



FLORIDA INTERNATIONAL UNIVERSITY

BOARD OF TRUSTEES

GOVERNANCE COMMITTEE

FIU, Modesto A. Maidique Campus, Graham Center Ballrooms

Livestream: <http://webcast.fiu.edu/>

Thursday, June 15, 2023

12:30 PM

or

Upon Adjournment of Previous Meeting

Chair: Dean C. Colson, *Board Chair*

Vice Chair: Roger Tovar, *Board Vice Chair*

Members: Carlos A. Duarte, Natasha Lowell, Gene Prescott, Marc D. Sarnoff

AGENDA

- | | |
|---|---------------------------------------|
| 1. Call to Order and Chair's Remarks | Dean C. Colson |
| 2. Approval of Minutes | Dean C. Colson |
| 3. Action Items | |
| G1. President's Management Review and Incentive Compensation Award | Dean C. Colson |
| G2. President's Performance and Incentive Goals, 2023-24 | Kenneth A. Jessell |
| G3. Review to Ensure Consistency with the Board of Governors Statement of Free Expression, the principles of free speech and civil discourse, and compliance with section 1004.097, Florida Statutes | Elizabeth M. Bejar
Heather Russell |
| G4. Ratification of the Wage Reopener for Fiscal Year 2022-2023 for the 2020-2023 Collective Bargaining Agreement between The Florida International University Board of Trustees and Florida Public Employees Council 79, affiliate of the American Federation of State, County, and Municipal Employees, AFL-CIO (<i>AFSCME</i>) | El pagnier K. Hudson |

3. Action Items *(Continued...)*

G5. Ratification of the 2023-2026 Collective Bargaining Agreement between the FIU Board of Trustees and the Florida Nurses Association, Office and Professional Employees International Union, Local 713, AFL-CIO

El pagnier K. Hudson

4. New Business *(If Any)*

Dean C. Colson

5. Concluding Remarks and Adjournment

Dean C. Colson

FIU Board of Trustees Governance Committee Meeting

Time: June 15, 2023 12:30 PM - 1:30 PM EDT

Location: FIU, Modesto A. Maidique Campus, Graham Center Ballrooms | Livestream:
<http://webcast.fiu.edu/>

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THE FLORIDA INTERNATIONAL UNIVERSITY
BOARD OF TRUSTEES
Governance Committee

June 15, 2023

Subject: Approval of Minutes of Meeting held April 27, 2023

Proposed Committee Action:

Approval of Minutes of the Governance Committee meeting held on April 27, 2023, at the FIU, Modesto A. Maidique Campus, Graham Center Ballrooms.

Background Information:

Committee members will review and approve the Minutes of the Governance Committee meeting held on April 27, 2023, at the FIU, Modesto A. Maidique Campus, Graham Center Ballrooms.

Supporting Documentation: Minutes: Governance Committee Meeting, April 27, 2023

Facilitator/Presenter: Dean C. Colson, *Board Chair and Governance Committee Chair*



Governance Committee

April 27, 2023

FIU, Modesto A. Maidique Campus, Graham Center Ballrooms

MINUTES

1. Call to Order and Chair's Remarks

The Florida International University Board of Trustees' Governance Committee meeting was called to order by Board Chair Dean C. Colson at 9:02 AM on Thursday, April 27, 2023.

General Counsel Carlos B. Castillo conducted roll call of the Governance Committee members and verified a quorum. Present were Trustees Dean C. Colson, *Board Chair*; Roger Tovar, *Board Vice Chair*; Carlos A. Duarte (*Zoom; joined after roll call*); Natasha Lowell; and Marc D. Sarnoff.

Trustee Gene Prescott was excused.

Trustees Deanne Butchey, Alan Gonzalez, Francis A. Hondal, and Cristhofer E. Lugo (*Zoom*) and University President Kenneth A. Jessell were also in attendance.

2. Approval of Minutes

Board Chair Colson asked if there were any additions or corrections to the minutes of the Governance Committee meeting held on December 6, 2022. Hearing none, a motion was made and unanimously passed to approve the minutes of the Governance Committee meeting held on December 6, 2022.

3. Action Items

G1. Approval of the Amendments to the Articles of Incorporation and Bylaws of the Florida International University Health Care Network (FIU HCN), Inc.

General Counsel Castillo presented the proposed amendments to the Articles of Incorporation and Bylaws of the FIU HCN for Committee review. He explained that the FIU HCN is the entity through which the University's clinical faculty practices. He indicated that the overall general purpose of the amendments is to comport with the organizational structure of other health care networks within the State University System (SUS). General Counsel Castillo pointed out that the HCN Board of Directors unanimously approved the proposed amendments in two (2) separate meetings earlier in the year. He stated that if the Board of Trustees approves the proposed changes, the changes will then be forwarded to the Florida Board of Governors (BOG) for approval. He noted that the proposed amendments were discussed with the BOG General Counsel and approved by the President of the University, as well as a Dean of the Herbert Wertheim College of Medicine (HWCOC), who serves as the President of the FIU HCN.

General Counsel Castillo stated that the proposed amendments to the Articles of Incorporation include the following: revising the official legal name to The Florida International University Health Care Network, Inc.; updated language to avail the FIU HCN of the provisions of applicable Florida Statutes related to health support services organizations as well as BOG regulations on direct support organizations and faculty group practice; updated language to reflect that all amendments will require BOG approval; and updated language to reflect current status of equal opportunity access to comport with state law, which includes access and opportunity for veterans.

General Counsel remarked that the proposed amendments to the Bylaws also reflect the name change and updated language to avail the FIU HCN of the provisions of applicable Florida law and BOG regulations. He described amendments to the Bylaws relating to board members, namely, a reduction of the maximum number of board members from 17 to a maximum of 11, a reduction in the length of terms from three (3) to two (2) years, and a capping of term limits at four (4) consecutive, two-year terms. He stated that the proposed amendments also update the duties of the Vice President to assist the President of the FIU HCN and to temporarily serve as the President in the President's absence. He mentioned that language was clarified with respect to the officers receiving no compensation and language related to the powers of the University President was updated to comport with the FIU Regulation pertaining Direct Support Organizations. He indicated that the committee composition was updated to reflect that the Chief Financial Officer (CFO) of the University shall serve as the Chair of the Audit and Finance Committee of the FIU HCN. General Counsel Castillo pointed out that the number of years for each term for the FIU HCN committees has been reduced to two (2), with the exception of the CFO and the Senior Associate Dean for Finance at HWCUM, who serve as long as, in effect, they continued to be employed with the University. He mentioned that language was also updated to reflect that the CEO of the FIU HCN is appointed and serves at the pleasure of the President of the FIU HCN, which is the Dean of HWCUM. General Counsel Castillo indicated that, consistent with the proposed amendments to the Articles of Corporation, proposed amendments to the Bylaws will also require BOG approval.

General Counsel Castillo recognized Senior Vice President for Health Affairs and Dean of HWCUM Juan C. Cendan and Senior University Counsel Val Aubourg for their work related to the proposed amendments to the Articles of Incorporation and Bylaws of the HCN.

A motion was made and unanimously passed that the FIU Board of Trustees Governance Committee recommend to The Florida International University Board of Trustees approval of the Amendments to the Articles of Incorporation and Bylaws of the Florida International University Health Care Network, Inc.

G2. Review to Ensure Consistency with the Board of Governors Statement of Free Expression, the principles of free speech and civil discourse, and compliance with section 1004.097, Florida Statutes

Vice Provost for Faculty Leadership and Success Heather Russell explained that on September 22, 2022, the FIU Board of Trustees reviewed and approved FIU's plan for implementing civil discourse relative to the BOG's Civil Discourse Final report, which included seven (7) recommendations which task university leadership with the operationalization, promotion, support and regular evaluation of institution-wide adherence to the principles set forth in the BOG's

Statement of Free Expression, the principles of free speech and civil discourse, and compliance with section 1004.097, Florida Statutes Campus Free Expression Act. Vice Provost Russell provided an implementation update. She pointed out that recommendations one (1), six (6), and seven (7) are fully implemented. She added that the University is not required to implement recommendation five (5) as that pertains to the President's annual evaluation. She indicated that recommendation two (2) calls for the endorsement of the BOG's Statement of Free Expression to be included in the University's accountability and strategic plans. Vice Provost Russell mentioned that said recommendation is partially implemented pending the completion of a new strategic plan which would include the endorsement language. She remarked that recommendation three (3) calls for the Board of Trustees, Faculty Senate, and Student Government Association to review and endorse the Statement of Free Expression. Vice Provost Russell noted that this is two-thirds complete pending the endorsement of the Faculty Senate. She added that the initial plan was for the Advisory Council of Faculty Senates to review and make a unified determination during this academic year, however, she stated that this has not yet been finalized. Vice Provost Russell mentioned that the seventh recommendation involves the implementation of six (6) best practices. She indicated that all six (6) best practices are implemented and ongoing.

Vice Provost Russell noted that recommendation six (6) tasks University academic, student affairs and administrative leaders to review student orientation programming, student codes of conduct, and employee personnel policies and procedures to ensure that they contain clear and unambiguous support of the BOG's Statement of Free Expression, speech and civil discourse principles, and statute compliance. She stated that the programming for the new student orientation was reviewed to ensure consistency. Vice Provost Russell added that information was incorporated specifically about expressive activities and free speech on campus and the FIU values to ensure that all incoming students who attend orientation are informed and educated. She remarked that programming was also added to Panther Camp, an extension of the orientation program, to engage students in raising their awareness about civil discourse. She pointed out that FIU-2501 Student Conduct and Honor Code was amended to include a statement of FIU's endorsement. She commented that the Employee code of Conduct University Guiding Principles and Standards was published in fall 2022 and includes the FIU statement of endorsement, highlights the freedom from censorship, freedom to select teaching materials, and freedom to engage in scholarly activity. She indicated that the division of human resources reviewed and confirmed that employee policies and procedures are consistent with the BOG's statement, free speech and civil discourse principles, and statute compliance. Vice Provost Russell commented that the implementation of recommendation six (6) is complete. She explained that recommendation four (4) asks that the Board of Trustees conduct a thorough review of current student orientation programs, student codes of conduct, and employee policies and procedures to ensure consistency with the BOG's statement, free speech and civil discourse principles, and statute compliance.

In response to Board Vice Chair Roger Tovar, Chair Colson referred to the Board materials, which describe FIU's changes to the new student orientation programming. University President Kenneth A. Jessell commented that the leadership team can provide greater specificity to the Board of Trustees as it relates to how the University phrases its commitment to civil discourse and compliance with statutes as part of its new student orientation, new faculty orientation, and new employee orientation programs. In response to Board Chair Colson, Provost and Executive Vice

President Elizabeth M. Bejar also referred to the information provided in the Board materials. She described the University's approach to new student orientation programming, which included educating students on the importance of academic freedom, civil discourse, and respect. In response to Trustee Marc D. Sarnoff, Provost Bejar commented that the University's Center for the Advancement of Teaching works with faculty on professional development. Board Vice Chair Tovar requested a presentation or video for greater understanding of new student orientation programming. Board Chair Colson requested that the leadership team confirm with the BOG that the Board of Trustees can revisit the agenda item at its next regularly scheduled meeting. He added that if said approach did not align with the BOG's timeline, that a special Board of Trustees meeting will be scheduled.

G3. Updated Exclusion Resolution

Provost Bejar presented the updated Exclusion Resolution for Committee review. She explained that the University holds a security clearance from the United States Government, which requires that the Board of Trustees either have a personnel security clearance at the level of the University's security clearance, or that they be excluded from the need for personnel security clearance. She added that in order for Trustees to be excluded from the personnel security clearance requirement, the Board of Trustees must adopt a resolution stating that such Trustees, designated by name shall not require, shall not have, and can be effectively excluded from access to all classified information in the possession of FIU and that they do not occupy positions that would enable them to adversely affect FIU's policies or practices in the performance of classified contracts for the Department of Defense or other agencies of the National Industrial Security Program. Provost Bejar indicated that each time there is a change in the composition of the Board of Trustees, an updated resolution is required to be adopted. She stated that the composition of the FIU Board of Trustees has changed since the adoption of the prior Exclusion Resolution in that the term of the following Trustees began or will begin: Alan Gonzalez; Francis A. Hondal; and Alexander P. Sutton and removes the Board of Trustees members whose term ended or will end soon: Donna J. Hrinak, Joerg Reinhold, Carlos Trujillo, and Cristhofer E. Lugo.

A motion was made and unanimously passed that the FIU Board of Trustees Governance Committee recommend that the Florida International University Board of Trustees adopt a Resolution that updates the exclusion of the named members of the FIU Board of Trustees from the requirements for a personnel security clearance.

4. Discussion Item

4.1 Board of Trustees Self Evaluation Survey

Board Chair Colson referred to the results of the Board of Trustees self-evaluation survey, which were provided as part of the Board's agenda materials. He added that the Board of Trustees will be discussing the results and recommendations at an upcoming Governance Committee meeting.

5. New Business

No new business was raised.

6. Concluding Remarks and Adjournment

With no other business, Board Chair Dean C. Colson adjourned the meeting of the Florida International University Board of Trustees Governance Committee on Thursday, April 27, 2023 at 9:36 AM.

THE FLORIDA INTERNATIONAL UNIVERSITY
BOARD OF TRUSTEES
Governance Committee

June 15, 2023

Subject: President's Management Review and Incentive Compensation Award

Proposed Committee Action:

Conduct a review of the President's performance and recommend a performance rating and issue a recommended incentive compensation award for the President, in accordance with the President's employment agreement, for Florida International University Board of Trustees (the BOT) approval.

Background Information:

Dean C. Colson, Chair of the BOT and this Committee, will lead a review on the President's performance. The Committee shall issue for BOT approval a recommended performance rating and a recommended incentive compensation award.

Pursuant to President Kenneth A. Jessell's Employment Agreement, namely, section 7(a), on April 26, 2022, the Board and Dr. Jessell established his goals and objectives. The Board will conduct Dr. Jessell's performance evaluation based on these goals and objectives, and Dr. Jessell is eligible for incentive compensation related to these goals and objectives in accordance with this Agreement.

For this initial review, Dr. Jessell is eligible for incentive compensation calculated as follows: (i) during Dr. Jessell's employment as Interim President from January 21, 2022 to November 8, 2022, Dr. Jessell is eligible for the maximum allowable incentive compensation award under the Interim President Employment Agreement on a pro rata basis (i.e., 291/365 days, with the maximum incentive compensation award being \$120,000 for this period); and (ii) during Dr. Jessell's employment as President from November 9, 2022 until the time of his initial review, Dr. Jessell is eligible for the maximum allowable incentive compensation award of \$175,000 under this Agreement on a pro rata basis. In short, through the date of the current review, June 15, 2023, the maximum allowable incentive compensation award, under this Agreement, is \$225,000.00.

In accordance with Florida Board of Governors Regulation 1.001(5)(f), each board of trustees shall conduct an annual evaluation of the president. The chair of the board of trustees shall request input from the Chair of the Board of Governors, who may involve the Chancellor, during the annual evaluation process pertaining to responsiveness to the Board of Governors' strategic goals and priorities, and compliance with systemwide regulations.

Supporting Documentation: President's Performance and Incentive Goals and Results,
2023 Reporting Year | Self-Evaluation Scorecard
Executive Performance Ratings

Facilitator/Presenter: Dean C. Colson, *Board of Trustees Chair*

**President's Performance and Incentive Goals and Results, 2023 Reporting Year
Self-Evaluation Scorecard**

V6

OBJECTIVE		Not Achieved	Partially Achieved	Achieved	Exceeded	Far Exceeded
1	Improve FIU's transition to a COVID-19 post-pandemic reality in regard to appropriate and sustainable educational instruction, workforce management, student engagement, financial stability, and business services operations			✓		
	Realigned online, classroom, and hybrid student credit hours with approved Accountability Plan goals for course delivery modes. AY22-23 student credit hours ratios totaled 50:11:39 (undergrad) and 37:11:52 (graduate), compared to 40:16:44 (undergrad) and 16:44:40 (graduate) targets.		✓			
	Implemented new flexible work policies that prioritize student success and university goals while providing flexibility to attract and retain excellent employees. Today, 12.68% of 8,900 eligible administrators and staff are participating in a flexible work arrangement.			✓		
	Total degree-seeking student headcount enrollment decreased from 49,693 to 48,782 between Fall 2021 and Fall 2022 due to significant decline in AA transfers. New FTIC enrollment increased by 8.6%, resulting in FIU's second largest FTIC class in history.		✓			
	The proportion of FTIC non-resident students grew from 9.43% in FY21-22 to 9.94% in FY22-23, landing just shy of our 10% goal.		✓			
	BBC student headcounts and credit hours both increased from AY21-22 to AY22-23, by roughly 5.9% and 7.8% respectively. I-75 student headcounts and credit hours continue to be challenged by pipeline issues associated with declining Broward College enrollment; fall headcount and credit hours decreased by 21.3% and 23.6% respectively from AY21-22 to AY22-23.		✓			
	Sold 2023A Parking Refunding Bonds at a True Interest Cost of 3.5844%. The annual debt service payment savings will be approx. \$230K per year, which translates into an NPV savings of approx. \$3.3M.			✓		
2	Open our new FIU in DC facility and launch strategies to increase student academic and internship experiences; enhance federal agency engagement and funding; support national ranking strategies; and increase alumni job placement at influential national organizations			✓		
	Opened the new facility in August 2022 with multiple targeted opening and cultivation activities. On target to host 60 events/programs by including 3,000+ national stakeholders, by July 1. DC internships continue to surpass pre-pandemic levels, by 27% in the fall and spring semester.			✓		
	Secured \$24M in Congressional earmarks, a historic record for FIU, and ranked 9th among universities across the country. Secured \$40M in programmatic plus-ups, of which we expect to receive between \$12-13M following collaboration with agencies.				✓	

**President's Performance and Incentive Goals and Results, 2023 Reporting Year
Self-Evaluation Scorecard**

V6

OBJECTIVE		Not Achieved	Partially Achieved	Achieved	Exceeded	Far Exceeded
3	Complete the final phase of the Next Horizon Campaign: focus on building a Panther movement where alumni feel connected to FIU and are engaged through events, storytelling, volunteering, and philanthropic support; the campaign will culminate with the opening of the Alumni, Hotel and Conference Center			✓		
	Closed out the Next Horizon capital campaign far above \$750 goal; \$845.1M raised as of 06/02/23.					✓
	Though the Alumni, Hotel and Conference Center building program was placed on hold, \$2.7M was raised toward \$3M goal for the alumni center as of May 2023.		✓			
	Alumni giving participation increased by 4,030 since FY21-22, representing 81% of this year's 16,703 goal.		✓			
	FY2021-22 fundraising totaled \$94.7M against our \$84M goal. As of 06/02/23, we have raised \$81.9M against our \$84M goal and expect to reach \$84M by 06/30/23.			✓		
4	Establish a succession planning framework for key leadership positions within the university to ensure FIU is prepared to meet the challenges of a changing workforce			✓		
	Retained 733 faculty, staff, and administrators through counteroffers, living wage adjustments, market adjustments, and retention increases since January 2022.				✓	
	Ensured top faculty, staff, and administrative talent remained at FIU through 1,251 promotions since January 2022.				✓	
	Assembled a task force of FIU thought leaders focused on developing workforce strategies to analyze the internal and external factors associated with the high volatility in staffing. Nineteen (19) recommendations were developed to address strategic talent management and success planning, compensation and benefits, and professional development.				✓	
5	Significant events or milestones that help foster a culture of belonging and inclusiveness within the FIU community			✓		
	Launched report.fiu.edu to streamline and centralize reporting of discrimination, harassment, and other forms of misconduct at the University.				✓	
	Established the Underrepresented Minority Doctoral Fellowship, funded by a \$95K Microsoft grant, to address the underrepresentation of minority doctoral candidates across all FIU programs, especially within the STEM disciplines.				✓	
	Created new institutional policies/regulations related to intimate relationships, accessibility/ADA, and religious accommodations.				✓	
	Hosted and participated in numerous signature events that promote belonging throughout campus and the community, including: inaugural Nova Star Juneteenth Scholarship Pageant, Miami Beach Pride Parade, F1RST NIGHT Welcome Rally, Liberty City MLK Parade, and various alumni and student football tailgates.				✓	

President's Performance and Incentive Goals and Results, 2023 Reporting Year
Self-Evaluation Scorecard

V6

OBJECTIVE	Not Achieved Partially Achieved	Achieved Exceeded Far Exceeded
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6 Significant events or milestones of major impact to the University, including FIU development, community and engagement initiatives, workplace culture enhancement, and local, regional and national academic engagement, visibility and ranking	
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See attached Key Achievements from 2023 Accountability Plan



STRATEGY (cont.)

Key Achievements for Last Year (Student, Faculty, Program, Institutional)

- FIU's Institute of Environment received a \$5 million grant for the Center for Aquatic Chemistry and Environment. Research focuses on detection of contaminants on aquatic systems along urban corridors.
- FIU received \$12.8 million NSF award to expand its Wall of Wind to a prototype facility to simulate hurricane with winds of 200 mph and 10-20-foot storm surge.
- College of Engineering and Computing received \$3 million from the U.S. Department of Energy to lead a Consortium for Research and Education in Power and Energy Systems for Sustainable STEM Workforce.
- Dr. Sumit Paudyal was selected by the Department of Energy to lead a Consortium for Research and Education in Power and Energy Systems for Sustainable STEM Workforce by providing an innovative research and educational platform in the intersection of legacy power system analysis, nuclear engineering, and cyber-physical systems.
- U.S. Department of Agriculture and the U.S. Department of Health & Human Services selected Cristina Palacios, chair of the Department of Dietetics and Nutrition at FIU's Robert Stempel College of Public Health & Social Work, to serve on the 2025 Dietary Guidelines Advisory Committee. The committee will advise USDA and HHS on the development of guidelines that form the basis for federal nutrition policy and programs, nutrition education efforts, and health promotion and disease prevention initiatives.
- FIU researchers moved a step closer to producing synthetic arsenic-based drugs in their quest to solve the growing number of antibiotic-resistant infections. The team from the Herbert Wertheim College of Medicine (HWCUM) and the College of Arts, Sciences and Education (CASE) has been awarded a U.S. patent for devising methods for chemically synthesizing arsinothricin (AST), a new arsenic-based antibiotic.
- Researchers from FIU's HWCUM — in collaboration with the National Center for Advancing Translational Sciences, part of the NIH, and University of Arkansas for Medical Sciences — found a possible new way to counteract the effects osteoporosis. The discovery is the first step toward cheaper, effective, easy-to-take treatments for osteoporosis and other diseases associated with bone loss.
- NSF awarded FIU researchers \$1 million to continue their work to help thwart cyberattacks — from computers and mobile devices to large-scale networks. The research aims to create security solutions for 5G/6G networks.
- FIU Business' Hollo School of Real Estate was ranked #1 globally and #1 in the United States for the fifth consecutive year, for research productivity by the Journal of Real Estate Literature, continuing a remarkable record of research achievement for the Chapman Graduate School program.
- FIU's Research Center in a Minority Institution won a \$19.4 million NIH grant to fight health disparities in multiple diseases, including cancer and early risk factors for Alzheimer's disease — the largest NIH award in FIU's history.
- FIU received \$2 million to jumpstart funding to develop a PET/Cyclotron Center at FIU—the first of its kind in the SUS. This year, FIU received an additional \$3 million from the Health Resources and Services Administration.
- Endowment of the Diane Ramy Faulconer Collaborative Advanced Rehabilitation/Research & Education (CARE) Center Lab provides high quality rehabilitative clinical resources and techniques to improve rehabilitation research methods with significant impact on the life quality of individuals with disabilities.
- A multi-disciplinary team, led by civil and environmental engineering faculty Dr. Arindam Chowdhury, received a \$12.8 million four-year NSF grant to design a national research and testing facility for infrastructure resilience, including water surge studies, at 200 miles per hour wind speeds.
- FIU Law graduates earned the highest first-time passage rate on the Florida Bar Exam for the eighth consecutive July administration. The College has ranked among the top 10 law schools in the country for value-added performance in several studies.
- FIU received formal full membership admission into the Association of Professional Schools of International Affairs (APSIA) in September 2021.
- FIU had record total research expenditures of \$282 million and S&E of \$250 million.

Executive Performance Ratings

Performance Rating
Superior
Very Good
Satisfactory
Less than Satisfactory
Unsatisfactory

PERFORMANCE RATINGS

Determined relative to approved performance goals

Superior - ***Exceeds*** performance expectations on a consistent and uniform basis in areas of responsibility. In addition, makes a unique or significant contribution well beyond performance expectations through remarkable achievement and pacesetting performance. Achievements and abilities are recognized and supported by leadership, faculty, staff and students.

Very Good - ***Achieves*** performance expectations and at times exceeds them.

Satisfactory - ***Fulfills*** performance expectations. Level of performance is effectively and consistently maintained. Consistently ensures that the organization is following its mission, vision and strategic plan.

Less than Satisfactory - ***Fails to consistently fulfill*** performance expectations possibly because of some mitigating circumstances that may or may not have been within the leader's control. Improvement(s) may be required in order to fully achieve expectations on a continuous basis.

Unsatisfactory - ***Fails to fulfill many*** of the performance expectations. Regularly fails to meet or exceed required outcomes. Immediate improvements are required by the next performance evaluation.

Adopted by the Florida International University Board of Trustees on Friday, November 14, 2008

THE FLORIDA INTERNATIONAL UNIVERSITY
BOARD OF TRUSTEES
Governance Committee

June 15, 2023

Subject: President's Performance and Incentive Goals, 2023-24

Proposed Committee Action:

Recommend that the Florida International University Board of Trustees adopt as the President's goals for the 2023-24 academic year the proposed President's Performance and Incentive Goals, as included in the Board materials.

Background Information:

Pursuant to President Kenneth A. Jessell's Employment Agreement, namely, section 7(b), Dr. Jessell will provide the Board with a proposed list of goals and objectives for inclusion in the University's Accountability Plan, along with goals and objectives for incentive compensation, for the following academic year.

Supporting Documentation: President's Performance and Incentive Goals, 2023-24

Facilitator/Presenter: Kenneth A. Jessell

**President's Performance and Incentive Goals
Academic Year 2023-24**

V5

OBJECTIVE			2023 Reporting Year Outcomes ¹	Proposed 2023-2024 Goals ²
PERFORMANCE-BASED FUNDING METRICS GOALS				
1	Percent of bachelor's graduates enrolled or employed (\$40,000+)		2020-21 72.8%	2021-22% 74%
2	Median wages of bachelor's graduates employed full-time		2020-21 \$44,900	2021-22% \$45,000
3.1	Average cost to the student (<u>includes</u> federal emergency funds)		2021-22 -\$1,630	2022-23 \$7,000
3.2	Average cost to the student (<u>excludes</u> federal emergency funds)		2021-22 \$3,320 ³	2022-23 \$7,000 ³
4	FTIC four-year graduation rate (full-time, First Time In College)		2018-22 59.8%	2019-23 61%
5	Academic progress rate (second fall retention with at least a 2.0 GPA for full-time FTIC students)		2021-22 88.8%	2022-23 90%
6	Percentage of bachelor's degrees awarded within programs of strategic emphasis		2021-22 59.0%	2022-23 50%
7	University access rate (percent of undergraduates with a Pell grant)		Fall 2021 50.3%	Fall 2022 50%
8	Percentage of graduate degrees awarded within programs of strategic emphasis		2021-22 61.5%	2022-23 60%
9A	BOG Choice: FCS AA transfer 3-year graduation rate (full- and part-time students)		2019-22 71.9%	2020-23 73%
9B	BOG Choice: FTIC Pell recipient 6-year graduation rate (full- and part-time students)		2016-22 68.6%	2017-23 69%
10	BOT Choice: Number of post-doctoral appointees		Fall 2021 278	Fall 2022 278

**President's Performance and Incentive Goals
Academic Year 2023-24**

V5

OBJECTIVE			2023 Reporting Year Outcomes ¹	Proposed 2023-2024 Goals ²
ADDITIONAL UNIVERSITY GOALS				
11	Increase number of alumni giving to the FIU Foundation		2022-23 15,733 ⁴	2023-24 19,733
12	Increase total research expenditures		2021-22 \$282M	2022-23 \$296M
13	Sustain and advance institutional funding, enrollment, and efficiencies			
14	Significant progress towards "Top 50" national rankings			
15	Significant events or milestones that help foster a culture of belonging, inclusiveness, and freedom of expression within the FIU community			
16	Significant events or milestones of major impact to the University (i.e. other major FIU development, community and engagement initiatives, workplace culture enhancement, national academic engagement)			
17	Maintain "Top3 " three-year average of total Performance-Based Funding model points (excellence and improvement)			

Footnotes:

¹ Preliminary figures based on the 2023 Accountability Plan to be submitted to the Board of Governors

² Goals taken from the 2023 Accountability Plan to be submitted to the Board of Governors

³ Beginning Spring 2020, federal pandemic relief funds provided institutions with gift aid for students that can be used until the 2022-23 academic year. Since these funds are non-recurring, the reporting of the Average Cost to the Student metric in the 2023 Accountability Plan will reflect the Average Cost to the Student with and without HEERF federal emergency grants. The Board of Governors will evaluate year-over-year improvement in 2025, when the federal emergency funds are no longer available (in 2022-23). Metric 3.2 is provided for context only; final evaluation will be based on metric 3.1.

⁴ Preliminary figures derived from the Division of University Advancement as of 06/07/23.

THE FLORIDA INTERNATIONAL UNIVERSITY
BOARD OF TRUSTEES
Governance Committee

June 15, 2023

Subject: Review to Ensure Consistency with the Board of Governors Statement of Free Expression, the principles of free speech and civil discourse, and compliance with section 1004.097, Florida Statutes

Proposed Committee Action:

Recommend that the Florida International University Board of Trustees confirm, pursuant to the request of the Board of Governors and the Board of Trustees approved FIU Plan for Implementing Civil Discourse Recommendations, that it has conducted, with the assistance of the university administration, a thorough review of current student orientation programs, student codes of conduct, and employee policies and procedures to ensure consistency with the Board of Governors Statement of Free Expression, the principles of free speech and civil discourse, and compliance with section 1004.097, Florida Statutes.

Background Information:

At its January 2022 meeting, the Board of Governors approved recommendations from its Strategic Planning Committee relative to civil discourse. As explained by the Board of Governors, these recommendations were designed to ensure a climate of free expression and civil discourse on each university campus according to the principles set forth in the State University System Free Expression Statement and the Board of Governors' Civil Discourse Final Report. A complete copy of the Board of Governor's Civil Discourse Final Report is included in the Supporting Documentation for this Agenda Item. Appendix A of the Board of Governors' Civil Discourse Final Report contains the State University System Free Expression Statement. A complete (signed) copy of the State University System Free Expression Statement also is included in the Supporting Documentation for this Agenda Item.

On May 5, 2022, the Board of Governors requested that each university submit no later than October 3, 2022, a Board of Trustees' approved plan for implementing the Board of Governors' recommendations.

Thereafter, the Board of Governors requested that each university submit no later than July 15, 2022, a Civil Discourse Recommendations Update. Pursuant to this request, the University, on July 15, 2022 submitted to the Board of Governors the requested Civil Discourse Recommendations Update.

On September 7, 2022, the Board of Governors requested that each university submit no later than October 3, 2022, a reporting template reflecting each university's progress towards implementing the recommendations from the Board of Governor's Civil Discourse Final Report. In response, on September 22, 2022, the FIU Board of Trustees approved the FIU Plan for Implementing Civil Discourse Recommendations in alignment with the university's progress report. In its report, the

University indicated that Recommendation IV would be completed no later than the end of Spring 2023 semester.

University Leadership – Recommendation IV: *The Board of Governors recommends that each board of trustees conducts a thorough review of current student orientation programs, student codes of conduct, and employee policies and procedures to ensure consistency with the Board of Governors Statement of Free Expression, the principles of free speech and civil discourse, and compliance with section 1004.097, Florida Statutes.*

To ensure consistency with the Board of Governors Statement of Free Expression, the principles of free speech and civil discourse, and compliance with section 1004.097, Florida Statutes, (1) updates were made to student orientation programming, which are reflected in the attached documents; (2) the Student Conduct and Honor Code (attached) was amended by the Board of Trustees at its September 22, 2022 meeting; and (3) the Employee Code of Conduct: University Guiding Principles and Standards published in Fall 2022 and HR policies were reviewed. This review confirmed the required consistency.

