

### **FSU-ER15-3 Student Conduct Code**

#### (1) General Provisions and Hearing Procedures.

(a) Introduction. The Student Conduct Code applies the principles found in the “Statement on Values and Moral Standards at Florida State University” by promoting responsible freedom for all students. Responsible freedom is exercised when actions are directed by ethical standards. This Code seeks to apply the principle of responsible freedom as it guides the conduct of Florida State University students. Moreover, the Code operates as a vehicle for informing students about their rights and responsibilities while reinforcing the development of ethical standards that make responsible freedom possible. The “Statement of Values and Moral Standards at Florida State University” is found in the current FSU Online Student Policy Handbook.

(b) Scope. Florida State University jurisdiction regarding student conduct is generally limited to conduct of any student that occurs on Florida State University premises. In addition, the University reserves the right to impose discipline based on any student conduct, regardless of location, when that conduct may adversely affect the University community or its international programs. The University further reserves the right to restrict contact with specified people when facts and circumstances dictate such action. The right of all students to seek knowledge, debate ideas, form opinions, and freely express their ideas is fully recognized by Florida State University. This Student Conduct Code applies to student conduct and will not be used to impose discipline for the lawful expression of ideas. Specific restrictions on time and place of meetings and assemblies are found in Oglesby Union and other University rules, regulations, or policies. The

processes for adjudicating violations of state and federal law and violations of the Student Conduct Code are separate and may be pursued independently and/or simultaneously.

(c) Authority.

1. Authority for student discipline ultimately rests with the President and the University Board of Trustees, who delegate this authority to the Vice President for Student Affairs (hereinafter “Vice President”). The Vice President delegates this authority to the Dean of Students and to the Director of University Housing. Under the direction of the Dean of Students and the Director of University Housing, the Associate Deans of Students, the Assistant Dean of Students/Director of the Office of Student Rights and Responsibilities, resident directors/program leaders of international programs, and appropriate University Housing staff are responsible for implementing the student conduct system. Either the President, the Vice President, the Dean of Students (or their designees), or resident directors/program leaders in international programs may take direct jurisdiction of any case due to the inability or disqualification of the appointed hearing officer to serve, or when it is determined by the immediate circumstances that taking direct jurisdiction is in the best interest of the University. The Vice President and the Dean of Students have the authority to designate individuals as hearing or appellate officers, when appropriate.

2. The Vice President (or designee) also has the authority to notify the person listed as the student's emergency contact (or other appropriate person) in case of an emergency involving that student.

3. All hearing bodies have the authority to consult with other appropriate University officials in order to resolve a Student Conduct Code case effectively.

4. Decisions of all the Student Conduct Boards are considered recommendations to the Director of Student Rights and Responsibilities (see (c) 7. below).

5. Decisions of administrative hearing panels are recommendations to an Associate Dean of Students, or the designee of the Dean of Students (see (c) 7. below).

6. Decisions of the Housing Conduct Board(s) are recommendations to the Assistant Director of Housing, or the designee of the Director of Housing (see (c) 7. below).

7. All recommended student conduct decisions must be approved in writing by the appropriate authority (or designee) and only then will be communicated to the student (see (c) 3.-6. above). The appropriate authority may adopt or amend the recommended decision, or order a new hearing. Prior to amending or ordering a new hearing, the authority will confer with the appropriate hearing body. Upon approval, the recommended decision becomes a first-level student conduct action.

8. Decisions of all other hearing bodies constitute first-level student conduct actions.

9. If a first-level student conduct action is not appealed as provided herein, that decision becomes final agency action.

10. Appellate officers are listed in Section (3), Appeals. Appellate decisions are considered recommendations to the Vice President and become final agency action upon approval by the Vice President (or designee).

(d) Definitions.

1. Advisor. The term "advisor" means any one person chosen by the responding party, reporting party, or any witness to assist throughout the student conduct process, unless service in this capacity would unreasonably conflict with the fair administration of the student conduct process as determined by the Director (or designee) of the Office of Student Rights and Responsibilities.

2. Class day. The term "class day" means any weekday on which either classes or final exams are scheduled.

3. Hearing. The term "hearing" means an informal or formal proceeding, conducted by a hearing body in accordance with the Student Conduct Code, at which determinations of responsibility and non-responsibility are made and sanctions imposed.

4. Hearing Body. The term "hearing body" means any person or persons authorized by the Dean of Students or Director of University Housing or as provided for in this Student Conduct Code to conduct hearings to make recommended findings regarding whether a student has violated the Student Conduct Code and to recommend sanctions.

5. On-Campus. The term "on-campus" means all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the University, including adjacent streets, sidewalks, and parking lots. See also subsection 11, "University," below.

6. Policy. The term "policy" means the written statements of the University as found in, but not limited to, the Student Conduct Code, the General Bulletin, the Online Student Policy Handbook, the Directory of Classes, the Guide to Residence Living and other written requirements of departments, organizations, and clubs.

7. Preponderance of the Evidence. "Preponderance of the evidence" means that the evidence, as a whole, shows that the fact sought to be proved is more probable than not.

This standard shall be used in adjudicating all student conduct cases within this Student Conduct Code.

8. Reporting Party. The term “reporting party” means any individual who has reported another person’s alleged violation of the Student Conduct Code. The reporting party is the individual who files a report or on whose behalf a report is filed.

9. Responding Party. The term “responding party” means an individual who has been accused of an alleged violation of the Student Conduct Code.

