

## **Introduction**

As a Farmingdale State College (FSC) student, you are a valuable member of the College community. Through your words and deeds, you contribute to building an inclusive community where all can live and learn in an environment of academic freedom and respect that fosters success and honors all students' rights. The *Student Code of Conduct* outlines behavioral expectations for Farmingdale State College students.

FSC is committed to providing an environment in which both living and learning can occur. To function effectively and provide an educational climate in which members can fulfill their academic pursuits and the educational objectives of the campus community, individual rights and responsibilities are outlined in this Student Code of Conduct. The *Student Code of Conduct* has been adopted to establish standards and expectations, consistent with the purpose and values of the College, and facilitate a respectful environment that promotes the dignity and rights of students, staff, faculty, and other groups within the larger campus community.

It is the responsibility of all members of the FSC community to uphold the values of the institution. Students are expected to conduct themselves in a manner that respects the rights of others and to preserve the good name of the College. As such, student behavior should be consistent not only with College policy but local, state, and federal law. Student behavior that is not consistent with these standards, whether on or off campus, may be addressed through the Student Code of Conduct to educate students, manage safety, and deter behavior that negatively impacts either the individual or the community.

### **Section I – Student Code of Conduct Authority**

1. Students are responsible for their conduct from the time of application for admission through the awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year. The Student Code of Conduct applies even if the student withdraws while a disciplinary matter is pending. The Student Code of Conduct also applies to those who are not officially enrolled for a particular term, but who have a continuing relationship with the College.
2. The Student Code of Conduct applies on all College premises, at off-campus instructional sites, onboard College operated vehicles, and in all College operated housing areas. Students participating in SUNY-sponsored education abroad programs are also subject to the Student Code of Conduct.
3. Alleged off campus violations, may also be pursued in cases that endanger the personal health, safety or property of members of the College community or personal safety of others. Action may be taken in accordance with the Student Code of Conduct. The Dean of Students will determine whether student conduct action is warranted under these circumstances. The following criteria include, but are not limited to, sample parameters which shall be utilized to assess off-campus conduct:
  - a. The incident involves endangering behavior (defined as violent assault, domestic violence, dating violence, sexual assault, rape, sexual harassment, stalking, arson,

- distribution of illegal drugs or other serious offenses that constitute a threat to the personal safety of others); and/or
- b. There has been significant loss of, or damage to, property; and/or
  - c. Alcoholic beverages are sold or made available to underage persons; and/or
  - d. The incident involves hazing (as defined in Section I)
  - e. Violations of local, state, or federal law that may adversely affect the campus and the surrounding Farmingdale community
4. The Student Code of Conduct exists to foster a safe learning environment for all FSC students. In order to promote and maintain this environment, violations of the Student Code of Conduct by any student may lead to College administrative actions and/or College disciplinary action.
  5. Student groups and organizations recognized administratively or by student government and/or their officers may also be charged with, and held responsible for, violations of the Student Code of Conduct.
  6. In addition to College actions, students may face criminal arrest when the incident is also a violation of local, state or federal law. At the discretion of the Dean of Students, or his designee, proceedings under the Student Code of Conduct may occur prior to, simultaneously with, or following civil or criminal proceedings.
  7. The health and safety of every student at the State University of New York (and its state-operated and community colleges) is of utmost importance. FSC recognizes that students who have been drinking alcohol and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. FSC strongly encourages students to report domestic violence, dating violence, stalking or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith who discloses any incident of domestic violence, dating violence, stalking or sexual assault to FSC officials or law enforcement will not be subject to FSC code of conduct action for violations of alcohol and/ or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking or sexual assault.
  8. All students who have non-FSC affiliated guests visiting the campus are responsible for informing their guests of the Student Code of Conduct, and College policies and can be charged and sanctioned if found responsible. Student hosts must be present during their guests' visits. Students are responsible for violations committed by others that occur in their College-operated room, suite or apartment unless another FSC student(s) takes responsibility for the violation.
  9. Retaliation against individuals who file a complaint under the Student Code of Conduct, including Title IX complaints, who serve as a witness or who participate in a student conduct or Title IX proceeding in any manner is prohibited. Participants who experience any form of intimidation, coercion, threats or discrimination as the result of their participation in an investigation should report the incident to the Office of the Dean of Students and/or the College's Title IX coordinator as applicable.

10. The Dean of Students determines the composition of Judicial Hearing Boards and determines which Judicial Hearing Board, student conduct administrator, and appellate officers hear matters (as outlined in Section IV).
11. The Dean of Students develops policies for the administration of the student conduct system and procedural rules for the hearings, assuring both are consistent with the provisions of the Student Code of Conduct.
12. Decisions made by a Judicial Hearing Board and/or student conduct administrator remain in effect pending the appeal process, when applicable.
13. The Executive Dean for Student Engagement, and the Dean of Students, may elect to appoint a designee to act on their behalf.

## **Section II: Definitions**

**Administrative Agreement:** the respondent acknowledges responsibility for violating the Student Code of Conduct and resolves the case with a Dean of Students staff member by agreeing to an appropriate disciplinary sanction and signing the agreement to resolve the case. Administrative Agreements are final and not subject to appeal.

**Advisor:** a friend, family member, legal representative, or an impartial third party identified by a student to support or assist them through the student conduct process. Examples of advisors include, but are not limited to:

- Case managers
- Parents
- Mentors
- Student advocates

**Affirmative Consent:** a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.<sup>1</sup>

- Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity.
- Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs or other intoxicants may be incapacitated, and therefore unable to consent.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Consent although initially given may be withdrawn at any time.

- Consent cannot be given when it is the result of any coercion, intimidation, force or threat of harm.
- For statutory rape, the age of consent is 17 years old in New York State.

**Alcohol and Other Drug (AOD) Referral:** developed in consultation with the Health and Wellness Center, the student will be required to schedule an appointment with an AOD counselor.

**Appellate Board:** a review board comprised of any persons authorized by the Office of the Dean of Students to consider an appeal from a Judicial Hearing Board’s determination that a student has violated the Student Code of Conduct.

**Appellate Officer:** the Executive Dean for Student Engagement, or another eligible individual who is authorized to decide the outcome of an appeal of a student conduct case.

**Assault:** an act of intentional or reckless physical contact, or threatened physical contact, committed without the consent of the individual.