Supporting Documentation: Board of Governors' Civil Discourse Final Report, 2022
FIU Plan for Implementing Civil Discourse, September 2022
Review of Recommendation Four: Civil Discourse Plan
Student Conduct and Honor Code, Amended October 12, 2022
Employee Code of Conduct: University Guiding Principles and Standards, Fall 2022

Facilitator/Presenter: Elizabeth M. Bejar
Heather Russell

Civil Discourse Final Report 2022



CIVIL DISCOURSE INITIATIVES in the STATE UNIVERSITY SYSTEM

INTRODUCTION

As members of many different societal groups and communities, people thrive on the personal interactions that occur every minute of every day. These ongoing interactions provide the foundation for learning, discovery, and growth in a university setting. More specifically, open-minded, tolerant, and respectful discourse among campus community members is critical to enabling students to learn and pursue their educational goals, faculty to effectively teach, and staff to pursue fulfilling work.

To promote civil discourse in the State University System, the Board of Governors, the presidents of Florida's twelve public universities, adopted a "Statement of Free Expression" in 2019. The Board's statement directly aligns with the well-established "Chicago Principles" that originated at the University of Chicago in 2014 to articulate the university's overarching commitment to free, robust, and uninhibited debate. Universities have widely adopted the Chicago Principles throughout the U.S.

The Board's Statement of Free Expression was endorsed by the twelve state universities as a vehicle to establish, maintain, and support a full and open discourse and the robust exchange of ideas and perspectives on all university campuses (See Appendix A). The statement reinforces that a critical purpose of a higher education institution is "to provide a learning environment where divergent ideas, opinions, and philosophies, new and old, can be rigorously debated and critically evaluated."

Board of Governors Chair Syd Kitson established the Board's Civil Discourse Initiative during his January 2021 "State of the System" address. Chair Kitson expressed concern regarding the steady decline in respectful discourse among those with differing viewpoints. He stated that the university setting could provide a foundation for understanding, learning, and growth in this area. Chair Kitson tasked Governor Tim Cerio to lead the initiative through the Strategic Planning Committee. Governor Cerio has stated that "Civil discourse, conducted civilly without fear of reprisal, is critical to free speech and ensuring academic and intellectual freedom – not just on our university campuses, but throughout our country."

The 2018 Legislature established the Campus Free Expression Act in section 1004.097, Florida Statutes. This statute provides direction and relevance to the Board's initiative as it codifies an individual's right to engage in free-speech activities at public higher education institutions. It also prohibits a public institution from shielding students, faculty, or staff from expressive activities while authorizing a public institution to create and enforce reasonable restrictions under specified conditions.

CIVIL DISCOURSE: BEST PRACTICES

The State University System

The state universities provided information on activities and initiatives promoting and supporting civil discourse in their campus communities. Best practices gleaned from a review of their submissions were highlighted within the following four categories.

1. Workshops & Professional Development: Presentations, lectures, workshops, or training designed to provide opportunities for faculty, staff, students, and campus partners to learn how to engage in and facilitate dialogue respectfully.
2. Speakers, Dialogue & Debate: Events or programs that provide opportunities for faculty, staff, and students to engage in, observe, or facilitate conversations and encourage civil discourse.
3. Outreach (on and off-campus): Programs, workshops, and or campaigns with external partners help cultivate a campus culture of civil discourse.
4. Research and Academic Affairs: Research-based initiatives, web tools, and courses designed to provide opportunities for students, faculty, and staff to engage in and learn about issues related to civil discourse in a formal setting.

Additionally, the committee researched established national programs addressing civil discourse and interviewed prominent authorities in this area. Interviews were conducted with Dr. Robert George, McCormick Professor of Jurisprudence & Director, James Madison Program at Princeton University; Dr. Lynn Pasquerella, President of the Association of American Colleges and Universities; Dr. Diana Hess, Dean, University of Wisconsin School of Education; Ms. Liz Joyner, Founder & C.E.O., the Village Square; Dr. Bill Mattox, Director, James Madison Institute's Marshall Center for Educational Options; Dr. Tim Chapin, Dean, FSU College of Social Sciences and Public Policy, and Dr. Jonathan Haidt, founder of the Heterodox Academy.

National Models

A review of the national postsecondary system and institutional civil discourse programs identified a number of highly regarded initiatives and strategies that promote and support civil discourse. Examples include the following.

- The Center for Peace and Conflict Resolution, Brigham Young University: The Center's primary focus is conflict resolution. Through mediation, arbitration, training workshops, research, conferences, academic courses, and consultations, the Center assists both the university and the community in building skills and promoting understanding of peace, negotiation, communication, and conflict resolution.
- Heterodox Academy: Heterodox Academy is a nonpartisan international collaborative of professors, administrators, and students committed to enhancing the quality of research and education by promoting open inquiry, viewpoint diversity, and constructive disagreement in institutions of higher learning. The

Heterodox Academy was founded in 2015 by scholar Jonathan Haidt. He was prompted by his views on the negative impact that the lack of ideological diversity has had on the quality of research within the Academy.

The Academy collaboratively engages with universities throughout the U.S. to promote rigorous, open, and responsible interactions across lines of difference as essential to separating good ideas from bad and making good ideas better. Heterodox scholars view the university as a place of collaborative truth-seeking, where diverse scholars and students approach problems and questions from different points of view in pursuit of knowledge, discovery, and growth.

- The Institute for Civic Discourse and Democracy, Kansas State University: The Institute pursues theories and practice in civic discourse that are identified to advance improvements in all campus and community interactions. The Institute supports public conversation to elevate specific qualities of civic discourse, including inclusiveness, equality, reciprocity, reflection, reason-giving, and shared decision-making. The Institute offers certificates and degrees through the university's communication studies department; and offers workshops, facilitator training, and research opportunities through the Kansas Civic Life Project.
- The James Madison Program in American Ideals and Institutions: The James Madison Program is a scholarly institute within the Department of Politics at Princeton University and is dedicated to exploring enduring questions of American constitutional law and Western political thought. The James Madison Program was founded in 2000 by Dr. Robert George, McCormick Professor of Jurisprudence at Princeton University, and follows the University of Chicago's principles on freedom of expression.

The James Madison Program promotes teaching and scholarship in constitutional law and political thought and provides a forum for free expression and robust civil dialogue and debate. The Program hosts visiting postdoctoral and undergraduate fellows and offers various activities, courses, summer programs, and other related activities promoting free expression.

RECOMMENDATIONS

All 12 universities in the State University System have voiced a commitment to civil discourse and have provided numerous examples of programs and policies to establish, maintain, and support civil discourse throughout their living, learning, and working environment.

In recent years, there have been incidents of unacceptable behaviors and violations of codes of conduct and personnel policies relating to civil discourse by administrators, faculty, and students in the system. When such incidents occur, universities must respond to grievances with rapid response, thorough review, and adjudication according to their established policies. This process is most valuable when the conflict is resolved,

the impacted individuals are redressed, and all involved can learn and grow from the experience.

Moreover, programming restricting participation based on race or ethnicity, and in violation of existing university policies, has occurred with more frequency on Florida campuses. Although perhaps well-intentioned, often the effect of these programs is to further divide and disenfranchise, rather than promote understanding through civil discourse.

The Board of Governors as Advocate

The Board of Governors, responsible for the management and operation of the State University System, is unequivocal in its support of civil discourse throughout its 12 campus communities. The Board believes that each campus community member has a unique and critical role in the adherence to civil discourse and the ongoing support of the establishment, maintenance, and evaluation of civil discourse initiatives.

The Board of Governors' "Statement of Free Expression" remains an integral part of the Board's three-pronged mission for state universities: to deliver a high-quality academic experience for students, to engage in meaningful and productive research, and to provide a valuable public service for the benefit of local communities, metropolitan regions, and the state.

- I. **The Board of Governors expects that the leadership at each university will operationalize the Board's commitment to open-minded and tolerant civil discourse by promoting, supporting, and regularly evaluating adherence to the principles set forth in the Board's Statement of Free Expression and cultivating a culture of civil discourse in all campus interactions, including academic, administrative, extracurricular, and social dealings.**

University Planning

In its 2025 Strategic Plan, the Board of Governors sets forth its mission for the State University System and further states that the state universities will "*support students' development of the knowledge, skills, and aptitudes needed for success in the global society and marketplace.*" The Board strongly believes that the state universities are well-positioned to provide the foundation for civil discourse learning, understanding, and growth for all campus community members.

Each university's Accountability Plan is an annual report of specific accountability measures and strategic plans.

- II. **The Board of Governors recommends that each university's Accountability Plan and Strategic Plan include a specific endorsement of the Board's Statement of Free Expression, as well as a clear expectation for open-minded and tolerant civil discourse throughout the campus community. The Board of Governors will include similar statements and principles in its Strategic Plan for the State University System.**

University Leadership

State university boards of trustees have the powers and duties necessary for each university's operation, management, and accountability. University civil discourse policies, programs, and initiatives should be viewed as strategic priorities by each board of trustees. The Board of Governors also believes that university faculty senates and student governments have a vital role and should participate early and often in the development, implementation, evaluation, and support of civil discourse programs and initiatives.

- III. **The Board of Governors recommends that the leadership of each university board of trustees, faculty senate, and student government annually review and endorse the Board's Statement of Free Expression and commit to the principles of civil discourse.**
- IV. **The Board of Governors recommends that each board of trustees conducts a thorough review of current student orientation programs, student codes of conduct, and employee policies and procedures to ensure consistency with the Board of Governors Statement of Free Expression, the principles of free speech and civil discourse, and compliance with section 1004.097, Florida Statutes.**

The University President

The university president has primary responsibility for establishing the campus culture and setting the day-to-day living, learning, and working environment for all university community members. The president directs and monitors these efforts and is ultimately accountable for the civil discourse climate in the campus community.

Board of Governors Regulation 1.001, University Board of Trustees Powers and Duties, states that the annual evaluation for university presidents addresses "responsiveness to the Board of Governors' strategic goals and priorities."

- V. Beginning in the 2022 presidential evaluation and contract renewal cycle, as a part of a president's evaluation, the Chair of the Board of Governors will consult with the board of trustees chair to review the university's campus free speech climate, including adherence to the principles set forth in the Board's Statement of Free Expression, the occurrence and the resolution of any issues related to the university's compliance with substantiated violations of section 1004.097, Florida Statutes, and the implementation of best practices promoting civil discourse.

Academic, Student, and Administrative Affairs

Board of Governors Regulation 1.001, University Boards of Trustees Powers & Duties, directs each board of trustees to adopt regulations or policies for a student code of conduct and establish a personnel program for all university employees. These policies are required to include standards for performance and conduct as well as disciplinary actions, complaints, appeals, and grievance procedures.

A university's personnel policies, orientation programs, and student code of conduct are critical to setting the tone for a climate of open-mindedness and tolerance for civil discourse. More specifically, all university campus areas, including classrooms, lecture halls, offices, and extracurricular, residential, and social locales, offer opportunities for learning, tolerance, and growth. Academic deans and directors, student affairs administrators, faculty, and students share responsibility for establishing and reinforcing tolerant, open-minded, and respectful discourse on a university campus.

- VI. The Board of Governors recommends that university academic, student affairs, and administrative leaders review student orientation programming, student codes of conduct, and employee personnel policies and procedures to ensure that they contain clear and unambiguous support for the Board's Statement of Free Expression, and the principles of free speech and civil discourse, and that they are in compliance with section 1004.097, Florida Statutes.

Best Practices for Civil Discourse

- VII. The Board of Governors recommends implementing the following best practices based on its review of university programs and initiatives that effectively promote and support civil discourse.

- **Instill the importance of civil discourse, academic freedom, and free speech from day one**, utilizing student and employee orientation sessions, public assemblies, and official university documents and communications.
- **Schedule and host ongoing, campus-wide forums, dialogues, and debates** on various issues and perspectives to promote open discussion, understanding, and learning opportunities.
- **Foster intellectual diversity** by encouraging university leadership to: (1) promote viewpoint diversity and open-minded discussion and debate, and (2) highlight and enforce policies that prohibit programming that excludes participation based on race or ethnicity.
- **Avoid disinvitations** by developing clear, viewpoint-neutral policies and procedures governing the invitation and accommodation of campus speakers.
- **Provide targeted educational and professional development opportunities** for university administrative employees to reinforce free expression and open-minded debate norms.
- **Encourage faculty to establish and maintain a learning environment in their classrooms and offices that supports open dialogue and the free expression of all viewpoints and create processes to evaluate the strength of such environments.**

Appendix A

State University System of Florida

Statement of Free Expression

April 15, 2019

The State University System of Florida and its twelve public postsecondary institutions adopt this Statement on Free Expression to support and encourage a full and open discourse and the robust exchange of ideas and perspectives on our respective campuses. The principles of freedom of speech and freedom of expression in the United States and Florida Constitutions, in addition to being legal rights, are an integral part of our three-part university mission to deliver a high-quality academic experience for our students, engage in meaningful and productive research, and provide valuable public service for the benefit of our local communities and the state. The purpose of this statement is to affirm our dedication to these principles and to seek our campus communities' commitment to maintaining our campuses as places where the open exchange of knowledge and ideas furthers our mission.

A fundamental purpose of an institution of higher education is to provide a learning environment where divergent ideas, opinions, and philosophies, new and old, can be rigorously debated and critically evaluated. Through this process, often referred to as the marketplace of ideas, individuals are free to express any ideas and opinions they wish, even if others may disagree with them or find those ideas and opinions to be offensive or otherwise antithetical to their own worldview. The very process of debating divergent ideas and challenging others' opinions develops the intellectual skills necessary to respectfully argue through civil discourse. Development of such skills leads to personal and scholarly growth and is an essential component of each of our institutions' academic and research missions.

It is equally important not to stifle the dissemination of any ideas, even if other members of our community may find those ideas abhorrent. Individuals wishing to express ideas with which others may disagree must be free to do so without fear of being bullied, threatened, or silenced. This does not mean that such ideas should go unchallenged, as that is part of the learning process. And though we believe all members of our campus communities have a role to play in promoting civility and mutual respect in that type of discourse, we must not let concerns over civility or respect be used as a reason to silence expression. We should empower and enable one another to speak and listen, rather than interfere with or silence the open expression of ideas.

Each member of our campus communities must also recognize that institutions may restrict unlawful expression, such as true threats or defamation. Because universities and colleges are first and foremost places where people go to engage in scholarly endeavors, it is necessary to the efficient and effective operations of each institution for there to be reasonable limitations on the time, place, and manner in which these rights are exercised. Each institution has adopted regulations that align with Florida's Campus

Free Expression Act, section 1004.097, Florida Statutes, and the United States and Florida Constitutions and the legal opinions interpreting those provisions. These limitations are narrowly drawn and content-neutral and serve to ensure that all members of our campus communities have an equal ability to express their ideas and opinions while preserving campus order and security.



Board of Governors
State University System of Florida

325 West Gaines Street, Suite 1614

Tallahassee, Florida 32399

Phone: (850) 245-0466

www.flbog.edu

Florida International University
Plans for Implementing Civil Discourse Recommendations
September 2022

Instructions: For each recommendation listed below, please provide an interim update as to how the university has already implemented the recommendations and draft plans for implementing outstanding recommendations. Plans must identify the key groups/individuals involved, critical milestones, and expected timeline for accomplishing each milestone.

When implementing recommendations regarding the Board's Statement of Free Expression, the statement as it appears in Appendix A of the [Board's report](#) on civil discourse should be used at all times. Limit interim update to 1 page per recommendation using font size 11

Recommendation 1: Leadership at each university will operationalize the Board's commitment to open-minded and tolerant civil discourse by promoting, supporting, and regularly evaluating adherence to the principles set forth in the Board's Statement of Free Expression and cultivating a culture of civil discourse in all campus interactions, including academic, administrative, extracurricular, and social dealings.

Recommendation 2: The university's Accountability Plan and Strategic Plan include a specific endorsement of the Board's Statement of Free Expression, as well as a clear expectation for open-minded and tolerant civil discourse throughout the campus community.

Recommendation 3: Leadership of each university board of trustees, faculty senate, and student government annually review and endorse the Board's Statement of Free Expression and commit to the principles of civil discourse." NOTE: The first review should be completed during the 2022-2023 academic year.

Recommendation 4: Each board of trustees conducts a thorough review of current student orientation programs, student codes of conduct, and employee policies and procedures to ensure consistency with the Board of Governors Statement of Free Expression, the principles of free speech and civil discourse, and compliance with section 1004.097, Florida Statutes.

*Recommendation 5: Beginning in the 2022 presidential evaluation and contract renewal cycle, as a part of a president's evaluation, the Chair of the Board of Governors will consult with the board of trustees chair to review the university's campus free speech climate, including adherence to the principles set forth in the Board's Statement of Free Expression, the occurrence and the resolution of any issues related to the university's compliance with substantiated violations of section 1004.097, Florida Statutes, and the implementation of best practices promoting civil discourse.

Recommendation 6: University academic, student affairs, and administrative leaders review student orientation programming, student codes of conduct, and employee personnel policies and procedures to ensure that they contain clear and unambiguous support for the Board's Statement of Free Expression, and the principles of free speech and civil discourse, and that they are in compliance with section 1004.097, Florida Statutes. NOTE: This recommendation may be included in the plans to implement Recommendation 4 above.

Recommendation 7: Implementing the best practices outlined on pages 6 and 7 of the attached report based on the Board's review of university programs and initiatives that effectively promote and support civil discourse. For each best practice implemented, or to be implemented, include a timeline.

**Recommendation 5 does not require plans to be submitted to the BOG but is included here for tracking purposes.*



Plans for Implementing Civil Discourse Recommendations

September 2022

FIU's Preliminary Statement

As a university that encourages critical thinking and educational discussion, FIU has long embraced and supported open-minded civil discourse and free expression. FIU continuously works toward fostering a culture of diversity and espousing different points of view to encourage differing perspectives that promote effective and expansive learning opportunities.

Recommendation 1: Leadership at each university will operationalize the Board's commitment to open-minded and tolerant civil discourse by promoting, supporting, and regularly evaluating adherence to the principles set forth in the Board's Statement of Free Expression and cultivating a culture of civil discourse in all campus interactions, including academic, administrative, extracurricular, and social dealings.

Prior to the fall 2022 semester, the President created a taskforce with representation from Human Resources, Strategic Communications, Office of the Provost, Office of Faculty Leadership and Success, Office of General Counsel and the Office of Compliance and Integrity. The taskforce was charged with periodic review, making recommendations for implementation, and reporting to administration. The taskforce will set agenda items for the year and will operationalize university-wide communications to various stakeholders through existing groups such as the Chairs Advisory Council, Deans Advisory Council, Human Resources Liaisons, Student Government Association, Faculty Senate, etc. An official university-wide communication from the President highlighting the university's support for and culture of civil discourse will be sent to all students, faculty, and staff annually. The University Compliance & Integrity Office will report to the Board of Trustees on the status and activities of the taskforce.

Recommendation 3: Leadership of each university board of trustees, faculty senate, and student government annually review and endorse the Board's Statement of Free Expression and commit to the principles of civil discourse." NOTE: The first review should be completed during the 2022-2023 academic year.

FIU leadership will ask the faculty senate and student government association to review, and strongly encourage them to endorse, the Board's Statement of Free Expression at the beginning of each academic year in September, starting with the 2022 fall semester. The FIU BOT will be asked to review, endorse, and renew its ongoing commitment to the principles of civil discourse at a meeting during the 2022-2023 academic year.

Recommendation 4: Each board of trustees conducts a thorough review of current student orientation programs, student codes of conduct, and employee policies and

procedures to ensure consistency with the Board of Governors Statement of Free Expression, the principles of free speech and civil discourse, and compliance with section 1004.097, Florida Statutes.

University academic and student affairs administrative leadership have been reviewing the current orientation program, student code of conduct, and our employee personnel policies to ensure that they include an endorsement of the Board's Statement of Free Expression and will align with the principles of free speech and civil discourse. See response to recommendation 6 for details on this process.

During the 2022-2023 academic year, the FIU Board of Trustees will conduct a thorough review of student orientation programs, student codes of conduct, and employee policies and procedures to ensure consistency with the BOG Statement of Free Expression, the principles of free speech and civil discourse, and compliance with section 1004.097, Florida Statutes.

Within its annual review process, the Division of Human Resources will review HR policies for appropriate locations where the Board of Governors Statement of Free Expression shall be placed, to provide ready reference for employees, in conducting the business of FIU. We will incorporate language in existing university policies, where appropriate, during the 2022-2023 academic year. Further, and in collaboration with the Office of Compliance and Integrity, all new policies will be evaluated to ensure that they are aligned with the Statement of Free Expression.

Recommendation 6: University academic, student affairs, and administrative leaders review student orientation programming, student codes of conduct, and employee personnel policies and procedures to ensure that they contain clear and unambiguous support for the Board's Statement of Free Expression, and the principles of free speech and civil discourse, and that they are in compliance with section 1004.097, Florida Statutes. NOTE: This recommendation may be included in the plans to implement Recommendation 4 above.

FIU already has begun reviewing the current orientation program, student code of conduct, and our employee personnel policies to ensure that they include an endorsement of the Board's Statement of Free Expression and align with the principles of free speech and civil discourse.

Regarding orientation and the onboarding of new students, we incorporated our clear support for these principles in the online components of our orientation program which students complete prior to coming to campus for their in-person orientation session, referred during the Welcome session, discussed during our session on knowing and understanding the student code of conduct, and addressed during a session on social issues and decision-making. We have added the language to our Student Handbook, and we will also be adding language to our student code of conduct to reinforce the existing references to free speech and civil discourse and will include the FIU statement of endorsement: *FIU endorses the Florida Board of Governor's Statement of Free Expression to support and encourage full and open discourse and the robust exchange of ideas and perspectives on our campuses. In addition to supporting this legal right, we view this as an integral part of our ability to deliver a high-quality academic experience for our students, engage in meaningful and productive research, and provide valuable public service.*

FIU's Employee Code of Conduct serves as a governance document organized to tie Key University policies to FIU's values (Truth, Freedom, Respect, Responsibility and Excellence). The Code incorporates a section on "Academic Freedom and Free Expression" which includes

the FIU statement of endorsement. The Code also links directly to the Board's Statement of Free Expression and to Florida Statutes Section 1004.097 – Free Expression on Campus. These concepts are captured in FIU Regulation 110 Expressive Activities in Outdoor Areas on Campus. The Code will be acknowledged by all employees and introduced in the New Employee Experience (Orientation) and in ongoing training for employees where the Statement of Free Expression will be highlighted.

The current Faculty Handbook includes a statement on Freedom of Expression and Academic Freedom. When we update the Handbook, we will add a link to the Board's Statement.

Recommendation 7: Implementing the best practices outlined on pages 6 and 7 of the attached report based on the Board's review of university programs and initiatives that effectively promote and support civil discourse. For each best practice implemented, or to be implemented, include a timeline.

VII. The Board of Governors recommends implementing the following best practices based on its review of university programs and initiatives that effectively promote and support civil discourse.

- **Instill the importance of civil discourse, academic freedom, and free speech from day one, utilizing student and employee orientation sessions, public assemblies, and official university documents and communications.**

To instill the importance of these principles from day one, we have incorporated our clear support within various aspects of our student and employee orientation programs. An official university-wide communication from the President was sent at the beginning of the 2022 fall semester which articulated our support of the Florida Board of Governor's Statement of Free Expression. A link to the Statement was added to the university website.

- **Schedule and host ongoing, campus-wide forums, dialogues, and debates on various issues and perspectives to promote open discussion, understanding, and learning opportunities.**

As a university that encourages critical thinking and educational discussion, FIU has long supported hosting forums, dialogues and debates on various issues, encouraging differing perspectives that promote an array of learning opportunities. We will ensure the campus community is aware of mechanisms for reporting instances where they believe free expression is foreclosed. As an example, the Student Orientation highlights the various reporting tools where the FIU community can report concerns regarding civil discourse limitations and restrictions. This includes the hotline, the reporting website, and the various university offices which have developed mechanisms for reporting potential violations.

- **Foster intellectual diversity by encouraging university leadership to: (1) promote viewpoint diversity and open-minded discussion and debate, and (2) highlight and enforce policies that prohibit programming that excludes participation based on race or ethnicity.**

(1) Executive leadership has met to discuss how to promote FIU's position on the importance of viewpoint diversity and open-minded discussion and debate. University leadership is encouraged to develop policies and procedures to include clear guidelines in support of free expression.

(2) We have existing robust regulations and policies that prohibit discriminatory behavior.

We will ensure the campus community is aware of reporting mechanisms to capture instances where they believe exclusions based on race and ethnicity are occurring.

- **Avoid disinvitations by developing clear, viewpoint-neutral policies and procedures governing the invitation and accommodation of campus speakers.**
FIU offers equitable opportunities for speakers as an open forum for all viewpoints. We have established mechanisms for any group that wishes to rent university space. The University's premises use agreement requires compliance with federal and state law. Nevertheless, we will review the space policies and procedures to make certain they comply with applicable requirements. While the Campus Free Expression Act, provides for expressive activities in outdoor areas of campus (as opposed to rented university space), we note that the University's Board of Trustees, in 2018, approved amendments to Regulation FIU-110 following the enactment of, and to ensure compliance with, the Campus Free Expression Act, Section 1004.097, Florida Statutes.
- **Provide targeted educational and professional development opportunities for university administrative employees to reinforce free expression and open-minded debate norms.**

To emphasize the importance of these principles, the department of Talent Acquisition and Management has incorporated the Board's Statement of Free Expression, and the principles of free speech and civil discourse, and their compliance with section 1004.097, Florida Statutes, into New Employee Experience (NEE) and New Faculty Orientation (NFO) beginning fall of 2022. Additionally, the standard statement has been incorporated into the HR News & Updates protocol for release on a quarterly basis. Moreover, we will incorporate the content into the university's leadership programs; Leadership Education Advancement Program (LEAP) and the President's Leadership Program (PLP). Lastly, through the established relationship with all departments' HR communication partners, we will present the Statement of Free Expression to the University's HR Liaisons during the quarterly meetings as an additional point of emphasis at the division, college, and department level.

- **Encourage faculty to establish and maintain a learning environment in their classrooms and offices that supports open dialogue and the free expression of all viewpoints and create processes to evaluate the strength of such environments.**
The Center for the Advancement of Teaching (CAT) is collaborating with the Office of Faculty Leadership & Success (FLS) to offer support sessions and sample syllabi language to help faculty initiate and manage discourse and free expression in the classroom. This includes training faculty in the use of the anonymous feedback tool, Feedback Box. Initial efforts during the 2022-2023 academic year are focusing on high-impact courses whose content might lend itself to multiple perspectives. Support sessions include understanding the Statement; implications for specific course content, materials, and delivery; formulating assignment and discussion prompts that encourage and respect multi-perspective discourse; and navigating difficult conversations and managing missteps and emotional responses. In the high-impact classes, CAT will expand its use of the Gateway survey to provide faculty with an understanding of how their students perceive the learning environment with questions that include: I feel like I am part of the community, I feel valued and respected, and I feel like I can share my thoughts and ideas. Guided workshops will help faculty understand and use student responses to improve instruction. CAT and FLS will also work with departmental chairs on receiving and handling student reports of classroom experiences that do not support open dialogue. Workshops began in August 2022 and will continue throughout the academic year.

Board of Trustees Review of Recommendation Four: Civil Discourse Plan

Overview

Narrative Overview:

On September 22, 2022, we brought before the BOT for review and approval, the FIU Plan for Implementing Civil Discourse. The FIU plan was relative to the BOG Civil Discourse Final Report, which included the implementation of 7 recommendations from the BOG which are listed below:



BOG REPORT'S RECOMMENDATIONS

Recommendation 1: Leadership at each university will operationalize the Board's commitment to open-minded and tolerant civil discourse by promoting, supporting, and regularly evaluating adherence to the principles set forth in the Board's Statement of Free Expression and cultivating a culture of civil discourse in all campus interactions, including academic, administrative, extracurricular, and social dealings.

Recommendation 2: The university's Accountability Plan and Strategic Plan include a specific endorsement of the Board's Statement of Free Expression, as well as a clear expectation for open-minded and tolerant civil discourse throughout the campus community.

Recommendation 3: Leadership of each university board of trustees, faculty senate, and student government annually review and endorse the Board's Statement of Free Expression and commit to the principles of civil discourse." NOTE: The first review should be completed during the 2022-2023 academic year.

Recommendation 4: Each board of trustees conducts a thorough review of current student orientation programs, student codes of conduct, and employee policies and procedures to ensure consistency with the Board of Governors Statement of Free Expression, the principles of free speech and civil discourse, and compliance with section 1004.097, Florida Statutes.

Recommendation 5: Beginning in the 2022 presidential evaluation and contract renewal cycle, as a part of a president's evaluation, the Chair of the Board of Governors will consult with the board of trustees chair to review the university's campus free speech climate, including adherence to the principles set forth in the Board's Statement of Free Expression, the occurrence and the resolution of any issues related to the university's compliance with substantiated violations of section 1004.097, Florida Statutes, and the implementation of best practices promoting civil discourse.

Recommendation 6: University academic, student affairs, and administrative leaders review student orientation programming, student codes of conduct, and employee personnel policies and procedures to ensure that they contain clear and unambiguous support for the Board's Statement of Free Expression, and the principles of free speech and civil discourse, and that they are in compliance with section 1004.097, Florida Statutes. NOTE: This recommendation may be included in the plans to implement Recommendation 4 above.

Recommendation 7: Implementing the best practices outlined on pages 6 and 7 of the attached report based on the Board's review of university programs and initiatives that effectively promote and support civil discourse. For each best practice implemented, or to be implemented, include a timeline.

Updates on Implementation:

- **Recommendations 1, 6, and 7** are fully implemented. We were not required to implement recommendation 5 as that pertains to the President's annual evaluation.
- **Recommendation 2** calls for the endorsement of the Board's statement of Free Expression to be included in the University's Accountability and Strategic plans - this is partially implemented pending the completion of a new strategic plan which would include the endorsement language.
- **Recommendation 3** calls for the BOT, the Faculty Senate and the Student Government Association to review and endorse the Statement of Free expression. This is two-thirds complete, pending the endorsement of the Faculty Senate.
- **Recommendation 7** involves the implementation of six best practices outlined on pgs 6 and 7 of the BOG's Civil Discourse Report and our FIU plan for implementation. All six best practices are implemented and ongoing.

- **Recommendation 6** tasks University academic, student affairs, and administrative leaders to review **student orientation programming, student codes of conduct, and employee personnel policies and procedures** to ensure that they contain clear and unambiguous support for the Board's Statement, free speech and civil discourse principles, and statute compliance.

- **Recommendation 4:** asks that **trustees conduct thorough review of:**

1. **current student orientation programs**
2. **student codes of conduct**
3. **employee policies and procedures**

to ensure consistency with the Board Statement, free speech and civil discourse principles and statute compliance. **The implementation plan provides for steps 4 and 6 to be achieved in tandem.**

FIU Implementation and Review for Step 4 BOT Review:

1. Review of Current Student Orientation Programs

The programming for the New Student Orientation was reviewed and information was incorporated specifically about **Expressive Activities and Free Speech on campus and the FIU Values** to ensure that all incoming students approximately 4000 students per year who attend orientation are informed and educated.

Programming was also added to Panther Camp, an extension of the Orientation program in which approximately 600-800 students attend annually, to engage students in raising their awareness about civil discourse.

- **Incorporated into our Virtual Orientation**

Within the virtual component of the Orientation and onboarding process for all new students, we updated our slide on “Expressive Activities and Free Speech” to include several bullets that ensure that students understand our commitment to welcoming all viewpoints. More recently, we added a bullet (the first one) that incorporates FIU’s official statement of endorsement of the BOG’s Statement of Free Expression and provides a link for those who would like to access that document.

Expressive Activities and Free Speech

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Expressive Activities and Free Speech

Since its inception in 1965, FIU has dedicated itself to the support and growth of its diverse student population and strives to produce an atmosphere which encourages both students and faculty to exercise their freedom of speech on a variety of issues. One of FIU's values is Freedom of thought and expression, regardless of the content of that thought and expression.

- FIU endorses the Florida Board of Governor's Statement of Free Expression to support and encourage full and open discourse and the robust exchange of ideas and perspectives on our campuses. In addition to supporting this legal right, we view this as an integral part of our ability to deliver a high-quality academic experience for our students, engage in meaningful and productive research, and provide valuable public service. [State University System Free Expression Statement - State University System of Florida \(fibog.edu\)](https://www.fibog.edu)
- We cherish the right of free speech and understand the great benefit provided to our campus community and society at large when everyone can express themselves, regardless of whether others agree.
- FIU's *Regulation FIU-110: Expressive Activities in Outdoor Areas on Campus Regulation* is in place to provide the means by which students and others can lawfully have expressive activities such as assemblies, exercises of free speech, protests, parades, marches, and picketing on campus.
- Any student or organization with questions or concerns regarding the ability to conduct expressive activities at FIU is encouraged to contact the Dean of Students Office at (305) 348-2797.



FIU Virtual Orientation Key Chapters

Welcome to FIU

Orientation and Family Programs [FAM] – module seen by family members only

Academics

Support Services

Money Matters

Student Life

Safety

Next Steps



Orientation and Family Programs
First-Year Orientation Day Schedule

9:00 am **FIU Welcome**
Welcome to FIU! Hear about the values of our University and meet current students who will guide you through the day – the Peer Advisors!

