at the discretion of the University. Two years after final disposition of the case, students may petition the Dean of Students to have their discipline record reviewed.

Student Disciplinary Records

Because the Family Educational Rights and Privacy Act (FERPA) defines the records of a student engaged in a disciplinary process as private, information about the disciplinary process may only be shared with the student found responsible, his/her parents if a dependent, his/her academic college dean or adviser and school officials with a legitimate educational interest. The student must give written permission for anyone else to have access to this information, unless otherwise permitted by federal or state law.

Retention of Non Academic Disciplinary Records

At the completion of a non-academic disciplinary action(s) the student's record shall be returned to good standing, but the disciplinary action(s) and supporting material shall be retained in the student's file until two years after his/her graduation date or that of the student's class if he/she does not continue at FMU. At that time, the material will be destroyed, except for those records dealing with suspension or expulsion. Such a record may be introduced and given due consideration in any subsequent case in which the student may be involved. Electronic records will be maintained for reporting purposes.

- 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. Personal injury;
 2. Property damage;
 3. A felony violation of a state controlled substance law;
 4. Disruption to the orderly operation of the University;
 5. Violation of the firearm, explosives, dangerous chemicals, and ammunition or weaponry regulations of the University;
 6. Suspension or expulsion from the University;
 7. Endangering the health, safety, or welfare of members or guests of the University; or
 8. Comes within the jurisdiction of the off-campus conduct section of the Student Code of Conduct.

DISCLAIMER:

Florida Memorial University will periodically review its policies and procedures in order to serve the needs of the University and to respond to mandates of the Legislature, the Florida Board of Governors, the Florida Memorial University Board of Trustees, the federal government, and other regulatory and accrediting agencies. Florida Memorial University reserves the right to change, rescind, or include additional regulations, policies and procedures in the University's Student Handbook. Please note and understand that such changes may occur without notice. Please be sure to periodically check the online version of the University's Student Handbook for the latest version.