**Attempted Assault:** an act that intends to cause physical harm but fails or falls short of execution.

**Bias-Related Incident:** the intentional selection of a person against whom an action is committed, or intended to be committed, because of a belief or perception regarding the race, color, national origin, ancestry, gender, sexual orientation, gender identity and expression, religion, age, disability, veteran status and/or marital status.

**Campus Ban:** prohibits an individual from access to Farmingdale State College grounds, buildings, or services, including online academic activities or participation in recreational events or organizations, without prior written authorization from the Office of the Dean of Students.

**Campus Mental Health Referral:** developed in consultation with Campus Mental Health Services (CMHS), the student will be required to schedule and complete an evaluation with a CMHS staff psychologist or an external private practitioner.

**College:** Farmingdale State College (FSC).

**College Housing:** all Residence Life operated residential halls, common areas, and surrounding grounds or parking facilities.

**College Official:** College faculty and College staff, and College student employees who are carrying out assigned work responsibilities, including University Police officers.

**College Premises:** all land, buildings, facilities, shuttle buses and College operated vehicles, and other property in the possession of, or owned, used or controlled by the College, including adjacent streets and sidewalks.

**Community Service Program:** a program developed by the student, in which a predetermined amount of volunteer activity with an approved on-campus entity or external partner organization is completed. All programs must be approved by the Office of the Dean of Students.

**Complainant:** the person, victim, or survivor against whom the alleged violation was committed. See also “Reporting Individual.”

**Conduct Warning:** an official acknowledgement that one or more violations of the Student Code of Conduct have occurred and is considered a low-level sanction. Conduct warnings serve as notice to a student that the behavior is counter to the expectations within the Student Code of Conduct. Conduct warnings do not have a duration associated with them.

**Dating Violence:** violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.<sup>1</sup>

**Disciplinary Contract:** a contract used when a respondent chooses to accept responsibility for and not contest the charges against them. If this election is made, the student will sign a waiver of their right to a hearing and must accept the sanction(s) identified in the contract. A student's decision to waive a hearing and accept the sanction is final and not subject to appeal.

**Disciplinary Probation:** a serious and active response to a violation of the Student Code of Conduct and may include educational sanctions or other requirements as a term of the probation. This is imposed for serious violations or a pattern of violations of the Student Code of Conduct. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found responsible for further violations of the Student Code of Conduct during the probationary period. While on probation, students may be ineligible to receive certain College awards or scholarships. At the discretion of campus offices and programs, students on probation may be ineligible for employment and/or participation in certain campus programs.

**Disorderly Conduct:** a breach of peace; or aiding, abetting, or procuring another person to breach the peace.

**Distribution:** to sell, exchange, give, make available, or dispose of to another person, or to offer or agree to do the same.

**Domestic Violence:** a systematic pattern of abusive behaviors to maintain power and control over someone including but not limited to physical abuse, isolation, verbal/mental/emotional abuse, sexual abuse, digital abuse, willful intimidation, stalking, or coercion committed by:

- A current or former spouse or intimate partner of the complainant;
- A person with whom the complainant shares a child in common;
- A person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner;
- A person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;

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<sup>1</sup> As defined in the Violence Against Women Act (VAWA)

- Any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

**Educational Interventions:** students may be assigned to attend a workshop, complete an online module, write a position paper, and/or meet with an office related to the incident.

**Expulsion:** the permanent separation of the student from the College. Students who have been expelled may not be on campus without specific, written permission of the Dean of Students.

**Exhibitionism:** exposure of one's private or intimate parts in a public place, or a private location where one could be observed publicly or with the intent of being observed publicly. This does not apply to the breastfeeding of infants.

**Final Probation:** is imposed only in very serious cases where students are currently under a significant sanction and may include removal from all College housing and loss of visitation privileges to buildings or areas of campus and is imposed for a specified period of time. Students found responsible for any further violation of the Code of Student Conduct while on final probation may be suspended or expelled from the College.

**Fondling:** the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of age or because of temporary or permanent mental incapacity.

**Guest:** an individual who is visiting a student on campus.

**Hazing:** any action taken, or situation created, involving prospective or new members of a group, or as a condition of continued membership in a group (fraternity, sorority, team, club, or other association or organization), that would be perceived by a reasonable person as likely to produce mental or physical harm, extreme or unusual stress, embarrassment, harassment, or ridicule.

No policy can be so precisely written as to address all possible situations. When this policy does not address a specific behavior, students, organizations, teams, and groups are expected to conduct themselves and their activities in the spirit of this policy and with respect for the dignity and well-being of others. The definition of hazing applies whether or not the participants consent to such activity or perceive the behavior as voluntary. The determination of whether a particular activity constitutes hazing will depend upon the circumstances and context in which the activity is occurring. As a guiding principle, any activity required of new members that is not required of more senior members is likely to constitute hazing under this policy. Some examples of conduct that may constitute hazing when used to mistreat or humiliate the participant include the following:

- Consumption of alcohol and/or drugs
- Inflicting physical harm
- Creating excessive fatigue
- Degrading or humiliating games or activities
- Forced or excessive participation in physical activities

- Psychological shock or abuse
- Engaging in public stunts or buffoonery
- Inappropriate scavenger hunts or road trips
- Wearing of apparel or items likely to subject the wearer to embarrassment or ridicule
- Activities that would unreasonably interfere with a student's other activities or obligations (academic, extracurricular, religious, family, etc.)
- Activities that violate College policy, federal, state, or local law
- Any other activity devoid of legitimate educational value that subjects participants to humiliation

**Interim Suspension:** the temporary separation of the student from the College while disciplinary proceedings unfold. Students who have been interim suspended are unable to register for and attend classes or be present on College property without specific, written permission of the Dean of Students.

**Judicial Hearing Board:** a group of persons authorized by the Dean of Students to determine whether a student has violated the Student Code of Conduct and to recommend sanctions that may be imposed when a rule violation has been committed. Judicial Hearing Boards are comprised of at least three members.

**Lewd and Obscene behavior:** unlawful behaviors that are sexual in nature, performed with the intention of sexually arousing either the perpetrator or the person to whom the conduct is directed.

**Loss of Privileges:** the loss of specified privileges, such as the use of a particular facility, visitation to a residence hall, housing priority, and contact with an individual or other privilege for a designated period of time.

**No Contact Order:** a written directive prohibiting contact with a protected individual, directly, through a third party and/or via electronic means. The written directive is mutual and applies both on and off campus.