Relevant Talking Points:

--Starting today, you have the opportunity to *explore* possibilities that can serve as a foundation for your shaping both your college experience and your future.
--Be willing to try new things, meet new people, and learn in new and exciting ways.
--As you embark on your time here at FIU, it is important to recognize the underlying values that guide who we are...truth, freedom, respect, responsibility, and excellence.
--These values are crucial to the success of our community and are also aligned with our efforts to foster a learning environment that welcomes all viewpoints. At FIU, we endorse the right to free expression and encourage open dialogue and the robust exchange of ideas and perspectives.

9:25 am **Shop FIU**
Learn about your dining options, the Barnes & Noble Bookstore, retail venues on campus and how to use your FIU One Card (the official FIU Student ID).

9:55 am **Student Connections & Tour**
Meet your Peer Advisor and classmates while taking a brief campus tour and learning about what to expect at orientation.

10:45 am **Academic Advising: YOU@FIU**
Academic Advising is all about you and helping you be successful. We will provide many tips and information that will guide you in becoming a new you – YOU@FIU.

11:45 am **Catered Lunch**

1:10 pm **Know the Code**
Discover the standards and expectations that you must abide by to create a fair, safe and civil FIU community.

Relevant Talking Points:

--Student Conduct and Academic Integrity office is here to support our community and uphold community standards of behavior.

-- As an academic community, Florida International University (FIU) fosters the intellectual exchange of ideas, knowledge, and experience. It is the responsibility of the University to provide a safe and stimulating environment in which scholarship and personal growth may occur. As such, we support and encourage full and open discourse and the robust exchange of ideas and perspectives on our campuses and we view this as an integral part of our ability to deliver a high-quality academic experience.

-- Student Code of Conduct and Honor Code is designed to maintain standards and it is your responsibility as a member of our community to adhere to this Code.

- **Incorporated into Welcome at In-Person Orientation**

During the on-campus/in-person Orientation session, students and their families/guests are greeted by the Vice President for Student Affairs (or, at times, a member of the VP's leadership team). As part of that welcome speech, which includes a PowerPoint presentation, our new students and their families are introduced to FIU's Values. Below you will see the PPT slide, along with the talking points/notes associated with that portion of the Welcome speech. Those talking points mirror the language found in the introduction of the BOG's Statement of Free Expression:

FIU VALUES



- ✓ **Truth — in the pursuit, generation, dissemination, and application of knowledge**
- ✓ **Freedom — of thought and expression**
- ✓ **Respect — for diversity and the dignity of the individual**
- ✓ **Responsibility — as stewards of the environment and citizens of the world**
- ✓ **Excellence — in intellectual, personal, and operational endeavors**

Florida International University is a leading urban public research university that focuses on student learning, innovation, and collaboration. We believe that every member of our community should value an inclusive environment that focuses on truth, freedom, respect, responsibility, and excellence.

Truth — in the pursuit, generation, dissemination, and application of knowledge

Freedom — of thought and expression

Respect — for diversity and the dignity of the individual

Responsibility — as stewards of the environment and citizens of the world

Excellence — in intellectual, personal, and operational endeavors

These values are crucial to the success of our community and are also aligned with our efforts to foster a learning environment that welcomes all perspective and viewpoints. At FIU, we endorse the right to free expression and encourage open dialogue and the robust exchange of ideas and perspectives.

Living these values on a daily basis will develop you into a well-rounded individual and alumnus or alumna.

- **Incorporated into Student Activity**

Finally, during our extended program (Panther Camp), students participate in an activity designed to engage students in raising their awareness about civil discourse and the impact of their words and actions. That involves the use of a reading by Carrie Zimmerman titled, “What Will You Be,” which includes the following prompt:

*We don't want to avoid complex topics and difficult conversations. In fact, we want to engage in them. We want to embrace **civil discourse** and uphold our rights to free speech. At FIU, all our interaction should be grounded in respect.*

2. Review of Student Codes of Conduct

FIU-2501 Student Conduct and Honor Code was amended on October 12, 2022 to include a statement of FIU's endorsement:

FIU endorses the Board of Governors of the State University System of Florida's Statement of Free Expression to support and encourage full and open discourse and the robust exchange of ideas and perspectives on our campuses. We view this as an integral part of our ability to deliver a high-quality academic experience for our students, engage in meaningful and productive research, and provide valuable public service."

Slide used in student programming:

What is Not a Student Conduct and Honor Code Violation?

- Constitutionally Protected Speech
 - We support and encourage full and open discourse and the robust exchange of ideas and perspectives on our campuses and we view this as an integral part of our ability to deliver a high -quality academic experience.
- Cases where amnesty is provided:
 - Medical Amnesty:
 - Students involved in an incident involving alcohol/drugs may not be charged under the Code with possession or consumption
 - 1. Acting in good faith, they call for immediate Medical Assistance for themselves and/or others who have participated in or witnessed the incident, and,
 - 2. the Student calling for Immediate Medical Assistance remains at the scene with the person in need of Immediate Medical Assistance until such assistance or law enforcement arrives, and then cooperates with such personnel on the scene.
- Hazing Amnesty

FIU

3. Review of Employee Policies and Procedures:

- The Employee Code of Conduct: University Guiding Principles and Standards was published Fall 2022 . The document includes a section on Responsibility and Accountability: Freedom which includes the FIU Statement of Endorsement of the Board of Governor's Statement of Free Expression and highlights the Freedom of Censorship, Freedom to select teaching materials and Freedom to engage in scholarly activity.
- Finally, our Division of Human Resources reviewed and confirmed that employee policies and procedures are consistent with the Board Statement, free speech and civil discourse principles, and statute compliance. See: [Search | P&P Library \(fiu.edu\)](#)

FIU-2501 Student Conduct and Honor Code

As an academic community, Florida International University (FIU) fosters the intellectual exchange of ideas, knowledge, and experience. It is the responsibility of the University to provide a safe and stimulating environment in which scholarship and personal growth may occur. The desired effect is that Students will take advantage of this environment to develop intellectually as well as to participate as responsible, contributing citizens of our community. Being a contributing Student also comes with responsibility to adhere to the Student Conduct and Honor Code (Code). The ultimate responsibility for knowing University requirements and regulations rests with the Student, regardless of institutional or program affiliation. Nothing in this Regulation should be interpreted to abridge the right of any member of the University community of rights granted under the United States or Florida Constitution and/or any other applicable law including, but not limited to, the freedom of expression protected by the First Amendment. **FIU endorses the Board of Governors of the State University System of Florida's Statement of Free Expression to support and encourage full and open discourse and the robust exchange of ideas and perspectives on our campuses. We view this as an integral part of our ability to deliver a high-quality academic experience for our students, engage in meaningful and productive research, and provide valuable public service.**

Those charged with and found Responsible for violations of the Code will be subject to appropriate action as outlined herein. For the most updated Code, please refer to the website of Student Conduct and Academic Integrity (SCAI) at conduct.fiu.edu.

Undergraduate, Graduate, and Professional Students at FIU are expected to adhere to the highest standards of integrity in every aspect of their lives. Honesty in academic matters is part of this obligation. Each Student shall be responsible for their conduct from the time that they have been notified of admission through the actual awarding of a degree, including the academic year and during periods between terms of actual enrollment. The Code shall apply to a Student's conduct even if the Student withdraws from the University, while a conduct matter is pending, or if the conduct is not discovered until after a Student has withdrawn or a degree has been awarded. Academic integrity is the adherence to those special values regarding life and work in an academic community. Code violations may lead to suspension or expulsion from the University if a determination of responsibility has been made. These sanctions will be determined based on severity of incident and prior violations of the Code.

The safety and well-being of our community is the University's foremost concern. It is the policy of the University that acts of harassment and violence will not be tolerated. Any act of intimidation, threat of violence, or act of violence committed against other members of the University when committed within the jurisdiction of the Code is prohibited. Any Student or Student Organization found responsible for a violation of this standard will be subject to discipline up to and including expulsion pursuant to the Code.

Any Sexual Misconduct or Sexual Harassment, as defined pursuant to FIU-Regulation 105, will be handled in accordance with FIU-Regulation 105.

1. DEFINITIONS

- i. **Academic Misconduct:** Any act or omission by a Student, which violates the concept of academic integrity and undermines the academic mission of the University in violation of the Code.
- ii. **Advisor:** Any person chosen by the Respondent to assist throughout the Student Conduct and/or Academic Misconduct processes (e.g., faculty, staff, parent/guardian, attorney, friend, alumni). The Advisor may not be a Witness or serve in any other role in the current process including investigator, decider or fact, hearing officer, member of a committee or panel convened to hear or decide the charge or any appeal. The advisor may be present to advise the Respondent and may participate in all aspects of the proceeding but shall not testify for the Respondent. Proceedings may not be unreasonably delayed due to the selection of schedule of an advisor, and it is the responsibility of the Respondent to communicate relevant information to their advisor and to ensure that their advisor comports themselves in a manner which respects the educational-administrative conduct process. After an appropriate warning, the University reserves the right to stop a proceeding and remove an advisor whose presence disrupts the conduct proceedings.
- iii. **Business Day:** A day when the University is open for regular business operations from 8:30 a.m. up to 5:00 p.m. Eastern Standard Time. In computing any time-period specified in this Code, the day of the event, act, or default that initiates the period shall be excluded.
- iv. **Character Witness Statement:** A statement relating to the general character and reputation of the person.
- v. **Charge:** The written statement of the alleged violations of the Code.
- vi. **Coercion:** Conduct, intimidation, and/or expressed or implied threats of physical, emotional, financial, or any other type of harm that would reasonably place an individual in fear of immediate or future harm and that is employed to force or compel someone to engage in any sexual contact or any other type of involuntary conduct not covered by FIU Regulation 105, especially conduct which would endanger or be detrimental to the Complainant. Examples of Coercion include:
 - i. Causing the deliberate Incapacitation (see below for definition) of another person; and
 - ii. Conditioning an academic benefit or employment advantage.
- vii. **Consent:** Incorporated as defined by FIU Regulation 105.
- viii. **Final Agency Action:** The written decision resulting from the Student Conduct and/or Academic Misconduct processes which finally determines the rights or obligations of the Respondent. Decisions of the Hearing Body constitute Final Agency Action unless there is a timely appeal. If a decision is timely appealed, the decision of the appellate body constitutes Final Agency Action.
- ix. **Hazing:** Any action or situation that recklessly or intentionally endangers the mental or physical health or safety of a Student for purposes including, but not limited to, initiation or admission into, affiliation with, or the perpetuation or furtherance of a tradition or ritual of any Student Organization operating under the sanction of the University or other organization or group not officially recognized by the University. Although hazing is typically related to a person's initiation or admission into, or affiliation with a Student Organization, athletic team (intramural, club or intercollegiate), extracurricular activity or any other University group or organization, it is not necessary to have direct proof that a person's initiation or continued membership is contingent upon participation in the activity for a charge of hazing to

be upheld. The actions of active, prospective, former, or associate members (pledges) of a Student organization may be considered hazing. Organizational leaders who plan a hazing event will be held Responsible even if not in attendance at an event where the hazing occurs. Hazing does not include customary athletic events or similar contests or competitions or any activity or conduct that furthers a legal and legitimate objective.

x. **Hearing Body:** Student Conduct hearings consist of a Hearing Officer (Administrative Hearing) or, if a Student Conduct Committee, two (2) Students, a faculty/staff member, and a nonvoting Hearing Officer. Academic Misconduct hearings consist of a Hearing Officer (Administrative Hearing) or, if a Student Conduct Committee, three (3) Students, and two (2) fulltime faculty members, and a non-voting Hearing Officer. The Hearing Body is authorized by the Senior Vice President for Academic & Student Affairs or designee to conduct Student Conduct hearings as set forth in this Code, and do so in an impartial manner.

xi. **Hearing Officer:** The SCAI Director, or respective designee(s) who adjudicates the case in an impartial manner. For cases involving Academic Misconduct, representatives from Housing and Residence Life may not serve as a Hearing Officer.

xii. **Immediate Medical Assistance:** Aid that includes, but is not be limited to, calling or seeking additional assistance, rendering cardiopulmonary resuscitation (CPR) to a victim, clearing an airway for the victim to breathe, using a defibrillator (AED) to assist the victim, or rendering any other assistance to the victim which the Student intended in good faith to stabilize or improve the victim's condition while waiting for medical assistance or law enforcement to arrive.

xiii. **Impact Statement:** A statement (oral or in writing) that describes how the Reporting Party or Respondent has been impacted by the incident that is the basis for the Charge.

xiv. **Incapacitation:** Incapacitation is the inability, temporarily or permanently, to give Consent because the individual is mentally and/or physically helpless, or the individual is unconscious, asleep, or otherwise unaware that the activity is occurring.

xv. **Instructor:** The Instructor of record for a course in which a violation(s) of Academic Misconduct is alleged.

xvi. **Interim Suspension:** An immediate temporary (i.e., a limited period of time) separation from the University.

xvii. **On-Campus Housing:** Such housing owned, controlled, and operated by the University to include, but not limited to, the following: Everglades Hall, Lakeview Halls (North & South), Panther Hall, Parkview Hall, University Apartments, and University Towers. On-Campus Housing also includes Bayview Student Living (BBC), or any fraternity or sorority houses located on University Premises.

xviii. **Policy:** The written procedures, policies, or regulations of the University (as they may be amended from time to time) as found in, but not limited to, the Florida International University Board of Trustees regulations, the Code, FIU Regulation 105, the Undergraduate/Graduate/Professional Catalogs, the Student Handbook, the University Housing Resident Handbook, and/or Campus Life/Wellness & Recreation Center policies.

xix. **Preponderance of the Evidence:** When the information that is presented supports a finding that it is more likely than not that a violation occurred.

xx. **Receipt of Written Notice:** When Written Notice (see below for definition) has been sent electronically to the official University email address.

xxi. **Reporting Party:** Any person who reports an alleged violation of the Code.

xxii. **Respondent:** A student or student organization charged with violating the Student Conduct and Honor Code.

xxiii. **SCAI Director:** The Director of Student Conduct and Academic Integrity Academic Integrity (SCAI) or designee.

xxiv. **Student:** Any person who participates in any course or program of the University, either full-time or part-time, in-person or online, and whether degree-seeking or non-degree seeking. Persons who withdraw after allegedly violating the Code, persons who are not officially enrolled at the University for a particular term but who have a continuing relationship with the University, persons who have been notified of being accepted for admission, and persons who are living in the residence halls but are not enrolled at the University are also considered Students.

xxv. **Student Organization:** A Student group that is officially registered or recognized by the University, including, but not limited to, political groups, social groups, honor & professional societies, fraternities & sororities, and sport clubs. Membership in a student organization does not affect an individual Student's status with the University or attendance at classes unless the individual Student has been charged and sanctioned independently.

xxvi. **Title IX Coordinator:** The individual University official with the primary responsibility for coordinating the University's compliance with Title IX. The Deputy Title IX Coordinator is an individual(s) designated by the Title IX Coordinator to support the Title IX Coordinator with respect to the University's efforts to comply with Title IX.

xxvii. **University:** Florida International University.

xxviii. **University Community:** Any person who is a Student, faculty or staff, any other person currently employed by the University, or third party working on University Premises or within On-Campus Housing (i.e. contractor, vendor), or any participant in a University-sponsored program or activity regardless of the location of the program or activity.

xxix. **University Official:** Any person employed by the University to perform assigned teaching, research, administrative, professional or other responsibilities (e.g., faculty, staff, administrators, residence hall staff, FIU Police).

xxx. **University Premises:** Any building or property owned or controlled by the University within the same reasonably contiguous geographic area and used by the University in direct support of, or in a manner related to, the University's educational purposes, including residence halls; and any building or property that is within or reasonably contiguous to that previously described in this paragraph that is owned by the University, but that is controlled by another person, is frequently used by students, and supports University purposes (e.g., a food or other retail vendor). This definition is designed to conform to the Clery Act definition which can be amended from time to time.

xxxi. **Witness:** A person(s) who has factual knowledge about the incident which forms the basis of the Charge.

xxxii. **Written Notice:** A notification of the charges against the Respondent sent via email to the Respondent's official University email address. A notification to a Student Organization Respondent sent via email to the official University email address of the Student Organization's President.

2. JURISDICTION

i. Jurisdiction under the Code applies to the conduct of any Student or Student Organization that while the student meets the definition of "student" as articulated in 1.x and the

student organization meets the definition of “student organization” as articulated in 1.y, regardless of the geographic or electronic location.

ii. A conduct proceeding is not a criminal or judicial proceeding. It is designed to address the Respondent’s behavior. Therefore, alleged violations of the Code will be addressed independently of any criminal or judicial proceeding and regardless of whether the criminal charges have been dismissed or reduced to a lesser offense. In extra-ordinary situations, and at the request of external law enforcement or prosecutor’s office, the University may delay its application of this Code.

iii. The Code does not address: Issues related to research misconduct or violations of FIU Regulation 105. Resolutions of issues related to research misconduct must be addressed using the University Research Misconduct policy; or, issues related to professional misconduct. Resolutions of issues related to professional misconduct must be addressed at the school or college level. Violations of FIU Regulation 105 will be addresses in accordance to that Regulation.

iv. Filing Time: Anyone may report an alleged Code violation within ninety (90) calendar days of the incident or obtaining knowledge about the incident, whichever is later. In addition, the SCAI Director may extend the filing time where the delay may be related to issues of victimization or beyond the control of the University.

v. Charging Time: The University must charge an alleged Code violation within ninety (90) calendar days of receiving the Incident Report. The SCAI Director may extend the charging time for extraordinary situations (e.g. hurricane, emergency personnel matters).

3. AUTHORITY

i. The Board of Trustees of Florida International University has been charged with the responsibility of, and authority for, providing a Student conduct system. Authority for Student discipline and the Student conduct system rests with the University President. Although the University President holds the ultimate authority for Student discipline, this authority is delegated to the Senior Vice President for Academic & Student Affairs, who is responsible for implementing the Student disciplinary system. The Senior Vice President for Academic & Student Affairs delegates authority for the execution and implementation of the Code to the SCAI Director.

ii. The requirements and procedures in the Code may be revised. Those revisions may occur in order to serve the needs of the University Students, faculty and/or staff where safety and security issues so demand. In addition, those revisions may occur in circumstances where, in the University’s sole discretion, the requirements and procedures described herein are deemed insufficient to meet the objectives of educating and protecting the members of the University community and/or to respond to changes in the law. Nothing in this Code shall be construed as preventing the University President from taking any action which may be deemed necessary to meet the goals of this Code. In matters involving charges for drug distribution and/or sales (Section 5(i)(2)), endangerment (Section 5(j)), hazing (Section 5(p)), stalking (Section 5(y)), and weapons (Section 5(dd)) the President may change the outcome and/or sanctions to fulfill requirements of the Code as outlined in Section 17.

iii. The Department of Housing and Residential Life (HRL) may conduct both Summary Resolutions and Administrative Hearings regarding cases involving Conduct violations arising in On-Campus Housing. HRL is not authorized to conduct Summary

Resolutions and Administrative Hearings regarding cases involving Academic Misconduct violations or Student Conduct Committee hearings. HRL cases may be referred to SCAI.

4. AMNESTY

i. Medical Amnesty for Alcohol or Drug Use: The University encourages Students to seek medical assistance, but it recognizes that students may be hesitant to make a call or report when they:

i. Need immediate medical assistance due to their own use of alcohol/drugs; or,

ii. Witness another Student who needs immediate medical assistance due to alcohol/drugs.

Thus, students involved in an incident involving alcohol/drugs will not be charged under the Code with consumption if:

iii. they render or call for immediate medical assistance for themselves and/or others who have participated in or witnessed the incident;

iv. the Student calling for immediate medical assistance remains at the scene with the person in need of immediate medical assistance until such assistance arrives and then cooperates with such personnel on the scene; and,

v. the student timely completes the appropriate educational intervention for the incident as determined by SCAI. Other charges related to the incident (e.g., alcohol distribution, drug distribution, or other non-alcohol/drug charges) may be determined at the discretion of the SCAI Director.

While student organizations are not eligible for amnesty, calling for medical assistance will be a mitigating factor, while failing to call or removing a person in need of medical assistance will be an aggravating factor at any sanctioning stage.

ii. Reporting Amnesty: The University encourages Students to report allegations of the Code, including allegations of FIU Regulation 105, but recognizes that students may be hesitant to make a report when they were using alcohol/drugs. Thus, students involved in an incident involving alcohol/drugs will not be charged under the Code with consumption if they are reporting a violation of the Code or FIU Regulation 105. Any other charge(s) related to the incident may be determined at the discretion of the SCAI Director, but the reporting will be a mitigating factor at any sanctioning stage.

While student organizations are not eligible for reporting amnesty, reporting and self-reporting will be a mitigating factor, while failing to report will be an aggravating factor at any sanctioning stage.

iii. Investigatory Amnesty: As part of an investigatory process, and conditioned on being truthful and providing complete information, a witness or party may be asked to provide information which would self-disclose a Code violation. Without abridging the right of any member of the University community of rights granted under the United States or Florida Constitution and/or any other applicable law including, but not limited to the Fifth Amendment, disclosing a Code violation such as alcohol/drugs use related to an incident being investigated and outlined in the investigation will not be charged under the Code. All other charges related to the incident may be determined at the discretion of the SCAI Director, but additional amnesty may be provided under e of this provision.

iv. Hazing Amnesty: A Student may not be charged under the Code if the Student establishes that, before medical assistance or law enforcement arrived on the scene of a hazing

event, the Student rendered aid to the hazing victim and establishes all of the following: i. the Student was present at an event where, as a result of hazing, a person appeared to be in need of immediate medical assistance; and ii. The Student was the first person to call 911 or FIU Police to report the need for immediate medical assistance; and iii. the Student provided their own name, the address where immediate medical assistance was needed, and a description of the medical issue to the 911 operator or FIU Police at the time of the call; and, iv. the Student remained at the scene with the person in need of immediate medical assistance until such medical assistance or law enforcement arrived and that the Student cooperated with such personnel on the scene.

v. **Recording Amnesty** in compliance with section 1004.097 and 1001.03, Florida Statutes: A student may video or audio record a class lecture for their own personal educational use, in connection with a complaint to the University, or as evidence in, or in preparation for a criminal or civil proceeding. A recorded lecture may not be published without the consent of the lecturer.

vi. **Amnesty at the SCAI Director's Discretion:** The SCAI Director may grant amnesty from proceedings within the conduct system, contingent on a student providing complete and accurate information during an investigation or conduct proceeding.

5. CONDUCT VIOLATIONS The following conduct is prohibited by this Code. These violations are included in each section below and need not be cited separately. Lack of familiarity with University policy is not a defense to a violation of this Code. Unless specifically noted, intent is not a required element to establish a policy violation. Additionally, intoxication or impairment caused by use or consumption of alcohol, drugs, or other substances is not a defense to a violation of this Code. The following conduct violations or any attempt to violate the Code will be used in charging all Students or Student Organizations.

- i. **Any** conduct prohibited by FIU Regulation 105.
- ii. **Assisting:** Any affirmative act which aids, attempts, promotes, conceals, or facilitates any act prohibited by this Code.
- iii. **Attempt:** Attempt or intent to commit any violation outlined in the Code.
- iv. **Alcohol:** Students who choose to drink will be held fully responsible for their behavior while under the influence of alcohol. Loss of control due to intoxication does not excuse or justify a violation of the state law, University Policy, or the rights of others.
 - i. Possession, use and/or consumption of alcohol when under the legal drinking age as provided by Florida Law.
 - ii. Dispensing, selling or supplying alcoholic beverages to an individual who is under the legal drinking age as provided by Florida Law.
 - iii. Any violations of FIU Policy governing alcohol usage. See, Regulation FIU-2505 Alcoholic Beverages.
 - iv. Use and/or possession of beer kegs and party balls or other common sources of alcohol.
 - v. Possession of open containers of alcohol or consumption of alcoholic beverages in public areas, such as balconies, courtyards or hallways.
 - vi. Public intoxication (e.g., appearing in a state of intoxication) and/or excessive drinking.
 - vii. Use and/or possession of devices designed for the rapid or excessive consumption of alcohol, including, but not limited to, funnels, ice luges, and beer bongs.

- viii. Hosting or sponsoring a gathering where underage individuals are drinking alcohol.
- ix. Unlawful manufacture, trade, and/or intent to sell alcohol.
- x. Reporting to classes, work, or related assignments “under the influence” of alcohol.
- xi. Violating any other University Policy while under the influence of alcohol.

v. **Animals:** The University allows individuals to bring animals on University Premises in accordance with federal laws. A service animal is permitted on campus grounds and within University buildings, including the University housing assignment provided to an individual with a disability. An emotional support animal is permitted on campus to accompany an individual into his or her University assigned residence in accordance with the U.S. Department of Housing and Urban Development.

- i. Failing to obtain approval from Housing and the Disability Resource Center (DRC) for the Student’s emotional support animal (as defined by federal law) in a residence hall.

- ii. Having an approved emotional support animal beyond authorized areas (i.e., within the residence halls and immediate access to outdoor areas).

- iii. Failing to register the Student’s service animal (as defined by federal law) with the DRC if the Student resides on campus.

- iv. Failing to properly control the service animal and/or emotional support animal such that the animal is disruptive, is not housebroken, or poses a safety or health concern.

- v. Bringing pet dogs, cats, or other animals (except non-dangerous fish) to campus or being in possession of stray animals.

- vi. **Bribery:** Knowingly making an offer, gift, receipt, or solicitation of money, materials, goods, services or anything of value for the Student or others for the purpose of procuring or providing an advantage to which they are not otherwise legally entitled.

vii. **Computer Misuse**

- i. Unauthorized access, entry or use of a computer, computer system, network, software, password, account or data.

- ii. Unauthorized alteration or degradation of computer equipment, software, network, data or system performance.

- iii. Unauthorized copying or distribution of computer software or data.

- iv. Unauthorized use, taking, or theft of University computer resources for commercial purposes or personal financial or other gain. This includes, but is not limited to, advertising a product or service on personal web pages, fund-raising or advertising on behalf of unsanctioned non-University organizations, publicizing of unsanctioned non-University activities, resale of University resources to any non-University individuals or organizations, and the unauthorized use of the University’s name or logos. Use of the University’s network for any of these purposes, even if the user is using their own personal computer, constitutes an offense.

- v. Allowing another person to use one’s FIU username and password.

- vi. Any other violation of the University computer use and web page policies.

The complete policies are available at <http://security.fiu.edu/policies>. The website also contains the civil and criminal penalties for distributing, without authority, copyrighted materials (including unauthorized peer-to-peer file sharing) and the penalties for violating federal copyright law.

vii. Unauthorized distribution or downloading of copyrighted materials, including but not limited to, unauthorized peer-to-peer file sharing. This is a violation whether the user is using their own personal computer or the University's information technology system for the unauthorized distributions.

viii. **Disruptive Conduct**

i. that substantially and materially disrupts, disturbs, impairs, interferes with or obstructs the orderly conduct, processes and functions of the University or the rights of other Members of the University community.

ii. Behavior that substantially and materially disrupts, disturbs, impairs, interferes with or obstructs the orderly conduct, processes, and functions of the classroom, or laboratory and/or immediate surrounding areas. This includes interfering with the academic mission of the University or individual classroom or interfering with a faculty member or instructor's role to carry out the normal academic or educational functions of their classroom laboratory and/or immediate surrounding areas.

iii. Behavior that substantially and materially disrupts, disturbs, impairs, interferes with or obstructs the Student Conduct process, including, but not limited to, harassment and/or intimidation of any member of the Student Conduct Committee, Witness or University personnel before, during or after a proceeding, or attempting to coerce or influence any person(s) in order to discourage their participation in any Student Conduct proceeding.

iv. Any behavior that substantially and materially disturbs the peace.

ix. **Drugs**

Students who choose to use illegal drugs or use prescription drugs without a prescription will be held fully responsible for their behavior while under the influence. Loss of control due to being under the influence does not excuse or justify a violation of the state law, University Policy, or the rights of others.

i. Possession, use, the manufacture, creation and/or the cultivation of illegal drugs or prescription drugs without a prescription. Inhalable or ingestible substances (e.g., nitrous oxide, glue, paint) that will alter a Student's mental state.

ii. Distribute, dispense, deliver, trade, sell and/or attempt to sell drugs or prescription drugs.

iii. In possession and/or use of drug paraphernalia (including, but not limited, to bongs, pipes, "hookahs," spoofs, rolling papers, blunts, small plastic baggies).

iv. Misuse and/or abuse of prescription drugs.

x. **Endangerment**

i. Occurs when one intentionally or recklessly (a) causes bodily harm to another person; (b) attempts to cause bodily harm to another person; or (c) puts another in fear of imminent bodily harm. No Student may knowingly or recklessly touch any other person without that person's consent. Punching, slapping, scratching, or otherwise striking any person with any part of one's body or with any object constitutes physical violence.

ii. Engage in any action(s) that endangers the health, safety or welfare of others.

xi. **Failure to Comply**

i. Failure to comply with a request or directive of a University Official or non-University law enforcement official in the performance of their duty.

ii. Failure to comply with the final decision and sanctions rendered by a Student Conduct hearing or appellate body.

iii. Failure to comply when a University Official requests to identify oneself and/or produce FIU identification.

xii. **Falsification/Fraudulent Activity/False Testimony**

i. Withholding relevant information from any Hearing Body, University Officials, non-University law enforcement officers, faculty and/or staff.

ii. Providing false or misleading information (whether oral or written) to any Hearing Body, University Officials, non-University law enforcement officers, faculty and/or staff. A good-faith report of prohibited conduct does not constitute a Code violation.

iii. Misuse, reproduction, alteration or forgery of any identification, documents, keys or property.

iv. Permitting another person to use one's identification information.

v. Misuse or possession of false identification information.

vi. Purporting to act on behalf of another person, group or the University without authorization or prior consent.

vii. Providing a worthless check, money order or using a fraudulent credit card or a credit card without authorization.

viii. Any other acts of falsification/fraud/false testimony or misrepresentation.

xiii. **Fire and Safety**

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

ii. Removing, damaging, interfering and/or tampering with fire safety or other emergency warning equipment, including smoke detectors, sprinklers and/or fire alarms. Items may not be hung from or block sprinklers or smoke detectors.

iii. Failure to evacuate University Premises or On-Campus Housing facility/unit when a fire alarm is activated.

iv. Engaging in action(s) which cause or attempts to cause the release of chemicals or substances that can cause harm to another person's health or would start a fire or explosion.

xiv. **Gambling**

i. Soliciting, placing or accepting a bet on any high school, intercollegiate or professional athletic contest on University Premises, On-Campus Housing, or at a University or Student Organization-sponsored activity or event.

ii. Soliciting, facilitating or participating in any illegal gambling, bookmaking or illegal betting whether through a bookmaker, a parlay card, a pool or any other method of organized gambling on University Premises, On-Campus Housing, or at a University or Student Organization-sponsored activity or event.

xv. **Harassment:** Severe or pervasive interactions aimed towards another or entity which is by objective measure threatening, abusive, or severely annoying and that is beyond the scope of free speech and which is not covered by FIU Regulation 105.

xvi. **Hazing**

i. Any group or individual action or activity that inflicts or intends to inflict physical or mental harm or otherwise endanger or discomfort which may demean, disgrace and/or degrade any person, regardless of location, intent or consent of participant(s). Taking into consideration the aforementioned description, hazing includes, but is not limited to:

1. Interference with a Student's academic performance;

2. Forced consumption of any food, alcohol, controlled substances, drugs or any other substance;
 3. Forced physical activity (e.g., calisthenics, line-ups, walking or marching in formation);
 4. Deprivation of food, water or sleep;
 5. Not permitting individuals to speak for extended periods of time and/or forced exclusion from social contact;
 6. Engaging in activities which involve compelling an individual or group of individuals to remain at a certain location or transporting anyone anywhere within or outside the University (e.g., road trips, kidnaps, drops);
 7. Physical or mental abuse of any nature, including physical discomfort;
 8. Sexual misconduct of any nature;
 9. Theft, defacement or destruction of private or public property;
 10. Compelling the performance of personal chores or errands;
 11. Verbal abuse or degradation, including yelling or demands;
 12. Assigning or endorsing pranks (e.g., stealing, harassing other organizations);
 13. Conducting activities designed to deceive or convince a member that they will not be initiated or that they will be hurt;
 14. Compelling scavenger hunts, treasure hunts, quests, road trips, big brother/little brother hunts, big sister/little sister hunts;
 15. Any action or threatened action that would subject the individual to embarrassment, humiliation or mental distress, including the use of demeaning names; or
 16. Any other acts or attempted acts which would constitute hazing pursuant to Section 1006.63 of the Florida Statutes.
- ii. The following shall not constitute a defense to Hazing:
1. The consent of the victim was obtained;
 2. The conduct or activities that resulted in death or injury to the victim was not part of any official organizational event or otherwise sanctioned or approved by a Student Organization or group; or
 3. The conduct of activity that resulted in death or injury to the victim was not done as a condition or membership into a Student Organization or group.

