

## STUDENT CODE OF CONDUCT

### Statement of Philosophy

Florida SouthWestern State College is committed to maintaining an environment that fosters learning and personal development. All members of the Florida SouthWestern State College community are responsible for their own behavior and are expected to be familiar with the rules and regulations of the College. Students are expected to uphold these standards of behavior and to respect the rights of others.

Definitions: This section of the Student Code of Conduct outlines the definitions of words commonly used in the Code.

### Student

1. All persons taking FSW courses, both full-time and part-time; or
2. All persons who are not officially enrolled for a particular term but have a continuing relationship with FSW or intend to enroll in the next term. This provision is intended to include those persons enrolled in the spring and fall semesters who engage in misconduct during the summer, students who are first time enrollees, or applicants, who engage in misconduct prior to the time of enrollment; and/or
3. All people who are attending an FSW course although they may be enrolled students in other educational institutions.
4. This definition also includes persons who may have committed violations of the code of conduct while a student but may no longer be actively enrolled at the College.

### Campus

1. Campus means all land, buildings, facilities, and other property-including adjacent streets and sidewalks in the possession of or owned, used, or controlled by FSW.
  - I. SCOPE
    - A. Jurisdiction: Florida SouthWestern State College's jurisdiction over student conduct issues is limited to conduct that occurs on College premises, or during college sponsored programs, or that adversely affects the College Community. However, when off-campus activities have a negative impact on the College Community and/or our external Community and partners, hinder the College in its pursuit of learning objectives, reflect poorly on the College, or are potentially harmful to other members of the College Community, Florida SouthWestern State College will exercise its right to sanction involved students.
    - B. Violation of Local, State, Federal Law: Student Code of Conduct proceedings may be instituted based upon a student's alleged conduct that, if committed, could violate criminal law or the Student Code of Conduct without regard to the pendency of civil or criminal litigation. Proceedings under the Student Code of Conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings.

Student Code of Conduct proceedings may also be instituted based upon a student's alleged conduct that, if committed, could violate other College policies, College procedures, written agreements, and this Code of Conduct.

II. CONDUCT VIOLATIONS

The aiding, abetting, inciting of, attempting to commit or committing of any act or behavior by a student which tends to interfere with or otherwise disrupts the orderly conduct, process, function, and/or interests of the College is prohibited and subjects a student to sanctions under the Student Code of Conduct. Such acts and behaviors include but are not limited to the following:

A. Academic Misconduct

- i. Cheating
- ii. Plagiarism
- iii. Any other academic misconduct which violates the rules governing academic integrity at the College.

B. Alcohol and Illegal Drugs

- i. Possession or use of alcoholic beverages on campus or at a college- approved function for those individuals under the age of 21.
- ii. Possession or use of alcoholic beverages, other than at a college function where service of alcohol has been approved by college administration, by students of any age.
- iii. Possession or use of illegal drugs on campus or at any College-sponsored program or activity.
- iv. Purchase, distribution, delivery or sale of illegal drugs.
- v. Possession or use of illegal drug paraphernalia.
- vi. Driving while under the influence of alcohol or any illegal substances.
- vii. The misuse, purchase, distribution, sale, or delivery of a prescription drug.
- viii. The non-prescribed use, inhalation or ingestion of a substance which alters a student's mental state.

C. Campus Disturbances and Demonstrations, Parades, or Picketing

- i. Unlawful interference with academic freedom or the freedom of speech of any member of the College Community and intentional interference with the educational function of the College.

D. Commercial Solicitation and Fundraising on Campus

- i. Students are prohibited from entering the grounds or buildings of Florida SouthWestern State College for the purpose of transacting business with students, faculty, or other College personnel, unless they have been given permission by the appropriate College official.

E. Computers

- i. Any act that violates the Technology Acceptable Use Policy of the College-policy.
- F. Disruptive Conduct
- i. Obstructing or disrupting any College activity including teaching, research, administrative functions, social activities, and public service functions.
  - ii. Engaging in any obscene, profane, reckless, destructive, or unlawful course of conduct.
  - iii. Failure to comply with a directive of a college official or any non-College law enforcement official.
  - iv. Providing false information to a College Official or to any public official that has a connection or impacts the College community, including disciplinary hearing bodies. This also includes falsifying the Admissions Application or other documents submitted to the College.
  - v. Acts that impair, interfere with, or obstruct the orderly processes and functions of the College or the rights of other members of the College Community. This includes acts that occur both inside and outside of the classroom and may involve the use of electronic or cellular equipment.
  - vi. Any act which deliberately obstructs or interferes with the normal flow of pedestrian or vehicular traffic.
  - vii. Only currently enrolled students are authorized to be in classrooms, except for situations involving an approved accommodation for a student with a disability. All other persons require express prior approval of the Academic Dean.
  - viii. Any acts that disrupt the College disciplinary process.
- G. Endangerment
- i. Physical violence towards another person or group.
  - ii. Intentional touching or striking a person against his/her will.
  - iii. An action that endangers the health, safety, or well-being of oneself or another person or group.
  - iv. Intentional threat by word or act to do violence to a person or persons.
  - v. A false report of an explosive or incendiary device, which constitutes a threat or bomb scare.
  - vi. Retaliation against a complainant or other person alleging misconduct.
  - vii. Interference with the freedom of another person to move about in a lawful manner.
- H. Fire and Safety
- i. Inappropriate activation of any emergency warning equipment or the false reporting of any emergency.
  - ii. Illegal possession, removal of, damage to or tampering with fire safety or other emergency warning equipment.

- iii. Failure to evacuate a college building or facility when a fire alarm is sounded.
- iv. Intentionally or recklessly causing a fire that may result in damage to college property or harm to an individual.
- I. Gambling
  - i. Engages in or offers games of chance for anything of value or other gain in violation of the laws of the State of Florida.
- J. Harassment
  - i. Conduct, (not of a sexual nature), that creates an intimidating, hostile, or offensive environment for another person.
  - ii. Action(s) or statement(s) that threaten harm or intimidate another.
  - iii. Acts that invade the privacy of another person.
  - iv. Stalking: to follow or otherwise contact another person repeatedly, to put that person in fear for their life or personal safety.
  - v. Unwelcome verbal or physical abuse which causes the recipient discomfort or humiliation, or which interferes with the recipient's academic performance or employment.
  - vi. Unlawful harassment related to an individual's race, color, sex, religion, national origin, ethnicity, age, marital status, veteran's status, genetic information, sexual orientation, pregnancy, or physical disability is a violation of this policy.

Florida SouthWestern State College maintains a separate set of procedures to address complaints that entail accusations of unlawful discrimination, stalking or harassment. These types of complaints are addressed through Florida SouthWestern State College Board Policy 6Hx6:2.03. Students should notify the Equity Officer for assistance in resolving any discrimination or harassment issues. Please see the Discrimination and Harassment Complaint Procedure (COP05-0107) for more information.

- K. Hazing
 

Any action or situation that recklessly or intentionally endangers the mental or physical health or safety of a student for the purposes including but not limited to of initiation or admission into or affiliation with any organization operating under the sanction of Florida SouthWestern State College. Such terms include, but are not limited to, pressuring or coercing the student into violating any state or federal law, any brutality of a physical nature, such as whipping, beating, branding, exposure to the elements, forced consumption of any food, liquor, drug, or other substance, or other forced physical activity which could adversely affect the physical health or safety of the student, and also includes any activity which would subject the student to extreme mental stress, such as sleep deprivation, forced exclusion from social contact, forced conduct which could result in extreme embarrassment, or other

forced activity which could adversely affect the mental health or dignity of the student.

Hazing does not include customary athletic events or other similar contests or competitions or any activity or conduct that furthers a legal and legitimate objective. 3. Please refer to Florida State Statutes Section 1006.63 for more information.

L. Identification

- i. Permits another person to use their identification.
- ii. Inappropriate use of another person's identification.
- iii. Impersonation or misrepresenting the authority to act on behalf of another or the College. Forgery, alteration or misuse of identification, documents, records, keys, or access codes.
- iv. Manufacture, distribution, delivery, sale, purchase, possession, or use of false identification.

M. Property

- i. The intentional or reckless damage, misuse or destruction of public property or property of another.
- ii. Possession, sale, or purchase of property or services that are known or, should have been known to have been stolen.
- iii. Enters or uses public property or property of another without the proper consent or authorization.
- iv. No swimming/wading is allowed on campus lakes.
- v. No pets or animals are allowed on campus unless that animal is assisting a person who has a disability, or if the pet is present on campus for a specific college-sanctioned event or activity
- vi. The use of any recreational wheeled device, including, but not limited to skateboards, hover boards, and bicycles, inside any campus building, including Light House Commons, is prohibited.
- vii. Except for approved recreational, educational, or research activities, no person shall disturb or harm any wildlife which is found on campus.

N. Sexual Misconduct

- i. Florida SouthWestern State College maintains a separate set of procedures to address complaints that entail sexual misconduct. Students should notify the Title IX Coordinator for assistance in resolving any sexual misconduct or sexual harassment issue.