10. Student. The term "student" means any person who is admitted to and enrolled in any credit-bearing course or program in any school or division of Florida State University, any person who is admitted to the University and is present on campus for the purpose of being enrolled in any University course or program, including Orientation, or any person who has been enrolled in any credit-bearing course or program at the University and continues to be associated with the University, because the student has not completed the course or program in which the student was enrolled. In cases of dual enrollment, jurisdiction over a student's conduct will be determined in consultation with appropriate officials at the student's other institution.

11. Student Defender. The term "Student Defender" means any person provided by the Student Government Association, either through formal appointment or informal referral, to serve as a resource and advisor to the responding party under the authority of University Regulation FSU-3.006.

12. University. The terms "University" and “University properties” mean Florida State University, including the main campus, all property leased, used or controlled by the University, all branch campuses, facilities and University International Programs’ locations. The Student Conduct Code applies to the University as defined herein. Non-substantive procedural modifications that reflect the particular circumstances of each

campus and international program are permitted. University Community. The term "University community" includes any person who is a student, faculty member, University official, visitor, contractor, volunteer, representative of the University, or any other person employed by the University.

13. University Official. The term "University official" means any person employed or appointed by the University to perform assigned teaching, research, administrative, professional or other responsibilities.

(e) Violations. The following violations, or the aiding, abetting, conspiring, soliciting, or inciting of, or attempting to commit these violations, constitute violations of the Student Conduct Code.

1. Sexual Misconduct.<sup>1</sup>

a. Sexual Violence: Any sexual act performed without the consent of the reporting party, or that occurs when the reporting party is unable to give consent. Consent to sexual activity must be knowing, intelligent, unambiguous, and voluntary. Consent is active, not passive. There must be clear and willing participation, through words or actions, for each sexual act. Submission to sexual activity that is the result of force, coercion, or threats is not valid consent.

i. Consent to one type of sexual activity does not imply consent to other types of sexual contact. There must be consent at every stage of the sexual encounter.

ii. Past consent to sexual activity does not imply consent to future sexual activity.

iii. Consent can be withdrawn at any time, including in the middle of a

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<sup>1</sup> It is intended that the definitions used in this portion of the Student Conduct Code be consistent with FSU's Sex Discrimination and Sexual Misconduct Policy.

sexual encounter, if the withdrawal of consent is clearly indicated by words or actions.

Individuals who are incapacitated by voluntary or involuntary alcohol or drug use (legal, illegal, or prescription); asleep; unconscious; mentally impaired by disease or illness; or under 18 years old cannot give consent to sex (no matter what they say or do). “Incapacitation” is a state where a person cannot make a rational, coherent decision because the person lacks the ability to understand the nature of the act.

iv.:

b. .Sexual Harassment: Unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal, or physical conduct of a sexual nature that is sufficiently severe, frequent or wide-spread that it both subjectively and objectively creates an intimidating, hostile, or offensive work environment or limits student’s ability to participate in or benefit from educational opportunities, university programs, or activities..

c. Sexual Exploitation: Any act of taking non-consensual, unjust, or abusive sexual advantage of another person for one’s own advantage or benefit or to benefit or advantage anyone other than the person being exploited. Sexual Exploitation includes, but is not limited to:

- i. Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such person;
- ii. Prostituting another person;
- iii. Non-consensual videotaping, photographing, or audio-taping of sexual activity and/or distribution of these materials via media such as, but not limited to, the Internet and other electronic/digital media;
- iv. Exceeding the boundaries of consent (e.g., allowing another person to observe consensual sex without the knowledge of or consent from all participants;

v. Engaging in indecent exposure (i.e., intentionally exposing one's sexual organs in public) with the intention of alarming, distressing, and/or offending others;

vi. Voyeurism; and

vii. Knowingly or recklessly transmitting a sexually transmitted disease (including HIV) to another individual.

d. Stalking: Willfully, maliciously, and repeatedly following, harassing, or cyberstalking another person. "Cyberstalking" means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose. Examples of Stalking/Cyberstalking include following a person, appearing at a person's home, class, or work; frequently calling, texting, e-mailing, electronically chatting; leaving written messages or objects; or vandalizing a person's property.

e. Dating Violence/Relationship Violence: Violence between an individual who is or recently has been in a continuing and significant relationship of a romantic or sexual nature and the other party. Dating Violence/Relationship Violence includes hurtful, repeated, and intentional behavior that one person uses to maintain power and control over another in an intimate relationship. The behavior can manifest as abuse that is verbal, emotional, psychological, physical, or sexual. Behaviors may include threats, name-calling, put-downs, isolation, withholding of money, physical harm, and sexual assault.

f. Domestic Violence: Any criminal offense resulting in physical injury or death of one family or household member by another. Domestic Violence includes hurtful, repeated, and intentional behavior that one person uses to maintain power and control over another in an intimate relationship. The behavior can manifest as abuse that is

verbal, emotional, psychological, physical, or sexual. Family/household members are spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

g. Sex Discrimination: Treating individuals unequally because of their sex, gender, sexual orientation, gender identity, or gender expression. Examples of sex discrimination include:

i. Gender Based Hostility: Negative treatment or use of derogatory or offensive language toward a person because of that person's gender, whether or not the language itself is sexual.

ii. Sex and/ or Gender Stereotyping: Taking a negative action, creating a hostile environment, or denying a benefit because the individual does not conform to sexual stereotypes of "appropriate" behavior or appearance for men and women (including dress, grooming, and social behavior).

h. Retaliation: Any creation of a hostile environment or adverse action threatened or taken against an individual who makes a report of Sexual Misconduct, assists another in making a report of Sexual Misconduct, participates in the investigation of a report of Sexual Misconduct, or who in good faith and in a reasonable manner opposes conduct believed to constitute Sexual Misconduct.

i. Complicity: Any action or behavior done with the intent of aiding, facilitating, promotion, or encouraging the commission of an act of Sexual Misconduct.