xvii. **Motorcycles, Bicycles, Pocket Bikes, Rollerblades, or Skateboards**
Failure to comply with FIU Regulation 115 Skateboards, Skates, Scooters, Ripstiks, Hoverboards and other similar devices and high-risk activities on University Premises or in On-Campus Housing.

xviii. **Obstruction**
Taking action, individually or working with others, which the Respondent knew or should have known would impede an investigation by the University into possible violations of the Code committed by a Student and/or Student Organization, including failing to participate in a University investigation or proceeding if not the Respondent.

xix. **On-Campus Housing Violations**
Violation(s) of any HRL policies published in hard copy or available electronically via the HRL website (<https://studentaffairs.fiu.edu/campussservices/housing-and-residential-life/explore-housing/housingpolicies/index.php>).

xx. Personal Abuse

i. Verbal or written abuse, threats, intimidation, and/or Coercion that objectively endangers the health, safety or well-being of others and which is not covered by FIU Regulation 105. Using fighting words or statements which reasonably endanger the health and safety of any person that are not protected speech may result in University action. Conduct directed at any person, including a Member of the University community, which is intended to, or would reasonably, cause fear, distress, injury or intimidation to a person, or would place a reasonable person in fear of injury or death.

ii. Conduct that is based on race, color, religion, ethnicity, national origin, disability, age, marital status, genetic information, veteran status or any group/class protected by federal or Florida law sufficiently severe, pervasive or persistent (when viewed both from a reasonable person in similar circumstances and the person in question) that a person would be adversely affected to a degree that interferes with or limits their ability to participate in or benefit from the services, activities or opportunities offered by the University.

iii. Interference with the freedom of another person or group to move about in a lawful manner.

xxi. Promotions/Posting

i. Solicitation of commercial speech on campus, including On-Campus Housing facilities, without prior approval from the appropriate University Officials. This includes, but is not limited to, the distribution of any forms of promotional/informational commercial speech material on University Premises or On-Campus Housing or objects (e.g., motor vehicles).

ii. Posting of flyers, posters, banners, cards or any promotional/informational material on University Premises or On-Campus Housing, including, but not limited to, the exterior and interior of On-Campus Housing facilities, buildings, trees, walls, sidewalks, vehicles, windows, stairwells, stairs, display cases, vending machines, doors, classrooms, departmental and unauthorized bulletin boards, railings, elevators, bathrooms, art and/or sculptures without prior approval from the appropriate University Officials.

xxii. Retaliation

i. Acts or words taken against an individual because of the individual's participation in a protected activity that would discourage a reasonable person from engaging in protected activity. Protected activity includes an individual's good faith

1. Participation in the reporting, investigation, and/or resolution of an alleged violation of this Code; and/or

2. Opposition to policies, practices and/or actions that the individual reasonably believes are in violation of the Code. Retaliation may include intimidation, threats, coercion, physical harm and/or adverse employment or educational actions. Retaliation may be found even when an underlying report made in good faith was not substantiated. Retaliation may be committed by the Respondent, the Reporting Party, or any other individual or group of individuals.

xxiii. Smoking and Use of Tobacco-Related Products

i. Failure to comply with FIU Regulation 113 Smoke and Tobacco-Free Campus by smoking in or on any University Premises or On-Campus Housing. Smoking means possession of a lighted cigarette, cigar, pipe, water pipe or hookah, or the use of an electronic cigarette, cigar, pipe, vape or any other device intended to simulate smoked tobacco.

ii. Use of smokeless tobacco, snuff, chewing tobacco, smokeless pouches and any other form of loose-leaf or smokeless tobacco.

xxiv. **Social Host Responsibility**

Allowing, permitting, or providing an opportunity for a guest to violate University policy.

xxv. **Stalking**

Engaging in a course of conduct directed at a specific person, not covered under FIU Policy 105, that would cause a reasonable person to (a) fear for the person's safety or the safety of others; or (b) suffer substantial emotional distress. For the purposes of this conduct violation, course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about a person, or interferes with a person's property.

xxvi. **Student Organization Policies**

i. Members of the Student Organization acting together to violate University Policy.

ii. More than one Student working together to impede an investigation by the University into possible violations of the Code committed by a Student Organization.

iii. Acting to protect from official action one or more alleged individual offenders who are members, former members or guests of the Student Organization.

iv. Leaders of the Student Organization who fail to report and/or take reasonable action against guests and/or members responsible for alleged violations.

v. Violation(s) of any Campus Life/Fraternity and Sorority Life/Sports Club Policies published in hard copy or available electronically via the appropriate website. See <https://studentaffairs.fiu.edu/get-involved/campus-life/index.php>, <https://studentaffairs.fiu.edu/get-involved/sorority-and-fraternity-life/index.php>, or <https://studentaffairs.fiu.edu/health-and-fitness/recreation/index.php>.

xxvii. **Theft and Theft-Related Conduct**

i. Taking, or use of, the property or services of another person or of the University without prior written consent or authorization of the person or of the appropriate authority.

ii. Possession and/or sale of property or services of another person or of the University without prior written consent or authorization.

xxviii. **Trespassing/Unauthorized Use**

Unauthorized presence in or unauthorized use of University Premises or On-Campus Housing, facility or restricted area.

xxix. **Vandalism/Damage/Littering**

i. Damage, destruction or defacing property of another person, group or the University.

ii. Dispersing litter in any form on University grounds or facilities, including, but not limited to, cigarette butts, flyers, cans, and bottles.

xxx. **Weapons, Firearms, Explosives**

i. Possession, storage or use of firearms, except as provided in below, explosives, ammunition or other weapons or dangerous articles or substances, including, but not limited to tasers, switchblade knives and non-lethal weapons such as fireworks, paintball guns, air guns, BB guns, any dangerous chemical or biological agents, corrosive agents, compressed gas, sling shots, brass knuckles, Chinese stars, or any other item used as a weapon.

1. In accordance with Florida Statutes section 790.115, possession of firearms on University Premises or On-Campus Housing (except as provided by Florida Statutes section 790.25(5)).

2. Possession of a concealed weapon or firearm on University Premises or On-Campus Housing even if the Student possesses a concealed weapon license.

ii. Notwithstanding the foregoing, weapons, including non-functioning antique display weapons, may be used for classroom instructional purposes or other University sanctioned activities (e.g., firearms under the direct supervision of ROTC, a diver's knife for a scuba divers' class) but only with prior approval by the appropriate University Official.

iii. Threat of the use of a weapon or weapons that could, or would, cause distress or injury to a member or members of the University community or damage to University Premises or On-Campus Housing.

xxxi. **Other Violations**

i. Aids or abets another in any violation of federal law, state law, local ordinance, and/or Policy not already listed above.

ii. Violations of federal and/or state laws, local ordinance, and/or Policy not already listed above.

6. **ACADEMIC MISCONDUCT VIOLATIONS**

i. **Academic Dishonesty**

In general, by any act or omission not specifically mentioned in the Code and which is outside the customary scope of preparing and completing academic assignments and/or contrary to the above stated policies concerning academic integrity.

ii. **Bribery**

The offering of money or any item or service to a member of the faculty, staff, administration, Student or any other person in order to commit academic misconduct.

iii. **Cheating**

i. The unauthorized use of any materials, information, study aids or assistance from another person on any academic assignment or exercise, unless explicitly authorized by the course Instructor.

ii. Assisting another Student in the unauthorized use of any materials, information, study aids, unless explicitly authorized by the Instructor.

iii. Having a substitute complete any academic assignment or completing an academic assignment for someone else, either paid or unpaid.

iv. **Commercial Use**

The selling of course material to another person, Student, and/or uploading course material to a third-party vendor without authorization or without the express written permission of the University and the Instructor. Course materials include but are not limited to class notes, Instructor's PowerPoints, tests, quizzes, labs, instruction sheets, homework, study guides and handouts.

v. **Complicity**

The planning or acting with one or more fellow Students, any member of the faculty, staff or administration, or any other person to commit any form of academic misconduct together.

vi. **Falsification of Records**

The tampering with or altering in any way of any academic record used or maintained by the University.

vii. **Misrepresentation**

i. Intentionally lying to a member of the faculty, staff, administration, or an outside agency to gain academic advantage for oneself or another.

ii. To misrepresent or in other ways interfere with the investigation of a charge of academic misconduct.

viii. **Multiple Submission**

Submitting the same or substantially the same academic work (including oral presentations) for credit more than once. Multiple submissions shall not include situations where the prior written approval by the instructor in the current course is given to the student to use a prior academic work or endeavor. It is each instructor's responsibility to make expectations regarding incorporation of existing academic work into new assignments clear to the student in writing.

ix. **Plagiarism**

i. The deliberate use and appropriation of another's work without any indication of the source and the representation of such work as the Student's own.

ii. Assisting another Student in the deliberate use and appropriation of another's work without any indication of the source and the representation of such work as the student's own.

7. INVESTIGATION AND PRE-ADJUDICATION PROCEDURES

i. **Initiating Charges for Conduct Violations:** Any person or entity (including University departments, offices, officials, community members) may report an alleged violation(s) of the Code for review by SCAI by:

i. Submitting a police report that has been filed with any police department;

ii. Providing a SCAI incident report (see <http://conduct.fiu.edu> for report) along with accompanying documentation; or

iii. Making an oral report to SCAI.

ii. **Initiating Charges for Academic Misconduct Violations:** Any person or entity (including University departments, offices, officials, community members) may report an alleged violation(s) of the Code for review by the SCAI by:

i. Submitting the alleged violation(s) through the Academic Misconduct Report Form (AMR) along with any accompanying documentation (see <http://conduct.fiu.edu> for report). Instructors are encouraged to discuss the allegations with the Student prior to referral to SCAI.

ii. If a Student, staff member, or a person not affiliated with the University observes a Student committing an Academic Misconduct violation, they may report the alleged violation to SCAI via the standard incident reporting form (see <http://conduct.fiu.edu> for report). SCAI will then communicate with the appropriate faculty member, chair, or College/School Dean.

iii. All matters relating to Academic Misconduct among undergraduate, graduate, and professional Students are referred to the SCAI Director or designee. In matters where there is a conflict of interest with the SCAI Director, the case will be referred to the Senior Vice President for Academic & Student Affairs or designee.

iii. **Preliminary Review:** The SCAI Director will determine, at their discretion, whether further fact-finding is needed and whether there is sufficient information to file charges or refer to another University office regardless of the participation of any party in the proceedings.

i. Upon receiving an alleged violation of Academic Misconduct, the SCAI Director may review relevant information and consult with relevant parties regarding the incident in question. In addition, Instructors can request an intake meeting with SCAI staff to review allegations, the Charges, possible Sanctions, and to be explained the Student conduct process, and any available forms of resolution. Reasonable efforts will be made to hold this intake meeting at least ten (10) Business Days before any scheduled hearing.

iv. **Interim Measures:** Until final agency action or there is a such a change in circumstances that the decision-maker for each action below no longer supports such an action, the following interim measures may be implemented as follows:

i. **No-Contact Directive:** In cases involving allegations of, hazing, personal abuse, retaliation, stalking, or other menacing activity or concerning behavior, the SCAI Director, after making a reasonable effort to meet with the Respondent if appropriate to do so, may issue a No-Contact Directive.

ii. **Restriction of Privilege or Access Directive:** In cases involving allegations of hazing, personal abuse, retaliation, stalking, trespassing, or other menacing activity or concerning behavior, the SCAI Director, after making a reasonable effort to meet with the Respondent if appropriate to do so, may issue a Restriction of Privileges or Access Directive.

iii. **Interim Suspension**

1. Where the Senior Vice President for Academic & Student Affairs or designee determines that the health, safety or welfare of University community are in jeopardy or in danger, an interim (temporary) suspension will be imposed. This includes, but is not limited to, physical assault, hazing, possession of a firearm or explosives, illegal drug possession and other acts of a similar nature. A Respondent under Interim Suspension is considered not in good standing with the University, resulting in applicable restrictions on privileges and/or activities. The Respondent may neither attend nor participate in any classes, including any online components, during this time. The Respondent is also banned from being on or in any University Premises and/or On-Campus Housing, and from participation in any University-sponsored/related event or activity. The Respondent, except with the permission of the SCAI Director.

2. The Respondent may petition the Student Conduct Committee (SCC), in writing, for a review of the decision; the University will submit to the SCC, in writing, relevant information related to the decision to impose an interim suspension. The SCC shall meet to consider the petition as soon as possible, but typically no later than five business days after it receives the petition. If the SCC determines that the suspension was improper or is no longer necessary, it shall lift the suspension immediately and the underlying matter shall proceed. The SCC may implement any alternative interim measures if it lifts the interim suspension.

3. The Respondent's transcript will remain notated during the interim suspension.

4. If a Respondent's privileges are temporarily revoked through an Interim Suspension and the Respondent is subsequently found not responsible for the violation, the University must, to the extent possible:

a. Correct any record of the change in enrollment status in the Respondent's permanent records and reports in a manner compliant with state and federal laws; and

b. Refund to the Respondent a pro rata portion of any charges for tuition, and out-of-state fees, as appropriate, relating to the temporary revocation or

suspension which affected the Respondent's ability to attend classes for more than ten (10) school days.

v. **Investigations:** The SCAI Director retains the discretion to determine whether an investigation should be conducted, and the scope of such investigation based on the alleged violations under the Code. The investigation will be a neutral fact-finding process used to determine if there is sufficient information to warrant action by the University. If the SCAI Director directs an investigation to another office to act on behalf of SCAI, including the Department of Housing and Residence Life or the Office of Inclusion, Diversity, Equity & Access (IDEA), the Director of such office, or designee, shall conduct the investigation in accordance to the Code and relevant processes and procedures, so long as such procedures do not conflict with this Code or applicable University Policy which has jurisdiction over the reported behavior. For cases in which there is an overlap of charges between the Code and FIU Regulation 105, a joint investigation will commence, and the details of the Code investigation will be included in the FIU Regulation 105 final report or considered as part of the informal resolution. The Code behaviors will cede to adjudication and appeal under the process set forth in FIU Regulation 105.

In cases where conduct involves both potential Conduct and Academic Misconduct violations, the Hearing Officer or Hearing Body has the authority to handle both matters simultaneously through a joint hearing. If a Student is found Responsible for simultaneous Conduct and Academic Misconduct violations, sanctions from both processes may be imposed.

vi. **Charge Letter:** The Respondent will be given a written notice of the Charges. The Charge Letter will include the following:

i. Notice of the charge(s), including specific code section(s) which constitutes the alleged violation(s) of the Code, an allegations statement and any other detail in order to prepare for a Student Conduct proceeding, including the process to be used in determining whether a violation has occurred and associated rights; and

ii. Information regarding next steps, including the date, time, and location of the disciplinary proceeding.

vii. **Joint Hearings:** Cases that present common questions of conduct or fact and that would come before a panel of like composition may be joined for hearing.

i. For a joint hearing, the individual who conducted the information sessions must affirm, in writing, to the Hearing Officer that each Respondent performed acts sufficiently similar that the facts presented in evidence would not differ materially from one Respondent to another. In such case, the Hearing Officer may order joinder of such cases for hearing.

ii. Any Respondent, whose case is joined may request, in writing, to the Hearing Officer to be excluded from the joint hearing on the ground that (i) they are not charged with the same offense, at the same time and place, or (ii) that the facts relevant to them would differ materially from the facts relevant to the Respondent(s). The Hearing Officer's decision regarding whether any requesting Respondent be severed from the joint hearing in final.

iii. All decisions regarding responsibility under this Code, and any applicable sanctions or remedies will be rendered individually, and each Respondent remains entitled their own advisor.

viii. **Information Session:** An information session is designed to provide the Respondent with information about the adjudication process, as well as giving access to the information supporting the charge(s) available at that time. The information session is not a disciplinary proceeding but may transition to such a disciplinary proceeding if the Respondent

waives any applicable disciplinary proceeding rights not met in order to accept a Summary Resolution.

i. Subsequent to the information session, the Hearing Officer may conduct further fact-finding regarding the incident that is subject to the charge. This information will be communicated to the Respondent prior to the hearing or at a subsequent meeting before a hearing.

ii. If a Respondent fails to attend a scheduled information session, the Respondent will be deemed to have waived their right to an information session. Under those circumstances, a hearing will be scheduled. Failure to attend an information session will result in the Hearing Officer determining the type of hearing. The hearing type will be determined based on the severity of the possible sanctions (e.g., suspension/expulsion cases may be referred to the Student Conduct Committee).

iii. If the Respondent fails to attend the information session, the Hearing Officer may place a hold/service indicator on the Respondent's record until the conclusion of the hearing. If sanctions are imposed as a result of the hearing, the hold/service indicator will be retained until the Respondent fulfills all of the sanctions.

ix. **Student Academic Status Pending the Code Process:** The Student's academic status will remain unchanged pending the outcome of the Code process, except where the Senior Vice President for Academic & Student Affairs or designee has implemented an interim suspension. When a final grade for a course may be involved, a grade of IN should be assigned, pending the University's final decision in the matter. A Respondent's ability to register for future semesters may be temporarily placed on hold.

8. RESOLUTION OPTIONS

A Respondent is entitled to a resolution of any alleged violation of the Code through a disciplinary proceeding unless waived as set forth below. Two (2) types of resolution options are provided by the Code.

i. Summary Resolution

i. A summary resolution is available when the Respondent waives the right to a hearing, any applicable disciplinary proceeding rights not met, and requests that the Hearing Officer conducting the information session determine the findings and sanctions if applicable. The Hearing Officer reserves the right to conduct fact-finding to make an informed decision.

ii. The following apply to a summary resolution:

1. The meeting(s) will not be recorded.
2. The written decision will serve as the official record of the

Summary Resolution.

3. The written decision will be sent to the Respondent within fourteen (14) Business Days from the date of the Summary Resolution. For Academic Misconduct violations, the written decision will also be sent to the Instructor.

iii. If the Respondent does not choose the Summary Resolution (or the option is unavailable), the Respondent may indicate their preference for one of the two (2) types of hearings.

ii. **Hearings:** Two hearing types are available under the Code: 1) an Administrative Hearing, or 2) a Student Conduct Committee (SCC) hearing. All procedures described in the Hearing Procedures section apply to these types of hearings.

- i. Administrative Hearing - Conducted by a Hearing Officer who serves as the Hearing Body.
- ii. SCC Hearing - Conducted by a committee which serves as the Hearing Body. SCC committees for Conduct violations consist of two (2) Students, one (1) faculty or staff member, and a non-voting Hearing Officer. SCC committees for Academic Misconduct violations consist of three (3) Students, two (2) full-time faculty members, and a non-voting Hearing Officer. The non-voting Hearing Officer will moderate the hearing.
- iii. For SCC Hearings, members of any particular committee will vary, but will come from a pool of qualified faculty, staff and Students. Faculty members can be recommended annually by the Faculty Senate. Undergraduate, graduate, and professional Student members will be recruited and selected through SCAI's formal SCC recruitment and selection process. All members of the SCC will be trained by SCAI. In cases where the Respondent is an undergraduate, every effort will be made to select undergraduate student representatives for the SCC. In cases where the Respondent is a graduate or professional student, every effort will be made to select graduate or professional student representatives for the SCC. For Academic Misconduct violations, the committee must include two full-time faculty members, and if the Respondent is a graduate or professional student faculty representatives must have at least Graduate Faculty status. For cases in which there is an overlap of charges under only the Code (Academic misconduct and a non-FIU Regulation 105 violation), the Hearing Body shall meet the requirements of the Academic Misconduct hearing.
- iv. For cases in which there is an overlap of charges between the Code and FIU Regulation 105, the Code behaviors will cede the adjudication processes under that Regulation.
- v. The SCAI Director retains the discretion to ultimately determine which hearing forum is appropriate.
- vi. All hearing(s) will be conducted in private or in accordance with applicable law.

9. HEARING NOTIFICATION AND INFORMATION EXCHANGE

- i. **Scheduling:** Hearings may be scheduled during class periods. Every effort will be made to avoid a class conflict; however, due to availability of persons involved in the hearing and meeting room, it may not be possible.
- ii. **Hearing Notice:** The notice of a hearing, including date, time and location will be sent to the official University email address of the Respondent, or typically to the official University email address of the President of the Student Organization, at least seven (7) Business Days prior to the hearing unless waived by the Respondent. The Instructor will also be notified in Academic Misconduct cases. The Hearing Officer has the discretion to provide notice through additional means (e.g., overnight or hand delivery). The delivery notification of the hearing notice through the official University email will constitute full and adequate notice under the Code.
 - i. The notice will include the names of witnesses to be called by the University and a list of information to be used in the hearing, which may be different from what was presented in the information session or subsequent meetings.
 - ii. The notice will also indicate the name(s) of the Hearing Body member(s) if known at the time, but will be provided before the start of the hearing.

iii. **Witnesses and Information**

i. At least five (5) business days prior to the hearing the University will provide the names of all known witnesses and all information related to the allegation, including inculpatory and exculpatory information, subject to redaction in accordance with federal and state law, to the Respondent.

ii. At least five (5) business days prior to the hearing the Respondent must provide the names of all known witnesses and all information to be used in the hearing. Acceptance or denial of witnesses and/or information, based on relevancy, is within the discretion of the Hearing Officer, but the University will not consider polygraph reports.

iii. Character witnesses or witnesses to other incidents outside the specific incident in question will not be allowed to testify at a hearing. The Respondent may provide the Hearing Body with character witness statements (which will only be considered during the sanctioning phase, if applicable).

iv. The Respondent is responsible for contacting and notifying the additional witnesses they wish to call for the hearing.

v. The proceedings shall not be delayed due to scheduling conflicts of witnesses. Failure of any witness to appear shall not require a delay or affect the validity of the proceedings. If called witnesses do not appear, their written statements, if they exist, will be considered by the Hearing Body. Witnesses can appear in person or by contemporaneous alternative means (e.g., Skype, phone).

vi. The Hearing Officer has the discretion to limit the number of witnesses whose testimony may be duplicative, redundant or not in dispute.

vii. The Hearing Officer may place limits on the length of testimony and also may advise to the scope, direction or tone of questioning.

viii. The Instructor of the course in which the alleged Academic Misconduct violation(s) have occurred will always be requested to attend the hearing. The Instructor is strongly encouraged to participate in the hearing procedure.

iv. **Challenging a Member of the Hearing Body/Change of a Hearing Body Member**

i. The Respondent may challenge the inclusion of any member at least three (3) business days prior to the scheduled hearing. The challenge must be in writing and must show actual bias (such as a conflict of interest, animosity, pressure or influence) that would preclude a fair and impartial hearing. The Hearing Officer will determine whether to grant such challenge in their discretion, and such decision is final and not appealable.

ii. If a Hearing Body member is unable to serve due to an emergency or unforeseeable occurrence, the Hearing Officer will appoint a new hearing body member prior to the scheduled hearing and notify the Respondent as soon as possible. The Respondent may challenge the inclusion of this member at the time of the hearing. The challenge must be on the basis outlined above.

v. Request for a Postponement: Any request to postpone a hearing must be submitted in writing or by email and must be received by the SCAI Director at least two (2) business days prior to the hearing. The request must state the reason(s) for the postponement. The granting of such requests shall be at the discretion of the SCAI Director. The University is not required to postpone a proceeding pending the outcome of a criminal prosecution. The University may postpone the hearing, at any time, for extraordinary situations (e.g. hurricane, emergency personnel matters).

10. ADVISOR FOR THE RESPONDENT

- i. The Respondent may be accompanied by an advisor of their choosing and at their expense at any time during the Code process.
 - i. It is the responsibility of the Respondent to make appropriate arrangements for the advisor to attend the proceeding. The proceedings shall not be delayed due to scheduling conflicts of the chosen advisor. If the advisor is an attorney, the attorney must comply with the same restrictions imposed on any other advisor.
 - ii. The Respondent is responsible for presenting their own information, and therefore, advisors are not permitted to speak or to participate directly in any process under this Code.
 - iii. Although the Respondent may consult with their Advisor during the hearing, this consultation must take place in a manner that does not disrupt the proceedings.
 - iv. The Advisor chosen by the Respondent cannot be a witness in the matter.
 - v. SCAI can provide the Respondent with a list of Advisors who can provide assistance in preparing a response to the reported Code violation.

11. DUE PROCESS RIGHTS OF THE RESPONDENT: The Respondent has the following rights:

- i. Reasonable, written notice of the Code charge(s) and the allegations upon which the charge(s) is/are based.
- ii. A presumption that no violation occurred.
- iii. A fair and impartial hearing.
- iv. The right to be accompanied by an Advisor of their choice and expense at any time during the Code process.
- v. The opportunity to review all relevant information or evidence to be used in the hearing prior to the hearing.
- vi. The ability to participate in the Student Conduct hearing either physically or by contemporaneous alternative means (e.g., Skype, phone).
- vii. The opportunity to present, or have your advisor present relevant witnesses and information at the hearing.
- viii. The opportunity to question, or have your advisor question witnesses in accordance with the Hearing Procedures.
- ix. Not to provide self-incriminating testimony. Invoking the right against self-incrimination will not be considered as a negative factor in the decision of the Hearing Officer or Hearing Body.
- x. Receive notification of the decision of the Hearing Body in writing within fourteen (14) Business Days of the hearing.
- xi. Appeal the decision via the process established by the University.

12. PRINCIPLES OF GROUP RESPONSIBILITY

- i. Any Student Organization can be held responsible under the Code for its actions or those of its members acting together. Misconduct on the part of the organization will be addressed when one or more of the following circumstances occur:
 - i. An alleged violation arises out of a Student Organization-sponsored, financed or otherwise supported activity.

- ii. An alleged violation occurs on University Premises or On-Campus Housing and/or transportation owned, operated or rented exclusively by the Student Organization.
- iii. A pattern of individual alleged violations has occurred and/or continues to occur without adequate control, response or sanction on the part of the Student Organization or its leaders.
- iv. The Student Organization or its related activities provided the context for the alleged violation.
- v. The action resulting in the alleged violation has received either the implied or overt consent of the Student Organization and/or its leaders.
- vi. The Student Organization overtly places or implicitly allows active members of the Student Organization to be in a position to act on behalf or with the authority of the Student Organization.
- ii. The actions of active, prospective, or associate members (pledges) of a Student Organization may be considered hazing. Refer to Section 5 for full details on Hazing.
- iii. It is the responsibility of the Student Organization's President or Student-member designee to represent the organization through the conduct process.

13. HEARING PROCEDURES

- i. During the hearing, the Hearing Officer presides over the Code hearing and makes all procedural decisions.
- ii. The burden of proof in a hearing rests with the University and Respondents are presumed Not Responsible. The standard of proof is a Preponderance of the Evidence. The determination of "Responsible" or "Not Responsible" will be based solely on the information and/or testimony presented.
- iii. Formal rules of process, procedure and/or technical rules of evidence (including hearsay rules) applicable in the criminal or civil court process are not used in Code proceedings.
- iv. Witnesses only participate in the hearing to the degree that a question is posed to them. They may not speak or otherwise participate in the Hearing.
- v. In Code hearings involving Academic Misconduct violations, the Instructor can choose to be present in the hearing in its entirety and to ask questions of the Respondent and witnesses when prompted. The Hearing Officer has the discretion to require the Instructor to step out of a hearing if non-academic student conduct issues are being discussed.
- vi. The hearing will be recorded. The recording will serve as the only official record of the proceedings. No other recordings are permitted.
- vii. If the Respondent, or Instructor fails to appear at the scheduled hearing, the hearing will be held, and a decision will be rendered in their absence.
- viii. Upon request by the Respondent or witnesses, the Hearing Officer may permit the individual to provide relevant information during the hearing in a manner that avoids direct contact with the Respondent.
- ix. For Code hearings involving Conduct Violations, the Hearing Officer has the discretion to determine the order of the hearings which may involve, but is not limited to, the following:
 - i. Introductory statement by Hearing Officer including a reading of the allegations and charge(s), introduction of information that is the basis for the charges, and identification of the hearing participants.

ii. Statement by the Respondent or Respondent's Advisor and submission of any previously submitted relevant written information (e.g., records, exhibits, written statements) except for witness statements (see below) for consideration by the Hearing Body.

iii. Questions directed to the Respondent by the Hearing Body.

iv. Presentation of witnesses and any results of fact-finding conducted prior to the hearing.

v. The Respondent or Respondent's Advisor may pose questions directly to the witness. In certain circumstances to be determined by the Hearing Officer, questions may be presented in writing to the Hearing Officer who will then ask the witness the question(s).

vi. Submission by the Respondent or Respondent's Advisor of written statements (if any) of witnesses who are not present.

vii. Follow-up questions (if any) directed to the Respondent by the Hearing Body.

viii. Final statement by the Respondent or Respondent's Advisor.

ix. Hearing Officer brings hearing to closure.

x. For Code hearings involving Academic Misconduct Violations, the Hearing Officer has the discretion to determine the order of the hearings which may involve, but is not limited to, the following:

1. Introductory statement by Hearing Officer including a reading of the allegations and charge(s), introduction of information that is the basis for the charges and identification of the hearing participants.

2. Statement by the Instructor and submission of any previously submitted relevant written information (e.g., records, exhibits, written statements) except for Witness statements (see below) for consideration by the Hearing Body.

3. Statement by the Respondent or Respondent's Advisor and submission of any previously submitted relevant written information (e.g., records, exhibits, written statements) except for Witness statements (see below) for consideration by the Hearing Body.

4. Questions directed to the Instructor by the Hearing Body and the Respondent or Respondent's Advisor.

5. Questions directed to the Respondent by the Hearing Body and the Instructor.

6. Presentation of witnesses and any results of fact-finding conducted prior to the hearing.

7. The Respondent or Respondent's Advisor may pose questions directly to the witness(es).

8. The Instructor may pose questions directly to the witness(es).

9. Submission by the Respondent or Respondent's Advisor of written statements (if any) of witnesses who are not present.

10. Submission by the Instructor of written statements (if any) of witnesses who are not present.

11. Follow-up questions (if any) directed to the Instructor by the Hearing Body and Respondent.

12. Follow-up questions (if any) directed to the Respondent by the Hearing Body and the Instructor.

13. Final statement by the Instructor.

14. Final statement by the Respondent or Respondent's Advisor.

15. Hearing Officer brings hearing to closure.

xi. Deliberation by the Hearing Body is held outside the presence of the Respondent for all hearings, and Instructor, for hearings involving Academic Misconduct violations.

xii. Prior Student Conduct and Academic Misconduct records, Character Witness Statements and/or Impact Statements are considered only in determining the appropriate sanction(s).

xiii. In Code hearings, the SCC will make a recommendation of the decision and sanctions to the Hearing Officer. The Hearing Officer may take one of these actions with respect to the recommendation:

1. Adopt;
2. Modify;
3. Reject the findings and sanctions; or,
4. Remand for a rehearing.

If the Committee decision is not adopted, the Hearing Officer will include the reasons for any differences between the recommendations of the Committee and the Hearing Officer's final decision as part of the decision letter.

xiv. A decision letter will be sent to the Respondent within fourteen (14) Business Days from the conclusion of the Hearing Body's deliberation. The hearing decision will include the decision, sanctions imposed (if applicable) and the explanation of the right to appeal. For Academic Misconduct violations, the written decision will also be sent to the Instructor.

xv. This Regulation acknowledges the Instructor authority to award Student grades. If the Student is found "Not Responsible" for alleged violations of Academic Misconduct, the faculty member should reinstate the grade the Student would have received if the misconduct charges were not submitted and any reduction in grade should be based on the Student's quality of work and not an allegation of Academic Misconduct.

14. TITLE IX PROCEDURES

Conduct meeting the definition of Sexual Harassment or Sexual Misconduct (including the Violence Against Women Act violations incorporated via the Clery Act) are administered via FIU Regulation 105. SCAI serves as the central repository for all student sanctions administered under the Code and FIU Regulation 105, and any prior misconduct under the Code or FIU Regulation 105 is considered in any sanctioning stage of either proceeding.