O. Tobacco/Electronic Cigarettes

- i. Tobacco use is prohibited on all property and in all facilities owned, leased or operated by Florida SouthWestern State College, including all vehicles owned or rented by the College. There are no designated smoking areas on such College property. Tobacco use includes all types of tobacco and tobacco-like products including smoke-less tobacco and any other smoking or smoking simulation products including electronic cigarettes.

Tobacco is defined as any product made of tobacco including, but not limited to, cigarettes, cigars, cigarillos, hookahs, pipes, and any smokeless tobacco product. The use of any tobacco product, whether intended to be lit or not, which includes smoking as well as the use of electronic cigarette or any other device intended to simulate smoking and the use of smokeless tobacco is prohibited on college-owned, operated, or leased property.

P. Weapons

- i. Except as authorized by Florida or federal law, on-campus possession, or use of firearms (even with a permit), explosives, knives and other weapons or dangerous articles or substances, including but not limited to, non-lethal weapons such as pellet guns, look-alike weapons, or the use of any item as a weapon.
- ii. Off-campus, illegal possession or use of firearms, explosives or other weapons or dangerous articles or substances.
- iii. Except as authorized by Florida or federal law, off-campus possession of ammunition or other weapons and/or setting off any explosive device, fireworks or flammable liquid or objects.

Q. FSW Safety in Private Spaces Policy (Violation of Florida Statute § 553.865 “Safety in Private Spaces Act”)

As provided by Section 553.865, F.S., willfully entering a restroom or changing facility designated for the opposite sex on the premises of the College and refusing to depart when asked to do so by any College administrative personnel, faculty member, security personnel, or law enforcement, except when entering for these purposes:

- i. To accompany a person of the opposite sex for the purpose of assisting or chaperoning a child under the age of 12, an elderly person as defined in s. 825.101, F.S., or a person with a disability as defined in s. 760.22, F.S., or a developmental disability as defined in s. 393.063, F.S.;
- ii. For law enforcement or governmental regulatory purposes;
- iii. For the purpose of rendering emergency medical assistance or to intervene in any other emergency where the health or safety of another person is at risk;
- iv. For custodial, maintenance, or inspection purposes, provided that the restroom or changing facility is not in use; or;
- v. If the appropriate designated restroom or changing facility is out of order or under repair and the restroom or changing facility designated for the opposite sex contains no person of the opposite sex.

Note: Administrative personnel, faculty members, security personnel, and law enforcement personnel have a right to file a complaint with the Attorney General of Florida alleging that FSW has failed to meet the minimum requirements set forth in §553.865.

Disciplinary procedures for violations of the FSW Code of Conduct are detailed later in this document.

R. Other Violations

- i. Violation of Federal or State law or local ordinance on or off campus.
- ii. Aids or abets any other violation of Federal law, State law or local ordinance.
- iii. Failure to Complete Sanctions: A student who fails to adhere to or complete sanctions will have a disciplinary hold placed on their record. This hold will affect the student's ability to register for classes and the student may receive additional charges under the Student Code of Conduct. Disciplinary holds will not be removed until the sanctions are completed.
- iv. Violation of any other College regulation or policy as described in the College Catalog, Student Handbook, College Housing Contract, the Guide to Residence Living, other College housing publications, Board of Trustees Policies, College Operating Policies, and Student Government Association manuals/policies, all of which are hereby adopted by reference.

III. Sanctions

Florida SouthWestern State College makes every attempt to provide an educational sanction that will help a student to make better choices in the future. The educational sanction applied will become progressively more demanding if the student repeats violations, demonstrating that learning has not taken place. An accumulation of a variety of violations may result in severe sanctions such as suspension, expulsion, or negative notation on a transcript. Academic dishonesty and violations affecting the health, safety and wellbeing of the community are deemed the most severe and may result, upon the first violation, in a negative notation being placed on a transcript, suspension, or expulsion.

Student Conduct Sanctioning is intended:

- To make sure the student sanctioned has learned from the experience.
- To educate the student so he or she does not commit the violation again.
- To offer the student the opportunity to make good on a mistake.
- To ensure that College expectations regarding appropriate behavior are clear.
- To educate the student concerning how their behavior impacts others in the College Community.
- To protect the College Community from people who may harm others in the College Community or who may substantially interfere with the educational mission of the College or other institutions.

Sanctions include, but are not limited to:

- A. **Warning:** A notice in writing to the student that a violation of the Student Code of Conduct has occurred in which the individual student may have been directly or indirectly involved. This is an informal warning which does not become part of the student's educational record and therefore cannot be requested to be reviewed via a Formal Hearing. No further consequences follow a Warning.
- B. **Reprimand:** A written reprimand or censure may be given to any student or organization whose conduct violates any part of the Student Code of Conduct. Such a reprimand does not restrict the student in any way but does have important consequences. It signifies that he or she is in effect being given another chance to conduct himself or herself as a proper member of the College community and that any further violation may result in more serious penalties.
- C. **Probation:** A written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to be violating any institutional regulation during the probationary period.
- D. **Referral to an Outside Program:** Referral to a tobacco intervention program, the Student Assistance Program, or mental health counseling.
- E. **Service Hours:** Completion of tasks under the supervision of a college department or outside agency.
- F. **Educational Activities:** Attendance at educational programs, interviews with appropriate officials, planning and implementing educational programs, or other educational activities.
- G. **Loss of Privileges:** Denial of specified privileges for a designated period of time.
- H. **Restitution:** Compensation for loss, damage or injury. This may take the form of appropriate service and/or monetary or material replacement.
- I. **Prohibited Contact:** Prohibition of contact with a specified person within the College Community.
- J. **Removal from Classroom/Course:** Removal from the classroom and/or the course, including but not limited to, dismissal from the course or reassignment to another section.
- K. **Counseling Assessment and Compliance:** Referral for assessment (at the student's expense) to a licensed mental health professional or counseling center for general mental health or other counseling issues. Students found responsible for alcohol, drug or behavioral violations may be referred to an on campus licensed mental health counselor or to an outside agency or counselor based on the seriousness of the violation. Students must comply with all

recommendations established as a result of any assessment resulting from the imposition of this sanction.

- L. Suspension: Separation of the student from Florida SouthWestern State for a definite amount of time before a student is eligible to return. Conditions for readmission may be specified. All recommendations for suspension must be reviewed and approved by the Chief Student Affairs Officer or designee.
- M. Dismissal: Separation from the College for an indefinite period of time. Readmission may be possible, based on meeting all readmission criteria and obtaining clearance from the Chief Student Affairs Officer or designee. All recommendations for dismissal must be reviewed and approved by the Chief Student Affairs officer or designee.
- N. Expulsion: Permanent separation of the student from Florida SouthWestern State. All recommendations of expulsion must be reviewed and approved the College President or designee.
- O. Transcript Notation: A written notation indicating that disciplinary action was taken. This sanction may be applied in cases in which the student has been permanently separated from the College.
- P. Change in Housing Assignment: Removal or reassignment of the student to another location in College Housing. All recommendations for removal from College Housing must be reviewed and approved by the ~~Assistant Vice President~~Associate Vice President, Student Life, or designee.
- Q. Exclusion or Removal from College Housing: Exclusion or removal may be permanent or for a specified period of time. If the student is excluded or removed from Housing, the Housing Agreement will be cancelled. The Terms and Conditions of the Housing Agreement regarding cancellation fees and proration of rental fees will apply. All recommendations for removal from College Housing must be reviewed and approved by the ~~Assistant Vice President~~Associate Vice President, Student Life, or designee.
- R. Other: An action for follow up to ensure compliance and success for the student, and the welfare of the community. This also includes any actions determined by the student and/or the Chief Student Affairs Officer.

*The President of the College is authorized to develop procedures to implement this policy including procedures for interim actions.*

#### **Interim Actions**

The Chief Student Affairs Officer or designee, is authorized to determine if an alleged violation of the Student Code of Conduct warrants interim action. Interim action may be implemented any time prior to the conclusion of the conduct process, including the appeal process.

The criteria used in making this determination is:

- A. whether a student poses an ongoing threat of harm, disruption of, or interference with the normal operations of the College; and
- B. whether interim suspension is necessary to protect the health (physical and mental), safety or general welfare of the College Community or to preserve College property.