2. Endangerment.

- a. Physical violence towards another person or group.
  - b. Action(s) that endanger the health, safety, or well-being of another person or group.
  - c. Interference with the freedom of another person to move about in a lawful manner.
3. Harassment.
- a. Conduct, not of a sexual nature, that creates an intimidating, hostile, or offensive environment for another person.
  - b. Action(s) or statement(s) that threaten harm or intimidate another.
  - c. Acts that invade the privacy of another person.
  - d. Bullying behavior, defined as: the systematic and chronic infliction of physical hurt or psychological distress by teasing, social exclusion, threat, intimidation, stalking, physical violence, theft, harassment, or destruction of property.
  - e. Stalking, not of a sexual nature, defined as: to follow or otherwise contact another person repeatedly, so as to put that person in fear for his or her life or personal safety.
4. Hazing.
- a. Hazing is defined as any group or individual action or activity that endangers the mental or physical health or safety or which may demean, disgrace, or degrade any person, regardless of location, intent, or consent of participant(s). Although hazing is generally related to a person's initiation or admission into, or affiliation with, any group or organization, it is not necessary that a person's initiation or continued membership is contingent upon participation in the activity, or that the activity was sanctioned or approved by the organization, for a charge of hazing to be upheld. The actions of active,

associate, new, and/or prospective members of an organization may be considered

hazing. Hazing includes, but is not limited to:

- i. Unreasonable interference with a student's academic performance
- ii. Forced or coerced consumption of food, alcohol, drugs, or any other substance
- iii. Forced or coerced wearing of apparel which is conspicuous and/or

inappropriate

- iv. Forced or coerced exclusion from social contact
- v. Branding
- vi. Creation of unnecessary fatigue (including but not limited to acts that stem

from forced physical activity, such as calisthenics and deprivation of sleep)

- vii. Deprivation of food
- viii. Beating, whipping, or paddling in any form
- ix. Line-ups and berating
- x. Physical and/or psychological shocks
- xi. Personal servitude
- xii. Kidnapping or abandonment
- xiii. Unreasonable exposure to the weather

xiv. Any activity that would be viewed by a reasonable person as subjecting any person to embarrassment, degradation or humiliation

xv. Expectation of participation in activities that are unlawful, lewd or in violation of University policy

Please refer to the Florida State University Hazing Policy and Section 1006.63, Florida Statutes, for more details.

5. Retaliation for Reporting Hazing. Retaliating against any individual who reported a hazing violation or suspected hazing violation to University or law enforcement

officials.

6. Weapons.

a. On-campus possession or use of firearms, antique firearms, explosives, destructive devices, or other weapons or dangerous articles or substances, including but not limited to non-lethal weapons such as pellet guns, bb guns, paintball markers, slingshots, crossbows, stun guns, Tasers, metallic knuckles, archery equipment, swords, sword canes, ornamental or decorative swords/daggers/knives, or any dangerous chemical or biological agent. Note: This section shall not apply to:

(i) any law enforcement officer who is a student or to any student ROTC member acting under the supervision of an ROTC unit in a manner proscribed by military regulations of the United States Government; or

(ii) any student whose possession of a weapon as described above is approved by the FSU Police Department for a bona fide educational purpose; or

(iii) a concealed firearm kept for lawful purposes with or without a license by persons 18 years or older within the interior of a private vehicle, provided that such firearm is not carried on the person and provided that a handgun must be kept securely encased; or otherwise not readily accessible for immediate use, or

(iv) a student who possesses a concealed weapon or firearm license and is in possession of a stun gun or non-lethal electric weapon or device designed solely for defensive purposes and which weapon does not fire a dart or projectile as provided in Section 790.06(12)(a)13., Florida Statutes.

b. Off-campus, unlawful or unauthorized possession or use of firearms, explosives, or other weapons or dangerous articles or substances in violation of state or federal law.

c. This section is authorized by Section 790.115, Florida Statutes. In accordance with Section 790.33, Florida Statutes, nothing in this section is intended to prohibit or regulate the lawful possession of a weapon or firearm as defined in Section 790.001, Florida Statutes, except as permitted by law.

7. Fire and Safety.

a. Inappropriate activation of any emergency warning equipment or the false reporting of any emergency.

b. Unlawful possession, or removal of, damage to, or tampering with fire safety or other emergency warning equipment.

c. Failure to evacuate a University building or facility within a reasonable amount of time after a fire alarm is sounded.

d. Arson, or the setting of any unauthorized fire in or on University property.

8. Alcohol, Controlled Substances, and Illegal Drugs.

a. Unlawful possession or use of controlled substances, including prescription medicine belonging to another individual.

b. Possession or use of illegal drugs

c. Purchase, distribution, delivery, or sale of illegal drugs or controlled substances.

d. Possession or use of drug paraphernalia.

e. Possession or consumption of alcohol when under the age of 21 as specified by the State of Florida.

f. Providing alcoholic beverages to an individual who is under the age of 21 as specified by the State of Florida.

g. Driving while under the influence of alcohol or any controlled substances or illegal drugs.

h. Intoxicated behavior.

i. Open house party. An open house party is defined as an event at a residence where hosts, owners, or others in control of the event fail to take reasonable steps to ensure legal compliance, reduce the risk of harm, and ensure the safety of guests (including, but not limited to, removing those in violation or requesting law enforcement to assist) if alcoholic beverages are known to have been consumed at the residence by person/s under

the age of twenty-one and/or illegal drugs or controlled substances are unlawfully possessed, distributed or used.

j. Any other violation of the University Alcohol Policy, FSU Regulation FSU-6.012,

9. Disruption.

a. Failure to comply with a lawful order of a University official or any non-University law enforcement official.

b. Providing false information to a University official or to a non-University law enforcement official, including student conduct hearing bodies.

c. Acts that impair, interfere with, or obstruct the orderly conduct, processes, and functions of the University or the rights of other members of the University community. This includes acts that occur both inside and outside of the classroom setting and may involve use of electronic or cellular equipment. This also includes behavior off campus during a university sanctioned event or activity or an event where the student serves as a representative of the university (including, but not limited to an organizational leadership role).

d. Commercial solicitation on campus without prior approval from University officials.

e. Acts that disrupt the University student conduct process including attempting to coerce or influence a person regarding their participation in any student conduct proceeding.