**Nonconsensual Pornography:** the sharing of a sexually graphic image or video, through any means digital or otherwise, without the consent of the person(s) depicted in the photo or video.

**Office of the Dean of Students:** the office that oversees all aspects of the student conduct process and is the primary point of contact for all disciplinary matters.

**Party:** refers to either the Complainant or Respondent in a student conduct case.

**Policy:** the written regulations of the College as found in College published documents such as the Student Handbook, the Campus Housing Residence License Agreement, the Acceptable Use for Computer Facilities Policy, Parking Rules and Regulations, and policies pertaining to advertising on Campus, use of facilities, student organizations, smoking, and Board of Trustees policies.

**Preponderance of Evidence:** the standard of proof used in all cases that asks whether it is "more likely than not" that the violation occurred. If the evidence presented meets this standard, then the respondent should be found responsible.

**Rape:** the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the reporting individual.<sup>2</sup>

**Red Watch Band:** an evidence-based bystander intervention training designed to prevent toxic drinking behaviors.

**Relocation:** the reassignment of a student from one living space to another. Housing relocation or removal from campus housing can be applied as a sanction. Students who have a serious violation of the community standards set in the Student Code of Conduct or the Campus Housing Residence License Agreement, or because of a series of breaches of the community standards in the Residence Halls will be asked to relocate or leave all campus Housing. Removal from housing typically includes the loss of visitation privileges to specific residential areas and penalty of forfeiting room and board charges for the semester in which the disciplinary action occurs.

**Reporting Individual:** Refers to the terms victim, survivor, complainant, claimant, witness with victim status or any other term used by the University to reference an individual who brings forth a report of a violation or the individual against whom the alleged violation was committed. See also “Complainant.”

**Resident:** a student who is properly assigned to a room in a residence hall. All residents are subject to the provisions in the Student Code of Conduct, as well as the Campus Housing Residence Life Agreement.

**Respondent:** refers to any student alleged to have violated the Student Code of Conduct.

**Restitution:** may include payment to an individual or to the College to cover the cost of damage, destruction, defacement, theft, or unauthorized use of property.

**Restorative Justice:** a voluntary process that requires mutual agreement and commitment of all involved parties. It is an alternative method to resolve conflict, dispute, or policy violation(s) with open dialogue that is healing and empowering to the participants. An essential requirement for restorative justice is that person(s) of concern must acknowledge and accept responsibility for their offenses in an effort to repair harm and rebuild trust.

**Retaliation:** adverse action against another person for reporting a violation or for participating in any way in the investigation or conduct process. Retaliation includes, but is not limited to, harassment and intimidation such as violence, property destruction, or adverse educational or employment consequences.

**Sanction:** a requirement or status that is imposed as a result of either accepting responsibility or being found responsible for violating the Student Code of Conduct.

**Sexual Assault:** any sexual offense directed against another person, without the consent of the reporting individual, including instances where the complainant is incapable of giving consent.<sup>3</sup>

**Sexual Harassment:** unwelcome conduct that is sexual in nature and sufficiently severe, persistent, or pervasive that it interferes with, denies, or limits someone’s ability to participate in, or benefit from, the

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<sup>2</sup> As defined in the Violence Against Women Act (VAWA)

<sup>3</sup> As defined in the Violence Against Women Act (VAWA)



College's educational program and/or activities. Sexual harassment may be based on power differentials (quid pro quo harassment), the creation of a hostile environment, or retaliation.

**Sexual Violence:** physical sexual acts or sexual contact perpetrated against a person's will or where a person is incapable of giving affirmative consent. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

**Staff:** individuals qualified to act on behalf of the College in matter pertaining to student conduct or behavior in the residence halls. This includes, but is not limited to:

- Office of the Dean of Students personnel (Dean of Students, professional support employees, etc.)
- Residence Life personnel (Director of Residence Life, professional support employees, Residence Hall Directors, etc.)
- Student Workers (Resident Assistants, Office Assistants, Desk Assistants, etc.)

**Stalking:** engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress.<sup>4</sup>

For the purposes of this definition:

- *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

**Stealthing:** removal of or tampering with a sexually protective device without consent.

**Strangulation:** obstructing breathing or blood circulation by intentionally applying pressure to the throat or neck, or blocking the nose or mouth.

**Student:** persons registered for courses, either full time or part time, pursuing undergraduate, graduate, or professional students, as well as non-degree seeking students, including between academic terms; taking online classes; auditing classes.

**Student Organization:** any number of persons who have complied with the formal requirements for College recognition.

**Term Suspension:** the separation of the student from the College for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified. Students who have

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<sup>4</sup> As defined in the Violence Against Women Act (VAWA)

been suspended are unable to register for and attend classes or be present on College property without specific, written permission of the Dean of Students.

**Voyeurism:** the practice of watching others when they are naked or engaged in sexual activity, usually for the purpose of gaining sexual pleasure.

**Weapon:** any instrument, device, or object capable of inflicting physical harm or death, and designed or specifically adapted for use as a weapon, or possessed, carried, or used as a weapon.

### **Section III: Student Conduct Policies**

#### **A. Rules of Student Conduct**

The behaviors listed in this section violate the College's Student Code of Conduct. This list is not exhaustive but is intended to describe general types of behavior that may result in disciplinary action. These codes apply both to student behavior, which occurs on campus or at College-sponsored events as well as those occurring off-campus. Prohibited behavior includes not only completed actions, but also attempted violations of the Student Code of Conduct.

A student who withdraws from the College shall not be exempt from disciplinary proceedings for behavioral infractions, which took place prior to withdrawal. Campus disciplinary procedures shall be followed with the accused student receiving due notice of hearing. Any resulting sanction of suspension or dismissal will be notated on the undergraduate or graduate academic transcript, as well as the student's conduct record.

##### **1. Fire Safety**

- a. Causing or creating a fire, regardless of intent (except as authorized for use in class, or in connection with College-sponsored research or other approved activities).
- b. Tampering with safety measures or devices, including but not limited to, alarm systems, fire extinguishers, exit signs, emergency phone systems, smoke or heat detectors, fire hoses, security systems, locked exterior doors, etc.
- c. Failing to conform to safety regulations, including but not limited to, falsely reporting an incident, failure to evacuate facilities in a timely fashion in emergency situations or in response to fire alarms, inappropriate use of the fire alarm system.