Interim action includes, but is not limited to, one or more of the following:

- A. Interim Suspension. If the Chief Student Affairs Officer or designee, determines that other interim measures are necessary to protect the health, safety, or welfare of the student or the College Community, they may:
  - a. Restrict or ban attendance of any or all classes.
  - b. Restrict or ban access or contact with individuals in the College Community.
  - c. Restrict or ban access to college property, places, facilities, or equipment.
  - d. Restrict or ban participation in college activities or organizations, or activities.
  - e. Restrict or ban college housing.
  - f. Suspend the FSW student organization.
  - g. Otherwise restrict conduct or ban access to college resources.
- B. The Chief Student Affairs Officer or designee, may immediately place a registration hold on any student who has interim action taken against them, which prevents the student from accessing, changing, or altering their course registration and/or admission status.
- C. The Chief Student Affairs Officer or designee, may also request that a student's access to the portal, email, online course rooms, and other online information access be suspended.
- D. Implementation of interim action, such as interim suspension, requires the student be notified in writing immediately upon the determination that an interim action(s) is warranted. The notice shall state the basis for the interim actions(s) and that the student will have the opportunity to inspect all information that initiated the interim action(s). The written notice will be sent to the student's College email account. The College may also communicate the determination verbally to the student but must also concurrently deliver the written notice as described above. The student has three (3) business days from the date of the notice to make a written request to appeal the interim action(s). The appeal of the interim action(s) will be heard by the Chief Student Affairs Officer or designee, within three (3) business days of receipt of the appeal. The hearing may be delayed due to a semester break or closing of the College. The notification of decision shall be in correspondence via email to the student within three business days of hearing the appeal. The student's appeal of the interim action(s) must be based on one of the following:

- a. An egregious error pertaining to the student's or organization's involvement
- b. contention that the violation, even if proven, does not pose a threat to the health, safety or general welfare of the College Community and thus does not warrant interim action.
- E. As a result of an appeal, if it is determined by the Chief Student Affairs Officer or designee, that the interim action be overturned, the student's status will be reinstated, and the conduct process will continue in accordance with the Student Code of Conduct.
- F. If the student does not appeal the interim action, the conduct process will continue in accordance with the Student Code of Conduct.

#### **Provisions for Students**

Procedural fairness is basic to the proper enforcement of all College regulations. Accordingly, no disciplinary action shall be initiated, or sanction imposed against a student until the student has been notified in writing of the complaints against him or her, the student has been informed of their rights under this Code, and the student has been given the opportunity to be heard. The College is not required to postpone student conduct proceedings pending the outcome of any outside criminal or civil case.

The following provisions shall be explained to each Student during the Initial Review meeting and prior to the start of any conduct hearing:

- A. Students will receive a fair and impartial hearing in accordance with the requirements of the Student Code of Conduct.
- B. Students will be notified in writing of the alleged violations against him or her and the alleged misconduct upon which the charge is based with reasonable access to the case file prior to and during the hearing.
- C. Students may inspect any available information presented in support of the charges during the initial Review meeting and during the hearing. The student may take notes from the information to be used in the hearing.
- D. Students may decline to make statements in response to the allegations. Declining to make a statement shall not be construed as an admission of responsibility.
- E. Students may be assisted by an advisor of their choice, at their own expense. The advisor may be present but may not speak for or present the case for the student, or otherwise participate directly in the proceedings. It is the student's responsibility to make appropriate arrangements for the advisor to attend the scheduled hearing time.
- F. At the determined time, the Charged student(s) may hear and question adverse witnesses who testify at the hearing. In cases of sexual misconduct or abuse see information in the FSW Title IX Reporting and Resolution Process.

#### **Provisions for Students Impacted by Acts of Violence**

- A. Students may present relevant information and witnesses. The College cannot compel any person to attend a student disciplinary hearing on behalf of a student. Students are responsible for arranging their own witnesses and presenting information during the proceeding. The Hearing Body shall have the authority to limit the number of witnesses in order to avoid unreasonable delays where the testimony of these witnesses is repetitious or irrelevant.
- B. Students will not be forced to present testimony which would be self-incriminating.
- C. Students will be considered not responsible for the alleged conduct until found responsible by a preponderance of the information. The finding of responsible or not responsible on the charges shall be based solely on the information presented at the hearing.
- D. The right to confidentiality, in accordance with the terms of the Family Educational Rights and Privacy Act (FERPA)
  - a. The family Educational Rights and Privacy Act (FERPA) 20 U.S.C. § 1232g; 34 CFR Part 99) is a federal law that protects the privacy of student educational records and outlines the conditions in which prior consent is required to disclose information from educational records.
- E. The Responding Student will be notified in writing of the decision of the Hearing Body within ten (10) business days from the date of the hearing, unless extenuating circumstances that resulted in a delay of the decision are communicated to the student in writing.
- F. The Responding Student may appeal the determination of responsibility in accordance with the requirements of the Code.

#### Conduct Procedures

This section of the code describes the procedures for Student Conduct proceedings at Florida SouthWestern State College.

- A. Reporting. Any person or entity may file a report against a student for alleged violation of law or College regulations or policies. An investigation may take place of the circumstances of the report. The report regarding a student's conduct must be submitted as follows:
  - a. Reports can be submitted online, via email, in-person, via telephone, or by mail.
  - b. Reports should be made within 6 months of the incident, or knowledge about the incident.
- B. The ~~Assistant Vice President~~ Associate Vice President, Student Life, or designee, will determine if there are reasonable grounds to believe that the allegations could potentially constitute a violation of the Student Code of Conduct.
  - a. Nothing in this regulation shall prevent the mediation of a complaint when deemed appropriate by the College.
  - b. Nothing in this regulation shall prevent the resolution of a complaint administratively by written agreement with mutual consent of the parties involved. Such disposition shall be final and there shall be no subsequent proceedings.

- c. If an alleged violation of the Student Code of Conduct is not handled through other appropriate channels, is not dismissed, or is not settled informally, then the ~~Assistant Vice President~~Associate Vice President, Student Life, or designee, may present in correspondence formal charges to the student.
- d. Notice of Allegations. The allegations of charges shall be in correspondence via email and include: the specific Student Code of Conduct violations, a brief description of alleged offenses, the student's rights, and a request to schedule the Initial Review.
- e. If a hold on registration is not already in effect, as an interim action, upon issuing the Notice of Charges the ~~Assistant Vice President~~Associate Vice President, Student Life, or designee, may place a hold on registration until final disposition of the complaint.
- f. Initial Review. After the Notice of Charges has been issued, the Initial Review will be scheduled.
- g. The initial Review is part of the overall investigation or the report.
- h. The Initial Review consists primarily of a discussion between the charged student and the ~~Assistant Vice President~~Associate Vice President, Student Life, or designee, in an effort to resolve the matter.
- i. The Initial Review is not audio taped or recorded.
- j. If the Charged Student chooses to accept responsibility, or fails to attend the Initial Review, the ~~Assistant Vice President~~Associate Vice President, Student Life, or designee, may assess such sanctions as are deemed appropriate.
- k. The outcome and any sanctions imposed in cases where the Responding Student accepts responsibility or fails to attend the Initial Review will be communicated in correspondence via email to the Responding Student within seven (7) business days of the determination.

#### **Formal Hearing**

A Formal Hearing is defined as any Hearing before the Student Conduct Board or a College Hearing Officer.

- A. The student may choose to have the Hearing before the Student Conduct Board or a College Hearing Officer. This choice shall be made in writing within three (3) business days in response to the Initial Review outcome letter.
- B. If the student does not choose an option, the Hearing shall be heard by a Hearing Officer.

#### **Notice of Hearing**

The notification of Hearing shall be sent officially via email at least seven (7) business days from the date of which the student denies responsibility and include:

- A. A brief description of the incident and the alleged violations of the student code of conduct
- B. The date, time and location of the Student Conduct Board or Hearing Officer Hearing.

- C. Notification of their rights and the Hearing procedures.
- D. A reasonable date, time and location for an Information Session, during which the student and their advisor may review a potential witness list and all materials to be used by the College in his/her case may be scheduled prior to the Hearing.

A challenge to the impartiality of a hearing officer or Student Conduct Board member, should be brought forward to the Chief Student Affairs Officer or designee, to determine if the hearing officer should be replaced due to a conflict.

### Postponement of Hearing

The student may request postponement of a hearing at least one business day prior to the hearing date and this request must be in writing to the Student Conduct Office.

The ~~Assistant Vice President~~Associate Vice President, Student Life, or designee, may grant a postponement when the circumstances presented demonstrate that a postponement is necessary to ensure fairness to the process or on any other reasonable grounds. The ~~Assistant Vice President~~Associate Vice President, Student Life, or designee, may also postpone the Hearing on the College's behalf for administrative reasons. Should a postponement be approved, the College will notify the student and hearing board/officer at least one business day prior to the scheduled Student Conduct Board Hearing.