10. Misrepresentation or Misuse of Identity or Identification.

a. Permits another person to use his or her identification.

b. Inappropriate use of another person's identification.

c. Impersonation, or misrepresenting the authority to act on behalf of another or the University.

d. Forgery, alteration, or misuse of identification, documents, records, keys, or access codes.

e. Manufacture, distribution, delivery, sale, purchase, possession, or use of false identification.

11. Property.

a. Damage or destruction of public or private property.

b. Theft - without authorization removes or uses the property or services of another person or of the University, with the intent to permanently deprive the person or University of the property.

c. Misappropriation – without authorization temporarily removes or uses the property or services of another person or the University, but without the intent to permanently deprive the person or the University of the property.

d. Receipt, possession, sale, or purchase of property or services that are known or reasonably should have been known to have been stolen.

e. Enters or uses the property or facilities of the University or of another person without the proper consent or authorization.

12. Computers.

a. Unauthorized access or entry into a computer, computer system, network, software, or data.

b. Unauthorized alteration of computer equipment, software, network, or data.

- c. Unauthorized downloading, copying, or distribution of computer software or data.
- d. Any other act that violates Florida law or the Florida State University Policies and Responsibilities for Use of Campus Computer and Network Resources.

13. Recording of Images without Consent.

Using electronic or other means to make a video or photographic record of any person where there is a reasonable expectation of privacy without the person's consent and when such a recording is likely to cause injury, distress, or damage to reputation. This includes, but is not limited to, taking video or photographic images in shower/locker rooms, residence hall rooms, and restrooms. The sharing and/or distributing of such unauthorized records by any means is also prohibited.

14. Recording of Oral Communications without Consent.

Acquires, by listening or by recording using any device, any wire, oral, or electronic communication, when such communication is uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation (i.e., in a situation in which the person has a reasonable expectation of privacy), and the person has not given consent to the acquisition or recording of the communication.

15. Gambling.

Engages in or offers games of chance for money or other gain in violation of the laws of the State of Florida.

16. Other Violations.

- a. Violation of Federal or State law or local ordinance.
- b. Violation of any Florida Board of Governors Regulation.

c. Aids, abets, conspires, solicits, incites, or attempts to commit, any other violation of Federal law, State law, or local ordinance.

d. Violation of any other University regulation or policy as described in the FSU General Bulletin, University Housing contract, University Housing Publication - Graduate/Undergraduate, The Guide to Residence Living, other University Housing publications, the FSU Online Student Policy Handbook, the official FSU website, Student Activities and Organizational Policies (Student Organizational Manual or other University policies and Student Organization Advisor's Manual), or other University policies directly related to departments, organizations or clubs.

e. Violation of the Academic Honor Policy when the student is not currently enrolled in the related course or when the incident cannot otherwise be processed under the Academic Honor Policy. Refer to the Academic Honor Policy for violations and descriptions.

(f) Students' Rights.

1. Notice: Responding parties will be given written notice of the Student Conduct Code charge(s) and the allegations upon which the charge(s) is/are based.

2. Hearing: Students will be given an opportunity to present information, including witness testimony and/or statements, during a fair and impartial hearing.

(A more complete description of the procedures utilized to implement these rights is found in Section (g), Procedures.)

(g) Procedures. The Office of Student Rights and Responsibilities and University Housing are charged with implementing the Student Conduct Code in ways that are congruent with the FSU "Statement on Values and Moral Standards" and with all

applicable laws and regulations. The procedures implemented by these offices will be consistent with all appropriate due process rights accorded to students in University student conduct code proceedings.

1. Charges. A review for possible charges may be initiated in the following ways:

a. Filing a police report with the FSU Police Department or requesting that a report from another law enforcement agency be sent to the FSU Police Department.

b. Providing a signed statement to the Office of Student Rights and Responsibilities or University Housing. All information will then be reviewed by an appropriate staff member in the Office of Student Rights and Responsibilities or University Housing to determine whether Student Conduct Code charges will be filed or if alternative action, including mediation, is appropriate. When practicable, reports should be submitted to either law enforcement or the appropriate administrator in a timely manner.

i. Formal Student Conduct Code charges may be filed at the completion of all law enforcement investigations or as soon as practicable, even if a law enforcement investigation or criminal proceeding is ongoing.

2. Notice. The written notice given to any charged student will include the following:

a. Sufficient detail to prepare a defense (including source of information, alleged violation, and specific Student Conduct Code charges).

b. An invitation to attend an information session, during which the student may view all materials related to the case, receive instruction regarding the student conduct process and the student's rights, and confirm the forum in which the case will be heard.

c. Notice of a formal hearing will occur at least five (5) class days prior to the hearing of the case. Informal hearings will be scheduled at the convenience of the charged student and the hearing body.

d. Parent(s) of any student under the age of eighteen at the time of the alleged violation may also be notified of pending charges.

e. The Office of Student Rights and Responsibilities or University Housing may place a conduct hold on the records and registration of any student who fails to address the Student Conduct Code charges in a timely manner. Any pending conduct matters must be resolved prior to a student's graduation, the release of transcripts, transfer of credits to another institution, or re-enrollment at the University.

f. The contact information on file with the University Registrar's Office will be used for all student conduct notices sent to the charged student.