##### **2. Weapons and Dangerous Objects**

Possessing or using any object or substance designed to inflict a wound, cause injury, or incapacitate, including, but not limited to, all firearms, switchblade knives, knives with blades five or more inches in length, explosives, fireworks or dangerous chemicals (except as authorized for use in class, or in connection with College-sponsored research or other approved activities). The term firearms include pellet guns, air guns, rifles, shotguns, handguns, electronic

control devices (e.g. tasers), paint ball guns, pellets, ammunition, multiple firing weapons, and any weapon capable of firing a shot.

NOTE: Possession of any rifle, shotgun or firearm in or upon any building or grounds of the College without written authorization from the President is also a crime under New York state law. Any person doing so without authorization is subject to arrest in addition to any penalty that may be assessed through the College's Student Conduct System.

### **3. Threatening or Abusive Behavior**

Intentionally or recklessly causing physical harm to any person or reasonable fear of such harm. Students cannot justify such behavior as defensive if:

- a. The behavior is a physical response to verbal provocation;
- b. The student has the ability to leave the situation, but instead chooses to respond physically;
- c. In circumstances where such actions are punitive or retaliatory.

### **4. Harassment**

Engaging in behavior that is sufficiently severe, pervasive, or objectively offensive that it unreasonably interferes with, denies, or limits an individual's ability to participate in or benefit from the College's education program and/or activities, and creates an academic environment that a reasonable person would find intimidating or hostile. Activity protected by the First Amendment will not constitute harassment.

Harassment may include, but is not limited to:

- a. Directing unwanted physical or verbal conduct at an individual based on one or more of that person's protected characteristics or status, including age, color, race, disability, marital status, national/ethnic origin, religion, military/veteran's status, sex [including pregnancy], gender expression or gender identity, sexual orientation, domestic violence victim status, criminal or arrest record, political activities or predisposing genetic characteristics; or
- b. Subjecting a person or group of persons to unwanted physical contact or threat of such.

Intentionally engaging in unwanted conduct toward another person:

- a. By following that person in or about a public place or by engaging in a course of conduct or repeatedly committing acts that place a person in reasonable fear of physical injury;
- b. By engaging in a course of conduct or repeatedly committing acts that alarm or cause significant discomfort that serve no legitimate purpose;

- c. By communicating or causing a communication to be initiated with a person, by any means, electronic or otherwise, that conveys a threat to cause physical harm to a person or their property; and/or
- d. When intent to harass, annoy, threaten, or alarm another person subjects that person to physical contact or threatens to do the same because of a belief or perception about that person's race, color, sexual orientation, gender, gender identity and expression, religion, age, disability, veteran status, marital status, national origin, and/or ancestry.

Students found responsible for harassment that is targeted at a person or group based on factors such as perceived race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristic, military status, domestic violence victim status, or criminal conviction, may be subject to more severe sanctions.

## 5. Intimate Partner Violence

Intimate Partner Violence includes Dating Violence and Domestic Violence, both of which are further defined below. Intimate Partner Violence can occur in relationships of the same or different genders.

- a. **Dating Violence:** Any act of violence, including physical, sexual, psychological, and/or verbal violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Reporting Individual. The existence of such a relationship shall be determined based on the Reporting Individual's statement and with consideration of the type and length of the relationship and the frequency of the interaction between the persons involved in the relationship. Dating Violence can occur as a single act, or it can consist of a pattern of violent, abusive, or coercive acts that serve to exercise power and control in the context of a romantic or intimate relationship. Two people may be in a romantic or intimate relationship, regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship.
- b. **Domestic Violence:** Any violent crime committed by a current or former spouse or intimate partner of the Reporting Individual, a person sharing a child with the Reporting Individual, or a person cohabitating with the victim, as a spouse or intimate partner.

## 6. Stalking

Intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for their personal safety or the safety of others or cause that person to suffer substantial emotional damage. Examples include, but are not limited to, repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or

seriously annoy such other person(s) and that serve no legitimate purpose, and repeatedly communicating by any means, including electronic means, with such person(s) in a manner likely to intimidate, annoy or alarm the person. Stalking does not require direct contact between parties and can be accomplished in many ways, including through the use of electronic media such as internet, pagers, cell phones, or other similar devices.

## 7. Endangerment

Acting to create or contribute to dangerous or unsafe environments anywhere on or off campus. Reckless or intentional acts, which endanger, or put at risk, the welfare of oneself or others are prohibited.

## 8. Sexual Harassment

- a. **Sexual Harassment in the Educational Setting** is any unwelcome conduct of a sexual nature and can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment of a student denies or limits, on the basis of sex, the student's ability to participate in or to receive benefits, services, or opportunities in the educational institution's program.
- b. **Sexual Harassment in the Employment Setting** is any unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature when any of the following occurs: (1) submission to such conduct is made a term or condition of an individual's continued employment, promotion, or other condition of employment; (2) submission to or rejection of such conduct is used as a basis for employment decisions affecting an employee or job applicant; or (3) such conduct is intended to interfere, or results in interference, with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

## 9. Rape, Sexual Assault and Sexual Exploitation

- a. **Sexual Assault I:** sexual intercourse or any sexual penetration, however slight, of another person's oral, anal, or genital opening with any object (an object includes but is not limited to parts of a person's body) without the affirmative consent of the victim.
- b. **Sexual Assault II:** touching a person's intimate parts (defined as genitalia, groin, breast, or buttocks), whether directly or through clothing, without the affirmative consent of the victim. Sexual Assault II also includes forcing an unwilling person to touch another's intimate parts.
- c. **Sexual Exploitation:** Non-consensual, abusive sexual behavior that does not otherwise constitute Sexual Assault I, Sexual Assault II or Sexual Harassment. Examples include but are not limited to: intentional, nonconsensual tampering with or removal of condoms or other methods of birth control and Sexually Transmitted Infection ("STI") prevention prior to or during sexual contact in a manner that significantly increases the likelihood of STI contraction and/or pregnancy by the non-consenting party;

nonconsensual video or audio taping of sexual activity; allowing others to watch consensual or nonconsensual sexual activity without the consent of a sexual partner; observing others engaged in dressing/undressing or in sexual acts without their knowledge or consent; trafficking people to be sold for sex; distribution of non-consensual pornography (revenge porn); and inducing incapacitation with the intent to sexually assault another person.