- A. Structure of the Student Conduct Board. The Student Conduct Board shall consist of the following people who have completed training conducted by the College. At least 50% of students along with full-time faculty or administrators at FSW will serve on the student conduct board. The chairperson of a Student Conduct Board Hearing shall be one of the members who has been trained to serve in the role of chairperson. the Hearing is not a legal proceeding. Formal courtroom rules of process, procedure, and/or evidence do not apply.
- B. Objectives of the Hearing. Requisite levels of fairness and the satisfaction of certain minimum requirements will be provided to all participants during these proceedings. The Hearing shall have the following objectives:
  - a. Review the incident which resulted in charges of violations of the Student Code of Conduct
  - b. Give the accused student an opportunity to respond to the charges.
  - c. Review the facts of the case.
  - d. Recommend finding of Responsible or Not Responsible of Student Code of Conduct violations to the ~~Assistant Vice President~~Associate Vice President, Student Life, or designee.
  - e. If finding of Responsible, document what are believed to be the facts of the case and include these in the recommendations of sanctions to the ~~Assistant Vice President~~Associate Vice President, Student Life, or designee.
- C. Witnesses  
All parties to the Hearing may arrange for witnesses to voluntarily present relevant information during the Hearing. The questioning of witnesses shall be

facilitated by the Hearing Officer or Student Conduct Board Chair, as applicable. Each witness will be reminded that he or she is required to tell the truth. If it is determined later that a student provided untrue testimony at a Hearing, that student is subject to being charged with violation of the Student Code of Conduct.

D. Review of Information

- a. The Responding Student and their advisor, if any, have the right to inspect all of the information that will be presented against the student prior to the Hearing.
- b. The Responding Student may present information on their own behalf. Pertinent records, exhibits, and written statements may be accepted as information for consideration by the Hearing Officer or the Student Code of Conduct Board at their discretion.

E. Burdens of Proof

The Student Conduct Board or Hearing Officer shall determine whether it is more likely than not that the accused student violated the Student Code of Conduct by a preponderance (more likely than not) of the information. This means that the information presented supports the finding that it is more likely than not that the violation occurred. The burden of proof is not on the Charged Student.

F. The Responding Student or the Impacted Student may choose one advisor to be present during the process at the Responding Student's or Impacted Student's responsibility to make appropriate arrangements for the advisor to attend the Hearing, which shall not be delayed due to scheduling conflicts of the chosen advisor. The advisor may be present to advise the Responding Student or the Impacted Student but may not speak for or present the case for the Responding Student or the Impacted Student, present statements or arguments, question witnesses or otherwise participate in the process.

- a. Members of the Student Conduct Board, or witnesses, may not serve as a student's advisor at the Hearing.
- b. If the Charged Student or Impacted Student chooses an attorney as their advisor at the Hearing, they must inform the ~~Assistant Vice President~~ Associate Vice President, Student Life, or designee, at least three (3) business days before the Hearing. In such cases the College may be advised by a college attorney as well.

G. Hearings

- a. All hearings before the Student Conduct Board or Hearing Officer will be audio recorded by the College. This recording will serve as the only official record of these proceedings and shall be the property of the College. No other recordings are permitted. Deliberations shall not be recorded.
- b. The following is a guide to the format of events for Hearings, but it may change slightly at the discretion of the ~~Assistant Vice President~~ Associate Vice President, Student Life, or designee. The Student Conduct Board or Hearing Officer may question any party or witness directly at the appropriate time of the hearing:

- i. Review of Hearing procedures.
  - ii. Reading of Charges.
  - iii. Opening statement and presentation of information by the Responding Student.
  - iv. Questions for the Impacted Student by the Conduct Board or Hearing Officer; and/or reading of Impacted Student impact statement; and/or verbal statement by Impacted Student.
  - v. Questioning of voluntary College witnesses, followed by the questioning of Responding Student's voluntary witnesses.
  - vi. Questions directed to the Responding Student by the Student Conduct Board or Hearing Officer.
  - vii. Closing statement by the Responding Student.
  - viii. Deliberation by the Board or Hearing Officer (not recorded). Deliberations are closed and may only be attended by the members of the Student Conduct Board.
  - ix. The Student Conduct Board or Hearing Officer may recommend a decision(s) and a sanction(s) to the ~~Assistant Vice President~~Associate Vice President, Student Life, or designee.
- H. The Student Conduct Board or Hearing Officer will find the Responding student "Responsible" or "Not Responsible" for each of the alleged violations listed on the Notice of Charges, based solely on the information presented at the Hearing. The Student Conduct Board or Hearing Officer will inform the ~~Assistant Vice President~~Associate Vice President, Student Life, or designee of its findings and any recommendation for sanctions based on its findings. If the Student Conduct Board cannot reach a finding of "Responsible" or "Not Responsible" the finding will go in favor of the student and a Not Responsible finding will stand.
- a. If the Responding Student fails to appear at the scheduled Hearing (after proper notice), the hearing will be held without the student present. The student retains the right to appeal.
  - b. The ~~Assistant Vice President~~Associate Vice President, Student Life, or designee will review the findings and recommendations of the Student Conduct Board or Hearing Officer, as applicable. The ~~Assistant Vice President~~Associate Vice President, Student Life, or designee will then make the decision as to the violation(s) in question and sanctions imposed. This decision may consist of adopting, modifying, or rejecting the recommended decision and sanctions of the Student Conduct Board or Hearing Officer, or remanding the matter for rehearing. The ~~Assistant Vice President~~Associate Vice President, Student Life, or designee will send a correspondence (referred to as a "Outcome Letter") informing the student of the final decision and sanctions and explaining any differences between the recommendation or the Student Conduct Hearing Board of Hearing Officer and the ~~Assistant Vice President~~Associate Vice President, Student Life, or designee's final decision. Such correspondence will be sent to the student within (7) business days after the conclusion of the Hearing.

## Appeals

- A. The Chief Student Affairs Officer or designee is the final appeal at Florida SouthWestern State College. The Chief Student Affairs Officer or designee is responsible for reviewing substantive or procedural appeals from the decisions of a Student Conduct Board or Hearing Officer. The appeal of the outcome of a conduct case must be based on one or more of the following causes:
  - a. Due process errors including the College's failure to provide the student with notice or an opportunity to be heard.
  - b. The sanction is extraordinarily severe in relation to the offense committed.
  - c. New material or information that can be provided that was not available at the time of the original proceeding.
- B. All appeals must be postmarked or received in correspondence within seven (7) business days of the date of the "Notice of Decision and Sanction" to the Chief Student Affairs Officer or designee, for consideration. All appeals must specify the basis for the appeal. No person may hear or decide an appeal if he/she conducted or participated in the Hearing.
- C. The student's status will remain unchanged pending the appeal determination by the Chief Student Affairs Officer or designee, (that is, a student shall remain eligible to attend classes and College activities pending the College's final decision in the student conduct proceeding), except where the Chief Student Affairs Officer or designee, determines that the safety, health or general welfare of the student or the College Community is involved, in which case a student's privileges at the College, including the ability to attend classes or engage in College activities, may be suspended on an interim basis as described under the Interim Actions Provision.
- D. After considering the appeal, the Chief Student Affairs Officer or designee, may reopen the Hearing, with a new Conduct Board or Hearing Officer, uphold or reverse the prior decision of the hearing officer or board, or revise the sanction. The Chief Student Affairs Officer or designee, shall provide the student written notice of the decision within seven (7) business days of receipt of the appeal request.
- E. The appeal determination of the Chief Student Affairs Officer or designee, is final and binding on all parties. There are no further appeals within the College.

### Academic Integrity Policy Procedures

Once a faculty member has information that an academic integrity violation has occurred, the faculty member should inform the student and request a meeting to

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discuss allegations to include a review of the information gathered and proposed action (per the Academic Integrity Policy in the current Catalog). The faculty may request the respective Academic Dean or Associate Dean be present during this meeting; the student may request an advisor. The meeting should occur within 7 business days of the date when the faculty member informs that student of the allegation.

The following actions may be taken by faculty for students in violation of the Academic Integrity Policy:

1. Referral to the appropriate support service.
2. Assignment of a reduced grade on the plagiarized academic exercise.
3. Assignment of a final letter grade/reduction for the course.
4. Assignment of an "F" for the course.

An *Academic Misconduct Report* is to be submitted by the faculty member within seven business days of the allegation (<https://www.fsw.edu/communitystandards/academicintegrity>). Within three business days, the student and Academic Dean are informed of the *Academic Misconduct Report* by the Case Administrator with a copy of the dated *Report* also being sent to the faculty member.

If the student believes that they are not responsible for the academic misconduct, the student must respond via their FSW email to the faculty member's initial communication within seven business days of the notification of the *Report* before starting a formal Appeal.

#### **STUDENT APPEAL OF THE ACADEMIC MISCONDUCT REPORT**

##### **Step 1: Begin Appeal Process for Academic Misconduct**

If a resolution cannot be reached between the faculty member and student as detailed above, the student may begin the formal *Appeal Process for Academic Misconduct*. The student, upon receipt of the *Academic Misconduct Report Notification* for the alleged misconduct in their FSW email account, should click on the Appeal link to initiate the formal Appeal Process.

At any step, if the student and faculty member agree to a resolution of the allegation, the appeal process is concluded. The faculty member should inform the Case Administrator of the resolution of the allegation and the Case Administrator will send a notification to all parties.

##### **Step 2: Submission of Documents to Appeal Academic Misconduct (Within seven business days of meeting with Faculty)**

The student must complete the *Appeal for Academic Misconduct Report form* and send it along with all documentation to be considered in their appeal via their FSW email to the Academic Dean no later than seven (7) business days after responding to the faculty.