3. Hearing Bodies and Authorities. Any specific procedures used by hearing bodies will comply with the requirements of this Student Conduct Code. The range of available hearing bodies may differ on branch campuses or International Programs.

a. The Director of Student Rights and Responsibilities (and designee(s)) may conduct both informal and formal hearings.

b. A hearing officer designated by the Dean of Students may conduct both informal and formal hearings.

c. The Dean of Students and Associate Deans of Students may conduct both informal and formal hearings.

d. The Student Conduct Board may conduct both informal and formal hearings.

Panels are composed of five (5) Student Conduct Board members selected by the Office

of Student Rights and Responsibilities. In times of limited student availability or when conflicts are identified, hearings may proceed with less than five (5), but not less than three (3), Student Conduct Board members.

e. An Administrative Hearing Panel may conduct formal hearings. Panels are composed of one (1) faculty member, one (1) staff member, both designated by the Dean of Students (or designee), and two (2) Student Conduct Board members. In times of limited student availability, panels may proceed with one (1) Student Conduct Board member with approval from the Office of Student Rights and Responsibilities and consent of the charged student and reporting party (if any).

f. University Housing hearing officers (Director, Associate Director, Assistant Directors and designees) may conduct both informal and formal hearings regarding cases arising in University Housing in which the charged student is a resident of University Housing.

g. University Housing Conduct Board(s) may conduct formal hearings regarding cases arising in University Housing in which the charged student is a resident of University Housing. Panels are composed of five (5) University Housing Conduct Board members, all of whom are students currently living on campus. In times of limit student availability or when conflicts are identified, hearings may proceed with less than five (5), but not less than three (3), University Housing Conduct Board members.

4. Choice of Hearing Type and Hearing Body. Responding parties may request both the hearing type and the hearing body to adjudicate their case subject to the restrictions stated in Section (g) 3., above. Further restrictions to that choice include:

a. When it is determined that a case requires a formal record of proceedings, a formal hearing may be chosen by the Dean of Students (or designee).

b. When two or more individual cases stem from the same incident, those cases should typically be heard by the same hearing body. In such cases, the Director of Student Rights and Responsibilities (or designee) may either pre-select the hearing type and hearing body or consult with the students involved before making the decision.

c. The Dean of Students or Director of University Housing (or designee) reserves the right to select the appropriate hearing type and body for other administrative or case-related reasons.

d. During time periods in which any of the hearing bodies are not officially constituted, the Dean of Students or Director of University Housing (or designee) may select an appropriate alternative as the hearing body.

5. Types of Hearings. Two distinct types of hearings are provided for by the Student Conduct Code. Informal hearings are held when cases involve few or no disputed questions of fact and possible sanctions do not include separation from the University. Formal hearings are held when cases involve disputed questions of fact or serious alleged violations of the Student Conduct Code (i.e., violations that could lead to separation of the charged student from the University).

a. Formal Hearings:

i. Require the hearing body to call appropriate witnesses or obtain witness statements, reports, or other information in support of the charges.

ii. Will be held no sooner than five (5) class days after notice is received by the responding party. The student may submit a written request to hold the hearing before the five (5) class days. The request will be considered and acted upon by the Office of Student Rights and Responsibilities.

iii. Will be audio recorded. This recording will serve as the official record of the proceedings.

iv. A formal decision letter will be sent to the student within ten (10) class days from the conclusion of the hearing. This time limit may be extended if additional consideration of evidence and deliberation is required.

v. The following order of presentation is recommended for use in formal hearings. The hearing body may change the order if deemed appropriate, including modifications in accordance with the Student Conduct Code Statement of Reporting Party's Rights.

(A) Presentation of formal charges.

(B) Opening statement by the University, followed by the opening statement of the responding party. Either party may waive the right to provide an opening statement.

(C) Presentation of evidence and witnesses by the University, followed by questioning of those witnesses by the hearing body and the responding party. Witnesses are then dismissed.

(D) Presentation of evidence and witnesses by the responding party, followed by questioning of those witnesses by the responding party and the hearing body. Witnesses are then dismissed.

(E) Questions directed to the responding party by the hearing body.

(F) Closing statement by the University, followed by the closing statement of the responding party. Either party may waive the right to provide a closing statement.

b. Informal hearings:

i. The University does not automatically call witnesses to support the charges, although the hearing body may gather any additional information needed, including calling witnesses. The responding party will be informed of any additional information

gathered by the hearing body. The responding party may call witnesses and present evidence.

ii. Are scheduled at the convenience of both the responding party and the hearing body.

iii. Brief written decisions (including findings of fact) will serve as records of informal hearings and will be communicated within ten (10) class days of the hearing body's final meeting with the student. This time limit may be extended if additional consideration of evidence and deliberations are required.

6. Hearing. Hearings will follow these guidelines:

a. All hearings will be fair and impartial and will use a reasonable person standard when assessing whether the information presented constitutes a preponderance of the evidence. A responding party may submit a challenge to the impartiality of any member of a hearing body to the Office of Student Rights and Responsibilities or the hearing body. Decisions on challenges shall be final and not subject to appeal.