15. SANCTIONS

i. Sanctions may only be imposed when a Respondent has been found in violation of the Code. In cases where a Respondent has been found "Not Responsible" for the alleged violation(s), no sanctions will be assigned.

ii. In light of the facts and circumstances of each case, the following sanctions or combination of sanctions (with or without appropriate modifications) will be imposed upon any Respondent found to have violated the Code or FIU Regulation 105. Sanctions will be commensurate with the prohibited conduct with consideration given to any aggravating and mitigating circumstances, including, but not limited to, the Respondent's conduct and Academic Misconduct record. Fees may be associated with certain sanctions (e.g., counseling consultation, online programs) and are the Respondent's responsibility.

iii. When an undergraduate student is found Responsible for Academic Misconduct violations, SCAI will determine any University Sanctions which are not related to a grade or the course in general. The Instructor and Chair (or designee) will recommend Course Sanctions and communicate their recommendation to SCAI. SCAI will then communicate the final outcome to the student. Should the Instructor fail to provide SCAI with recommended course sanctions within seven (7) Business Days, SCAI may assign Course Sanctions. If the undergraduate student is a member of the Honors College, SCAI will notify the Dean of the Honors College that a student was found in violation and ask if the College wishes to invoke any Honors College-level academic action(s). The Dean of the Honors College will determine if Honors College action is necessary. SCAI will be notified within seven (7) Business Days if the Dean recommends additional program action.

iv. When a graduate or professional student is found Responsible for Academic Misconduct violations, SCAI notifies the Instructor, Dean or designee of the University Graduate or Professional School, and the Dean or designee of the Academic College in which the graduate or professional student resides. SCAI will determine any University Sanctions, which are not related to a grade or the course. The Instructor and Dean (or designee) will recommend Course Sanctions and communicate their recommendation to SCAI. Should the Instructor fail to provide SCAI with recommended course sanctions within seven (7) Business Days, SCAI may assign Course Sanctions. The College Dean or designee will in turn notify the graduate or professional program that a student was found in violation and ask if the program wishes to invoke any program-level academic action(s). The student's graduate or professional program will determine if program action is necessary. SCAI will be notified within seven (7) business days if the graduate or professional program recommends additional program action. SCAI will then communicate the final outcome to the student.

v. In the event the course Instructor is no longer at the University, the Department Chair (or designee) will determine the recommended Course Sanctions.

vi. University Sanctions

i. **Written Reprimand:** The University takes official notice that such actions are inappropriate and not in accordance with our community standards.

ii. **Educational Activities:** Appropriate educational steps (such as referrals for alcohol or drug education, reflection activities, counseling, letters of apology, directed study programs, or classes).

iii. **Conduct Probation:** Probation for a stated period, including completion of any required probation program. While on conduct probation, any additional violations of the Code or other University Policies may result in suspension or expulsion.

iv. **Deferred Suspension:** Period of time in which suspension is temporarily withheld or withheld pending completion of other sanctions by a specified deadline date. A Respondent who is on deferred suspension is considered not in good standing with the University, resulting in applicable restrictions on privileges and/or activities which may include, but are not limited to, being prohibited from participating in study abroad or alternative break, or serving as a peer advisor, resident assistant or elected/appointed Student leader in Student Government or other Student Organizations. Additional restrictions on University privileges and/or activities may be imposed on the Respondent based on their current or potential future activities. If the Respondent fails to fulfill the sanctions described in the decision letter (including failure to timely fulfill the sanction), the Respondent will no longer be considered on deferred suspension but will be automatically suspended with no further appeal. While on

deferred suspension, any additional violations of the Code or other University Policies may result in suspension or expulsion.

v. **Suspension:** Separation from the University for a specified period of time. A Respondent is considered not in good standing with the University while suspended. The Respondent may not attend classes (either in person or online) and is banned from being on or in any University Premises or On-Campus Housing. The suspended Respondent is also banned from participation in any University-sponsored/related event or activity and their FIU OneCard will be deactivated. This sanction is recorded on the Respondent's academic transcript permanently. A Respondent who is suspended from the University is not eligible for tuition and/or registration fee reimbursement except as provided by University Policies. The Respondent will be administratively withdrawn from courses and will lose respective credit hours.

vi. **Expulsion:** Permanent separation from the University with no possibility of readmission. This sanction is recorded on the Respondent's academic transcript permanently. A Respondent is considered not in good standing with the University after being expelled. The Respondent may not attend classes (either in person or online) and is banned from being on or in any University Premises or On-Campus Housing. The expelled Respondent is also banned from participation in any University-sponsored/related activity or event and their FIU OneCard will be deactivated. A Respondent who is expelled from the University is not eligible for tuition nor registration fee reimbursement except as provided by University Policy. The Respondent will be administratively withdrawn from courses and will lose respective credit hours.

vii. **Remedies**

1. No Contact Order: the requirement that the Respondent and/or friends have no contact with another person.

2. Restitution:

Restitution to the University or to the impacted part(ies) of the violation. Any such payment on restitution will be limited to actual cost of repair, services not covered, or replacement costs.

3. Restrictions/Loss of Privileges: Restrictions or loss of privileges which may be imposed upon a Respondent for a specified amount of time, including but not limited to, participation in Student activities, University or Student events, representation of the University on athletic teams or in leadership positions, presence at University residence halls or other buildings/areas of campus, participation as a peer advisor, resident assistant or elected/appointed Student leader in Student Government or other Student Organizations, and/or participation in study abroad or alternative break programs. For a student organization, restrictions or loss of privileges include, but are not limited to, participation in or exclusion from Student activities, social events, intramural activities, alcohol functions or in campus facilities. Additional restrictions on University privileges and/or activities may be imposed on the Respondent based on their current or potential future activities.

4. Course Sanctions:

a. **Grade Penalty on the Assignment/Exam/Project with Resubmission:** A point/grade reduction on the assignment/assessment in question, and with the permission of the Faculty member, an opportunity to resubmit the assignment/ assessment with the addition of the implemented point/grade reduction.

b. **Grade Penalty on the Assignment/Exam/Project:** A point/grade reduction on the assignment/assessment in question.

c. **Overall Course Grade Penalty with Drop:** Receive a decrease in overall grade or an F for the entire course. However, the Student will be permitted to

drop or withdraw the course with approval from the SCAI Director or designee. Requests for drop consideration must be submitted in writing with rationale to the SCAI Director or designee, where the final approval rests and is not eligible for independent appeal outside of the formal conduct appeal process.

d. **Overall Course Grade Penalty:** Receive a decrease in overall grade or an F for the course. A point/grade reduction for the entire course. There will be no ability to drop or withdraw from the course for any reason.

e. Violations of the Code that are motivated by prejudice toward a person or group because of such factors such as race, color, creed, religion, ethnicity, national origin, disability, age, marital status, genetic information, veteran status or any group/class protected by state or federal law may result in stronger sanctions.

f. Students who are found “Responsible” for Academic Misconduct violations under the Code are prohibited from using the Grade Forgiveness Policy for the course in which the Academic Misconduct occurred.

g. Sanctions take immediate effect unless appealed, except for suspensions or expulsions, which may be stayed until Final Agency action at the discretion of the SCAI Director. During such time, the SCAI Director may implement any supportive/interim measures available under the Code, excepting an interim suspension.

h. Proof of the completion of the sanction(s) must be provided as directed in the decision letter. It is the responsibility of the Respondent to ensure that such proof is provided by the specified date. Failure of the Respondent to provide proof by the specified date may result in a charge of failure to comply, placement of a Student Conduct hold on a Respondent’s academic and University records, and suspension if the Respondent had been on deferred suspension.

16. WITHDRAWAL FROM A COURSE PENDING CHARGES OF ACADEMIC MISCONDUCT

Upon receipt of notification of allegations of Academic Misconduct, a Student can choose to withdraw from the course in question, in accordance with the University policies related to course withdrawal. Students who withdraw from a course will have their ability to register for future semesters temporarily placed on hold until the SCAI Director or designee is assured that the Student is satisfactorily responding to the charges. Students who are found “Responsible” of Academic Misconduct in a course from which they have withdrawn are still eligible to receive the appropriate sanctions (as listed in Section 15) based on the case and may be reinstated to the course from which they have withdrawn.

17. PROCESS OF PRESIDENTIAL REVIEW

i. The President will notify the SCAI Director within three (3) Business Days of notification of a disciplinary outcome if he/she wishes to review the underlying disciplinary matter. This review will serve as the appeal process for the Respondent and Reporting Party (if applicable). Any other appeal process will immediately cease.

ii. No later than one (1) Business Day after the President notifies the SCAI Director and the Appellate Officer, the SCAI Director shall notify the Respondent and Reporting Party (if applicable) of the President’s decision to review the underlying disciplinary matter including sanctions. The Respondent and Reporting Party (if applicable) may provide the President with

any information (including any documents supporting an appeal if not previously submitted) within three (3) Business Days of the SCAI Director's notification.

iii. The President may only consider the information included in the Student Conduct file, any appeals submitted by the Respondent and Reporting Party (if applicable), and any information that was not reasonably available at the time of the hearing.

iv. The President shall issue a written decision to the Respondent Reporting Party (if applicable), Appellate Officer, and SCAI Director within fourteen (14) Business Days of notification of a disciplinary outcome. Decisions based on charges involving Hazing (Section (5)(p)) will include an explanation for the decision and sanctions. The President's decision constitutes Final Agency Action and will include notice of the Respondent's right to appeal to an external judicial forum if the sanction is suspension or expulsion.

18. APPEALS

i. **Appellate Officer:** The Appellate Officer for all appeals is the Senior Vice President for Academic & Student Affairs or designee.

ii. **Appeal Form/Basis for Appeals:** The Respondent wishing to appeal must complete the appeal form in full, indicating the basis for the appeal, explain in detail the reasons for the appeal and attach supporting relevant documentation. The burden of proof rests with the person appealing to clearly demonstrate the reason for appeal as set forth below. Appeals are not a rehearing of the Student Conduct matter but are only a file and/or document review. The reason for the appeal must be based on at least one of the following:

i. Violations of the appealing party's rights or other failure to follow the Student Conduct procedures that substantially affected the outcome of the initial hearing. Appeals based on this reason will be limited solely to a review of the record of the hearing;

ii. New information which was not available at the time of the hearing and could not have been presented. In addition, the appealing party must show that the new information could have substantially affected the outcome; or

iii. The severity of the sanction is disproportionate to the nature of the charge(s).

iii. **Appeal Requests:** All appeals must be written and submitted using the appeal form available in the decision letter.

The person wishing to appeal must complete the appeal form in full and send it to the Appellate Officer for receipt no later than 5:00pm of the seventh (7th) Business Day after the delivery date of the hearing decision letter. If the appeal form is submitted and/or signed by any individual other than the appealing party, it will not be accepted.

iv. **Untimely Appeal:** If a hearing decision is not appealed within the timeframe, the original decision becomes Final Agency Action.

v. **The Respondent's Status Pending Appeal:**

i. An appeal has no effect on a Respondent's status when the sanction was suspension or expulsion. The sanction(s) are effective immediately from the date of the decision, unless stayed until Final Agency action at the discretion of the SCAI Director. During such time, the SCAI Director may implement any supportive/interim measures available under the Code, excepting an interim suspension.

ii. If the Respondent appeals in any other case, once an appeal is requested, the sanction(s) will be stayed and will not take effect until the appeal process has been

completed. Under these circumstances, a Respondent shall remain eligible to attend classes and University activities pending the appeal.

iii. If no appeal is requested, the sanctions will take effect immediately.

vi. **Appellate Review/Decision:**

i. No person may hear or decide an appeal if they conducted or participated in the Code proceeding being reviewed on appeal.

ii. The Appellate Officer shall first determine if sufficient grounds for the appeal exists and then, if so, may either deny the appeal, thus sustaining the initial decision and sanction(s), or do one of the following:

1. If the basis of the appeal is that the severity of the sanction was disproportionate to the nature of the offense and the Appellate Officer finds the appealing party proved their allegation, the Appellate Officer may modify the sanction.

2. If the basis of the appeal is that there was a failure to follow the Student Conduct procedures that substantially affected the outcome, or that there was new information which was not reasonably available at the time of the hearing and could not have been discovered through the exercise of due diligence, which would have substantially affected the outcome and the Appellate Officer finds that the appealing party proved their allegation, the Appellate Officer will order a new hearing.

vii. **Written Decision on Appeal:** The appellate decision is issued in writing to the Respondent within twenty-one (21) Business Days of receipt of the written request for appeal unless notification is given that additional time is necessary for consideration of the record on appeal.

viii. **Effect of the Final Appellate Decision:** The decision of the Appellate Officer constitutes Final Agency Action. In the case of a suspension or expulsion of a Respondent, the decision of the Appellate Officer will include notice to the Respondent's right to appeal to an external judicial forum.

ix. **Academic Grievance Process:** The Respondent may not use the Student Academic Grievance Policy as a way to appeal the filing of a complaint or the outcome of the Academic Misconduct process outlined in this regulation.

19. RECORDS

i. All student conduct-related records, including records involving Conduct violations, Academic Misconduct violation, and FIU Regulation 105, will be housed in the web-based system maintained by SCAI.

ii. The release of student conduct-related records will be governed by applicable federal and state laws regarding the privacy of education records.

iii. SCAI may place a student conduct hold on the records and registration of any Respondent who has a pending Code matter, including any outstanding sanctions. Respondents may not be allowed to graduate or receive grades, until pending matter(s), including any outstanding sanctions, are resolved. The University reserves the right withhold a transcript until properly notated.

iv. The official University email address on file with the Registrar's Office will be used for all student conduct correspondence sent. For Student Organizations, the official University email address on file with the Registrar's Office for the organization's respective President will be used. The Hearing Officer may, in their discretion, decide to send the notices via additional means (e.g., overnight delivery) and/or to other authorized University Officials.

v. Suspension(s) and Expulsion will be noted permanently on a Student's academic transcript. student conduct-related files are kept in compliance with General Records Schedule GS5, but not for less than seven (7) years from the date of the last incident(s) that the Respondent was involved in that resulted in Code charges. However, in the case of suspension or expulsion, the files shall be permanently retained.

vi. Students may have access to the information in their student conduct and Academic Misconduct file by submitting a written request to the SCAI Director. The access will be provided in accordance with federal and state laws regarding the privacy of education records (FERPA) and University regulation (see FIU Regulation 108).

20. AUXILIARY AIDS AND SERVICES

Students with disabilities as defined by the Americans with Disabilities Act who require special accommodations for meetings/hearings should notify SCAI and the Disability Resource Center in writing at least three (3) Business Days **prior to any meeting** or hearing.

21. CONFLICT RESOLUTION

i. Not every matter processed through SCAI is required to go through summary resolution or a hearing. An overall goal of SCAI is to provide a learning process which entails understanding and respecting the rights of others. An avenue utilized by SCAI to foster mutual respect and understanding when differences arise is Conflict Resolution. Conflict Resolution through SCAI is an informal and confidential process.

ii. Conflict Resolution may be utilized where the incident in question is minor in nature, the parties involved chose to participate, and the University cannot proceed with charges through the University student conduct system.

iii. Conflict Resolution cases handled through SCAI will not be identified or filed as a student conduct matter. Conflict Resolution records will be maintained separate from student conduct files and will not be recorded or reported as part of a Charged Student's record. All Conflict Resolution files are private and will not be released without written consent except in cases where the conduct or behavior is a repeat offense. In repeat cases, this information is only released to the Hearing Body and only used if the Respondent is found responsible for a violation of the Code.

iv. Conflict Resolution files are kept for seven (7) years from the date of the resolution.

v. Participation must be voluntary, and either party can request to end Conflict Resolution at any time which may result in the initiation of the student conduct process for the behavior.

22. INTERPRETATION AND REVISION

i. Any question of interpretation or application of the Code shall be referred to the Senior Vice President for Academic and Student Affairs or designee for final determination.

ii. The Code shall be reviewed periodically by a committee which shall include Student representation under the direction of the SCAI Director.

iii. The Academic Misconduct procedures outlined in this regulation will be reviewed at least every three (3) years by a committee which shall include Student and faculty representation under the direction of the SCAI Director. The committee will be appointed by the Chair of the Faculty Senate, in consultation with the SCAI Director and the Faculty Fellow for

Academic Integrity. Any changes to Academic Misconduct procedures must be approved by the Faculty Senate.

Contact: Director, Office of Student Conduct and Academic Integrity
Location: GC 311
Phone: (305) 348-3939 / Fax: (305) 348-6477
Email: conduct@fiu.edu
Web Page: conduct.fiu.edu

Authority: Florida Board of Governors Regulation 6.0105 Student Conduct and Discipline; Florida Board of Governors Regulation 6.010 Student Affairs Administration; Florida Board of Governors Regulation 1.001(4)(a)(10); and Section 7(d), Article IX, Florida Constitution.
History—New June 19, 2012, Amended 9-17-12, 4-8-14, 6-8-18, 6-25-19 Amended 8-13-20, Amended 10-30-20. Amended 9-15-21. **Amended 10-12-22.**

EMPLOYEE CODE OF CONDUCT

University Guiding Principles and Standards





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The Purpose of the FIU Employee Code of Conduct

The FIU Employee Code of Conduct is a guiding document of principles and standards taken from key existing University policies that represent the University's dedication to responsible and ethical practices and conduct. This Code of Conduct is a resource designed to reinforce our values, support ethical decision-making and provide information about where to find answers.

It is YOU, our faculty and staff, who embody FIU's culture. YOU are the expression of our Panther Pride. Our values live in the way you work and interact with each other, the dignity and respect you show to all of our FIU community, the countless good decisions you make each and every day, the conversations you have, the questions you ask, your courage and your engagement. Every time you speak up about the things that do not seem right or the things we could be doing better, you contribute to our ethical culture.

When each of us conducts ourselves according to our FIU principles, we demonstrate our commitment to the values that make FIU a great place to work and attend school.

The success and reputation of the University in fulfilling its core mission depends on the integrity with which each community member participates. Accordingly, we are expected to adhere to the FIU Employee Code of Conduct in dealings inside and outside of the University.

The FIU Employee Code of Conduct supports the University's Compliance and Integrity program, endorsed by the president, FIU Board of Trustees and executive leadership.



A Message from our President

At FIU, we strive to provide a world-class education for our students, offering them the leadership skills needed to fulfill the demands of the 21st century workplace and be effective global citizens. With that comes a commitment to conduct ourselves ethically, lawfully and with integrity.

Our university's Code of Conduct is a living statement of the legal and ethical standards we use as the basis for our decisions and actions, expressed through FIU's Core Values of truth, freedom, respect, responsibility, and excellence. Our Code of Conduct is a resource to guide our faculty and staff in acting responsibly, ethically, and lawfully. All members of the FIU community should integrate these standards into their daily activities.

We are all stewards of FIU's reputation. It is the responsibility of every employee and representative of our university to uphold our legal and ethical obligations by adhering to laws, regulations, policies, procedures, and ethical standards. Each of us shapes our culture through our words and actions.

I urge you to review the contents of this Code of Conduct and to speak up when you have a question or concern. And while this Code may not address every situation, you can always seek assistance and discuss concerns with your supervisor, Human Resources, the Office of Compliance & Integrity, or the Office of the General Counsel.

Thank you for your commitment to our FIU.

- Kenneth Jessell, FIU Interim President



Our Vision and Mission

Our Vision

Florida International University will achieve exceptional student-centered learning and upward economic mobility, produce meaningful research and creative activities, and lead transformative innovations locally and globally, resulting in recognition as a Top-50 public university.

Our Mission

We are an urban, multi-campus, public research university serving its students and the diverse population of South Florida. We are committed to high-quality teaching, state-of-the-art research and creative activity, and collaborative engagement with our local and global communities.

Our Values

We are committed to the following core values:



Truth in the pursuit, generation, dissemination, and application of knowledge



Freedom of thought and expression



Respect for diversity and the dignity of the individual



Responsibility as stewards of the environment and citizens of the world



Excellence in intellectual, personal, and operational endeavors

For more information about FIU, our vision and mission please visit: [FIU Vision and Mission](#)



Professional Ethics

We Are All Responsible

FIU's Employee Code of Conduct applies to our "FIU community" which includes our faculty, staff, administrative employees, and student employees. Additionally, we rely on others connected to our FIU community to support our efforts to maintain a culture of ethics, compliance, and integrity, including:

- Visiting faculty, researchers, and healthcare practitioners
- Contractors, vendors, and others using FIU resources, facilities, or receiving funds administered by FIU
- Temporary employees, volunteers, and other representatives when speaking or acting on behalf of FIU

Laws, Policies and Judgment

Our Employee Code of Conduct is a summary of FIU's expectations related to how we conduct ourselves. It is not intended to cover every regulation, law or policy *or to create new policy*. Our FIU community is expected to know and understand the rules that apply to their work. Additionally, some units or departments may provide specific guidance on topics addressed in our Employee Code of Conduct that certain members of our FIU community should be aware of and commit to follow. University-wide policies and procedures are available on the Compliance and Integrity page of the FIU website in the [Policy Library](#). These policies serve the dual purposes of delineating FIU's core values and promoting adherence to applicable laws and regulations. We believe it is important for FIU community members to be aware of our policies and procedures

Consequences of Violation

Violations of the laws and regulations, or of related University policies and procedures may carry disciplinary consequences, up to and including dismissal.

and for individuals and organizations outside of the FIU community to know of FIU's dedication to responsible and ethical practices and conduct.

In-unit faculty are subject to the policies and procedures outlined in the [FIU-BOT and UFF-FIU Collective Bargaining Agreement](#) (FIU-BOT/UFF CBA). In-unit faculty are also subject to FIU regulations and University-wide policies and procedures contained within the policy library unless otherwise contained in the collective bargaining agreement. Out-of-unit faculty (i.e., those with the College of Law and the Herbert Wertheim College of Medicine) are subject to FIU regulations and the University-wide policies and procedures contained within the policy library (unless otherwise noted on a specific policy).

We Are All Committed

We are expected to show commitment to our mission and values by familiarizing ourselves with our FIU Employee Code of Conduct. Additionally, all employees will receive periodic requests to complete compliance related policy acknowledgements and trainings that focus on adherence to FIU policies and procedures, laws and regulations, and ethical issues. We are all responsible for timely completion of assigned training to promote our understanding of our compliance commitments as members of the FIU community.

FIU's Employee Code of Conduct is supported by the President and executive leadership. The Board is responsible for developing cost-effective policies and implementing programs consistent with the University's mission and assuring that the University meets state policy, budgeting, and education standards.

The *FIU Student Code of Conduct* outlines expectations for FIU students. However, when FIU students act in the capacity of an employee, this Code of Conduct also applies.



10 STEPS

To Ethical Decision-Making



We all may encounter tough decisions as part of our daily work. Behaving ethically means doing the right thing. Although our University's values and expectations are described in the University policies, procedures and the Florida Code of Ethics for Public Officers and Employees, this "Ethical Path" has been designed to assist you in handling difficult decisions. If you cannot comfortably answer "yes" to each of these questions, you should stop and seek advice from your supervisor, the Division of Human Resources or the Office of University Compliance and Integrity.

1

Is a decision required and have I considered if it is ethical to take or not to take an action at all?

2

Have I gathered all the facts related to this situation? Have I asked the right person/s for input? Consulted the best resources?

3

Do I know enough to understand the range of options available? What are my options for acting or refraining from acting?

4

Are the options I am considering legal? Do they comply with University regulations, policies and procedures?

5

Which option best supports the University's culture and is in alignment with FIU's values?

6

Which option best respects the rights of those affected and treats all stakeholders justly, equitably, and with dignity and respect?

7

Have I considered the broader impact of my options? Which option does the most good and the least harm? Which option best serves the University community as a whole?

8

Once I've made a decision, would I feel comfortable explaining it to my colleagues? Supervisor? Family? Could I defend my decision if it appeared on social media or in a public forum?

9

Have I consulted appropriate stakeholders? How can I implement my decision with attention to concerns and feedback of all stakeholders?

10

Did my decision turn out as I intended? If not, why? When reflecting on the outcome of my decision, what have I learned from this situation?



REPORTING MISCONDUCT

We encourage open reporting and communication. Each member of the FIU community should seek to enhance a culture that promotes the University's commitment to ethical conduct, compliance with the law, and doing the right thing. As public employees of the State of Florida, we should all seek to provide assurance to our FIU community and the state at large that our conduct is in accordance with high ethical standards and compliance with applicable laws,

regulations and University policies and procedures. If you suspect something may be wrong, your reporting can minimize the potential negative impact on FIU and its community members. FIU prohibits any form of retaliation against individuals who make a reasonable, good faith report of potential misconduct or unethical or otherwise inappropriate behavior, or for their participation in an investigation.

Investigation Process



Reporting Methods

FIU maintains several reporting options and you may choose the option you are most comfortable with and that makes the most sense for your situation:



Visit <https://report.fiu.edu/>



Call the Ethical Panther Hotline at toll free number: 1-888-520-0570



File an online report via: <https://fiu.i-sight.com/portal>

The Ethical Panther line at FIU is an option for making a confidential report to identify or raise concerns. Reporters can also choose to file anonymously. This reporting tool provides an additional method for you to raise any compliance, suspected misconduct or unethical behavior concerns, or situations which you believe may be contrary to law, regulation, government contract, grant requirement, or University policies and regulations. Frequently Asked Questions (FAQs) regarding reporting available at: [Ethical Panther Hotline FAQs](#)



Responsibility and Accountability: Truth

FIU Values Truth

Truth in the pursuit, generation, dissemination, and application of knowledge





Responsibility and Accountability: Truth

OUTSIDE AFFILIATIONS AND CONFLICTS OF INTEREST

We strive to conduct business in an independent and impartial manner. We require disclosure and approval of outside affiliations and business relationships and relationships with family members (nepotism) so that any conflicts with our responsibilities to FIU are managed in accordance with the Florida Code of Ethics and University policies. FIU community members are expected to understand that when we use our influence to provide an unfair advantage to other FIU faculty, staff, administrative employees, students, family members, or vendors with whom we have a personal relationship, it undermines our credibility, and the trust others place in us.

Any University employee considering an outside activity/interest is required to report such activity and may not engage in such activity until the outside activity has been approved. Outside activity includes any private practice, private consulting, additional employment, teaching or research, or other activity, whether compensated or uncompensated, which is not part of the employee's assigned duties and for which the University provides no compensation.

For additional information and resources please refer to:

- [Board of Trustees: Operating Procedures of the FIU Board of Trustees](#)
- [FIU Policy 1710.075 - Conflict of Interest](#)
- [FIU Policy 140.105 - Ethics in Purchasing and Gift](#)
- [FIU Policy 1710.110 - Dual Employment and Compensation](#)
- [FIU Policy 1710.250 - Political Activity](#)
- [FIU Policy 1710.255 - Political Participation](#)
- [FIU Policy 1710.205 - Nepotism](#)
- [FIU Policy 2320.060 - Nepotism in Research](#)

Your Compliance Commitments



You must complete a conflict-of-interest disclosure and receive approval prior to engaging in an outside activity.



You must seek prior approval before engaging in dual employment.



FIU faculty and staff members must complete the reporting requirement on an annual basis, even if there is no activity to report.



You must disclose any relationship, family-related or otherwise to avoid undue or inappropriate influence of terms and conditions of employment.



You must avoid the appearance of bias and unfair dealings by NOT accepting gifts from anyone doing business with FIU if the gift exceeds \$100.00. If you are procurement employee, there are additional restrictions.



You must follow stringent research requirements to avoid loss of federal grants and/or fines imposed on you and/or FIU.



Political Activity

Employees may seek election to and hold public office upon notification to the President or his designee. Prior to seeking election to and holding such public office, the employee must establish that there is no conflict of interest between this activity and the responsibility of the individual to the University.



Responsibility and Accountability: Truth

INTEGRITY IN RESEARCH

FIU is committed to fostering an environment that promotes the adherence to applicable law, ethical principles, and professional standards while pursuing knowledge through research. The Office of Research and Economic Development (ORED) furthers this commitment to compliance by assisting those involved in FIU research with meeting professional, regulatory, and university requirements and maintaining high ethical standards in the conduct and reporting of their research.

ORED provides assistance in the following areas of research compliance:

- Human Subjects Protection
- Animal Welfare Protection
- Biosafety Protection
- Dual Use of Research Concern
- Conflicts of Interest
- Responsible Conduct of Research
- Research Misconduct
- Time and Effort
- Export Controls

For additional information and resources please refer to:

- [Faculty Handbook](#)
- [FIU Policy 2370.015 - Research- Human Subjects Approval Prior to Award Processing](#)
- [FIU Policy 2370.070 - Research Misconduct](#)
- [FIU Policy 2370.001 - Research- Animal Subjects Approval Prior to Award Processing](#)
- [FIU Policy 2370.005 - Conflict of Interest in Research](#)
- [FIU Policy 2320.060 - Nepotism in Research](#)
- [FIU Policy 2370.015 - Human Subjects Approval Prior to Award Processing and Registration](#)
- [FIU Policy 2370.010 - Export Control Policy and Procedure](#)
- [Export Controls Website](#)
- [Research Compliance Website](#)

LEGAL AND REGULATORY REQUESTS

All FIU faculty, staff, administrative employees, officers, and agents must comply with Florida's Public Records Law, state retention schedules for University records, and laws and FIU procedures related to protecting the confidentiality of and retention of records.

We may not destroy or delete University records in our possession and control except in accordance with the record retention schedules applicable to FIU and upon disposition approval from the Records Management Liaison Office. When faculty, staff, administrative employees, officers or agents receive a public record request to inspect or copy a University record, they must immediately forward the request to the Office of the General Counsel.

For additional information and resources please refer to:

- [FIU Policy 150.110 - FIU Records](#)
- [Public Records FAQs](#)



Responsibility and Accountability: Truth

COMMUNICATING WITH EXTERNAL PARTIES

The Office of Media Relations is responsible for the central coordination of all press conferences, press releases and media inquiries that relate to or involve the University, except for those media inquiries that seek a personal opinion from any member of the FIU community in his or her individual capacity.

The University recognizes that deans, faculty members, administrators, and staff members may on occasion provide personal or professional opinions in their individual capacities that do not represent the University's official position on a subject. In such circumstances, University deans, faculty members, administrators, and staff members should take all reasonable measures to clarify to the media that the opinions expressed represent the individual's personal or professional opinions and do not represent or reflect the position of the University.

For additional information and resources please refer to:

- [FIU Policy 175.105 – Media Policy](#)
- [FIU Policy 175.150 – Digital Communications Standards Policy](#)





Responsibility and Accountability: Freedom

FIU Values Freedom

Freedom of thought and expression





Responsibility and Accountability: Freedom

ACADEMIC FREEDOM AND FREE EXPRESSION

We value the principles of academic freedom and academic responsibility. FIU endorses the Florida Board of Governor's Statement of Free Expression to support and encourage full and open discourse and the robust exchange of ideas and perspectives on our campuses. In addition to supporting this legal right, we view this as an integral part of our ability to deliver a high-quality academic experience for our students, engage in meaningful and productive research, and provide valuable public service. Academic freedom allows faculty to introduce a range of ideas and views in a learning context that expands intellectual diversity and critical thinking by providing a safe space to discuss and debate controversial subjects. The student experience is enhanced when students interact with others who have different views from their own by having their ideas challenged while maintaining an atmosphere of civility. FIU will not shield students, faculty, or staff from expressive activities which means FIU will not limit students', faculty members', or staff members' access to, or observation of, ideas and opinions that they may find uncomfortable, unwelcome, disagreeable, or offensive.

Freedom from Censorship

FIU faculty have the freedom to present and discuss academic subjects and research frankly and forthrightly without fear of censorship.

Freedom to select teaching materials

Faculty have the right to select instructional material and determine grades in accordance with University policies.

Freedom to engage in scholarly activity

Faculty are free to engage in scholarly and creative activity and publish the results in a manner consistent with their professional obligations.

FIU faculty are expected to fulfill his/her responsibility to the FIU community by demonstrating academic competence, professional discretion, and good citizenship.

For additional information and resources please refer to:

- [Faculty Handbook](#)
- [The FIU BOT-UFF – Collective Bargaining Agreement](#)
- [State University System Free Expression Statement](#)
- [Florida Statute Section 1004.097 Free Expression on Campus](#)



Responsibility and Accountability: Freedom

FREEDOM TO REPORT WITHOUT FEAR OF RETALIATION

We do not retaliate against someone who raises a question or concern regarding unethical behavior or unlawful conduct.

Anonymity and Confidentiality

We have the right to remain anonymous when filing a report through the Ethical Panther Hotline. Investigators will take reasonable precautions to keep your identity confidential, consistent with conducting a thorough and fair investigation and in accordance with the law.

No Retaliation

FIU takes all reports of possible misconduct seriously. We value the help of community members who, in good faith, identify potential problems that FIU needs to address. FIU does not tolerate retaliation! No one submitting a report will be subjected to retaliatory action for inquiring about possible criminal, unethical, or otherwise inappropriate activity or behavior, or reporting them in good faith. If you file a report and feel like you are experiencing retaliation as a result, contact the Office of University Compliance & Integrity immediately.

Whistleblower Status

If you are NOT reporting anonymously and are seeking whistleblower status under the “Florida Whistleblower’s Act”, you may file your complaint directly with the FIU Office of Internal Audit:

FIU Office of Internal Audit

11200 SW 8 ST, CSC 447

Miami, FL 33199

Email: Auditors@fiu.edu

Telephone: 305-348-2107

Fax: 305-348-6421

If whistleblower status is granted based on the nature of your complaint, your name and identity are exempted from public record. This status will only be granted if your complaint reaches the threshold required to meet criteria for whistleblower status as defined by Florida Statute.