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If the student fails to appeal within seven (7) business days, the student will forfeit their right to appeal (extenuating circumstances may be considered by the Academic Dean).

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If the student's appeal is received within the stated time frame or if there are extenuating circumstances, the Academic Dean will provide the faculty member with a copy of the Form and associated documents and ask the faculty member to submit, in writing, any additional documentation within five business days of the receipt of the Form. The Academic Dean will send all the relevant documentation (the Form, student documentation and faculty documentation - the "Appeal") to the Case Administrator within seven business days of receipt of the Form from the student.

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**Step 3: Hearing Before the Academic Integrity Board.**

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The Case Administrator will convene the Academic Integrity Board within 3 weeks of the receipt of the Appeal.

The Board will review the Appeal and make a decision concerning the question of academic misconduct.

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The Academic Integrity Board meets on an as-needed basis. It is comprised of five members and includes two full-time faculty (one from the School in which the accusation was generated and one from another School), one staff, one student (who have been trained to take part in Student Conduct hearings) and the respective Campus Administrator (for online classes, the Campus Administrator from the faculty's home campus). The Case Administrator is not a voting member of the Academic Integrity Board but does act as the secretary for the meeting. In the event of conflicts of interest, the Board members should recuse themselves and Case Administrator will notify the student and Board of changes.

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The Case Administrator will notify all affected parties including the Board, any witnesses including but not limited to the reporting faculty member, and the student no less than seven business days prior to the hearing of the time, date and location. At the time of notification, the Case Administrator will distribute all necessary documentation to the Board and the student.

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The Academic Integrity Board will review the Appeal. The student, student representative, and the reporting faculty member may be present and may speak at the meeting. Based on the information provided in the Appeal, the Committee will consider whether the Appeal meets the preponderance of evidence standard. The decision of the Academic Integrity Board will be sent to the student, the reporting faculty member and the Academic Dean by the Case Administrator within three business days.

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The student can submit a written appeal via email to the Vice President for Academic Affairs (VPAA) within seven business days of receipt of the decision.

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**Step 4: Appeal to the VPAA**

The Vice President for Academic Affairs (VPAA) or their designee will contact the Case Administrator for the *Appeal* documentation. Following review of the *Appeal* documentation and the email from the student, the student and/or faculty may be asked to provide clarifying information. The VPAA or designee makes a final decision and provides written notification to both the student and faculty member via FSW email within ten business days of the email appeal from the student.

The determination of student responsibility for academic misconduct by the VPAA or designee is final.

Note: The formal Appeal process may result in the student being found *not responsible* for the academic misconduct, but this does not automatically result in a change of grade for an assignment or final course grade. The responsibility for the evaluation of student coursework and the assignment of final grades rests with the professor who has been assigned to teach the course. This does not prevent the request for a Late Withdrawal or Late Drop by the student following the determination of *not responsible*.

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**Parental Notification Policy**

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

- A. In non-emergency situations, parents of dependent students, under the age of 21, may be notified in writing. However, in emergency situations, parents may be notified by an immediate phone call from the Chief Student Affairs Officer or designee.
- B. These guidelines do not preclude Parental Notification for other policy violations that may endanger the health, safety and wellbeing of a student or other individuals in the College Community. In addition, Parental Notification may occur in health and safety emergencies regardless of the student's age or dependent status.
- C. Students whose parents are to be notified under these guidelines will be informed, when possible, before such notification occurs and given an opportunity to initiate contact with their parents.

**Provisions for Students Impacted by Acts of Violence**

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To ensure fairness to students impacted by actions of violence throughout the Student Code of Conduct, the College will provide the following provisions:

- A. An Impacted Student may have one person of their choice accompany them throughout the Student Conduct Review process. This person will act as a support person or advisor but will not represent the Impacted Student.
- B. An Impacted Student will receive notice of the hearing no less than seven (7) business days prior to the date of the hearing.
- C. An Impacted Student and Responding Student may submit a list of questions related to the alleged incident, prior to the hearing. However, the Hearing Officer or Hearing Body shall not be required to ask these questions of the Charged Student depending on the nature of the questions, for example, past conduct and sexual history will not be considered when the Hearing Officer or Body is deciding of the Responding Student as to a Responsible or Not Responsible finding.
- D. An Impacted Student may make a student impact statement and offer to the Hearing Officer or Hearing Body a suggestion of what the Impacted Student believes to be an appropriate sanction for the Responding Student. This information may be used only in the sanctioning phase of deliberations if the Responding Student is found responsible for violating the Student Code of Conduct.
- E. The Responding Student will not be permitted to directly question the Impacted Student. In such cases, the Responding Student and the Impacted Student shall submit questions to the Hearing Body or officer. However, the Hearing Body or officer shall ask questions which they deem appropriate to the case. At the request of the Impacted Student in cases involving physical violence, or other charges deemed appropriate in the professional judgment of the Hearing Body or officer, the Impacted Student may request to testify in a separate room from the Responding Student so long as the process does not unduly compromise the Responding Student's right to question the witness.
- F. Where the Student Conduct Review process addresses an allegation of violence, both the Impacted Student and the Responding Student or Organization must be informed of the final outcome of the Student Conduct Review process without a commitment to protect the confidentiality of the information. The final outcome means only the final determination with respect to the alleged misconduct or abuse and any sanction(s) that is imposed against the Responding Student. If the Impacted Student is deceased, the next of kin shall be considered as the alleged Impacted Student for the purposes of this paragraph.
- G. Family Educational Rights and Privacy Act (FERPA) and the Student Code of Conduct.

**POLICY REGARDING EMPLOYEES AND STUDENTS WITH HUMAN IMMUNODEFICIENCY VIRUS (HIV) (FLORIDA SOUTHWESTERN STATE COLLEGE BOARD OF TRUSTEES POLICY 6HX6:6.2.15)**

(1) For purposes of this policy, an infected individual includes a person diagnosed as having Acquired Immune Deficiency Syndrome (AIDS); or a person who is determined to be positive for the Human Immunodeficiency Virus (HIV) but who has not developed

the symptoms of AIDS. Florida SouthWestern State College recognizes that discrimination against such individuals is expressly prohibited by federal and state law. (2) In accordance with law, the College will offer students and employees with AIDS/HIV the same opportunities and benefits offered to other students and employees and such individuals shall not be denied the benefits of, or otherwise be subjected to discrimination under any College program or activity. At the same time the College shall attempt to balance the rights of such infected individuals to an education and to employment at the College against the rights of other students and employees to an environment in which they are protected from contracting the disease.

- A. Employees: (1) The College shall not require an individual to take an HIV test as a condition of hiring, promotion, or continued employment unless the absence of HIV is an occupational qualification for the job in question. (2) The College shall not fail or refuse to hire or discharge any individual, segregate or classify an individual in any way which would deprive or tend to deprive that individual of employment opportunities or adversely affect their status as an employee, or otherwise discriminate against any individual on the basis of the results of an HIV test unless the absence of HIV is an occupational qualification for the job in question. (3) The College will not require an infected individual to cease working on the basis of a diagnosed infection unless such person has been determined not to be otherwise qualified based on a determination that no reasonable accommodation can be made to prevent the likelihood that the individual will, under the circumstances involved, expose other individuals to a significant possibility of being infected with HIV or to enable such person to perform the essential functions of the job. (4) An employee who informs the College that he/she has HIV/AIDS shall be accorded confidentiality regarding disclosure of the medical condition consistent with state and federal law. In instances where an infected employee is unable to fulfill their regular responsibilities, or portions of these responsibilities, but is able and desires to continue working in a less physically demanding capacity, the College shall make a reasonable effort, if requested, to accommodate the employee's physical disability and ensure "reasonable" efforts to accommodate the special needs of an employee with AIDS and AIDS related diseases unless the accommodation places "undue burdens" on the College.
- B. Students: (1) The College will not deny the admission or continued attendance nor participation in College programs or activities by an otherwise qualified student on the basis of a known or suspected with AIDS/HIV infection unless a determination has been made that no reasonable accommodation can be made to prevent the likelihood, under the circumstances involved, that such admission, attendance, or participation will expose other individuals to a significant possibility of being infected with HIV or to enable such persons to meet the substantial requirements of the educational program. Anyone who believes they have been subject to unlawful harassment or discrimination is encouraged to contact the College's Equity Officer.