## **10. Hazing**

Any activity expected of someone that humiliates, degrades, abuses, or which endangers the mental, emotional, physical health, or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in an organization or team whose members are or include students at FSC is prohibited. Hazing may occur regardless of the person's willingness to participate. (Note: A person commits a hazing offense if the person engages in hazing; solicits, encourages, directs, aids, or attempts to aid another engaging in hazing; or intentionally, knowingly, or recklessly permits hazing to occur.)

## **11. Academic Integrity Violations**

Conduct including, but not limited to, plagiarism, cheating, multiple submission, forgery, sabotage, unauthorized collaboration, falsification, bribery or use of purchased research service reports without appropriate notation; and theft, damage, or misuse of library or computer resources. Attempts to commit such acts shall also constitute a violation of the [Academic Integrity Policy](#).

Students are warned that if found in violation of academic dishonesty they may be subject to two types of sanctions. In addition to the student conduct system, if the instructor is convinced that the student has been dishonest, the instructor may administer an academic penalty. The student who disagrees with the faculty member's judgment or penalty may appeal through established academic appeal procedures. Consult the appropriate department chair, school dean, or academic catalogs for details. At the same time, the student may be subject to the proceedings and sanctions of the Student Conduct System outlined in Student Community Rights and Responsibilities.

## **12. Forgery, Fraud, Dishonesty**

Altering or misusing documents, records, stored data or instrument of identification, or furnishing false information to any College, local, state, or federal official. This includes possessing, creating, or using a fake or forged instrument of identification, or monetary notes.

### **13. Property Damage**

- a. Removing, destroying or damaging College property, or property under College administration or supervision.
- b. Destroying or damaging the property of others, on or off-campus.

### **14. Theft**

Stealing property and/or services; possessing stolen property.

### **15. Unauthorized Entry or Use**

Entering or using facilities or property on or off-campus, belonging to individuals, College-recognized groups, and/or corporate entities without proper authorization. Students are not authorized to be in College buildings after normal operating hours unless it is for a campus event that received proper approval through campus policies and procedures.

### **16. Drugs**

Consistent with the Drug-Free Schools and Communities Act Amendments of 1989 (Public Law 101-226), possessing, using, or distributing a controlled substance or dangerous drug, or any drug unlawful to possess, e.g. cannabis, except as expressly permitted by law is prohibited. Drug paraphernalia including, but not limited to: bongs, water pipes, or hypodermic needles that are not specifically required for the administration of prescribed medications are not allowed on campus. Use of legal medication outside the parameters of the medical authorization is prohibited and prescription drugs on campus must have an authentic medical prescription.

### **17. Alcohol**

Consistent with New York State Law, individuals under the age of 21 years are prohibited from using, possessing, or distributing alcoholic beverages. Individuals over the age of 21 may use and possess alcohol as permitted by the law and College regulations. Open containers and public intoxication are prohibited. Students who are irresponsible in their use of alcohol or who provide alcohol to minors will be subject to this Code regardless of the student's age. This applies to both on campus and off-campus behavior.

### **18. Obstruction or Disruption**

Any obstructing or disruption of College activities. Such activities include, but are not limited to, teaching, research, administration, disciplinary procedures, or other authorized activities including public service functions. It can include participation in campus demonstrations which disrupt the normal operations of the College and infringes on the rights of other members of the College community by leading or inciting others to disrupt scheduled and/or normal

activities within any campus building or area; intentional obstruction which unreasonably interferes with freedom of movement, either pedestrian or vehicular, on campus.

### **19. Student Group Violations**

Students are expected to know and abide by the regulations governing their membership in a student organization (e.g. SGA recognized groups, Campus Life recognized groups, Greek Organizations, etc.). Prohibited conduct by officers/members of student groups and organizations may result in a referral to the Student Conduct System for individual students.

- a. All violations of College policy and the law by officers/members of student groups/organizations will be adjudicated through the Student Conduct System including both individual and organizational violations.

Full policies are available by contacting the Office of Student Activities, 934-420-2103.

### **20. Non-Compliance**

- a. Failure to comply with any college policy, local, state, and/or federal law, rule, or regulation.
- b. Failure to comply with the directions of an authorized local, state, federal or College official (including University Police personnel) acting in the performance of his or her duties, or any other person responsible for a facility or registered function acting in accordance with those responsibilities. This includes, but is not limited to, not appearing at meetings when directed to do so; not providing identification; not abiding by any temporary and/or administrative directive; and not leaving areas/events when directed to do so. Failure to abide by campus health, safety, and security expectations is considered non-compliance.

### **21. Parking and Motor Vehicle Violations**

Violating College policies and regulations governing the possession or use of motor vehicles on campus, which can be reviewed on the [University Police webpage](#). University Police may fine or withdraw the right to use a vehicle on campus in addition to or in lieu of sanctions imposed through the campus Student Conduct System.

### **22. Tobacco**

The College's Tobacco Use Policy can be reviewed on the campus website.



### **23. Residence Hall Regulations/ Published Institutional Rules**

Failure to abide by any College policies, including the Residence Hall policies as defined in the terms and conditions of the Residence Hall License. See the Residence Life Handbook, located on the [Residence Life webpage](#), for a full listing of campus housing regulations.

### **24. Disruptive Conduct**

Impairing, interfering with or obstructing the orderly conduct, processes and functions of the College or surrounding community. This behavior includes, but is not limited to, excessive noise, abusive or obscene language in a public place, obstructing vehicular or pedestrian traffic and boisterous or threatening conduct, which is unreasonable in the area, time, or manner in which it occurs.

### **25. Information Technology Acceptable Use Policy**

Violations of this policy are subject to referral to the Office of the Dean of Students. The full terms of the Acceptable Use Policy for Computer Facilities can be found on the FSC website.

### **26. Hate or Bias-Related Offense**

Intentionally selecting a person against whom a criminal offense is committed or intended to be committed because of a belief or perception regarding the race, color, national origin, ancestry, gender identity or expression, religion, religious practice, age, disability, or sexual orientation, regardless of whether the belief or perception is correct.

Note: A student who is found to be responsible for committing a hate or bias-related offense may be subject to a more severe sanction than would be imposed in the absence of such motivation.

### **27. Gambling**

Gambling, including, but not limited to, contests of chance, illegal lottery and policy or “numbers games” for money or something of value; promoting or advancing gambling; gambling using College computing/network facilities; possessing gambling devices or gambling records is prohibited.