Good faith reporting does not mean that you must be right when you report your concern. However, you must act in good faith and have reasonable grounds for believing the information provided.

Intentionally filing a false report can lead to disciplinary actions up to and including separation of employment.



For additional information and resources please refer to:

- [FIU 117 Fraud Prevention and Detection Regulation](#)
- [FIU Policy 125.205 - Office of Internal Audit Policy & Charter](#)
- [FIU University's Compliance and Ethics Charter](#)
- [State of Florida's Get Lean hotline 1-800-GET LEAN](#)



Responsibility and Accountability: Respect

FIU Values Respect

Respect for diversity and the dignity of the individual





Responsibility and Accountability: Respect

Diversity Equity and Inclusion

Florida International University is committed to provide the highest quality educational and employment experience to its students, faculty, and staff in a nurturing and supportive environment. In doing so, the institution is committed to ensuring that instruction and services are delivered in a manner that is reflective and supportive of diversity as it relates to gender, socioeconomic status, gender identity, race, ethnicity, physical and mental ability, nationality, military status, sexual orientation, spirituality, cultural identity, and any legally protected status.

We commit ourselves to building an academic community whose members represent and embrace diverse cultures, background and life experiences that reflect the multicultural nature of South Florida and our global society. Our goal is to build an intellectually vibrant climate that sustains the inclusiveness and engagement of our diverse community.

We recognize our responsibility to foster an open, welcoming, and inclusive environment of belonging. Students, faculty, staff, alumni, and our community of all backgrounds should be able to collaboratively learn and work. Diversity enriches our FIU community and is a driving force instrumental to our institutional success.

We encourage and expect the entire FIU community to model these values and to commit to recruiting, retaining, and supporting students, faculty, and staff who reflect the diversity of our global society.

For additional information and resources please refer to:

- [Division of Diversity Equity and Inclusion](#)



Responsibility and Accountability: Respect

Equal Opportunity

We are dedicated to treating every FIU community member with fairness, respect and dignity and refrain from engaging in any type of discrimination. FIU commits to building an academic community whose members represent and embrace diverse cultures, backgrounds and life experiences that reflect the multicultural nature of South Florida and the global society. Our goal is to build an intellectually vibrant climate that sustains the inclusiveness and engagement of our diverse community. The University is firmly committed to Equal Employment Opportunity (EEO) and to compliance with all federal, state, and local laws that prohibit employment discrimination on the basis of age, race, color, gender, national origin, religion, disability, protected veteran status, pregnancy discrimination and other protected classifications.

Faculty, staff, and administrative employees are expected to understand that it does not matter whether discrimination was intended; what matters is whether a reasonable person would believe that the FIU community member was treated differently or subjected to intimidation or a hostile environment as a result of belonging to a protected class or having a protected status.

Certain conduct may meet FIU's definition of discrimination even if it does not violate the law. Employees are responsible for adhering to FIU related policies and procedures.

For additional information and resources please refer to:

- [FIU Regulation 105 - Sexual Harassment \(Title IX\) and Sexual Misconduct](#)
- [FIU Regulation 106 - Nondiscrimination, Harassment and Retaliation \(Title VII\)](#)
- [FIU Policy 1705.010 Recruitment and Selection Policy](#)
- [Equal Opportunity Policy Statement](#)



Responsibility and Accountability: Respect

ANTI-HARASSMENT

We should treat every FIU community member with fairness, respect, and dignity and refrain from engaging in any form of illegal harassment, based on legally protected statuses.

ALL members of our FIU community are:

- bound by FIU's Harassment Policies
- obligated to behave in a respectful manner and strictly refrain from any form of bias behavior
- prohibited from engaging in discriminatory, sexual harassment, sexual assault/violent behavior

ALL faculty and employees in supervisory roles are:

- expected to be familiar with FIU's regulations on harassment and discrimination
- expected to take action if they witness any form of misconduct, including harassment and discrimination
- expose the University to liability if they fail to take action, engage in harassment or discriminatory behavior or permit these behaviors to occur

Harassment has an adverse impact on organizations and individuals including but not limited to productivity impediments, psychological damage, temporary or permanent absenteeism, and increased morale issues.

Forms of Harassment

Harassment can occur in many forms including but not limited to comments, jokes, slurs, pictures, emails, or electronic media such as texting, instant messaging or blogging, sexual gestures, inappropriate touching, assault, or impending or blocking movement. For example, continuing to ask a co-worker to go on a date after they said no may be considered sexual harassment.

For additional information and resources, please refer to:

- [FIU Regulation 105 - Sexual Harassment \(Title IX\) and Sexual Misconduct](#)
- [FIU Regulation 106 - Nondiscrimination, Harassment and Retaliation \(Title VII\)](#)
- [FIU-107: Intimate Relationships](#)
- [Civil Rights Compliance and Accessibility Office](#)



Responsibility and Accountability: Respect

WORKPLACE VIOLENCE PREVENTION

Faculty and employees are our greatest asset and therefore safety is a priority for everyone at FIU. Everyone has the right to disagree; however, being civil and maintaining respect, dignity and professionalism when disagreeing is imperative.

Workplace violence is not limited to incidents that occur on campus. Work-related violence can occur in off-campus activities and when using email, social media, and cell phones.

As faculty, staff, and administrative employees, you are expected to be mindful of your effect on others and when your words and conduct may be offensive. This also includes harming someone or treating them less favorably because they do not agree to submit to the requested behavior.

For additional information and resources please refer to:

- [FIU Policy 1710.135 - Firearms and dangerous weapons](#)
- [FIU Policy 1710.343 - Workplace Violence](#)
- [FIU Policy 185.005 - Security Awareness and Programs for Students and Employees](#)
- [University Police Department](#)





Responsibility and Accountability: Responsibility

FIU Values Responsibility

Responsibility as stewards of the environment and citizens of the world





Responsibility and Accountability: Responsibility

CONFIDENTIALITY, PRIVACY AND SECURITY

Confidential, private, and sensitive FIU information must be safeguarded. We safeguard against the unauthorized use, distribution, disclosure, and access of confidential information related to academic, business, financial, health, personnel, and student education records.

Faculty, staff, and administrative employees may not use confidential information obtained during their employment for any personal gain nor offer confidential information to others. Violations of certain privacy laws may result in the loss of federal funding and/or result in significant financial fines and reputational damage to FIU.

For additional information and resources please refer to:

- [FIU Policy 2320.095 - Sponsored Project Proposal Confidentiality](#)
- [Office of the Registrar](#)
- [HIPAA Privacy Policies](#)
- [FIU Regulation 108 - Access to Student Education Records](#)
- [Student Privacy & FERPA](#)
- [US Department of Health & Human Services](#)
- [IT Security](#)

RESPONSIBLE USE OF FIU RESOURCES

We use FIU property, systems, equipment, and resources for legitimate University purposes only (e.g., internet systems, email, telephone, computer, etc.). The University recognizes that FIU community members may occasionally need to make personal use of University resources; however, personal use must be reasonable, minimal and should not result in additional costs or interference with FIU business operations. FIU funds must also be managed and expended responsibly and prudently, avoiding improper use.

Faculty, staff and administrative employees are expected to handle FIU assets, including property, equipment and data in a way that protects individual privacy and protects FIU's interest.

We may not destroy or delete University records in their possession and control except in accordance with the record retention schedules applicable to FIU and upon disposition approval from the Records Management Liaison Office. The State of Florida, our students and our community expect us to act as stewards of the resources that have been entrusted to us. Inappropriate use of our resources, even by one employee can be harmful to our reputation.

For additional information and resources please refer to:

- [FIU 117 Fraud Prevention and Detection Regulation](#)
- [FIU Policy 150.110 - FIU Records](#)



Responsibility and Accountability: Responsibility

ENVIRONMENT AND WORKPLACE HEALTH AND SAFETY

We are committed to safeguarding the health, safety, and environment of our FIU community. The Department of Environmental Health & Safety (EH&S) works to ensure that activities conducted at FIU are in compliance with regulations, statutes, and best management practices applicable to the areas of safety, environmental compliance, and fire prevention.

Maintaining a healthy and safe environment is a collaborative effort and we must all play our part. As an FIU faculty, staff or administrative employee, you are expected to adhere to safety policies and regulations and ensure our work environment remains free of any hazards that could potentially cause an injury or incident. This includes completing any safety training associated with your job responsibilities and tasks. If you are engaging in activities that require the handling, storage, or disposal of special hazard materials/equipment, you must follow all regulatory requirements and university policy. It is your responsibility to report workplace injuries, illnesses, or unsafe conditions, including “near-misses”. Timely reporting will help prevent others from being injured.

Reporting Concerns

You can report a problem or concern to EH&S about any type of safety or hazardous conditions such as fire safety, physical, radiological, biological, or chemical hazards, indoor air quality, golf cart safety concerns, etc. The online Health & Safety Reporting Form may be accessed at <https://ehs.fiu.edu/report/index.html> or you may contact EH&S at ehs@fiu.edu. Please visit the EH&S website for more information: <https://ehs.fiu.edu/index.html>

Drug-Free Campus and Workplace

The FIU policy on Drug and Alcohol Abuse and Prevention Policy must be complied with, to ensure the well-being of faculty, staff and students and to comply with appropriate federal laws regarding the use and sale of controlled substances and alcohol. The unlawful manufacture, distribution, dispensation, possession, use, trade, or sale of a controlled substance or alcohol by any FIU faculty and staff or students on campus or at any University sponsored or related activity threatens the well-being and health of the FIU community.

Firearms and Dangerous Weapons

All persons, except for those exempted below, are prohibited from possessing, storing, manufacturing, or using a dangerous article, including but not limited to, firearms, destructive devices, explosives, slingshots, weapons, tear gas guns, electric weapons or devices and fireworks, on any property owned, used or under the control of FIU in accordance with Florida Statutes. Those exempted include law enforcement officers in the official capacity of their duties; University law enforcement personnel; faculty in the performance of instructional or research responsibilities, only with written approval from the Provost and previous notification to the University’s Chief of Police; and those meeting the requirements of Florida Statute 790.25.

For additional information and resources please refer to:

- [FIU Policy 1710.135 - Firearms and dangerous weapons](#)
- [FIU Policy 150.405 - Environmental Management](#)
- [FIU Policy 1991 - Drug-Free Campus/Workplace drug and alcohol abuse prevention policy Chapter 316](#)
- [FIU Policy 1150.030 - University Golf Cart Policy](#)
- [FIU Policy 125.405 - Security in Labs with Special Hazards](#)
- [Florida Statutes: State Uniform Traffic Control](#)
- [University Police Department](#)
- [Florida Statute Section 790.115 Weapons and Firearms](#)
- [Florida Statute Section 790.25 Lawful Ownership, Possession, and Use of Firearms and Other Weapons](#)



Responsibility and Accountability: Responsibility

INTERNATIONAL CONSIDERATIONS

In order to responsibly support FIU's global mission, we must understand the importance of complying with all state and federal laws and regulations and University policies and processes that govern our international engagement activities. We are committed to fulfilling all of our compliance obligations that apply to who we are, what we do, and how and where we serve our students.

International Law

FIU's international activities may be subject to the laws of other countries. If you have questions, contact the Office of the General Counsel or FIU Global for guidance.

Anti-Bribery and Corruption

We respect global laws and conduct business with government officials in accordance with the law of the United States and the foreign countries where FIU does business, including but not limited to the Foreign Corrupt Practices Act.

For additional information and resources please refer to:

- [FIU Division of Human Resources Website](#)
- [Office of the General Counsel Website](#)
- [Office of University Compliance and Integrity Website](#)
- [Export Control Website](#)
- [Guidance Regarding Foreign Influence and Research](#)
- [FIU Policy 2370.010 - Export Control](#)

Export Control

We comply with applicable regulations that prohibit the export of certain items and information, or the export of items and information to restricted parties or to certain destinations without a license.

FIU provides Export Control training to support community members who conduct research activities, attend conferences, or enter into academic agreements to provide services or perform research outside of the United States.

Violations of trade sanctions for export controls can result in severe monetary civil penalties (in excess of \$1 million), at the institutional and/or individual violator level; federal debarment; revocation of export privileges; and referral to the U.S. Department of Justice for criminal prosecution.

Foreign Influence and Global Risk

Whether we are hosting a visiting scholar, traveling or shipping internationally, performing research, attending an international conference or engaging in any range of activities across FIU's Global Footprint, we must maintain awareness of and adherence to the policies, procedures and processes in place to responsibly fulfill our compliance obligations.

In order to mitigate concerns regarding inappropriate foreign influence we must educate ourselves and our students about relevant regulations and policies, complete all federal, state, and FIU disclosure requirements, and provide ongoing communications regarding any new or changing relationships with foreign entities.



Responsibility and Accountability: Excellence

FIU Values Excellence

Excellence in intellectual, personal, and operational endeavors





Responsibility and Accountability: Excellence

ATHLETICS

The mission of the FIU Athletics Compliance Office (ACO) is to function within the realm of the University's compliance structure, coordinating, monitoring, and verifying compliance with all NCAA and Conference requirements, and to educate the athletics department staff members, student-athletes, the various constituencies of the University and the community regarding NCAA regulations. The ACO is committed and compelled to the principle of institutional control in the operation of the athletics department in a way that is within the rules and regulations of the NCAA, the Conference, and the University.

The ACO shall do so by remaining dedicated to maintaining the highest standards of excellence and professionalism while working together with all athletics staff members, student-athletes, FIU personnel, alumni, boosters, and the external community. An environment that promotes respect, communication and teamwork will be the byproduct. Professional growth in the area of rules compliance will be encouraged and accomplished by fostering an environment that is supportive of the NCAA operating principles of competitive equity, diversity, gender equity, and improvement of the personal well-being of our student-athletes.

For additional information and resources please refer to:

- [ACO Operations Manual](#)
- [FIU Policy 910.001 – Student – Athlete Name, Image, and Likeness](#)





Responsibility and Accountability: Excellence

INTELLECTUAL PROPERTY

We encourage, facilitate, and reward the development and dissemination of original scholarship and research, effective pedagogy, creative endeavors, and copyrightable works. At the same time, we acknowledge that, as a public institution, we have a responsibility to ensure that intellectual property created at the University is appropriately developed to obtain maximum public benefit. We are responsible for recognizing and acknowledging the responsibility to protect and administer, under applicable state and federal law, the intellectual property rights that apply to the University.

As a condition of the University's provision of employment, services, facilities, equipment or materials to the Inventor, the University acquires and retains title to all Inventions made within the scope of University employment or research or created with University Support or made in the field or discipline in which the Inventor is employed by the University.

With respect to in-unit faculty, the FIU BOT-UFF Collective Bargaining Agreement governs any copyright interest that the faculty and/or University may have. Out-of-unit faculty, staff, and administrative employees are governed by FIU Policy.

For additional information and resources please refer to:

- [FIU Policy 1710.345 - Works and Copyrightable Materials](#)
- [FIU Policy 2390.001 - Inventions and Patents](#)

EXCELLENCE IN THE WORKPLACE

We are Service Excellence oriented and committed to making FIU a great place for our FIU community and we:

- ✓ Treat all community members with respect and with courtesy at all times and in all matters.
- ✓ Take actions that are in the best interest of FIU.
- ✓ Perform assigned duties and responsibilities with the highest degree of public trust.
- ✓ Demonstrate proper office decorum by adhering to dress codes and professional courtesies and respect and dealings with fellow colleagues, students, members of the public, and any other persons associated or dealing with FIU.
- ✓ Lead by example by acting with the highest ethical standards.
- ✓ Provide direct reports with opportunities to learn and to demonstrate ethical behavior.

Collaborating with your team and others throughout the University will yield positive outcomes for the University and its students.

For additional information and resources please refer to:

- [Code of Ethics for Public Officers and Employees Chapter 112 Florida Statutes](#)
- [FIU Policy 1710.105 - Dress code](#)

Contact Information

No policy can foresee every situation in which a question about ethical business conduct will arise.
If you have any questions, require resources or advice, you are encouraged to contact the
Office of University Compliance and Integrity.

Office of University Compliance & Integrity
Modesto Maidique Campus, PC 429
11200 S.W. 8th Street
Miami, FL 33199
Telephone: (305) 348-2216
Facsimile: (305) 348-9726
Departmental E-mail: compliance@fiu.edu



THE FLORIDA INTERNATIONAL UNIVERSITY
BOARD OF TRUSTEES
Governance Committee

June 15, 2023

Subject: Ratification of the Wage Reopener for Fiscal Year 2022-2023 for the 2020-2023 Collective Bargaining Agreement between The Florida International University Board of Trustees (BOT) and Florida Public Employees Council 79, affiliate of the American Federation of State, County, and Municipal Employees, AFL-CIO (AFSCME)

Proposed Committee Action:

Recommend that Florida International University BOT ratify the wage reopener for fiscal year 2022-2023 of the 2020-2023 Collective Bargaining Agreement between the BOT and the Florida Public Employees Council 79, affiliate of the American Federation of State, County, and Municipal Employees, AFL-CIO (AFSCME). The major changes from the 2020-2023 BOT-AFSCME CBA are to the following section:

- Article 9: Wages
-

Background Information:

Representatives of the BOT and the AFSCME have engaged in collective bargaining negotiations to discuss the wage reopener (Article 9) for AFSCME employees. AFSCME ratified the wage reopener on June 7, 2023.

Florida Board of Governors Regulation 1.001(5)(b) provides that each board of trustees shall act as the sole public employer with regard to all public employees of its university for the purposes of collective bargaining and shall serve as the legislative body for the resolution of impasses with regard to collective bargaining matters.

Supporting Documentation: BOT-AFSCME Term Sheet

Revised Article 9 of the 2020-2023 Collective Bargaining Agreement between BOT and AFSCME

Facilitator/Presenter: El pagnier K. Hudson

BOT-AFSCME Term Sheet

Term:	2020-2023
Article 9.1 Wages	All eligible in-unit employees shall receive a one-time, non-recurring bonus equal to two thousand dollars (\$2,000) subject to applicable taxes and withholding. The bonus will be paid on the last pay period of the fiscal year ending FY22-23 provided that all parties have ratified before that date. If the parties have not ratified by the last pay period of FY22-23, then the bonus will be paid the first pay period after both parties have ratified. To be eligible for the one-time bonus, the employee must (1) have been employed by the University on or before June 30, 2022 and continuously employed through the effective date of the salary action, (2) not be in receipt of a notice of termination or submitted a letter of resignation, and (3) received an overall rating of 3 on the most recently submitted PEP.
Article 9.2 Wages	No Change
Article 9.3 Wages	No Change

**THE FLORIDA INTERNATIONAL UNIVERSITY
BOARD OF TRUSTEES
Governance Committee**

June 15, 2023

Subject: Ratification of the 2023-2026 Collective Bargaining Agreement Between the Florida International University Board of Trustees and the Florida Nurses Association, Office and Professional Employees International Union, Local 713, AFL-CIO (Local 713)

Proposed Committee Action:

Recommend that the Florida International University Board of Trustees ratify the 2023-2026 Collective Bargaining Agreement (CBA) between the Florida International University Board of Trustees (BOT) and the Florida Nurses Association, Office & Professional Employees International Union, Local 713, AFL-CIO (Local 713).

Background Information:

Representatives of the BOT and Local 713 have engaged in collective bargaining and reached a tentative agreement on the terms of the articles and policies of the 2023-2026 BOT-Local 713 CBA. Both parties agreed to wages increases and other minor edits (see attached Term Sheet) to the current agreement for the 2023-2026 term. Local 713 ratified the 2023-2026 CBA on June 9, 2023.

Florida Board of Governors Regulation 1.001(5)(b) provides that each board of trustees shall act as the sole public employer with regard to all public employees of its university for the purposes of collective bargaining, and shall serve as the legislative body for the resolution of impasses with regard to collective bargaining matters.

Supporting Documentation: Term Sheet

Proposed 2023-2026 New Collective Bargaining Agreement between the Florida International University Board of Trustees and the Florida Nurses Association, Office & Professional Employees International Union, Local 713, AFL-CIO (Local 713)

Facilitator/Presenter: El pagnier K. Hudson

**BOT-Florida Nurses Association, Office & Professional Employees International Union,
Local 713, AFL-CIO (Local 713) Term Sheet**

Term:	2023-2026
Article 7.1 Wages	<u>Fiscal Year 2023-2024:</u> All eligible bargaining unit employees will receive a one-time bonus of 5% of salary to be paid on the first full pay period following ratification.
Article 7.2 Wages	<u>Fiscal Year 2024-2025:</u> Parties agreed to a wage re-opener.
Article 7.3 Wages	<u>Fiscal Year 2025-2026:</u> Parties agreed to a Wage re-opener.
Article 10.1(d) Training & Education	Increased the professional development funds from \$10,000 first year, \$10,000 second year, and \$12,000 third year to \$15,000 for each year of the collective bargaining agreement.
Article 11 Classification Review	Added language to the section indicating that, when an employee temporarily is placed in a higher classification, he/she is eligible for a pay increase for a year. After the year, the unit can submit an additional request to Compensation. The unit is also responsible for ensuring that the employee meets the minimum qualifications. This language aligns with the University process.
Article 13.1 Miscellaneous: Flexible Working Arrangements Policy & Procedures	<u>Added a New Policy:</u> Flexible Working Arrangements Policy & Procedure #1710.144
Article 13.2 Miscellaneous: Uniforms	Employees now select two pieces of the FIU/FNA uniform and one polo shirt every fiscal year instead of the University providing the uniform pieces.
Article 14 Performance Excellence Process (PEP)	Deleted the requirement that supervisors and employees attend mandatory training on the PEP process. This deletion aligns with the University process.
Throughout the CBA	Updated the Name of the Student Health Clinic and the Division of Diversity, Equity, & Inclusion as Needed

**THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF
TRUSTEES**

And

**FLORIDA NURSES ASSOCIATION, OFFICE &
PROFESSIONAL EMPLOYEES INTERNATIONAL UNION,
LOCAL 713, AFL-CIO (LOCAL 713)**

COLLECTIVE BARGAINING AGREEMENT

~~2020-2023~~2023-2026

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PREAMBLE

THIS AGREEMENT is between The Florida International University Board of Trustees (FIU/BOT, FIU, Board, or the University) and the Florida Nurses Association, Office & Professional Employees International Union, Local 713, AFL-CIO (FNA Local 713, FNA, the union) representing the employees in the Bargaining Unit. It is recognized by the University and the FNA Local 713 that the public policy of the State and the purpose of Part II, Chapter 447, Florida Statutes, is to provide statutory implementation of Section 6, Article 1 of the Constitution of the State of Florida, and to promote harmonious and cooperative relationships between public employers and its employees, both collectively and individually, and to protect the public by assuring, at all times, the orderly and uninterrupted operations and functions of the public employer. It is further recognized by the University and the FNA that terms and conditions of employment of employees are contained in this Agreement and in the University's employee regulations, policies, procedures, and manuals.

Further, this Agreement defines the University's obligations to the Union and members of the bargaining unit, thus avoiding disputes due to misunderstandings, and provides a procedure for the resolution of any claims that the Agreement has been violated.

Finally, both parties recognize that this Preamble is a statement of intent and, therefore, not subject to the grievance procedure as outlined in Article 4.

ARTICLE 1 RECOGNITION

1.1 Florida International University recognizes the Florida Nurses Association, Office & Professional Employees International Union, Local 713, AFL-CIO as the exclusive collective bargaining representative of the bargaining unit certified by the Public Employees Relations Commission in Case No. RC-2013-013 to consist of the following:

1.2 All full-time and regularly scheduled part-time employees in the Student Health [Clinics](#)[Services](#) occupying positions in classifications which meet the requirements of a "professional employee" as set forth in Section 447.203(13), Florida Statutes (2003), and who are in a class code and class title as follows: 5290 Registered Nurse; 5292 Senior Registered Nurse; 5294 Registered Nurse Specialist; 5297 Advanced Registered Nurse Practitioner; 5306 Registered Nurse Supervisor; 5308 Senior Registered Nurse Supervisor; 5312 Senior Registered Nurse Specialist; and 5252 Senior Advanced Registered Nurse Practitioner.

1.3 This Agreement specifically excludes employees in positions designated as managerial, confidential, temporary, or emergency status, and all persons paid from other personnel services (OPS) (now referred to as "temporary") funds and all supervisors, guards and all other employees.

1.4 FIU will not be called upon to recognize the FNA as agent for any of its employees other than those included in the certified unit mentioned above, in the absence of a new PERC certification. When any new job classification is created, FIU will notify the Union. Any dispute as to an individual employee's status or any new classification status as being included or excluded from the bargaining unit will be resolvable through normal legal procedures, and not through the contractual grievance procedure.

ARTICLE 2 DEFINITIONS

The terms used in this Agreement are defined as follows:

- "Administration" means Florida International University acting through its President and staff.
- "Bargaining unit" means those employees, collectively, represented for collective bargaining purposes by the FNA pursuant to Florida Public Employees Relations Commission Certification Case No. RC-2013.
- "Board," "BOT," or "Board of Trustees" means the body established to govern Florida International University by Article 9, Section 7 of the Florida Constitution, acting through the President and staff.
- "Days" means calendar days, excluding any day observed as a State/University holiday unless otherwise noted.

- “Employee” means a member of the bargaining unit as it is described in Article 1.
- “Executive Director of FNA Local 713” means the designated individual who serves as the Executive Director of FNA Local 713 and his/her representative.
- “FNA Employee Representative” means an employee who has been designated by FNA to investigate grievances and to represent grievant(s) at Step 1 when FNA Local 713 has been selected as the employee’s representative.
- “Grievance” means a dispute filed with the Supervisor (“Step 1”) using Appendix C of this Agreement concerning the interpretation or application of a specific provision of this Agreement which is subject to the Grievance Procedure. The filing or pendency of any grievance under the provisions of this Article shall in no way impede or delay the right of the University to take the action complained of, subject, however to the final disposition of the grievance.
- “Grievant” means an employee or group of employees who has/have filed a grievance in a dispute over a provision of the Agreement which confers upon the employee. FNA may file a grievance in a dispute over a provision of this Agreement that confers rights upon FNA.
- “Position” means a position in a classification included in a bargaining unit described in Article 1.
- “President” means the President of FIU or his/her representative.
- "Supervisor" means an individual identified by the President as having immediate administrative authority over bargaining unit employees.
- "University" or “FIU” means Florida International University Board of Trustees, acting through the President and staff.

ARTICLE 3 EMPLOYEE REPRESENTATION AND FNA LOCAL 713 ACTIVITIES

3.1 Designation and Selection of Representatives - The Executive Director of FNA Local 713 shall annually furnish to the Vice President for Human Resources or designee, no later than July 1, a list of FNA Local 713 Employee Representatives and FNA Local 713 Staff Representatives who are designated to assist in processing grievances. This list shall include the class title and the name of each FNA Local 713 Employee Representative and the address and telephone number of the FNA Local 713 Staff Representatives. FIU will not recognize any person as an FNA Employee Representative or FNA Local 713 Staff Representative whose name does not appear on the list. Changes in these representatives may be made by written notice to the University. No more than three (3) employees may be designated as FNA Local 713 Employee Representatives.

3.2 Representative Access - FNA Local 713 Staff Representatives shall have access to the premises of the University in accordance with policies regarding public access to State property and may request access to premises not available to the public under University policies. Such requests shall be made to

Office of Employee & Labor Relations (ELR) and indicate the premises to be visited, the employees with whom the representative wishes to speak, the grievance being investigated, and the approximate length of time the representative will require such access. Permission for such access for the purpose of investigating an employee's grievance shall not be unreasonably denied and shall be limited to the working hours of the employee with whom the representative wishes to speak. Such access and investigation shall not impede University operations. FNA shall have the right to use University facilities for meetings on the same basis as they are available to other University-related organizations.

3.3 Consultation - The Vice President for Human Resources or his/her designee shall meet with FNA Local 713 Employee Representatives to discuss matters pertinent to the implementation or administration of this Agreement, University actions affecting terms and conditions of employment or any other mutually agreeable matters. The meetings shall be held on a mutually convenient date. The party requesting consultation shall submit a written list of agenda items no less than one (1) week in advance of the meeting. The other party may also submit a written list of agenda items in advance of the meeting if it wishes to discuss specific issues. The University and FNA understand and agree that such meetings may be used to resolve problems regarding the implementation and administration of the Agreement; however, such meetings shall not constitute or be used for the purpose of collective bargaining. If a consultation meeting is held or requires reasonable travel time during the working hours of any employee participant, such participant shall be excused without loss of pay for that purpose. Attendance at a consultation meeting outside of regular working hours shall not be deemed time worked.

3.4 Bulletin Boards - Where official bulletin boards of the University are available in the student health centers, the University agrees to provide space on such bulletin boards for FNA use in accordance with University policy. The materials posted on the boards shall be related only to FNA matters and shall not contain anything reflecting adversely on the University or any of its officers or employees, nor shall any posted material violate or have the effect of violating any law, rule, or regulations. Posted materials must be dated and bear the signature of the FNA's authorized representative.

3.5 Agendas, Rules and Employee Information Provided - FIU shall provide FNA with the website address where it can view the agenda and approved minutes of meetings of the Board of Trustees.

3.6 Upon written request of FNA, FIU will, on a semi-annual basis, provide a list of employees with the employee name, work address, classification title, gross salary, and date of hire for each employee.

3.7 The University shall provide FNA with the website address where it can view FIU employee regulations, policies and this collective bargaining agreement.

3.8 Negotiations - FNA agrees that all collective bargaining is to be conducted with FIU representatives designated for that purpose by the University. FNA Local 71 may designate in writing no more than two (2) employees to serve on its negotiation committee and no more than one (1) employee to serve as an alternate for a committee member who is unable to attend a negotiating session. The selection or attendance of any employee shall not impede the operations of the work unit.

3.9 Leave for Negotiating and Other FNA Activities

(a) Employees shall have the right to request use of accrued vacation leave, in writing, for the purpose of attending FNA conventions, FNA conferences, consultation meetings, and collective

bargaining negotiation sessions. The use of such leave shall be governed by the same policy as any other vacation leave; provided, however, that the use of such leave shall not impede the operations or staffing of the University. When the request for vacation leave for the purposes of attending collective bargaining negotiation sessions or consultation meetings is denied, the supervisor shall provide such denial in writing.

(b) For each round of negotiations, administrative leave shall be granted to the FNA bargaining committee member for purpose of attending the negotiations. Committee members shall not be reimbursed by the University for travel, meals, lodging, or any other expense incurred in connection with attendance at the negotiating sessions.

ARTICLE 4 GRIEVANCE AND ARBITRATION PROCEDURE

4.1 In a mutual effort to provide a harmonious working relationship between the parties to this Agreement, it is agreed that this Article delineates the procedure for the resolution of grievances between the parties arising from any alleged violation of a specific term of this Agreement with the exception of Article 10 Training and Education, Article 11 Classification Review, Article 12 Internal Recruitment, Promotions, Demotions and Transfers, Article 13 Miscellaneous, Article 14 Performance Excellence Process, and Article 20 Maintenance of University Regulations and Policies which are not subject to the Grievance and Arbitration Procedure but shall be governed by the provisions of the Neutral, Internal Resolution of Policy Disputes.

4.2 For the purpose of this Agreement, a "grievance" is defined as a dispute, claim or complaint that any employee or the Union may have as to the interpretation, application, and/or alleged violation of provision(s) of this Agreement which is subject to the Grievance Procedure. Only the FNA Local 713 may file a request for arbitration as described in Step 3 of this Article.

4.3. For the purpose of determining deadlines for actions as set forth in this Article, the parties agree that, if said deadline falls on a weekend or a University recognized holiday, the deadline for said action shall be on the following day. Every effort will be made by the parties to settle all grievances as soon as possible. The time limits set forth shall be strictly complied with and can only be extended by mutual agreement of the parties in writing. Mutual agreements may be evidenced by email exchanges. Any grievance shall be considered settled at the last level considered if the grievant fails to timely process the grievance to the next level. The date of receipt shall not be included in the count of days. Compliance with any time limit under this Article shall be determined by the date-stamped receipt executed by the office receiving the grievance or the person receiving the decision.

4.4 The commencement of legal proceedings against University in a court of law or equity, or before the Public Employee Relations Commission, for misapplication or misinterpretation of the terms of this Agreement, shall be deemed an election of remedy and shall be a waiver by the party commencing the proceeding of its/their right to resort to the Grievance and Arbitration Procedure contained in this Article and any grievance that has already been filed over the same subject will be dismissed. The filing of a grievance constitutes a waiver of any rights to judicial review of agency action pursuant to Chapter 120, Florida Statutes, or to the review of such actions under other University procedures available to address such matters. The commencement of proceedings pursuant to Section 120.57, Florida Statutes,

for misapplication or misinterpretation of the terms of this Agreement shall be deemed an election of remedy and shall be a waiver by the party commencing the proceeding of its/their right to resort to the Grievance and Arbitration Procedure contained in this Article and any grievance that has already been filed over the same subject will be dismissed. Except as otherwise stated, the Grievance and Arbitration Procedure is the sole remedy for any alleged violations of this Agreement.