**SUBSTITUTION POLICY FOR STUDENTS WITH DISABILITIES (FLORIDA SOUTHWESTERN STATE COLLEGE BOARD OF TRUSTEES POLICY 6HX6:6.03)**

1. Eligibility: Students who are hearing impaired, visually impaired, or who have a specific learning disability are eligible for reasonable substitution for any requirement(s) where it can be documented that the student's failure to meet the requirement(s) is related to the disability. Substitutions shall be provided in the areas of admission to the college, admission to a program of study, or graduation where the substitution does not constitute a fundamental alteration in the nature of the program.
2. Documentation: Documentation that is no more than three years old, substantiating the nature of the disability, shall be provided by the student concurrent with their request for a reasonable substitution for admission to a program of study, or graduation. Such documentation shall be provided by a medical doctor, psychologist, or other specialist recognized to treat the specific disability.
3. Review Policy: Students with disabilities requesting course substitutions must submit an academic petition to the Office of the Registrar. The petition at minimum shall identify the substitution desired and the justification for the substitution and shall contain the documentation described in paragraph two above. The Office of the Registrar, in consultation with the appropriate Academic Dean and the Director of Adaptive Services will consider reasonable substitutions appropriate for each individual student.
4. Substitution Decision: The decision will be communicated in writing by the Office of the Registrar to the student and the Director of Adaptive Services.
5. Articulation: Florida SouthWestern State College will recognize any substitution previously granted to a transfer student by a Florida State post-secondary institution. In accordance with FAC 6A-10.041(3), substitutions granted by Florida SouthWestern State will be honored at any Florida State post-secondary institution. The College will assist the student in contacting the out-of-state or private institution receiving the course substitution(s) to determine how the substitution(s) will be treated in the program of study he/she is pursuing. The student will be advised accordingly.
6. Student Appeal: A student may appeal a denial of the substitution request(s) or determination of ineligibility in writing to the Vice President of Academic Affairs and Vice President for Academic Affairs, who shall make the final decision. The appeal must be filed within 21 days (about 3 weeks) of receipt of the written denial by the Office of the Registrar. Any decision of the Vice President of Academic Affairs and Vice President for Academic Affairs is subject to the right of any person whose substantial interests are determined to request a hearing pursuant to Title X, Chapter 120, Florida Statutes.
7. Records: The Office of the Registrar and the Director of Adaptive Services shall maintain records on the number of students granted substitutions by type of disability, the substitution provided, the substitutions identified as available for each documented disability and the number of requests that were denied.

**CAMPUS VIOLENCE PREVENTION POLICY (FLORIDA SOUTHWESTERN STATE COLLEGE BOARD OF TRUSTEES POLICY 6HX6:2.07)**

It is the policy of the District Board of Trustees of Florida SouthWestern State College to prohibit, as being incompatible with the mission of the College, the commission of

all forms of sexual violence and other crimes of violence by, or upon, any member of the college community, including students, employees, and guests.

In the implementation of this policy the President is authorized to adopt, periodically review, and enforce procedures, including, but not limited to:

- a. The provision of information identifying laws prohibiting such misconduct;
- b. Information regarding the rights of complainants, victims, the respondents, and the services available to them;
- c. Administrative procedures for the investigation by the college of cases involving sexual misconduct and other crimes of violence;
- d. Administrative proceedings, disciplinary actions, and penalties which may be imposed upon violators; and,
- e. A comprehensive educational program to assure awareness within the College community of the problems of sexual misconduct, in order to discourage and attempt to prevent such misconduct, and to encourage reporting and the receipt of assistance.

**DISCRIMINATION AND HARASSMENT POLICY (FLORIDA SOUTHWESTERN STATE COLLEGE BOARD OF TRUSTEES POLICY 6HX6:2.03)**

Florida SouthWestern State College is committed to maintaining an educational and work environment in which no member of the College community is excluded from participation in, denied the benefits of, or subjected to discrimination or harassment in any College program or activity on the basis on race, sex, gender, age, color, religion, national origin, ethnicity, disability, pregnancy, sexual orientation, marital status, genetic information or veteran's status. Gender-based and sexual harassment, including sexual violence, are forms of sex discrimination which in the educational environment may deny or limit an individual's ability to participate in or benefit from college programs or activities.

Florida SouthWestern State college in compliance with Title VII of the Civil Rights Act of 1964, the American with Disabilities Act, Section 504 of the Rehabilitation Act, the Florida Civil Rights Act of 1992, Title IX of the Education Amendments of 1972, and relevant sections of the Violence Against Women Reauthorization Act opposes any act of discrimination or harassment and prohibits such action.

In the implementation of this policy, the President is authorized to adopt, review, and enforce procedures, including, but not limited to:

- a. The provision of information identifying laws prohibiting such misconduct;
- b. Information regarding the rights of complainants, victims and respondents and the services available to them;
- c. Administrative procedures for the investigation by the college of cases involving discrimination or harassment--including sexual harassment, sexual discrimination and sexual violence and misconduct; including procedures prohibiting retaliation
- d. Administrative proceedings, disciplinary actions, and penalties which may be imposed upon violators; and,

- e. A comprehensive educational program to assure awareness within the College community of the problems of sexual misconduct, to discourage and attempt to prevent such misconduct, and to encourage reporting and the receipt of assistance.

Angela Snyder is the Title IX Coordinator/Equity Officer. Questions pertaining to discrimination or harassment should be addressed to Angela Snyder at 239-489-9051 or 8099 College Parkway, Fort Myers, FL 33919.

### **College Operating Procedures**

#### **DRUG-FREE CAMPUS AND WORKPLACE (COLLEGE OPERATING PROCEDURE 05-0803)**

It is the policy of Florida SouthWestern State College to promote and maintain a drug-free workplace. The unlawful manufacture, distribution, dispensation, possession, or use of controlled substances is prohibited on and off College premises. The possession or use of alcohol under the circumstances described herein is also prohibited. All students and employees are required to abide by the terms of this policy as a condition of initial and continued enrollment and/or employment.

This policy is based on the Drug Free Workplace Act, 41 U.S.C. 70-1 et. seq., as amended and is supplemented by college administrative policies and procedures.

- A. The illegal use, possession, manufacture, dispensation, and distribution of any controlled substance, at any time, whether on or off duty or on or off college premises is prohibited as a matter of college policy.
- B. Except as hereinafter provided, use or possession by an employee or student of alcohol in the workplace, or use of alcohol on college property is prohibited. The possession or consumption of alcohol by employees or students of legal age at a College-sponsored or approved function where alcoholic beverages are served by the College or sponsor is not a violation of this Section.
- C. Any employee or student who reports to work or class or performs his/ her duties while under the influence of drugs or alcohol will be in violation of this policy.
- D. Violation of this policy can result in referral to appropriate law enforcement authorities, disciplinary action up to and including immediate suspension, expulsion, or termination, and/or a requirement of satisfactory participation in a college-approved drug or alcohol rehabilitation program. A criminal conviction is not required for sanctions to be imposed upon a student or employee for violation of this policy.

#### **PROCEDURES: DISCIPLINARY SANCTIONS**

The College will impose sanctions (consistent with local, state, and Federal law) upon all employees and students who violate these standards of conduct. Such sanctions may include but are not limited to: (1) referral for prosecution; (2) probation, suspension, or expulsion of students; or (3) suspension or termination of employees.

The College requires that any employee who is convicted of any offense relating to the sale, purchase, delivery, use, manufacturing or distribution of illegal drugs or controlled substances on campus, or while attending a College-sponsored event or

conducting College business to report such conviction to the Human Resources Office, 239-489-9294, no later than 24 hours after the arrest or conviction.

#### **EMPLOYEE ASSISTANCE PROGRAM**

Florida SouthWestern State College recognizes illegal drug use and/or dependency to be a health, safety and security problem. Employees who need assistance with problems related to drug abuse are encouraged to contact the Employee Assistance Program:

Southwest Florida Employment Assistance Programs  
3949 Evans Avenue, Suite 202, Ft. Myers, FL 33901  
Phone: 239-278-7435  
Toll Free: 800-226-7930  
Email: [swfeap@swfeap.com](mailto:swfeap@swfeap.com)

#### **DESCRIPTION OF HEALTH RISKS**

##### **Alcohol**

Alcohol consumption causes a number of changes in behavior and physiology. Even low doses significantly impair judgment, coordination, and abstract mental functioning. Statistics show that alcohol use is involved in a majority of violent behaviors on college campuses, including acquaintance rape, vandalism, fights, and incidents of drinking and driving. Continued abuse may lead to dependency, which often causes permanent damage to vital organs and deterioration of a healthy lifestyle.

##### **Cannabis (Marijuana, Hashish)**

The use of marijuana may impair or reduce short-term memory and comprehension, alter sense of time, and reduce coordination and energy level. Users often have a lowered immune system and an increased risk of lung cancer. The active ingredient in marijuana, THC, is stored in the fatty tissues of the brain and reproductive system for a minimum of 28 to 30 days.

##### **Hallucinogens (Lysergic acid (LSD), mescaline, and psilocybin cause illusions and hallucinations)**

The user may experience panic, confusion, suspicion, anxiety, and loss of control. Delayed effects, or flashbacks, can occur even when use has ceased.

Phencyclidine (PCP) affects the section of the brain that controls the intellect and keeps instincts in check. Because the drug blocks pain receptors, violent PCP episodes may result in self-inflicted injuries.