### **28. Abuse of the Student Conduct System**

Abusing the Student Conduct System, including but not limited to:

- a. Failure to obey the request of a Student Conduct Hearing Board or College official.
- b. Falsification, distortion, or misrepresentation of information before a Student Conduct Hearing Board.

- c. Disruption or interference with the orderly conduct of a student conduct proceeding.
- d. Knowingly instituting a student conduct referral without cause.
- e. Attempting to discourage an individual's proper participation in, or use of, the Student Conduct System.
- f. Attempting to influence the impartiality of a member of a Student Conduct Hearing Board prior to, and/or during, and/or after a student conduct proceeding.
- g. Harassment (verbal or physical) and/or intimidation of any involved in the student conduct process including a reporter of a possible student conduct violation, a witness to the alleged violation, an advisor, or a member of a Student Conduct Hearing Board prior to, and/or during, and/or after a proceeding.
- h. Failure to comply with the sanction(s) imposed under the Student Code of Conduct.
- i. Influencing or attempting to influence another person to commit an abuse of the Student Conduct System.

## **29. Retaliation**

Retaliation is an adverse action against another person for reporting a violation or for participating in any way in the investigation or conduct process. Retaliation includes harassment and intimidation, including but not limited to violence, threats of violence, property destruction, adverse educational or employment consequences, and bullying. Any individual who participates in any of the sexual harassment or sexual violence reporting procedures has the right to do so without fear of or actual retaliation. Retaliatory behavior by someone, or anyone acting on their behalf, against anyone whom they may believe have cooperated in the investigation and/or conduct process is strictly prohibited and may result in disciplinary action.

## **30. Violation of the Law**

Violation of any local, state, or federal law and/or regulation established by the Board of Trustees of the State University of New York is prohibited.

## **31. Greek Policies Related to Alcohol and Drugs**

The possession, sale, use or consumption of alcoholic beverages, while on chapter premises or during a fraternity or sorority event, in any situation sponsored or endorsed by the chapter, or at any event an observer would associate with the fraternity or sorority:

- a. Must comply with all applicable laws of the state, province, county, city, and a institution of higher education, and;
- b. Must comply with either the BYOB or Third-Party Vendor Guidelines.
  - 1. Sponsorship and endorsement may include the contribution of funds, supplies, food, or management of the event or significant portion of membership in attendance.

2. There is increased potential for responsibility where alcohol is present at an event.
  - ii. **BYOB (Bring Your Own Beverages)** is the process where members or guests bring their own individual supply of a beverage for personal consumption. BYOB is not the use of a common source of alcohol provided by any members, alumni, guests, or co-sponsors such as cases of beer, bottles of alcohol, kegs, party balls, etc.
  - iii. **Third-Party Vendor Guidelines** apply to situations in which the organization contracts a licensed purveyor of alcohol in a bar, dance hall, drinking establishment, hotel, restaurant, etc., or by inviting a catering company to the organization/or co-sponsor's location.
    1. The organization may pay for:
      - a. The vendor employee salaries.
      - b. Set up costs excluding any purchase of alcohol.
      - c. Facility rental.
    2. Events with a Third-Party Vendor maintain that individuals of age will pay for their own drinks on a cash per drink basis only.
    3. Any form of "all you can drink" and/or "discount" rates by way of chapter subsidy or by gift of the vendor are prohibited.
- c. No alcoholic beverages may be purchased through or with chapter funds, nor may the purchase of same for members or guests be undertaken or coordinated by any member in the name of or on behalf of the chapter. The purchase or use of a bulk quantity or common source(s) of alcoholic beverage, for example, kegs or cases, is prohibited.
- d. **Open Parties**, meaning those with unrestricted access by non-members of the fraternity or sorority, without specific invitation, where alcohol is present, are forbidden.
- e. No members, collectively or individually, shall purchase for, serve to, or sell alcoholic beverages to any minor (i.e., those under legal drinking age).
- f. The possession, sale or use of any illegal drugs or controlled substances on chapter premises or during a fraternity/sorority event or at any event that an observer would associate with the fraternity/sorority is strictly prohibited.
- g. No chapter may co-sponsor an event with an alcohol distributor, restaurant, and/or tavern (tavern defined as an establishment generating more than half of annual gross sales from alcohol) at which alcohol is given away, sold or otherwise provided to those present. This includes any event held in, at or on the property of a tavern as defined above for purposes of fundraising. However, a chapter may rent or use a room or area in a tavern as defined above for a closed event held within the provisions of this policy, including the use of a third-party vendor and guest list. An event at which alcohol is present may be conducted or co-sponsored with a charitable organization if the event is held within the provisions of this policy.
  - i. An organization may have events with a bar or drinking establishment, but without the use of advertisement, and only within a controlled setting regarding guests and Third-Party Vendor guidelines.
  - ii. The sale of tickets to an event, such as a band, may not be coordinated at the event, may not be used to pay the vendor, and must be paid to the

entertainment prior to the event and separate from any situation where alcohol is present. Such events must still remain restricted and careful sale of tickets may only be to those determined by the guest list.

- iii. The organization may not advertise for an event using the name of an alcohol vender or information about the presence of any alcohol whether it is BYOB or using a Third-Party Vendor.
- iv. All financial transactions with the vendor must take place prior to the event and not involve alcohol purchase or subsidy.
- h. No chapter may co-sponsor, co-finance, or attend or participate in a function at which alcohol is purchased by any of the host chapters, groups or organizations.
- i. All recruitment or rush activities associated with any chapter will be non-alcoholic. No recruitment or rush activities associated with any chapter may be held at or in conjunction with a tavern or alcohol distributor as defined in this policy.
- j. No member or pledge, associate/new member, or novice shall permit, tolerate, encourage, or participate in "drinking games" in any manner or form in which the consumption of alcohol is involved, whether as a penalty or in response to a specific cue or prompt.
- k. No alcohol shall be present at any pledge/associate member/new member/novice program, activity or ritual of the chapter. This includes, but is not limited to, activities associated with "bid night," "big brother/big sister night," and initiation.

All Greek organization must abide by all College documents, policies and procedures, including, but not limited to the New Member Handbook and the Fraternity and Sorority Recognition and Governance statement.