4.5 In the event that the grievance involves an act or omission which could be handled by either this Article or the Neutral, Internal Resolution of Policy Disputes, the filing of a grievance under this Article constitutes a waiver of the filing of a complaint under the Neutral, Internal Resolution of Policy Disputes.

4.6 Grievances shall be processed in accordance with the following procedures:

(a) STEP 1:

The grievant shall present in writing his/her grievance to the appropriate supervisor within fourteen (14) days of the occurrence of the action giving rise to the grievance, or the date on which the employee knew or reasonably should have known of such act or omission if that date is later. The Step 1 form (attached in Appendix B) must be submitted in writing and shall be signed by the grievant(s). Discussions will be informal for the purpose of settling differences in the simplest and most effective manner. (The grievant shall have the right to representation by FNA.) The supervisor shall communicate a decision in writing to the grievant within fourteen (14) days from the date the grievance discussion took place. Failure of the supervisor to timely respond shall be considered a denial of the grievance and shall entitle the grievant to appeal to Step 2.

(b) STEP 2:

(1) Filing. If the grievance has not been satisfactorily resolved at the Step 1 or the supervisor has failed to respond within the Step 1 deadlines, the grievant or FNA may (upon request of the grievant) proceed to Step 2 by filing a fully executed Step 2 form which is attached in Appendix B. The Step 2 form must be filed with the Vice President of Human Resources or designee within fourteen (14) days after receipt of the Step 1 decision by the grievant and/or grievant's representative or when the answer was due in the Step 1 process.

(2) Meeting. The Vice President for Human Resources or designee shall investigate the alleged grievance and shall, within twenty (20) days or other mutually agreeable date of receipt of the written grievance, conduct a meeting between the Vice President for Human Resources or designee, other University representatives as necessary, the grievant and/or the grievant's Union representative. At the Step 2 meeting, the grievant shall have the right to present any evidence in support of the grievance. The parties present at the Step 2 meeting shall discuss the grievance. Any party bringing legal counsel to the Step 2 meeting shall provide at least ten (10) days' advance written notice to all other parties. The grievant may bring an interpreter to the Step 2 meeting at his or her own cost.

(a) Documents. In advance of the Step 2 meeting, the grievant shall have the right, upon written request to the Vice President of Human Resources or designee, to a copy of any identifiable documents relevant to the complaint.

(b) Decision. The Vice President for Human Resources or designee shall notify the grievant of a decision in writing no later than fourteen (14) days following the meeting. A copy of the decision shall be sent to the grievant, the grievant's representative and FNA (if grievant elected self-representation or representation by legal counsel). Failure of the Vice President for Human Resources or designee to timely respond shall be considered a denial of the grievance and shall entitle the grievant to appeal to Step 3.

STEP 3:

If a grievance has not been satisfactorily resolved at Step 2 if or the Vice President of Human Resources or designee has failed to respond within the Step 2 deadlines, the FNA may proceed to Step 3 by filing a fully executed Step 3 form which is attached in Appendix B. The Step 3 form must be filed with the Vice President of Human Resources or designee within twenty (20) days after receipt of the Step 2 decision by the FNA or when the answer was due in the Step 2 process. (The Step 3 form will be considered as filed if received by the Vice President of Human Resources or designee by the close of business on the last day that the form can be filed through an email, hand deliver, overnight delivery, facsimile, or U.S. mail.) The grievance may be withdrawn by the FNA at any point prior to issuance of the Panel's decision by providing written notification to the Vice President of Human Resources or designee.

(1) The parties hereby agree that the arbitration selection procedure will be as follows:

(a) Within fourteen (14) days following the receipt of the Step 3 form, the Vice President of Human Resources or designee shall notify the American Arbitration Association (AAA) of the filing of the grievance and request a list of five (5) arbitrators sent to each party.

(b) Each party shall alternatively strike arbitrators from the list until one remains with a coin toss used to determine which party strikes first. The party requesting arbitration shall notify AAA of the party's selection.

(c) The parties will select the arbitrator within fourteen (14) days after receipt of the list of arbitrators.

(2) Authority of the Arbitrator.

(a) Unless the parties agree in writing to the contrary, only one grievance may be submitted to the arbitrator at any one hearing.

(b) The arbitrator shall not add to, subtract from, modify, ignore, or alter the terms or provisions of this Agreement, or the provisions of applicable law, rules, or regulations having the force and effect of law. The arbitrator shall not have the power to limit or interfere in any way with the powers, duties, and responsibilities of the University under applicable law, rules, and regulations having the force and effect of law. The arbitrator shall be confined solely to the application and/or interpretation of the Agreement and the precise issue(s) submitted for arbitration. The arbitrator shall determine each dispute in accordance with the terms of this Agreement and in accord with a "Submission Agreement," if one can be agreed to. If there is no Submission Agreement, then the arbitrator will rely on the grievances as written under Step 2 of this Agreement.

(c) Where a University official has made a judgment involving the exercise of discretion, the arbitrator shall not substitute its judgment for that of the University official. Nor shall the arbitrator review such decision except for the purpose of determining whether the decision has violated the Agreement.

(3) The Hearing. The arbitrator shall hold the hearing in Miami-Dade County unless otherwise agreed by the parties. The hearing shall commence within sixty (60) days of the arbitrator's acceptance of selection, or as soon thereafter as is practicable. The parties shall stipulate to the issue(s) prior to the hearing before the arbitrator. If the parties are unable to stipulate to the issue(s) prior to such hearing, the parties shall proceed to a hearing on applicability of this procedure based on either procedural or substantive concerns ("applicability"). Issues of applicability shall be bifurcated from the substantive issues and, whenever possible, determined by means of a hearing conducted by conference call. The arbitrator shall have ten (10) days from the hearing on applicability to render a decision on the applicability issues. If the process is judged to be applicable to the complaint, the arbitrator shall then proceed to hear the substantive issue(s) in accordance with the provisions of this Agreement.

(a) The arbitrator shall rule on arbitrability before issuing a decision on the merits. If a lawsuit is filed over arbitrability, the arbitration shall not commence until the lawsuit has terminated in the trial court. If the grievance was found to be arbitrable, then the grievance would be assigned to another arbitrator using the same process as used for selecting the first arbitrator.

(b) The arbitrator shall issue the decision within thirty (30) days of the close of the hearing on the substantive issue(s) or the submission of briefs, whichever is later, unless additional time is agreed to by the parties in writing. The decision shall be in writing and shall set forth findings of fact, reasoning, and conclusions on the issues submitted. Except as expressly specified in this Article, the provisions of the Florida Arbitration Code, Chapter 682, Florida Statutes, shall not apply. Except as modified by the provisions of this Article, the arbitration proceeding shall be conducted in accordance with the Labor Arbitration Rules and Procedures of the American Arbitration Association.

(c) In rendering the decision, the arbitrator shall refrain from issuing any statements of opinion or conclusions not essential to the determination of whether the act or event giving rise to the grievance violated a provision of this Agreement.

(d) If the arbitrator determines that an Article has been violated, the arbitrator shall direct the University to take appropriate action. The arbitrator may award back salary where the arbitrator determines that the employee is not receiving the appropriate salary from the University, but the arbitrator may not award other monetary damages or penalties. The arbitrator shall have no power to establish wages, rates of pay for new jobs, or to change any wage, unless the arbitrator is specifically empowered to do so by both parties in writing. An arbitrator's award may be retroactive based on the equities each case may demand, but in no case shall an award be retroactive to a date earlier than thirty (30) days prior to the date the grievance was originally filed in this Article.

(e) The decision or award of the arbitrator shall be final and binding upon the University, FNA, and the grievant provided that either party may appeal to an appropriate court of law a decision that was rendered by the arbitrator acting outside of or beyond the arbitrator's jurisdiction.

(4) Venue. For purposes of venue in any judicial review of an arbitrator's decision issued under this Article, the parties agree that such an appeal shall be filed in the courts in Miami-Dade County, Florida unless both parties specifically agree otherwise in a particular instance. In an action commenced in Miami-Dade County, neither the University nor FNA will move for a change of venue based upon the defendant's residence in-fact if other than Miami-Dade County.

(5) Fees and Expenses. All fees and expenses of the arbitrator shall be divided equally between the parties unless mutually agreed otherwise. Each party shall bear the cost of preparing and presenting its own case. Expenses of obtaining a hearing room, if any, shall be equally divided between the parties. The cost of the written transcript, if requested by both parties, will be shared by both parties.

4.7 The following general rules are applicable to this Article:

A. The grievant or the FNA may abandon or settle a grievance.

B. The grievant or the FNA shall have only one opportunity to amend or supplement the grievance. No grievance can be amended or supplemented after Step 2.

C. Only grievances based on events or occurrences which occur after the date of the execution of this Agreement can be processed under this Article. After the expiration of this Agreement, there is no duty upon University to process any grievance unless the facts upon which the grievance is based occurred prior to the expiration of the Agreement. The arbitrator shall not receive into evidence nor rely upon any past practices that occurred after the date of the execution of this Agreement.

D. In contract interpretation, the burden of proof is on the grievant. In such cases, the preponderance of evidence standard is applicable.

E. No grievance informally resolved or by using the process described in this Article shall constitute a precedent for any purpose unless agreed to in writing by the University Vice President or designee, the grievant, and FNA.

F. Filings and Notification. All documents required or permitted to be issued or filed pursuant to this Article may be transmitted by fax, United States mail by certified mail with return receipt requested, or any other recognized delivery service that provides documentation of delivery to the recipient. An e-mail is not an acceptable form of delivery unless otherwise noted in this Article.

G. Reprisal. No reprisal of any kind will be made by the University or FNA against any grievant, any witness, any FNA representative, or any other participant in the Grievance and Arbitration Procedure by reason of such participation.

H. Records. In the event an employee files a grievance under this Article, the employee has the right to one (1) copy of their personnel records at no cost. All written materials pertinent to a grievance shall be maintained separately from the evaluation file of the grievant or witnesses, except (1) at the request of the grievant or witness that specific materials be included in his or her own evaluation file, or (2) where the terms of the decision or a settlement direct that a copy of the decision or settlement agreement be placed in the evaluation file of a grievant or witness. All decisions or settlement agreements resulting from grievances processed pursuant to this Article shall specify whether or not a copy of the decision or settlement agreement is to be placed in the evaluation file(s) of any grievant or witness.

ARTICLE 5 LAYOFFS

5.1

Bargaining unit employees may be laid off due to adverse financial circumstances; reallocation of resources; reorganization of administrative structures, programs, or functions; curtailment or abolishment of one or more programs or essential function; or shortage of work.

5.2 In the event of layoff, temporary employees (formerly referred to as OPS employees) within the same classification as the affected bargaining unit employees shall be laid off first, followed by bargaining unit employees on probation, in the inverse order of seniority. Remaining bargaining unit employees will be laid off in the inverse order of seniority.

5.3 "Seniority" will be defined as continuous service within the job code in which the layoff will occur. Temporary service (e.g., as an FIU OPS employee) held by a bargaining unit employee shall not be counted toward seniority.

5.4 If more than one bargaining unit employee has the same seniority, the following factors shall be considered to determine which bargaining unit employee will be laid off first:

- (a) Training, relevant experience and position (including certifications and academic degrees)
- (b) The nurse's overall performance/disciplinary record during the past 24 months.

5.5 The University shall notify FNA on the same day following the notification to the bargaining unit employee(s).

5.6 The bargaining unit employee shall be given a notice period of four (4) weeks after one year of employment, plus two (2) weeks for every year thereafter, up to a maximum of twelve (12) as wages in lieu of notice.

5.7 As determined by FIU, layoffs may be confined to a department(s) or any other organizational subdivision of FIU.

5.8 The laid-off bargaining unit employee shall have recall right to the positions that the bargaining unit employee held prior to being laid off within the bargaining unit if the position is available and if that employee qualifies for that position. Recall rights are limited to one (1) year following the layoff. During this period, no new bargaining unit employee will be hired by the layoff unit for the position that the affected bargaining unit employee has previously held until the laid-off bargaining unit employee has been offered and rejected the recall. Should the bargaining unit employee that was laid-off reject the recall position, that person shall not be eligible for any future recall positions and shall have waived his/her recall right thereafter.

5.9 Any bargaining unit employee offered recall at his/her last known address must contact FIU and agree to return to work within twenty-one (21) calendar days or forfeit all recall rights.

ARTICLE 6 SAFETY

6.1 FIU shall make every reasonable effort to provide employees a safe and healthy working environment. FIU and FNA agree to work cooperatively toward reducing job-related injuries and workers' compensation costs by encouraging improved safety measures.

6.2 When an employee believes that a condition exists at the University which is a violation of an established health or safety rule, or which is a hazard to persons or property, such condition shall be reported immediately to the appropriate supervisor or supervisor's designee. The University shall investigate the report and respond to the employee in a timely manner.

6.3 Complaints which arise under this section shall be grievable, but only to Step 1 of the grievance procedure of Article 4.

ARTICLE 7 WAGES

7.1 Salary Increases for Fiscal Year 2023-2024 ~~2020-2021~~

(a) The Board shall provide all eligible bargaining unit employees a one-time bonus of five percent (5%) ~~\$750.00 or 1% whichever is greater~~. The bonus will be payable the first full pay period following joint ratification. To be eligible, the employee must have been employed by the University before on or before July 1, 2022 ~~November 9, 2019~~ and continuously through the effective date of the salary ~~action, and~~ action and received an overall rating of "Fully Meets" (3) on 2019-2020 Performance Excellence Process(PEP).

7.2 Salary Increases for Fiscal Year 202~~4~~-202~~5~~~~1~~-202~~2~~ Both parties agreed to a wage reopener.

7.3 Salary Increases for Fiscal Year 202~~5~~-202~~6~~~~2~~-202~~3~~ Both parties agreed to a wage reopener.

7.4 Effect of Any Legislative Increases. Any wage increase or bonus provided by the Legislative appropriations for the 202~~3~~-202~~4~~~~0~~-202~~1~~ fiscal year, 202~~4~~-202~~5~~~~1~~-202~~2~~ fiscal year, or 202~~5~~-202~~6~~~~2~~-202~~3~~ fiscal year shall count toward any salary increases described in 7.1, 7.2 or 7.3 respectively.

7.5 Contract and Grant-Funded Employees. Employees on contracts or grants shall receive salary increases provided that such salary increases are permitted by the terms of the contract or grant and adequate funds are available for this purpose in the grant or contract.

7.6 Additional Salary Increases. Nothing contained herein shall prevent FIU from providing salary increases beyond the increases specified above. These increases may be provided for market equity considerations, including verified counteroffers and compression/inversions; increased duties and responsibilities; special achievements; litigation/settlements; and similar special situations. The University agrees that it will meet and confer with FNA prior to the implementation of any such salary increases. FNA acknowledges that this meeting is not a requirement to bargain over the changes.

ARTICLE 8 DUES DEDUCTION

8.1 During the term of this Agreement, FIU will deduct FNA dues and other authorized deductions in an amount established by the FNA and certified in writing by FNA to FIU, from employee's pay for those employees who individually make such request on the deduction form provided by FNA included as Appendix A. Such deductions will be made by FIU when other payroll deductions are made and will begin with the paycheck for the first full pay period following receipt of the authorization card by the University.

8.2 FNA shall advise FIU of any increase in dues or other authorized deductions in writing at least thirty (30) days prior to its effective date.

8.3 This article applies only to the deduction of membership dues and shall not apply to the collection of any fines, penalties, or special assessments.

8.4 FIU will not be required to process Dues Deductions Authorization Forms that are: (1) incorrectly and/or incompletely filled out; (2) postdated; or (3) submitted to FIU more than sixty (60) days following the date of the employee's signature.

8.5 Deductions of dues and other authorized deductions shall be remitted exclusively to FNA by FIU within thirty (30) days after the deductions are made, or as soon as practical thereafter, along with a list containing the names of the employees from whom the remittance is made.

8.6 In the event an employee's salary earnings within any pay period are not sufficient to cover dues and any other authorized deductions, it will be the responsibility of FNA to collect its dues for that pay period directly from the employee.

8.7 Deductions for FNA dues and other authorized deductions shall continue until either: (1) revoked by the employee by providing FIU and FNA with thirty (30) days' written notice that the employee is terminating the prior deduction authorization; (2) revoked pursuant to Section 447.507 Florida Statutes; (3) the termination of employment; or (4) the transfer, promotion, or demotion of the employee out of this bargaining unit. If these deductions are continued when any of the above situations occur, FNA shall, upon notice of the error, reimburse the employee for the deductions that were improperly withheld.

8.8 FNA shall indemnify, defend, and hold FIU, the Florida Board of Governors, the State of Florida, and its officers, officials, agents, and employees harmless against any claim, demand, suit, or liability (monetary or otherwise), and for all legal costs arising from any action taken or not taken by FIU, or other officials, agents, and employees in complying with this Article. FNA shall promptly refund to FIU any funds received in accordance with this Article which are in excess of the amount of dues and other authorized deductions which FIU has agreed to deduct.

ARTICLE 9 REPLACEMENT OF PERSONAL PROPERTY

9.1 Policy.

A. An employee, while on duty and acting within the scope of employment, who suffers damage or destruction of the employee's watch or prescription eye wear, or such other items of personal property as have been given prior approval by the University as being required by the employee to adequately perform the duties of the position, will be reimbursed as provided herein.

B. A Student Health incident report must be filed with the Director of Student Health [Clinics](#)~~Services~~ or designee detailing the circumstances under which such property was damaged or destroyed.

9.2 Specific Reimbursement Allowances and Approvals.

A. The University shall authorize reimbursement for repair or replacement of such property, not to exceed the following amounts:

1. Watch - \$75;
2. Prescription eye wear - \$200 (including any required examination);
3. Other Items - The Director of Student Health [Clinics](#)~~Services~~ or designee shall have final authority to determine the reimbursement value of any items other than watches or prescription eye wear; and
4. Total allowable per incident - \$500.

B. Such reimbursement shall be with the approval of the Director of Student Health [Clinics](#)~~Services~~ shall not be unreasonably withheld.

ARTICLE 10
TRAINING AND EDUCATION

10.1 Staff Development Funding

A. Staff development provides opportunities for all employees to maintain and advance their skills and knowledge as it pertains to the performance of their job duties and employment with the Student Health ~~Clinics~~Center.

B. Programs which are only partially applicable to an employee's duties and responsibilities may be considered for staff development.

C. Directed attendance.

1. Occurs when an employee is instructed to attend a developmental/educational function to enhance job performance.
2. Occurs when an employee requires additional training/education because he/she has been assigned new duties and responsibilities.
3. Expenses connected to directed attendance may not be considered staff development expenses and may not be deducted from staff development allocations.
4. Directed attendance must be approved by the Director of Student Health ~~Clinics~~Center or designee.

D. Allocation of Resources. The University will allocate ~~Fifteen~~ ~~Ten~~ Thousand Dollars (\$~~150~~,000) for the fiscal year ~~2023-2024~~~~0-2021~~; ~~Fifteen~~~~Ten~~ Thousand Dollars (\$~~150~~,000) for fiscal year ~~2024-2025~~~~1-2022~~; and ~~Fifteen~~ ~~Twelve~~ Thousand ~~Five Hundred~~ Dollars (\$~~15,000~~~~2,500~~) for fiscal year ~~2025-2026~~~~2-2023~~ to be used for staff professional development with the allocation of such funds to be used first for professional development that will directly enhance the skills and knowledge of the employee's performance of his/her job duties. The Director of Student Health ~~Clinics~~ ~~Services~~ or designee will make the allocations among the employees in an equitable manner. Priority will be given to those employees who are presenting or receiving an award at the seminar/conference. In the event that an employee is granted permission to attend a professional development seminar/conference but cannot do so for whatever reason, any refund of funds already committed to such seminar/conference will be returned to the pool to be reallocated during that fiscal year. Any unused monies allocated at the end of the fiscal year will not be carried forward.

E. If training is required by the employer, it will be funded by the University which funding will not be deducted from the allocated resources described in 10.1D.

10.2 On-line Courses. An employee may be granted time worked to participate in on-line courses for either professional education or staff development under the Learning Opportunities Policy. Such participation must be requested by the employee at least fourteen (14) days in advance to allow for scheduling of the workforce. If approved by the Director of Student Health ~~Clinics~~Services or designee, such time shall count towards the allowable days of time worked for professional education and staff development under this policy.

Dispute Resolution Process:

The parties agree that Article 4 – Grievance and Arbitration Procedure is not applicable to a dispute pertaining to Article 10. Rather, the Neutral, Internal Resolution of Policy Disputes shall apply to and govern such disputes.

ARTICLE 11 CLASSIFICATION REVIEW

Purpose:

To provide a means for management to address changes in a position classification

Policy:

Classification Review:

When the University determines that a revision of a class specification for bargaining unit positions is needed, and such revision affects the collective bargaining unit designation, it shall notify FNA in writing of the proposed change. FNA shall notify the Vice President for Human Resources or designee, in writing, within fifteen (15) days of receipt of the proposed changes, of any comments it has concerning the proposed changes or of its desire to discuss the proposed changes before submitting to the Florida Public Employment Relations Commission (PERC).

Work in a Higher Classification:

An employee who is designated by the appropriate supervisor to perform temporarily a major portion of duties of a position in a higher classification than the employee's current classification shall be eligible for a pay increase for the period of time such duties are assigned, provided that such duties are performed for a period of more than twenty-two (22) working days ~~within any six (6) consecutive months. and may be approved up to one year in duration. After the year, the business unit must submit a new request to Compensation for review and approval. Business units shall screen employees to ensure they meet minimum qualifications prior to assigning the higher-level work.~~

Dispute Resolution Process:

The parties agree that Article 4 – Grievance and Arbitration Procedure is not applicable to a dispute pertaining to Article 11. Rather, the Neutral, Internal Resolution of Policy Disputes shall apply to and govern such disputes.

ARTICLE 12 Recruitment & Selection

12.1 Florida International University shall recruit external and internal employees through competitive searches and internal marketing and promotional processes. Recruitment & Selection processes must be guided by the University's commitment to diversity. Internal recruitment will be utilized to support career mobility of qualified existing employees, consistent with the University's commitment to diversity. The recruitment and selection of new hires and internal promotions and transfers must be approved by the Division of Human Resources.

The purpose of this policy is to ensure that Florida International University will attract and retain diverse and the most highly qualified workforce available to effectuate its academic research, and service mission. It is our intention to make public, any information about employment opportunities at the University to as many people as necessary to ensure compliance with the EEO and other applicable laws. To do so, it is essential to conduct effective external recruitment searches and also support current employees in their career goals by providing fair and equitable internal transfer and promotional processes.

This policy is specifically concerned with the recruitment phase of the selection process and addresses the behavior expected from all persons in the University community who have a role in conducting specific recruitment activities when an employment opportunity exists.

Commitment to EEO/AA and Diversity

It is required by law that Florida International University provides equal employment opportunity to all, without regard to race, color, religion, age, disability, sex, sexual orientation, national origin, marital status, and veteran status. It is further required by law that the University ensures that its policies and practices are non-discriminatory. As a federal contractor, goals have been established to address any underutilization of women and/or minorities.

The ~~Equal Opportunity Program & Diversity department~~ [Division of Human Resources](#) annually updates its written plan for Women and Minorities. Upon completion, the University analyzes the participation of women and minorities in each job group. The University must be able to document that it made good faith efforts to meet any established goals, which means that the appropriate steps will be taken to ensure that persons of the underutilized group, whether women or minorities or both, as well as all others, are considered in the selection process.

The following career-pathing opportunities encompass the methods by which employees may move from one position to another:

Promotion

The upward mobility of an employee from one position to another position having a greater degree of responsibility and a higher salary range maximum.

A promotion can be within the same division/department or from one division/department to another.

An employee being promoted will have his/her salary set in accordance with FIU's Compensation Guidelines.

Demotion

Demotion occurs when higher functioning duties are permanently removed resulting in a lower level position and a reduction in pay.

A demotion can be voluntary or involuntary within the same division/department or from one division/department to another.

An employee being demoted will have his/her salary adjusted in accordance with FIU's Compensation /Guidelines.

Transfer

The lateral movement of an employee from a position in one class, to a different position within the same class or in a different class, having the same degree of responsibility and the same salary range maximum. A transfer can be voluntary or involuntary. FIU will provide, in writing to the employee, fourteen (14) days advanced notice. This provision will not apply to temporary coverage assignments;

however, if the temporary assignment exceeds three (3) months, the employee will be provided the fourteen (14) days advanced notice before the transfer. An employee being transferred usually maintains their current salary.

Dispute Resolution Process:

The parties agree that Article 4 – Grievance and Arbitration Procedure is not applicable to a dispute pertaining to Article 12. Rather, the Neutral, Internal Resolution of Policy Disputes shall apply to and govern such disputes.

ARTICLE 13
MISCELLANEOUS

13.1 The following links for University Policies and Regulations are incorporated herein by reference and attached hereto:

Regulations.fiu.edu
Policies.fiu.edu

- 1) FIU Regulation 103 The Non-Discrimination Policy and Discrimination Complaint Procedure
- 2) FIU Policy Number 1710.005 Access to Official Personnel Records
- 3) FIU Policy Number 1710.035 Bereavement Leave
- 4) FIU Policy Number 1710.050 Catastrophic Pool
- 5) FIU Policy Number 1710.060 Compressed Work Schedule
- 6) FIU Policy Number 1710.065 Compulsory Leave
- 7) FIU Policy Number 1710.103 Domestic Violence Leave
- 8) FIU Policy Number 1710.141 Flexible Working Arrangement Policy and Procedures
- 9) FIU Policy Number 1710.145 FMLA, Maternity/Paternity, and Medical Leave
- 10) FIU Policy Number 1710.165 Jury Duty and Court Appearances
- 11) FIU Policy Number 1710.180 Learning Opportunities
- 12) FIU Policy Number 1710.185 Leave Pending Investigation
- 13) FIU Policy Number 1710.200 Military Leave
- 14) FIU Policy Number 1710.245 Personal Leave of Absence without Pay
- 15) FIU Policy Number 1710.255 Political Participation
- 16) FIU Policy Number 1710.260 Professional Development Leave
- 17) FIU Policy Number 1710.295 Sick Leave
- 18) FIU Policy Number 1710.300 Sick Leave Pool
- 19) FIU Policy Number 1710.330 Vacation
- 20) FIU Policy Number 1710.038 Bonus Policy

13.2 Maintenance of Schedules

Work Schedule - Except in emergency situations, normal work schedules showing the employees' shifts, workdays, and hours will be posted on the SharePoint website or will be sent to the employees via email no less than ten (10) days in advance and will reflect at least a one (1) month schedule. With the prior written approval of the supervisor(s) and provided there is no penalty to the University, employees may agree to exchange days or shifts on a temporary basis.

13.3 Uniforms

The University agrees to provide two sets of scrub emblazoned with the FIU identification logo and one polo shirt annually (fiscal year). All in-unit employees will be provided up to two (2) uniform selections (e.g., scrubs, polo, sweater) emblazoned with the FIU identification logo. Annual orders can be made in August and/or in April. New hired in-units employees will be provided their first uniform selection upon the start date.

13.4 Dispute Resolution Process:

The parties agree that Article 4 – Grievance and Arbitration Procedure is not applicable to a dispute pertaining to Article 13 and the policies and regulations referenced in Article 13. Rather, the Neutral, Internal Resolution of Policy Disputes shall apply to and govern such disputes.

ARTICLE 14 PERFORMANCE EXCELLENCE PROCESS (PEP)

Purpose:

To establish a Performance Excellence Process, (PEP), aligned with organizational objectives that provide consistent criteria for enhancing and assessing employee performance on an annual basis.

Policy:

PEP provides individual employees with an opportunity for the development of their potential, continued learning and career development.

In preparing the Performance Discussion Document, the supervisor/ manager may solicit feedback on the employee's performance from a variety of sources: peers/colleagues, direct reports, students and other constituents.

PEP is a year-round process which shall culminate in the annual Performance Discussion. Supervisors will be evaluated on whether the Performance Excellence Process was conducted annually for their subordinates.

Both supervisors and employees should attend **mandatory** training on the Performance Excellence Process. Employees will be annually evaluated using FIU's values, core competencies, and job specific competencies identified based on the functions of each individual position. An employee shall ordinarily be evaluated by his/her immediate supervisor in consultation with the second level supervisor. The immediate supervisor shall be held accountable for such evaluation. The immediate supervisor shall be the person regularly assigned to direct the work of the employee, or, if unavailable, the person appointed by the Department Head. The supervisor is responsible for the timely evaluation of the employee.

The employee shall be provided with information regarding the basis of the evaluation and shall, upon written request, be provided a copy of any documents which were considered and submitted to Human Resources in completing the evaluation.

The evaluation shall be discussed with the employee. The employee may prepare a written response which shall be attached to the evaluation and placed in the employee's personnel file.

Where an employee does not meet performance standards, the university may develop a performance improvement plan intended to correct performance deficiencies. Such employee shall be granted, upon written request, an opportunity to discuss with an administrator at the next higher-level concerns regarding the evaluation.

An employee who is involuntarily demoted or dismissed based on an evaluation indicating the employee failed to meet performance standards may seek review under the Neutral Internal Resolution Process. The review shall be solely to determine whether the performance evaluation was done in an arbitrary or capricious manner. The neutral reviewer shall not substitute his/her judgments regarding an employee's performance for that of the evaluator.

Dispute Resolution Process:

The parties agree that Article 4 – Grievance and Arbitration Procedure is not applicable to a dispute pertaining to Article 14. Rather, the Neutral, Internal Resolution of Policy Disputes shall apply to and govern such disputes.

ARTICLE 15
PREVAILING RIGHTS

All existing pay and benefits provisions contained in University personnel regulations or policies which are not specifically provided for or modified by this Agreement or the personnel regulations or policies referenced in Section 20.1 of this Agreement or otherwise provided to FNA during these collective bargaining negotiations shall be in effect during the term of this Agreement. As provided under Section 20.4, any claim by an employee or the FNA concerning the application of such provisions shall not be subject to the Grievance Procedure of this Agreement, but shall be subject to the method of review prescribed by the Neutral, Internal Resolution of Policy Disputes.

ARTICLE 16
MANAGEMENT RIGHTS

16.1 Each of the rights described below shall be vested exclusively in FIU subject only to such restrictions governing the exercise of these rights as expressly provided in this Agreement.

16.2 The management of personnel and the direction of the work force, including but not limited to the exclusive rights to determine whether all or any part of the operations covered by this Agreement shall commence, cease, continue, reduce or increase; to remove the operation or any part thereof to any location; to establish new jobs; to abolish or change existing jobs and to increase or decrease the number of jobs or employees; to change materials, processes, products, service, equipment, work schedules and methods of operation to introduce new materials, equipment, services or facilities; to assign work to be performed; to assign or reassign employees to shifts, increase or abolish shifts and rotate shifts; to require employees to work overtime; to establish and change hiring procedures; to set the work schedules; to transfer employees from job to job, shift to shift or campus to campus either on a permanent or temporary basis; to evaluate and direct the work of the employees covered by this Agreement; to maintain, enforce, rescind or change FIU or departmental policies, procedures, rules of conduct, orders, practices, and directives not inconsistent with this Agreement; to establish or change operational standards; to determine the services to be provided by FIU and its personnel; to lay off employees as provided in Article

5; to establish requirements for employment; to promote and demote employees; and to have complete authority to exercise those rights and powers incidental thereto, including the right to alter or vary past practices as FIU may determine to be necessary for its orderly and efficient operation. Each of the rights described above shall be vested exclusively in FIU, subject only to such restrictions governing the exercise of these rights as are expressly and specifically provided in this Agreement.

16.3 The University's failure to exercise any right hereby reserved to it or its exercising any right in a particular way shall not be deemed a waiver of its right to exercise such right, nor preclude FIU from exercising the same right in some other way not in conflict with the express provisions of this Agreement.

16.4 If a civil emergency is declared under State law, the provisions of this Agreement may be suspended by FIU during the time of the declared emergency, provided that the wage rates and monetary fringe benefits shall not be suspended.

16.5 It is understood by the parties that every incidental duty connected with the operations enumerated in job descriptions is not always specifically described and employees, at the direction of management, may be required to perform other job-related duties not specifically contained in their job description.

16.6 The Union agrees that its members shall comply with all rules and regulations, including those relating to conduct and work performance.

16.7 The parties also recognize that pursuant to the Management Rights clause of this Agreement, FIU has the right to amend and modify its rules and to implement reasonable rules and regulations except as expressly provided in this Agreement.

Article 17 Totality of Agreement

17.1 FIU and FNA acknowledge that, during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to present proposals with respect to any and all matters lawfully subject to collective bargaining, and that all of the understandings and agreements arrived at by FIU and FNA thereby are set forth in this Agreement between the parties for its duration.