##### **Cocaine/Crack**

Cocaine users often have a stuffy, runny nose and may have a perforated nasal septum. The immediate effects of cocaine use include dilated pupils and elevated blood pressure heart rate, respiratory rate, and body temperature, followed by depression. Crack, or freebase rock cocaine, is extremely addictive and can cause delirium, hallucinations, blurred vision, severe chest pain, muscle spasms, convulsions, and even death.

## **Amphetamines**

Amphetamines can cause a rapid or irregular heartbeat, tremors, loss of coordination, collapse, and death. Heavy users are prone to irrational acts.

## **Heroin**

Heroin is an opiate drug that causes the body to have diminished pain reactions. The use of heroin can result in coma or death due to a reduction in the heart rate.

## **LEGAL SANCTIONS**

You should be aware that the State of Florida Statutes provide that it is “unlawful for any person to sell, purchase, manufacture, or deliver, or to possess with the intent to sell, purchase, manufacture, or deliver, a controlled substance in, on, or within 200 feet of the real property comprising a public college or other post- secondary educational institution.” Legal action will be taken for violation of these Statutes and policies, as appropriate. Any person who violates this paragraph with respect to a controlled substance named or described in s.893.03(1)(a), (1)(b), (1) (d), (2)(a), or (2)(b) commits a felony of the first degree punishable as provided in s. 775.082, s. 775.083., or s. 775.084 and shall not be eligible for parole or release under the Control Release Authority or statutory gain time.

State law prohibits the possession of alcoholic beverages by persons under age 21, punishable for the first offense by a definite term of imprisonment not exceeding 60 days and/or a \$500 fine, and for a subsequent offense by a definite term of imprisonment not exceeding one year and a fine of \$1,000. It is similarly prohibited and punishable to distribute alcohol to minors.

State law makes it a crime for any person to possess or distribute illicit drugs (controlled substances as described in Section 893.03, Florida Statutes) under Section 893.13, Florida Statutes. Law provides certain limited exceptions. The crimes range from second degree misdemeanors (up to 60 days imprisonment and up to a \$500 fine) to first degree felonies (up to 30 years imprisonment and up to \$10,000 fine).

Trafficking (distributing specified large quantities of various controlled substances under Section 893.03, Florida Statutes) under Section 893.135, Florida Statutes is punishable, depending on the particular illicit drug and quantity involved, by a minimum term of imprisonment of 3 to 25 calendar years and a fine of \$25,000 to \$500,000.

Federal trafficking penalties for first offenses, depending upon the illicit drug involved, range from not more than one-year imprisonment and a fine of not more than \$100,000 for an individual to 40 years to life imprisonment and a fine of not more than \$200,000 for an individual to not less than life imprisonment and a fine of not more than 8 million dollars for an individual.

The College requires that any employee who is convicted of any offense relating to the sale, purchase, delivery, use, manufacturing or distribution of illegal drugs or controlled substances on campus, or while attending a College-sponsored event or

conducting College business to report such conviction to the Human Resources Office, 239-489-9294, no later than five days after the conviction.

**Drug Education and Treatment Programs**

Florida SouthWestern State College recognizes illegal drug use and/or dependency to be a health, safety, and security problem. Those who need assistance with problems related to drug abuse are encouraged to use any available resources including:

**ADDICTION RESOURCES**

FREE & CONFIDENTIAL ADDICTION HOTLINE  
1-800-662-4357

RIVERSIDE BEHAVIORAL HEALTH CENTER  
(941) 637-2474

CHARLOTTE REGIONAL MEDICAL CENTER  
(941) 639-8300

SALUS CARE, INC.  
(239) 275-3222

For additional information contact:

Office of Human Resources  
239-489-9293

**ELECTRONIC DEVICES**

Electronic devices may be used in classrooms with prior authorization from the professor.

**AMERICAN WITH DISABILITIES (ADA) ACT (COLLEGE OPERATING PROCEDURE 01-0104)**

The ADA, Section 504 and their implementing federal regulations prohibit discrimination on the basis of disability under any program or activity receiving Federal financial assistance. As provided by law, Florida SouthWestern State College prohibits discrimination against individuals with disabilities. In addition, the College provides individuals with disabilities with equal employment and educational opportunities and with reasonable accommodations.

The College assures students, staff or faculty members, or other members of the College community the college will work towards eliminating and preventing disability harassment.

For Students Seeking an Accommodation - the Director of Adaptive Services is responsible for coordinating the College's compliance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 and serves as the College ADA and Section 504 Coordinator.

For Employees and Persons Other Than Students Seeking an Accommodation - the College's Title IX Coordinator and Equity Officer is responsible for coordinating the College's compliance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 and serves as the College ADA and Section 504 Coordinator with respect to all non-student matters. ("Equity Officer"). The Equity Officer's contact information appears at the end of this procedure.

The Director of Adaptive Services and the Equity Officer, or their designees, conduct activities such as (but not limited to):

1. Assisting College offices in making their programs and services accessible;
2. Overseeing communication with all College constituents and campus visitors regarding how they can access programs and services consistent with the ADA/Section 504;
3. Reviewing College policies, facilities, and activities to assure institutional compliance with the ADA/Section 504;
4. Responding to any questions or concerns regarding the ADA/Section 504 accommodations and assure prompt resolution.

**A. Requesting an Accommodation:**

- 1) For Students Seeking an Accommodation - It is the obligation of the individual with a disability to request a reasonable accommodation. Students and applicants must submit any request for accommodations to the Adaptive Services for consideration. Individuals with a disability must provide recent documentation from a qualified, licensed professional that addresses the disability and the requested accommodation. Adaptive Services shall determine that the request for accommodation is supported by appropriate documentation. The College and the student have a mutual obligation to engage in a good faith interactive process to explore and discuss options for reasonable accommodations. Once a student has been registered with Adaptive Services, it is the student's responsibility to request accommodations for each semester in which accommodation is desired. Additional information regarding the process by which students can seek accommodations for a disability is available through Adaptive Services.
- 2) For Employees Seeking an Accommodation - The College provides reasonable accommodations for employees with a disability who can

perform their essential job duties with or without accommodation.

Reasonable accommodations are provided only when an employee self-identifies as a qualified individual with a disability and provides the appropriate documentation from a healthcare provider. In determining which accommodations are 'reasonable,' the College and the employee have a mutual obligation to engage in a good faith interactive process to explore and discuss options for reasonable accommodations. Additional information regarding the process by which employees can seek accommodations for a disability is available through the Equity Officer.

- 3) For Persons Other Than Employees and Students Seeking an Accommodation - Participants at College public meetings, entertainment events, athletic events and other public gatherings may seek accommodations by contacting the Equity Officer. The College will use its best effort to make campus programs and events reasonably accessible to individuals with disabilities. Any individual, including visitors to campus, who require an accommodation is urged to contact the responsible department at least one week in advance of the event. Please be aware that it may be difficult to provide an accommodation on less than one week's prior notice.

Time Frame: The time required to review an ADA/Section 504 accommodation request will depend on a variety of factors, including the nature and scope of the matter.

#### **B. Responding to Complaints Regarding Failures to Accommodate**

- 1) Students: In the event the student or the student's advocates report disability discrimination or harassment then such complaints shall be treated as a separate matter under Paragraph 2(C), below.
- 2) Employees and Persons Other Than Students: Resolving Issues through the Human Resource Office. A College employee who believes that the Equity Officer did not follow College procedures in the determination regarding an accommodation or consider relevant information during the process may request a reconsideration of the decision.

In order to request reconsideration of a decision regarding an accommodation, the employee should request a meeting with the Director of Human Resources to present additional information and/or documentation and to discuss the nature of the issue or complaint. This meeting must be requested within thirty days of the determination at issue. The Director of Human Resources may contact the Equity Officer and other professionals who can provide information pertinent to the case.

Following the review of the request for reconsideration, the Director of Human Resources will notify the employee of the decision. In the absence of unusual circumstances, the review process will be completed within thirty calendar days. Unusual Circumstances would include such matters as scheduled and unscheduled College closures, the need to obtain new or additional evidence from third parties or the unavailability of the complainant or necessary witness.

In the event that unusual circumstances will delay disposition, all parties will be notified of the delay and the anticipated date of completion.

### C. Discrimination or Harassment Based Upon Disability

#### Definitions

**Disability Harassment:** Disability harassment under Section 504 and the ADA is intimidation or abusive unwelcome behavior directed toward an individual based on disability that creates a hostile environment by interfering with an individual's participation in or receipt of benefits, services, or opportunities in the institution's programs and activities. Harassing conduct may take many forms, including verbal acts and name-calling, as well as nonverbal behavior, such as graphic and written statements, or conduct that is physically threatening, harmful, or humiliating.

**Hostile Environment:** When harassing conduct directed at an individual is sufficiently and objectively and subjectively severe, persistent, or pervasive that it interferes with or limits a student's ability to participate in or benefit from the services or opportunities offered by a school or, in the employment context, it alters the employee's conditions of employment and creates an abusive work environment which violates an individual's rights under the Section 504 and Title II regulations. A hostile environment may exist even if there are no tangible effects on the individual, where the harassment is serious enough to adversely affect the individual's ability to participate in or benefit from the College's programs and activities including its educational programs. Examples of harassment that could create a hostile environment follow.