## **B. Campus Alcohol Policy**

Farmingdale State College (FSC) is committed to the cognitive and social development of all students; therefore, it is the policy of FSC to maintain an alcohol and drug free workplace. FSC offers various primary prevention and alcohol and drug education programs focused on reducing the harmful effects of alcohol and drug use. It is the goal of FSC to help students who are struggling with substance abuse issues by means of education and counseling before disciplinary action.

FSC prohibits the unlawful possession, use and distribution of illicit drugs and alcohol by students and employees on its property or as any parts of its activities. In compliance with the Federal Drug-Free Schools and Communities Act of 1989 and the Federal Anti-Drug Abuse Act of 1988, this policy sets forth the standard of conduct that students are expected to follow, sanctions for this violation of this policy, and the responsibility of faculty, staff and students for enforcement of this policy. FSC recognizes all Federal, State, Local laws, or ordinances, and expects all faculty, staff and students to adhere to them.

**Good Samaritan Policy:** In cases of alcohol and drug intoxication, the primary concern is the health and safety of the individual(s) involved. FSC strongly encourages individuals to call for medical assistance for themselves or for a friend/acquaintance who is displaying symptoms of alcohol or drug overdose. No student seeking medical treatment for an alcohol or other drug-related overdose, or other life-threatening medical emergency shall be subject to the FSC disciplinary process for the sole violation of

using or possessing alcohol or drugs. This policy shall apply to any student seeking help for the intoxicated student and the student who is facing a life-threatening medical emergency.

View the full Campus Alcohol policy: <https://www.farmingdale.edu/policies/?pid=221027>

### **C. Campus Tobacco Use Policy**

Farmingdale State College (FSC) is committed to providing a healthy, comfortable, and safe environment for its students, faculty, staff, and visitors, and has implemented a policy of tobacco usage strictly in designated areas. FSC supports an environment where students, employees, and visitors can avoid exposure to second-hand smoke and other forms of tobacco usage. Tobacco usage will only be permitted in designated areas that are clearly identified by signage as allowing tobacco usage.

View the full Campus Tobacco Use Policy: <https://www.farmingdale.edu/policies/?pid=214613>

### **D. Accommodations**

Students with documented disabilities who are involved in the student conduct process may seek reasonable accommodations for any stage of the student conduct process. Any student requesting accommodations will be referred to the Disability Services Center.

## **Section IV – Student Code of Conduct Procedures**

### **A. Procedures for Review of Student Conduct**

The College’s student conduct system handles charges brought against any College student or student organization for alleged infractions of the Student Code of Conduct. In addressing charges, it is the responsibility of the hearing body to determine whether the alleged behavior constitutes a violation of the Student Code of Conduct.

This process emphasizes student involvement and relies on full and open discussion of cases with all parties concerned to determine a fair and appropriate outcome. The hearing bodies are not courts of law; hence, the formal rules of process, procedure and/or technical rules of evidence that are used in the courts do not apply. Students who are requested to provide testimony to a Judicial Hearing Board are encouraged to participate.

#### **1. Charges**

- a. Any member of the College community can bring forth allegations of misconduct, which must be submitted in writing to the Office of the Dean of Students. The Dean of Students/designee will investigate and, if warranted, proceed with disciplinary action against the Respondent. Due process is guaranteed throughout the entire disciplinary process.
- b. Charges against students and student organizations must be presented in writing with sufficient detail at least five days prior to a hearing. Individuals or student organizations charged with a policy violation will also be notified of their rights within

the process and of the procedures to be followed. Charges to the respondent will be delivered via email, in person, or mailed to the most recently recorded address listed with the College or permanent address if no local address is listed. Charges against student organizations will be delivered to the president of the organization. Additionally, the Maxient database serves as a vehicle for correspondence between the Office of the Dean of Students and students. Therefore, students are responsible for information sent via Maxient, regardless of whether or not the correspondence is retrieved.

#### **i. Mediation**

In certain situations, mediation is a process available for resolving disputes between individuals or groups. Mediation is a voluntary, confidential, and nonjudgmental process providing an opportunity for parties in conflict to meet with a mediator to present the issues. Mediation can be an alternative to or supplement the formal student conduct process for certain types of conflict. The mediator's role is to facilitate a conversation between or among parties in conflict in an effort to reach an agreement. Mediation agreements are enforceable as official College directives, and failure to comply with an agreement may be a violation of the Student Code of Conduct. When a satisfactory agreement cannot be reached through mediation, the complaint may be referred for student conduct action, where appropriate.

### **2. Investigation**

A representative from the Office of the Dean of Students or designated College official shall investigate and determine whether further action is necessary within a reasonably prompt time frame and in an effective manner. The investigation may include interviews and requests from written statements from the parties (i.e., Complainants, Respondents, or witnesses). If the Respondent fails to respond to one written request for an interview, the College official may proceed with a review of the evidence and information. In circumstances involving investigation of complaints when the Complainant does not choose to proceed, the College official reserves the right to continue its investigation regardless of Complainant cooperation or involvement. The College will make every effort to keep all investigations confidential to the extent possible/practical.

### **3. Decision to Proceed**

If in the judgement of the College official, sufficient evidence warrants further actions, such official shall initiate one of the following procedures:

- a. **Notification of Charges** – The student charged with an alleged violation of the Student Code of Conduct will be provided with written notice of charges and will be required to either meet with a College official for a student conduct meeting or attend a hearing on the date cited in the notice. The hearing shall be scheduled for no less than ten (10) business days from the date of the notice.

- b. **Student Conduct Meeting** – A student conduct meeting is a meeting between a student involved in an alleged violation of the Student Code of Conduct and a College official. In some cases, the meeting may resolve the matter and sanctions will be imposed.

#### **4. Disciplinary Contract**

A respondent may choose to accept responsibility for and not contest the charges against them. If this election is made, the student will sign a waiver of their right to a hearing and must accept the sanction(s) identified in a Disciplinary Contract. A student's decision to waive a hearing and accept the sanction is final and not subject to appeal.

#### **5. Case Preparation**

A College official shall inform the Respondent(s) of the rights and responsibilities they will have in the scheduled hearing in writing.