17.2 FIU and FNA, during the term of this Agreement, voluntarily and unqualifiedly waive the right, and agree that the other shall not be obligated, to bargain collectively with respect to any subject or matter whether or not referred to or covered by this Agreement, even though such subject or matter may not have been within the knowledge or contemplation of the parties at the time they negotiated or signed this Agreement.

17.3 Modifications. Nothing herein shall preclude FIU or FNA from mutually agreeing to alter, amend, supplement, delete, enlarge, or modify any of the provisions of this Agreement in writing. Any alterations, amendments, supplements, deletions, enlargements, or modifications of any provisions of the University personnel regulations or policies attached to this Agreement or applicable to FNA members will be governed by Article 19.

ARTICLE 18
SAVINGS CLAUSE

If ~~any~~ provision of this Agreement should be rendered or declared invalid, unlawful, or not enforceable by any court action or by reason of any existing or subsequently enacted legislation; or if the appropriate governmental body having amendatory power to change a law, rule, or regulation which ~~is~~ in conflict with a provision of this Agreement, fails to enact or adopt an enabling amendment to make the provision effective, in accordance with Section 447.309(3), Florida Statutes; then such provision shall not be applicable, performed, or enforced, but the remaining parts or portions of this Agreement shall remain in full force and effect for the term of this Agreement.

ARTICLE 19
DURATION

This Agreement shall be effective on the date of ratification by both parties and shall remain in full force and effect for three (3) years thereafter with wage reopeners (Article 7) in the fiscal years 2021-2022 and 2022-2023

ARTICLE 20
MAINTENANCE OF UNIVERSITY REGULATIONS AND POLICIES

20.1 The parties agree that the following University policies, attached to the collective bargaining agreement, are incorporated by reference herein:

- [Permanent Status](#)
- [Disciplinary Actions](#)
- [Separation from Employment](#)
- [Neutral Internal Resolution Process](#)
- [Tuition Waiver](#)
- ~~[Uniforms](#)~~

Further, FNA agrees to be bound by and abide by the University-wide policies listed at policies.fiu.edu.

20.2 An FNA-designated representative will be advised in writing of any changes in University personnel regulations or policies impacting terms and conditions of employment within fourteen (14) days prior to formal adoption. The University agrees that it will meet and confer with FNA fourteen (14) days prior to the implementation of the regulation or policies. FNA acknowledges that this meeting is not a requirement to bargain over the changes.

20.3 The University may not amend its current personnel regulations or policies applicable to the members of the bargaining unit if such a change would conflict with a term of this Agreement. In the event a change of personnel regulations or policies does not conflict with a provision of this Agreement, but constitutes an otherwise change in terms or conditions of employment, the University shall notify FNA who may then request bargaining.

20.4 This Article (and any policy referenced in this Article) shall not be subject to the Agreement's Grievance and Arbitration procedure. No alleged violation of a University regulations or policy may be redressed through the Agreement's Grievance and Arbitration procedure. Any claim by a bargaining unit member or the FNA concerning the application of any Board or University regulation or policy shall be subject to the processes defined by Neutral, Internal Resolution of Policy Disputes.

THE FLORIDA INTERNATIONAL UNIVERSITY
BOARD OF TRUSTEES

FLORIDA NURSES ASSOCIATION,
OFFICE & PROFESSIONAL EMPLOYEES
INTERNATIONAL UNION, LOCAL 713, AFL-CIO

Dean C. Colson, Chair
Chairman

Donald Slesnick
Chief Negotiator

~~Mark B. Rosenberg~~ Kenneth A. Jessell
University President
Affairs

John Berry
Director, Labor Relations & Government
Florida Nurses Association, OPEIU 713

~~Joann Cuesta-Gomez~~ El pagnier K. Hudson
Chief Negotiator

Raymundo Corrales, ARNP
Student Health Clinics ~~Services~~

Liz Marston
Senior University ~~Deputy General~~ Counsel

Alesailec Figuerola, RN
Student Health Clinics ~~Services~~

~~Kathleen Adams, Assistant~~
~~Director~~ Brenezza DaParre Garcia
Associate Vice President
~~-Student Health~~ ~~Services~~ &
Wellness

~~Marisa Guerrero~~ Claire Joseph
Division of Human Resources

Date ratified by: November 30th, 2020
Florida Nurses Association, Office & Professional Employees International Union, Local 713,
AFL-CIO

Date ratified by: ~~December 3rd, 2020~~
The Florida International University Board of Trustees

APPENDIX A – [LINK](#)

FLORIDA NURSES ASSOCIATION, OFFICE & PROFESSIONAL EMPLOYEES INTERNATIONAL UNION, LOCAL
713, AFL-CIO
DUES AUTHORIZATION FORM

APPENDIX B

STEP 1 FORM

GRIEVANCE AND ARBITRATION PROCEDURE

FIU BOARD OF TRUSTEES & FNA

RECEIPT INFORMATION

This grievance was received and filed with the University by (Check One):

_____ Mail (Circle One: certified, registered, restricted delivery, return receipt requested, regular mail); or

_____ Personal Delivery (personal delivery requires signature of recipient).

Date received by University: _____

Print Name/Signature: _____

Print Name of the Supervisor signing: _____

GRIEVANT INFORMATION

Employee

Name: _____

Department: _____

Office Phone#: _____

Division: _____

Panther ID: _____ E-Mail Address: _____

I will be represented in this grievance by (check one – representative must sign and print name on the appropriate line):

☐ FNA _____

☐ Myself _____

☐ Other _____

Name: _____

Department: _____

Office Phone#: _____

Division: _____

Mailing Address: _____

STATEMENT OF GRIEVANCE

The grievant shall present in writing his/her grievance to the appropriate Supervisor within fourteen (14) days of the occurrence and must cite the specific Articles and Sections of the Agreement allegedly violated and the specific acts or omissions giving rise to the allegations.

The Supervisor shall communicate a decision in writing to the grievant within fourteen (14) days from the date the grievance was presented to him/her. Failure of the Supervisor to respond timely shall be considered a denial of the grievance and shall entitle the grievant to appeal to Step 2.

The time limits set forth shall be strictly complied with and can only be extended by mutual agreement of the parties in writing.

Indicate your grievance in the space provided below (*Attach additional sheets, including supporting documentation, if needed*):

Indicate remedy sought:

I understand that the filing of a grievance, either prior to filing the grievance or while the grievance proceeding is in progress, constitutes a waiver of any of my rights to judicial or administrative review, pursuant to Chapter 120, Florida Statutes, or to the review of such actions under other University procedures available to address such matters. This form is in accordance with Article Four – Grievance and Arbitration Procedure of the FIU BOT/FNA Bargaining Agreement.

Signature of Grievant(s)

Date

NOTE: The grievance will not be processed unless signed by the grievant(s).

STEP 2 FORM

GRIEVANCE AND ARBITRATION PROCEDURE

FIU BOARD OF TRUSTEES & FNA

RECEIPT INFORMATION

This grievance was received and filed with the University by (Check One):

_____ Mail (Circle One: certified, registered, restricted delivery, return receipt requested, regular mail); or

_____ Personal Delivery (personal delivery requires signature of recipient).

Date received by University: _____

Print Name/Signature: _____

Print Name of the Supervisor signing: _____

GRIEVANT INFORMATION

Grievant

Name: _____

Department: _____

Office Phone#: _____

Division: _____

Panther ID: _____

E-Mail Address: _____

I will be represented in this grievance by (check one – representative must sign and print name on the appropriate line):

☐ **FNA** _____

☐ **Myself** _____

☐ **Other** _____

Name: _____

Department: _____

Office Phone#: _____

Division: _____

Mailing Address: _____

STATEMENT OF GRIEVANCE

If the grievance is not settled at the first step, the grievant, within fourteen (14) days of the answer in Step 1, or if no answer was received under Step 1, within fourteen (14) days of the date the answer was due, may appeal in writing to the Vice President for Human Resources or designee.

Date of Step 1 Decision: _____

The Vice President for Human Resources or designee shall investigate the alleged grievance and, shall, within twenty (20) days of receipt of the written grievance, or other mutually agreeable date, conduct a meeting between the Vice President for Human Resources or designee, other FIU representatives as necessary, the grievant and the grievant's Union representative.

The Vice President for Human Resources or designee shall notify the aggrieved employee of a decision no later than fifteen (15) calendar days following the meeting of the parties.

The time limits set forth shall be strictly complied with and can only be extended by mutual agreement of the parties in writing.

Indicate your grievance in the space provided below. In the grievance, you must cite the specific provision of the Agreement allegedly violated and the specific acts or omissions giving rise to the allegations. *(Attach additional sheets, including supporting documentation, if needed):*

Indicate remedy sought:

I understand that the filing of a grievance, either prior to filing the grievance or while the grievance proceeding is in progress, constitutes a waiver of any of my rights to judicial or administrative review, pursuant to Chapter 120, Florida Statutes, or to the review of such actions under other University procedures available to address such matters. This form is in accordance with Article Four – Grievance and Arbitration Procedure of the FIU BOT/FNA Local 713 Bargaining Agreement.

Signature of Grievant(s)

Date

NOTE: The grievance will not be processed unless signed by the grievant.

A copy of the following documents must be attached to this Request at the time of its filing with Human Resources.

Original grievance form

Step 1 Decision

All attachments to Step 1 Decision

STEP 3 FORM

GRIEVANCE AND ARBITRATION PROCEDURE

FIU BOARD OF TRUSTEES & FNA

RECEIPT INFORMATION

This grievance was received and filed with the University by (Check One):

_____ Mail (Circle One: certified, registered, restricted delivery, return receipt requested, regular mail); or

_____ Personal Delivery (personal delivery requires signature of recipient).

Date received by University: _____

Print Name/Signature: _____

Print Name of the Supervisor signing: _____

GRIEVANT INFORMATION

Grievant

Name: _____

Department: _____

Office Phone#: _____

Division: _____

Panther ID: _____ E-Mail Address: _____

If a grievance is not resolved at Step 2, FNA may appeal the decision to Arbitration and request that an arbitrator be selected within twenty (20) days after receipt of the Step 2 decision.

The arbitrator shall issue his/her decision not later than thirty (30) days from the date of the closing of the hearing or from the deadline for the submission of briefs, whichever is later.

Florida Nurses Association, Office & Professional Employees International Union, Local 713, AFL-CIO (FNA) hereby gives notice of intent to proceed to arbitration in connection with the decision of the Division of Human Resources dated _____ and received by the president of FNA Local 713 grievant on _____ in this grievance of:

Name: _____ Date: _____

STATEMENT OF GRIEVANCE

The following statement of issue(s) before the arbitrator is proposed:

Signature of FNA Representative

Date

Employee authorization

I hereby authorize FNA to proceed to arbitration with my grievance. I also authorize FNA and the FIU Board of Trustees or its representatives to use, during the arbitration proceedings, copies of any materials in my evaluation file pertinent to this grievance and to furnish copies of the same to the arbitrator.

Signature of grievant(s)

Date

Note: This request for arbitration will not be processed unless signed by grievant(s).

This notice should be sent to:
Florida International University
Division of Human Resources
Employee & Labor Relations
11200 SW 8th Street, PC 236
Miami, FL 33199

**THE FLORIDA INTERNATIONAL UNIVERSITY BOARD
OF TRUSTEES**

And

**FLORIDA NURSES ASSOCIATION, OFFICE &
PROFESSIONAL EMPLOYEES INTERNATIONAL UNION,
LOCAL 713, AFL-CIO (LOCAL 713)**

Policies

2023-2026~~0-2023~~

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PERMANENT STATUS

Purpose:

To define permanent status for full time and regularly scheduled part-time employees assigned to work in the Student Health [Clinics](#)~~Services~~ occupying the following positions: Registered Nurse; Senior Registered Nurse; Registered Nurse Specialist; Advanced Registered Nurse Practitioner; Register Nurse Supervisor; Senior Register Nurse Supervisor and Senior Registered Nurse Specialist “Nurse(s).”

Policy:

Nurses earn “permanent status” in a class after successfully completing the probationary period. Permanent status provides the employee with the right to appeal any severe disciplinary action while serving in the class. The exclusive procedure for appeals of severe disciplinary action shall be as set forth in the Disciplinary policy.

The standard probationary period for all Nurses shall be six (6) months from the date of hire. The standard probationary period shall be six months from the date of promotion for newly promoted personnel. During the probationary period, an employee can be terminated with or without cause and with or without notice and does not have the right to appeal the termination.

Prior to the expiration of the probationary period, the Director for Student Health [Clinics](#)~~Services~~ will make a decision regarding retention of the employee in a permanent status position. The failure of an employee to pass or complete probation shall not be appealable to any authority; however, an employee who fails to pass a promotional probation period will be returned to his or her prior position.

Disciplinary Actions

Purpose: To establish a policy and provide guidelines for the application of disciplinary actions for University employees

Policy:

A Pre-Disciplinary Review (PDR) must be conducted in conjunction with Human Resources before severe disciplinary action is imposed. The PDR shall provide a level of review for severe disciplinary actions recommended by supervisors. Human Resources will ensure that all pertinent information is obtained so that employee behavior which necessitates disciplinary action shall be determined by the employee’s supervisor in consultation and with the approval of the Vice President for Human Resources or his/her designee, or the Provost or his/her designee in the case of a faculty member. The University reserves the right to impose discipline at any level, including immediate termination.

This Policy does not apply to any disciplinary action resulting from any violation of the FIU Regulation-105 Sexual Harassment (Title IX) or Sexual Misconduct. FIU Regulation 105 Sexual Harassment (Title IX) or Sexual Misconduct will govern the disciplinary process if there is a violation of such regulation.

Definitions:

- Severe Disciplinary Actions – defined as suspensions, demotions and involuntary terminations.
- Suspension - occurs when an employee is taken off duty for a day or more without pay.
- Involuntary Demotion - occurs when an employee is involuntarily subjected to a reduction in pay and higher functioning duties are permanently removed resulting in a lower level position.
- Involuntary Termination - occurs when an employee is permanently separated from University employment.

SEPARATIONS FROM EMPLOYMENT

Purpose:

To administer a uniform process for employee separations

Policy:

Separations from University employment may include the following:

Termination -- Occurs when an employee is permanently separated from University employment for cause unless the employee is in a probationary status. Termination may be preceded by corrective action. Unsatisfactory performance or misconduct may warrant immediate dismissal.

Resignation - Occurs when an employee initiates a termination by notifying the immediate supervisor of his/her intention to resign. Employees will give two (2) weeks' written notice of resignation. A resignation may not be rescinded by the employee without concurrence of the University.

Job Abandonment - Occurs when an employee is absent without approved leave for three (3) or more consecutive scheduled workdays. Such action represents an abandonment of position, and the employee will be automatically terminated. If the employee's absence is for reasons beyond the control of the employee and the employee notifies the University as soon as practicable, the University will review the circumstances surrounding the absence on an individual basis to determine if it is to be considered abandonment of position.

Neutral Internal Resolution Process

Purpose: To establish and maintain a process for resolving disputes concerning BOT-FNA Policies attached to the BOT-FNA Agreement and applicable University Policies that impact the terms and conditions of employment of the FNA unit members (the "Policies"). This policy covers any discipline involving a written reprimand, suspension, demotion, or involuntary termination.

Policy:

1. Policy/Informal Resolution.

The parties agree that all problems should be resolved, whenever possible, before the filing of a complaint neutral, internal policy dispute resolution (the "Neutral Internal Resolution Process") will not normally be

and encourage open communications between administrators and employees so that resort to the formal necessary. The parties further encourage the informal resolution of complaints whenever possible. At each step in the Neutral Internal Resolution Process, participants are encouraged to pursue appropriate modes of conflict resolution. The purpose of this Policy is to promote a prompt and efficient procedure for the investigation and resolution of complaints relating to the Policies. The procedures set forth shall be the sole and exclusive method for resolving the complaints of employees as defined herein.

2. Resort to Other Procedures and Election of Remedy.

The commencement of legal proceedings against the University in a court of law or equity, or before the Public Employee Relations Commission, for misapplication or misinterpretation of the terms of any Policy, shall be deemed an election of remedy and shall be a waiver by the party commencing the proceeding of its/their right to resort to the Neutral Internal Resolution Process and any complaint that has already been filed over the same subject will be dismissed. The filing of a complaint under this Policy constitutes a waiver of any rights to judicial review of agency action pursuant to Chapter 120, Florida Statutes, or to the review of such actions under other University procedures available to address such matters. The commencement of proceedings pursuant to Section 120.57, Florida Statutes, for misapplication or misinterpretation of the terms of any Policy shall be deemed an election of remedy and shall be a waiver by the party commencing the proceeding of its/their right to resort to the Policy Dispute Resolution Process and any complaint that has already been filed over the same subject will be dismissed. Except as otherwise stated, the Neutral Internal Resolution Process is the sole remedy for any alleged violations of any Policy. In the event that the complaint involves an act or omission which could be handled by either this Policy or the Grievance and Arbitration Procedure set forth in the collective bargaining agreement, the filing of a complaint under this Policy constitutes a waiver of the filing of a grievance under the Article.

This Policy does not apply to any disciplinary action resulting from any violation of the FIU Regulation-105 Sexual Harassment (Title IX) or Sexual Misconduct. FIU Regulation 105 Sexual Harassment (Title IX) or Sexual Misconduct will govern the disciplinary process if there is a violation of such regulation.

3. Definitions and Forms as used in this Policy:

- (a) Complaint – the term “complaint” shall mean a dispute concerning the interpretation or application of a specific term or provision of a Policy, subject to those exclusions appearing in the Policy. A complaint shall be filed on the applicable Complaint Form, attached to this Policy as Appendix A.
- (b) Complainant – the term “complainant” shall mean an employee or group of employees who has/have filed a complaint in a dispute over a provision of a Policy that confers rights upon the employee(s). FNA may file a complaint in a dispute over a provision of a Policy that confers rights upon a group of employees or upon FNA.
- (c) Complaint Forms – the “complainant forms” constitute the Complaint (the “Step 1 form”), Request for Step 2 Review (the “Step 2 form”), and Notice of Demand for Neutral Internal Resolution by a Panel (the “Step 3 form”). The parties may agree to consolidate complaints of a similar nature to expedite the review process. In a consolidated complaint, one appropriate Form may be attached, bearing the signatures of the complainants.
- (d) Days - the term "days" shall mean business days.
- (e) The end of the day. The term "end of the day" shall mean 5 P.M.
- (f) University Representative - the term “University Representative” means the Director of

Employee Labor Relations or designee.

4. Burden of Proof.

In all complaints, except disciplinary complaints in accordance with the BOT-FNA Policy on Disciplinary Actions, the burden of proof shall be on the complainant. In disciplinary complaints, the burden of proof shall be on the University.

5. Representation.

FNA shall have the exclusive right to represent any employee in a complaint filed hereunder unless an employee elects self-representation or to be represented by legal counsel. If an employee elects not to be represented by FNA, the University shall promptly inform FNA in writing of the complaint. No resolution of any individually processed complaint shall be inconsistent with the terms of any applicable Policy, and for this purpose, FNA shall have the right to have an observer present at all meetings called for the purpose of discussing such complaint and shall be sent copies of all decisions at the same time as they are sent to the other parties.

6. Complaint Representatives.

FNA shall annually furnish to the University a list of all persons authorized to act as complaint representatives and shall update the list as needed. FNA complaint representative shall have the responsibility to meet all duties and responsibilities incidental to the assigned workload. Some of these activities are scheduled to be performed at particular times. Such representative shall have the right during times outside of those hours scheduled for these activities to investigate, consult, and prepare complaint presentations and attend complaint hearings and meetings. However, such investigations and consultations will not interfere with the normal operations of the University. Should any complaint hearings or meetings necessitate the rescheduling of assigned duties, the representative may, with the approval of their supervisor, arrange for the fulfillment of such duties. Such approval shall not be unreasonably withheld.

7. Appearances.

- (a) When a complainant and/or complaint representative participates in one of the steps in the Neutral Internal Resolution Process during scheduled hours or in a meeting among the complainant, the complainant representative, complainant's counsel or FNA representative and the University, the complainant, complainant and/or complaint representative's compensation shall neither be reduced nor increased for time spent in those activities.
- (b) Prior to participation in any such proceedings, conferences, or meetings, the complainant and/or complaint representative shall make arrangements acceptable to the applicable supervisor for the performance of the employee's duties. Approval of such arrangements shall not be unreasonably withheld. Time spent in such activities outside scheduled hours shall not be counted as time worked.

8. Time Limits; Date of Receipt.

All time limits in this Policy may be extended by mutual agreement of the parties in writing. For the purpose of determining deadlines for actions as set forth in this Policy, the parties agree that, if said deadline falls on a weekend or University recognized holiday, the deadline for said action shall be on the following business day. Mutual agreement may be evidenced by email exchanges. Upon the failure of the

complainant or FNA, where appropriate, to file an appeal within the time limits provided in this Policy, the complaint shall be deemed to have been resolved at the prior step. The date of receipt shall not be included in the count of days. All complaint forms shall be dated when the complaint is received by the applicable University official described below depending on the step. Compliance with any time limit under this Policy shall be determined by the date-stamped receipt executed by the office receiving the complaint or the person receiving the decision. If there is difficulty in meeting any time limit in Step 1 or Step 2, the FNA representative may sign such documents for the complainant, however, complainant's signature shall be provided prior to the Step 2 meeting.

9. Copy of Personnel File

Copies of the personnel file may be furnished upon request at a cost of \$0.15 per page. However, in the event an employee files a complaint under the Neutral Internal Process Policy, the employee has the right to one (1) copy of his or her personnel records at no cost.

Procedures:

Step 1

An employee having a complaint about the application of Policy provision shall file a fully executed Step 1 form with his/her supervisor within seven (7) days of the act or omission giving rise to the complaint or the date on which the employee knew or reasonably should have known of such act or omission if that date is later. The Step 1 form (attached in Appendix A) must be submitted in writing and shall be signed by the complainant(s).

Discussions will be informal for the purpose of settling differences in the simplest and most effective manner. The supervisor shall communicate a decision in writing to the complainant and/or complainant's representative within ten (10) days from the date the complaint was presented to him/her. Failure of the supervisor to timely respond shall be considered a denial of the complaint and shall entitle the complainant to appeal to Step 2.

Step 2

(a) Filing. If the complaint has not been satisfactorily resolved at the Step 1 or if the supervisor has failed to respond within the Step 1 deadlines, the complainant or FNA (upon request of the complainant) may proceed to Step 2 by filing a fully executed Step 2 form (attached). The Step 2 form must be filed with the Vice President of Human Resources or designee within seven (7) days after receipt of the Step 1 decision by the complainant and/or complainant's representative or when the answer was due in the Step 1 process.

(b) The Vice President for Human Resources or designee shall investigate the alleged complaint and shall, within fifteen (15) days or other mutually agreeable date of receipt of the written complaint, conduct a meeting between the Vice President for Human Resources or designee, other University representatives as necessary, the complainant and/or the complainant's Union representative. At the Step 2 meeting, the complainant shall have the right to present any evidence in support of the complaint. The parties present at the Step 2 meeting shall discuss the complaint. Any party bringing legal counsel to the Step 2 meeting shall provide at least five (5) days' advance written notice to all other parties. The complainant may bring an interpreter to the Step 2 meeting at his or her own cost.

(1) Documents. In advance of the Step 2 meeting, the complainant shall have the right, upon written request to the Vice President of Human Resources or designee, to a copy of any identifiable

documents relevant to the complaint.

(2) Decision. The Vice President for Human Resources or designee shall notify the complainant of a decision in writing no later than seven (7) days following the meeting. A copy of the decision shall be sent to the complainant, the complainant's representative, and FNA (if complainant elected self-representation or representation by legal counsel). Failure of the Vice President for Human Resources or designee to timely respond shall be considered a denial of the complaint and shall entitle the complainant to appeal to Step 3. If the University fails to provide a Step 2 decision within the time limits provided in this Policy due to a University-caused delay, the University shall pay all costs of the Step 3 process should the employee or FNA elect to take the complaint to that step.

Step 3 - Neutral, Internal Resolution of Policy Disputes by a Panel

(a) Filing. If the complaint has not been satisfactorily resolved at Step 2 or the Vice President of Human Resources or designee has failed to respond within the Step 2 deadlines, the complainant or FNA (upon the request of the complainant) may proceed to Step 3 by filing a fully executed Step 3 form (attached). The Step 3 form must be filed with the Vice President of Human Resources or designee within seven (7) days after receipt of the Step 2 decision by the complainant and/or complainant's representative or when the answer was due in the Step 2 process. The complaint may be withdrawn by the complainant or by the FNA representative at any point prior to issuance of the Panel's decision by providing written notification to the Vice President of Human Resources or designee.

(b) Selection of the Panel Members. Within seven (7) days after receipt of the Step 3 form, representatives of the University and FNA shall designate their representatives to the Panel using the method described below.

(1) The Vice President of Human Resources or designee shall appoint one member of the Panel who shall be a current or former University employee or University alumni.

(2) The FNA President or designee shall appoint one member of the Panel who shall be a current or former University employee or University alumni.

(3) The third member of the Panel shall be a professional labor mediator. Each party shall provide the other party with a list of five (5) potential members for the third member of the Panel. Each party shall alternatively strike a potential Panel member from the list until one remains with a coin toss used to determine which party strikes first. No person involved in any business, employment or other relationship with the University that could reasonably be presumed to create a conflict of interest with that person's obligations as a neutral mediator of disputes involving the University shall be eligible for inclusion as the third member of the Panel.

(c) All persons designated to be members of the Panel shall be able to serve on short notice. In addition, the University and FNA shall jointly provide all Panel members with orientation and training in the Policies including this Neutral Internal Resolution of Policy Disputes procedure. The costs of such training will be shared equally by the University and FNA.

(d) The third member shall serve as the Chair of the Panel. The Panel shall be governed by the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes of the National Academy of Arbitrators, the American Arbitration Association, and the Federal Mediation and Conciliation Service.

(e) Authority of the Panel.

(1) Only complaints based on events or occurrences which occur after the date of the execution of the current collective bargaining agreement with the parties (the "Agreement") can be processed under this Policy. After the expiration of the current Agreement, there is no duty upon the that person's obligations as a neutral mediator of dispute

University to process any complaint unless the facts upon which the complaint is based occurred prior to the expiration of the Agreement. The Panel shall not receive into evidence nor rely upon any past practices that occurred after the date of the execution of the current Agreement.

(2) Unless the parties agree in writing to the contrary, only one complaint may be submitted to the Panel at any one hearing.

(3) The Panel shall not add to, subtract from, modify, ignore, or alter the terms or provisions of any Policy, or the provisions of applicable law, rules, or regulations having the force and effect of law. Neutral Internal Resolution of Policy Disputes by a Panel shall be confined solely to the application and/or interpretation of Policies and the precise issue(s) submitted for Neutral Internal Resolution of Disputes. In rendering its decision, the Panel shall refrain from issuing any statements of opinion or conclusions not essential to the determination of whether the act or event giving rise to the complaint violated applicable University regulation or policy.

(4) Where a University official has made a judgment involving the exercise of discretion, the Panel shall not substitute its judgment for that of the University official. Nor shall the Panel review such decision except for the purpose of determining whether the decision has violated a Policy.

(5) If the Panel determines that a Policy has been violated, the Panel shall direct the University to take appropriate action. The Panel may award back salary where the Panel determines that the employee is not receiving the appropriate salary from the University, but the Panel may not award other monetary damages or penalties. The Panel's award may be retroactive based on the equities each case may demand, but in no case shall an award be retroactive to a date earlier than thirty (30) days prior to the date the complaint was originally filed under this Policy.

(f) Conduct of Hearing. The Panel shall hold the hearing in Miami-Dade County unless otherwise agreed by the parties in writing. The hearing shall commence within sixty (60) days of all Panel members' acceptance of selection, or as soon thereafter as is practicable. The parties shall stipulate to the issue(s) prior to the hearing before the Panel. If the parties are unable to stipulate to the issue(s) prior to such hearing, the parties shall proceed to a hearing on applicability of this procedure based on either substantive issues and, whenever possible, determined by means of a hearing conducted by conference call. The Panel shall have ten (10) days from the hearing on applicability to render a decision on the applicability issues. If the process is judged to be applicable to the complaint, the Panel shall then proceed to hear the substantive issue(s) in accordance with the provisions of this Policy. The Panel shall issue the decision within thirty (30) days of the close of the hearing on the substantive issue(s) or the submission of briefs, whichever is later, unless additional time is agreed to by the parties in writing. The decision shall be in writing and shall set forth findings of fact, reasoning, and conclusions on the issues submitted. Except as expressly specified in this Policy, the provisions of the Florida Arbitration Code, Chapter 682, Florida Statutes, shall not apply. Except as modified by the provisions of this Policy, Neutral Internal Resolution of Policy Disputes by a Panel, proceedings shall be conducted in accordance with the Labor Arbitration Rules and Procedures of the American Arbitration Association.

(g) Effect of Decision. The decision or award of the Panel shall be final and binding upon the University, FNA, and the complainant. If any party believes that the Panel acted outside or beyond the Panel's jurisdiction, that party may appeal the decision to an appropriate court of law pursuant to Chapter 682 of the Florida Statutes.

(h) For purposes of venue in any judicial review of a Panel's decision issued under this Policy, the parties agree that such an appeal shall be filed in the courts in Miami-Dade County, Florida unless both parties specifically agree otherwise in a particular instance. In an action commenced in Miami- Dade County, neither the University nor FNA will move for a change of venue based upon the defendant's

residence in-fact if other than Miami-Dade County.

(i) Fees and Expenses. All fees and expenses of the Neutral Internal Resolution of Policy Disputes by a Panel shall be divided equally between the parties unless mutually agreed otherwise in writing. Each party shall bear the cost of preparing and presenting its own case. However, in the event the complaint is withdrawn after the selection of the Panel, the party withdrawing the complaint shall be responsible for the full cost of the Panel's fee (if any) unless otherwise mutually agreed by the parties in writing. The expense of obtaining a hearing room, if any, shall be equally divided between the parties. The cost of the written transcript, if requested by both parties, will be shared by both parties.

(j) The complainant or FNA may abandon or settle a complaint.

(k) The complainant or FNA shall have only one opportunity to amend or supplement the complaint. No complaint can be amended or supplemented after Step 2.

10. Provisions Applicability to the Policy.

(a) Filings and Notification. All documents required or permitted to be issued or filed pursuant to this Policy may be transmitted via email, fax, United States mail by certified mail with return receipt requested, or any other recognized delivery service that provides documentation of delivery to the recipient.

(b) Precedent. No complaint informally resolved or by using this Neutral Internal Policy Dispute Resolution Process shall constitute a precedent for any purpose unless agreed to in writing by the University Vice President of Human Resources or designee, the complainant, and FNA.

(c) Reprisal. No reprisal of any kind will be made by the University or FNA against any complainant, any witness, any FNA representative, or any other participant in the Neutral Internal Resolution Process by reason of such participation.

(d) Records. All written materials pertinent to a complaint shall be maintained separately from the evaluation file of the complainant or witnesses, except (1) at the request of the complainant or witness that specific materials be included in his or her own evaluation file, or (2) where the terms of the decision or a settlement direct that a copy of the decision or settlement agreement be placed in the evaluation file of a complainant or witness. All decisions or settlement agreements resulting from complaints processed pursuant to this Policy shall specify whether or not a copy of the decision or settlement agreement is to be placed in the evaluation file(s) of any complainant or witness.

11. Expedited Dispute Resolution Procedure for An Alleged Violation of the Conflict of Interest/Outside Activity Policy.

(a) The period for informal resolution of a dispute alleging a violation of the provisions of the Policy on Conflict of Interest and Outside Activity shall be five (5) days from the date the complaint is filed. If not resolved by the supervisor by that date, the dispute shall be heard at Step 2 by the Vice President of Human Resources or designee no more than seven (7) days after a request for a Step 2 review has been filed. The Vice President of Human Resources or designee shall issue a Step 2 decision no more than three (3) days after the Step 2 meeting. A request for resolution by the Step 3 Panel shall be filed with the Vice President of Human Resources or designee within seven (7) days after receipt of the Step 2 decision or if the supervisor has failed to respond within the Step 1 deadlines. The Step 3 Panel shall be selected using the same process as for Step 3 no more than seven (7) days

after a request for a resolution by a Neutral Panelist is received. The Step 3 Panel will hold a hearing within seven (7) days after being selected. The Step 3 Panel shall issue a memorandum of decision within seven (7) days following the conclusion of the Step 3 hearing to be followed by a written opinion and award in accordance with the provisions of this Policy.

- (b) All other provisions of this Policy shall apply to these complaints except as noted above.

~~UNIFORMS~~

~~The University agrees to provide two sets of scrub emblazoned with the FIU identification logo and one polo shirt annually (fiscal year).~~