- Several students continually remark out loud to other students during class that a student with dyslexia is "retarded" or "deaf and dumb" and does not belong in the class. The student tries to act as though she doesn't hear and makes no comments. Then one day as a result of the comments, the harassed student stops attending the class.
- A student repeatedly places classroom furniture or other objects in the path of classmates who use wheelchairs, impeding the classmates' ability to enter the classroom.
- A faculty member repeatedly points out to other students in the class that a blind student is using an audio recorder related to the student's disability, with the result that the student stops attending the class to avoid further embarrassment.

- A professor repeatedly belittles and criticizes a student with a disability for requesting testing accommodations to the point that the student stops utilizing the accommodation and, as a result, her grades decline.
- Several college employees repeatedly tease a visually impaired employee while making use of an enhanced computer monitor calling her “blind as a bat” and, as a consequence, the employee transfers out of the department.

#### **COMPLAINT PROCEDURES: DISABILITY HARASSMENT/DISCRIMINATION**

FSW will act on any formal or informal allegation or notice of violation of the policy on Disability Harassment and Nondiscrimination that is received by the Equity Officer, Director of Adaptive Services, or a member of administration, faculty, or other employee. The procedures described below apply to all allegations of disability harassment or discrimination involving students, staff or faculty members, or third parties. All complaints involving disability harassment or discrimination should be promptly submitted to the Equity Officer for disposition under this College Operating Procedure.

The College reserves the right to initiate an investigation without a complaint of disability harassment or discrimination or participation by a complaining party. The Equity Officer will notify the complainant if an investigation commences, or if there is no reasonable cause to pursue an investigation.

Following receipt of notice, the Equity Officer engages in a preliminary inquiry to determine if there is reasonable cause to believe the Discrimination and Harassment Policy has been violated and if interim remedies should be provided during the investigation.

The interim remedies may include, but are not limited to:

- A. Referral to counseling and health services
- B. Referral to the Employee Assistance Program
- C. Education to the community
- D. Altering the housing situation of the responding party (resident student or resident employee (or the reporting party, if desired))
- E. Altering work arrangements for employees
- F. Providing campus escorts
- G. Providing transportation accommodations
- H. Implementing contact limitations between the parties
- I. Offering adjustments to academic deadlines, course schedules, etc.

In cases where the reporting party wishes to proceed or the College determines it will proceed, and the preliminary inquiry shows that reasonable cause exists, the Equity Officer will direct an investigation to commence. The process followed considers the preference of the complainant but is ultimately determined at the discretion of the Equity Officer.

All parties involved in the investigation shall be afforded the opportunity to present witnesses and other evidence and all parties shall be provided with the written outcome of the investigation and, if applicable, the appeal finding.

If, during the preliminary inquiry or at any point during the investigation, the Equity Officer determines that there is no reasonable cause to believe that the policy has been violated, the process will end unless the reporting party requests that the Equity Officer makes an extraordinary determination to re-open the investigation. This decision lies in the sole discretion of the Equity Officer.

Any evidence that the investigator believes is relevant and credible may be considered, including history and pattern evidence. The investigator may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial.

Unless the investigator determines it is appropriate, the investigation and the finding will not consider: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) or the character of the responding party.

In the absence of unusual circumstances, the College will complete all investigations within a sixty (60) calendar daytime period. The time period for the completion of the investigation may be extended as necessary for appropriate cause by the Equity Officer with notice to the parties as appropriate. Unusual Circumstances would include such matters as scheduled and unscheduled College closures, the need to obtain new or additional evidence from third parties or the unavailability of the complainant or necessary witnesses. In the event that unusual circumstances will delay disposition all parties will be notified of the delay and the anticipated date of completion.

The investigator(s) will base the determination(s) on the preponderance of the evidence -- whether it is more likely than not that the responding party violated policy as alleged.

Typically, within ten (10) calendar days of the close of an investigation, the Equity Officer or designee will provide the complaining parties and the responding parties with written finding(s) of the investigation and may make recommendations for further action. If the responding party is an employee, the findings and recommendations will be forwarded to the Director of Human Resources for disposition. If the responding party is a student, the case will proceed under the Student Code of Conduct for disposition.

#### **Contacts**

All applicant/employee ADA complaints, excluding those filed against the ADA Coordinator, should be addressed to:

HR Manager, Employee Relations/Title IX Coordinator/Equity Officer  
8099 College Parkway, Ft. Myers, Florida 33919

or by calling 239-489-9051  
or call through the Florida Relay Service at 1-800-955-8771 (TTY)

All student ADA complaints should be addressed to:

Chief Student Affairs Officer or Designee  
8099 College Parkway  
Ft. Myers, Florida, 33919  
239-489-9067

Human Resources Department  
8099 College Parkway, Ft. Myers  
Florida, 33919  
239-489-9357

or the Florida Relay Service at 711 (<https://www.ftri.org/relay> ).

More information about educational equity, equal access, or equal opportunity may be found here:

The Office of the Assistant Secretary for Civil Rights  
(<https://www.usda.gov/oascr/home> )

Office of Civil Rights  
(<https://www.hhs.gov/ocr/index.html> )

#### **Title IX and Equity**

Florida SouthWestern State College is committed to maintaining an educational and work environment in which no member of the College community is excluded from participation in, denied the benefits of, or subjected to discrimination or harassment in any College program or activity on the basis on race, sex, gender, age, color, religion, national origin, ethnicity, disability, pregnancy, sexual orientation, marital status, genetic information or veteran's status. Gender-based and sexual harassment, including sexual violence, are forms of sex discrimination which in the educational environment may deny or limit an individual's ability to participate in or benefit from college programs or activities.

Florida SouthWestern State College in compliance with Title VII of the Civil Rights Act of 1964, Americans with Disabilities Act, Section 504 of the Rehabilitation Act, the Florida Civil Rights Act of 1992, Title IX of the Education Act of 1972, and relevant sections of the Violence Against Women Reauthorization Act opposes any act of discrimination or harassment and prohibits such action.

Students, staff and faculty can learn more about their rights and FSW's responsibility by visiting the [Title IX and Equity page](#). Reports of harassment, discrimination and retaliation can be submitted online by completing the [Harassment, Discrimination and Retaliation Reporting Form](#).

Reports of harassment, discrimination and sexual misconduct can be submitted online by completing the [Harassment, Discrimination and Sexual Misconduct Reporting Form](#).

Florida SouthWestern State College, an equal access institution, prohibits discrimination in its employment, programs and activities based on race, sex, gender age, color, religion, national origin, ethnicity, disability, pregnancy, sexual orientation, marital status, genetic information or veteran's status. The College is an equal access/equal opportunity institution. Questions pertaining to educational equity, equal access, or equal opportunity should be addressed to:

Angela Snyder, Title IX Coordinator/Equity Officer, Human Resources Manager,  
Employee Relations  
[equity@fsw.edu](mailto:equity@fsw.edu)  
239-489-9051

## STATE STATUTES AND COLLEGE POLICIES AFFECTING STUDENTS

The following Florida Statutes, District Board of Trustee Policies, and College Operating Procedures affect students at Florida SouthWestern State College. For the benefit of all students, adherence to these laws is expected. Any questions concerning these Statutes and policies may be directed to the Vice President of Academic Affairs for Student Affairs.

### FLORIDA STATUTES

#### Chapter 1006 Part II

Includes the following subsections regarding Public Postsecondary Education Support for Learning and Student Services.

#### PARTICIPATION BY STUDENTS IN DISRUPTIVE ACTIVITIES AT PUBLIC POST SECONDARY EDUCATIONAL INSTITUTIONS; PENALTIES

(Florida Statute Section 1006.61)

#### EXPULSION AND DISCIPLINE OF STUDENT OF FLORIDA COLLEGE SYSTEM INSTITUTIONS AND STATE UNIVERSITIES

(Florida Statute Section 1006.62)

#### HAZING PROHIBITED

(Florida Statute Section 1006.63)

#### VACCINATION AGAINST MENINGOCOCCAL MENINGITIS AND HEPATITIS B

(Florida Statute Section 1006.69)

#### Chapter 810

Includes the following subsections regarding Burglary and Trespass.

#### TRESPASS IN STRUCTURE OR CONVEYANCE

(Florida Statute Section 810.08)

#### TRESPASS ON PROPERTY OTHER THAN STRUCTURE OR CONVEYANCE

(Florida Statute Section 810.09)

#### TRESPASS ON SCHOOL PROPERTY WITH FIREARM OR ANOTHER WEAPON PROHIBITED

(Florida Statute Section 810.095)

#### Chapter 877

Includes the following subsections regarding Miscellaneous Crimes.

#### EDUCATIONAL INSTITUTIONS OR SCHOOL BOARDS; PENALTY FOR DISRUPTION

(Florida Statute Section 877.13)