A responding party will have the opportunity to present evidence on his or her behalf, including presenting witnesses, if available, and/or signed, written statements from witnesses, and other documentary evidence. Witness testimony is not required and the inability of the responding party to question a witness who has provided a written statement is not a violation of the due process rights of the responding party, as the responding party has the opportunity to review and respond to the written statement and may offer evidence to rebut the witness statement and other evidence presented at the hearing. Witness statements are entitled to be given the same weight by the hearing body as live witness testimony. Witness statements need not be sworn or in affidavit form.

b. The responding party, reporting party, and any witnesses may be accompanied

during the hearing by an advisor. According to FSU Regulation FSU-3.006, the Student Defender may serve as an advisor. Students are required to address the hearing body in person, on their own behalf, although they may consult with their advisor during the hearing. This consultation must take place in a manner that does not disrupt the proceedings. The advisor shall not speak on behalf of the student unless expressly authorized to do so by the hearing body. The responding party, reporting party, and any witnesses shall provide the advisor's name in writing to the Office of Student Rights and Responsibilities or University Housing two (2) class days prior to the hearing. The advisor may not serve as a witness.

c. A student may choose not to answer any and all questions posed by a hearing body.

d. The burden of proof at a first-level hearing always rests with the University. The standard of proof will be the preponderance of the evidence, meaning that the evidence, as a whole, shows that the fact sought to be proved is more probable than not.

e. The formal rules of evidence do not apply to Student Conduct Code proceedings.

f. All individual hearings will be conducted in private. If the responding party wants to have the hearing open, the responding party must submit a written request for a public hearing to the Director of the Office of Student Rights and Responsibilities or University Housing at least three class days prior to the hearing. Charges involving alleged sexual misconduct will not be heard in public without prior written consent of all reporting parties. After receiving the consent of all reporting parties in the case, the Director of the Office of Student Rights and Responsibilities may open the hearing to the public. If the hearing is made public, there is no requirement to obtain a larger hearing room to accommodate members of the public, so long as one (1) member of the public may be present.

g. Appropriate witnesses will be called by the University to all formal hearings (see

below for a description of formal versus informal hearings). Those witnesses who appear may be cross-examined by the responding party. If called witnesses do not appear, their written or taped statements may be considered by the hearing body. In some cases, student witnesses who fail to appear may be charged with a violation of the Student Conduct Code. Appropriate witnesses may also be called by the responding party to all hearings, provided they are reasonably available and do not disrupt or delay the hearing. In the event a witness is not reasonably available or the witness's presence may disrupt the hearing, a written statement from the witness may be substituted. Witness statements need not be sworn or in affidavit form.

h. Hearings may be held in the responding party's absence if the responding party fails to appear after proper notice or fails to cooperate in the Student Conduct Code process.

i. Prior records of student conduct action and witness/reporting party impact statements are considered by the hearing body only in the sanctioning phase of deliberations.

j. The hearing body's determination of "responsible" or "not responsible" will be based solely on the information presented at the hearing. However, when additional information that affects this determination is gathered outside the hearing, it may be used provided it is shared with the responding party and the student has an opportunity to respond to the information. In cases involving multiple students charged, information provided at one hearing may be used as evidence in the related case(s).

k. To request the cancellation of a previously scheduled formal hearing, the responding party must submit a written statement to the Office of Student Rights and Responsibilities five (5) class days prior to the hearing date. At the discretion of the Director of the Office of Student Rights and Responsibilities (or designee), the hearing may be rescheduled or conducted in the responding party's absence.

1. All first-level recommended decisions will be communicated in writing to the responding party and will include the findings of fact, determination of responsibility, sanctions (if applicable), and notice of appellate rights.

(h) Reporting Parties' Rights. The University provides the following rights to the reporting party. The cases to which these rights may apply include but are not limited to sexual misconduct, endangerment, harassment, stalking and hazing. Reporting parties must notify the Director of the Office of Student Rights and Responsibilities or University Housing at least two (2) class days prior to the scheduled hearing, if they wish to exercise any of the following rights listed in this section:

1. To have his or her unrelated past behavior excluded from the hearing. The hearing body will decide if such information is unrelated. The past sexual history of the reporting party is not relevant, unless deemed essential by the hearing body to protect fundamental due process.

2. To attend an information session, during which time the reporting party can view all materials related to the case and receive instruction regarding the disciplinary process and the responding party's and reporting party's rights. The University shall provide notice to the reporting party of these rights at least five (5) class days prior to a student conduct hearing.

3. To have an advisor accompany the reporting party when presenting information to the hearing body and to any other relevant meetings held throughout the disciplinary process.

4. To present evidence including presenting witnesses and/or signed written statements, as well as other relevant reports and documentary evidence.

5. To question the responding party and witnesses during the hearing. Questions to the responding party will first be posed to the hearing body, and depending on the case,

the hearing body will pose the questions to the responding party.

6. To submit an impact statement to the Office of Student Rights and Responsibilities or University Housing. This information will be used only in the sanctioning phase of deliberations, if the responding party is found responsible for the charge(s). The responding party may request to view the impact statement. The request will be considered by the Director of Student Rights and Responsibilities or University Housing in consultation with the reporting party.

7. To request to testify in a separate room from the responding party so long as the process does not unduly compromise the responding party's fundamental due process right to question the witness.

8. To request to be present throughout the entire hearing, or portions thereof. This option will be considered by the hearing body, and its decision shall be final and not subject to appeal.

9. To be notified of the status and outcome of the student conduct code process at the first hearing level and final outcome to the extent that the outcome directly relates to the reporting party and the notification does not violate the privacy rights of the responding party.

10. To appeal any first-level decision, provided that one or more of the reasons for appeal listed in (3) (c) is relevant to the case. On appeal, the burden of proof rests with the reporting party to show clearly that an error substantially affecting the outcome of the proceedings, or constituting a fundamental due process right of the reporting party, has occurred during the first level hearing process. The appellate body varies depending on the initial hearing body and is outlined in Section (3), Appeals. All appellate decisions are considered recommended decisions to the Vice President (or designee). See Section (3), Appeals.

(2) Sanctions. In light of the facts and circumstances of each case, the following sanctions, or combination of sanctions (with or without appropriate modifications) may be imposed upon any individual student found to have violated the Student Conduct Code. Certain sanctions may result in a financial cost to the student. If a student does not complete a sanction by the required deadline, a hold may be placed on the student's record. Decisions regarding falsification of admission or readmission information may be forwarded to the appropriate office for review of the application and appropriate action regarding admission.

(a) Reprimand (written or verbal).

(b) Service Hours - Completion of tasks under the supervision of a University department or outside agency.

(c) Educational Activities - Attendance at educational programs, interviews with appropriate officials, planning and implementing educational programs, or other educational activities.

(d) Counseling Assessment - Referral for assessment at a counseling center for alcohol/drug dependence, general mental health, or other counseling issues.

(e) Restitution - Only in cases involving University property. Restitution must be submitted to the appropriate University department in a manner that is approved by that University department.

(f) Conduct Probation - A period of time during which any further violations of the Student Conduct Code may result in more serious sanctions being imposed. Some of the restrictions that may be placed on the student during the probationary period include, but are not limited to: participation in student activities, representation of the University on athletic teams or in other leadership positions, entrance into University residence halls or other areas of campus, or contact with another specified person(s).

(g) Disciplinary Probation - A period of time during which any further violation of the Student Conduct Code puts the student's status with the University in jeopardy. If the student is found "responsible" for another violation of the Code during the period of Disciplinary Probation, serious consideration will be given to imposing a sanction of Suspension, Dismissal, or Expulsion from the University. Some of the restrictions that may be placed on the student during the probationary period include, but are not limited to, participation in University or student activities, representation of the University on athletic teams or in other leadership positions, entrance into University residence halls or other areas of campus, or contact with another specified person(s).

(h) Change in University Housing assignment.

(i) Exclusion (either temporary or permanent) from University Housing.

(j) Suspension - Separation from the University for a specified period, not to exceed two (2) years. This may include restricted access to campus and/or other specified activities.

(k) Dismissal - Separation from the University for at least two years and up to seven years. Readmission is possible but not guaranteed and will only be considered after the two to seven year time allotted from the effective date of the dismissal, based on meeting all readmission criteria and obtaining clearance from the Dean of Students or designee. This may include restricted access to campus and/or other specified activities.

(l) Expulsion - Separation from the University without the possibility of readmission. This may include restricted access to campus and/or other specified activities.

(m) Withholding of diplomas, transcripts, or other records.

(n) Transcript Notations - a written notation indicating that student conduct action was taken. This sanction may be applied only in cases in which the student has been permanently separated (i.e., expelled) from the University.

(o) Restrictions on contact with specified people.

(3) Appeals. An appeal may be requested on any first-level decision, provided that one or more of the reasons for appeal listed in Section (3)(c) is relevant to the case. On appeal, the burden of proof rests with the student to show clearly that a fundamental due process error that would substantially impact the outcome of the hearing has occurred during the first level hearing process. The appellate body varies depending on the initial hearing body and is outlined below. All appellate decisions are considered recommended decisions to the Vice President (or designee).

In the event that an incident involves a reporting party (including but not limited cases involving allegations of sexual misconduct, endangerment, harassment, stalking and hazing), both the responding party and the reporting party have the right to appeal the first- level decision. In the event that both parties submit an appeal request within the stated timeframe (see (b) 1. below), one appellate officer will be assigned and one appeal hearing will be conducted (see (a) below). Both parties will be provided the opportunity to attend the appeal hearing and the appeal decision outcome will be communicated to both parties. If the responding party appeals, the reporting party will be notified of the appeal, will be provided the opportunity to attend the appeal hearing and will be notified of the appeal outcome. If the reporting party appeals, the responding party will be notified of the appeal, will be provided the opportunity to attend the appeal hearing and will be notified of the appeal outcome.

(a) Appellate Officers.

1. Recommended decisions of the Student Conduct Board may be appealed to the Dean of Students (or designee).

2. Recommended decisions of the Housing Conduct Board may be appealed to the Director of University Housing (or designee).

3. Recommended decisions of Administrative Hearing Panels may be appealed to the Dean of Students (or designee).

4. Recommended decisions of the Director of the Office of Student Rights and Responsibilities (and designees) may be appealed to the Dean of Students (or designee).

5. Recommended decisions of other hearing officers appointed by the Dean of Students may be appealed to the Dean of Students (or designee, including a panel).

6. Recommended decisions of hearing officers appointed by the Director of University Housing may be appealed to the Director of University Housing (or designee).

7. Recommended decisions of the Dean of Students may be appealed to the Vice President (or designee).

(b) Appeal Requests.

1. A written request shall be submitted to the Office of Student Rights and Responsibilities or University Housing within five (5) class days after the student is notified of the initial hearing decision.

2. The request shall state the reason(s) for appeal (see (c) below), the supporting facts, and the recommended way to correct the error.

(c) Appeals are not opportunities for full rehearings of cases already decided.

Appeal considerations are limited to:

1. Due process errors involving violations of a responding party's fundamental due process rights (see Section (1) (f)) or a reporting party's rights (see Section (1) (h)) that substantially affected the outcome of the initial hearing.

2. Demonstrated prejudice against any party by the person presiding over the hearing. Such prejudice must be evidenced by a conflict of interest, bias, pressure, or influence that precluded a fair and impartial hearing.

3. Newly discovered, relevant information that was not reasonably available at the time of the original hearing and that would have substantially affected the outcome of the original hearing.

4. A sanction that is extraordinarily disproportionate to the violation committed.

5. The preponderance of the evidence presented at the hearing does not support the finding with regard to responsibility. Appeals based on this consideration will be limited solely to a review of the record of the first-level hearing, except newly discovered evidence under Section (c) 3. above may also be considered.

(d) Appellate Review.

1. Will involve an initial file review by the appellate officer. The appellate officer may make a determination based solely on this review. The outcome of the file review may become the official decision (see Section (e) below regarding appellate decisions).

2. If the appellate officer determines a need for additional information, that officer may request written materials and/or an appeal hearing with the responding party and/or reporting party (see Sections 3-7 below).

3. If deemed necessary, an appeal hearing will be scheduled within ten (10) class days of receiving the written request for appeal.

4. If deemed necessary, an appeal hearing will involve hearing the responding party and/or reporting party and any witnesses called by the student and/or reporting party; the appellate officer may determine whether there is a need to call any further witnesses or gather additional information.

5. An appeal hearing will be audio recorded; this recording will serve as the official record of the hearing.

6. The responding party and/or reporting party will be afforded the opportunity to bring an advisor to the appellate hearing.

7. All hearings will be fair and impartial. The responding party and/or reporting party may submit a written challenge to the impartiality of any appellate officer to the Office of Student Rights and Responsibilities or University Housing.

8. If the responding party and/or reporting party fails to appear at the scheduled appeal hearing after proper notice or otherwise fails to cooperate with the Student Conduct Code process, the hearing may still be held in their absence.

(e) Appellate Recommendations and Decisions.

1. The appellate officer may recommend to affirm, modify, or reverse the first-level decision; or order that a new hearing be held. The appellate officer may not modify or reverse a finding of “not responsible,” but may recommend that the finding be set aside and a new hearing be held.

2. All appellate recommendations are transmitted to the Vice President. The Vice President (or designee) has the right to affirm, modify, or reverse the recommendation, or to order a new hearing.

3. The final decision is communicated in writing within fifteen (15) class days of an appellate hearing. This time period may be extended if necessary for consideration of the record on appeal.

4. Once approved by the Vice President (or designee), appellate recommendations become final agency action. Final agency action decisions may be appealed by writ of certiorari to the Second Judicial Circuit in and for Leon County, Florida.

5. Except in the case of an interim disciplinary action pursuant to Section (5) below, the responding party's status will remain unchanged until the appellate process is final.

(4) Records.

(a) Records of all student conduct cases will be maintained in the Office of Student Rights and Responsibilities or in University Housing. Records which result in a finding

of not responsible or result in suspension or a less severe sanction shall be destroyed in compliance with Florida Public Records law. Dismissal records shall be permanently retained as official records, unless the student is readmitted and successfully completes a degree, at which point the record should be removed five years beyond the date of readmission. Expulsion records shall not be removed from the official files under any circumstances. Any records kept beyond these limits for statistical purposes will not be considered or released as official student conduct records.

(b) The release of student conduct records will be governed by applicable federal and state laws regarding the privacy of education records. General information regarding the outcome of student conduct proceedings (without identifying information) may be released to the public.

(c) Recordings of hearings may be reviewed at the Office of Student Rights and Responsibilities. The Office of Student Rights and Responsibilities may require the reviewer to sign a confidentiality agreement as a condition of the review. Copies of recordings are not available unless all parties and witnesses have provided written confidentiality waivers.

(d) Transcripts of recorded hearings will not be prepared by the University. Any person desiring a transcript of a recorded hearing should contact the Office of the General Counsel, which will arrange for the preparation of the transcript by a court reporting service. The court reporting service will provide the transcript to the Office of the General Counsel, which will perform a confidentiality review of the transcript and redact any confidential or exempt information pursuant to state or federal law. The requestor shall bear the cost of the transcript preparation and confidentiality review.

(5) Interim Disciplinary Action. Based upon a student's alleged behavior, the Vice President, the Dean of Students, (or their designee(s)) may impose an interim disciplinary

action prior to the initiation of formal charges under the Student Conduct Code or to a student's hearing on the facts of the case.

(a) When the student's actions/behaviors affect the safety, health, or general welfare of a student and/or the University community, an interim disciplinary action may also include prohibiting the student from being on University property, attending classes, attending programs and activities, and using University facilities.

(b) The interim disciplinary action may include notification of appropriate faculty and staff, and restrictions including but not limited to, suspension, limited class attendance, use of University facilities, participation in student activities, representation of the University on athletic teams or in other leadership positions, entrance into University residence halls or other areas controlled, leased or used by the University, or contact with specified person(s).

(c) An interim disciplinary action requires that the student be notified in writing.

(d) The University or the student may request a meeting to discuss the restrictions imposed by the interim disciplinary action. The student's request must be in writing to the Dean of Students.

(e) If a meeting is requested on the interim disciplinary action, a meeting will be scheduled within three (3) class days of the receipt of a written request. The Dean of Students (or designee) will conduct the meeting. The student will be notified of the outcome of the meeting in writing. The written notification of the outcome is final as to the interim disciplinary action, pending the final results of the Student Conduct Code process.

(f) Formal student conduct charges may be filed at the completion of all law enforcement investigations or as soon as practicable, even if law enforcement investigations or criminal proceedings are ongoing.

Specific Authority BOG Regulations 1.001(3) (a), (j), and (4) (a), 6.0105. Law Implemented 1011.48

FS History—\_\_\_\_\_