#### **6. Information in Support/Defense of Allegations**

Information in support/defense of allegations (including statements, documentary and/or physical material) to be presented by Respondent(s) during any hearing on the charges must be shared with the opposing party at least three (3) business days in advance of the scheduled hearing. The College official presiding at the hearing may exclude information in support/defense of allegations that has not been shared or adjourn the hearing to afford all parties the opportunity to review information in support/defense of allegations to be presented during the hearing. The College official presiding at the hearing will make the final decision relating to the admissibility of all information in support/defense of allegations. Hearsay information in support/defense of allegations, including written statements, may be considered. Firsthand oral statements subject to cross examination will be given greater weight than hearsay statements. Written statements from character witnesses are permitted into the hearing.

#### **7. Advisors <sup>5</sup>**

Campus conduct proceedings aim to prioritize learning, understanding, and community restoration when possible. Though not designed to mimic or replicate external legal proceedings, FSC understands that formal disciplinary hearings are not a common experience for most students – one that may produce an outcome that impacts educational continuity. Campus conduct proceedings must necessarily remain student centric throughout the entire process.

Reporting Individual(s) and Respondent(s) may appear at the hearing with an advisor of their choice -- who can be a friend, family member, legal representative, or an impartial third party –

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<sup>5</sup> For concerns related to covered “sexual harassment” falling within the Title IX Grievance Policy and the participation of an advisor of choice, please refer to the [Policy for Addressing Formal Complaints of Sexual Harassment Under the Title IX Regulation](#).

for support. The role of the advisor is to assist each party, but not to engage in any verbal presentation or questioning. An advisor may witness the proceedings in a supportive capacity, but they may not address the presiding Student Conduct Administrator/Judicial Hearing Board or otherwise directly engage the proceeding in lieu of the student participant. The admission of Advisors is at the discretion of the presiding Student Conduct Administrator/Judicial Hearing Board, who may dismiss an Advisor from the proceeding if they fail to abide by the appropriate guidelines for cordial attendance.

Prior to any scheduled disciplinary hearing or formal meeting, Reporting Individual(s) and Respondent(s) are encouraged to contact College personnel if they intend to have an Advisor present so that any relevant FERPA requirements may be fulfilled beforehand. Respondent(s) will be limited to a maximum of two support individuals upon approval of the presiding Student Conduct Administrator/Judicial Hearing Board. All provisions and requirements referenced in this section apply to both legal (e.g., attorneys) and non-legal representatives acting as advisors.

### **8. Attendance at Hearing**

Those in attendance at a Judicial Hearing Board hearing may include the Complainant(s), Respondent(s), their advisor(s), witness(es) (while giving statements), the presiding College official and Judicial Board when assigned. A College observer may be present. The presiding College official shall determine whether additional persons may be present.

A student may request a maximum of two postponements of a hearing for legitimate or extenuating circumstances. All requests must be in written form and received by the Office of the Dean of Students at least 24 hours in advance of the initially scheduled date. Requests for postponement of a Monday hearing must be received by 4:00 p.m. on Fridays. The College reserves the right to postpone a hearing for legitimate reason at any time. Reasonable attempts will be made to contact the student at the telephone number on record at the College or via campus email. Be advised, failure to attend a scheduled hearing with no notification will result in the hearing being conducted in absentia. Conduct determinations, resulting from hearings held in absentia, have no right of appeal.

A Judicial Board reserves the right to determine the modality of a hearing and may convene remote proceedings utilizing appropriate telecommuting software. Both in-person and remote hearings are recorded for the purposes of record retention.

### **9. Confidentiality**

In order to protect confidentiality, hearings shall be closed to members of the campus community and to the public.

### **B. Judicial Hearing Boards**

Judicial Hearing Boards are established for the purpose of hearing alleged violations of the rules detailed in the Student Code of Conduct. The board will review the allegations, hear any responses, make decisions as to whether a policy was violated, and provide recommendations for sanctions where appropriate.



## **1. Composition**

A Judicial Hearing Board is composed of three to five members from the campus community that have completed training provided by SUNY's Student Conduct Institute, which may include students, staff, or faculty. The campus may convene a judicial hearing board or hold an administrative hearing as deemed appropriate at the discretion of the Dean of Student Affairs in accordance with the nature and circumstances of the case. The decision-making body of an administrative hearing may be comprised of at least one (1) faculty or staff member.

## **2. Student Eligibility**

All students, full or part-time, shall be eligible for recruitment to serve as Judicial Hearing Board members, provided they have maintained a 2.50 cumulative grade point average, are not currently on disciplinary probation, and have not been suspended from the residence halls or the College. Students with a student conduct record may be required to meet with a College official and their application may be denied.

## **3. Training**

All members of the Judicial Hearing Board, upon receiving notice of appointment, shall be given information about their responsibilities and the means by which they may fulfill them.

## **C. Hearing Procedures**

Hearings provide the forum where parties to an allegation are afforded the opportunity to present information for review by either a Student Conduct Administrator/designee or a Judicial Hearing Board. In the event that a Respondent has received notice of a hearing and elects not to appear, the hearing shall proceed in their absence and a determination of responsibility shall be made and sanctions imposed. The hearing procedures generally include the following basic steps:

### **1. Opening**

The presiding Student Conduct Administrator states the alleged charges and identifies the individuals present. Information in support/defense of allegations submitted by the Complainant will be provided to the Judicial Hearing Board.

### **2. Student Response**

The Respondent(s) will be asked to state their understanding of the charges levied against them and the process by which the College arrived at each charge.

### **3. Respondent Presentation**

Respondent Presentation should begin with an opening statement addressing the alleged conduct. Information in response to the notice of alleged conduct submitted by the Respondent will be provided to the Judicial Hearing Board. The presiding Student Conduct Administrator/designee and members of the Judicial Hearing board may question the Respondent regarding the opening statement and information presented concerning the allegations. The Respondent may question the Student Conduct Administrator/Judicial Hearing Board regarding the nature of the charges and/or supplementary evidence submitted.

The Judicial Hearing Board and/or the Respondent(s) may call upon witness(es) to appear and discuss their account of the incident. The presiding Student Conduct Administrator/Judicial Hearing Board must be notified of the presence of witnesses at least 24 hours in advance of the scheduled hearing date.

#### **4. Closing Statements**

After all witnesses have presented statements and all questioning completed, closing statements are made by the Respondent. Closing statements are intended to summarize the information previously introduced during the investigation process and hearing. No new evidence or statements may be introduced during closing statements. No questioning is allowed during or after closing statements.

#### **5. Deliberation**

After closing statements have been presented, a review of information in support/defense of allegations is conducted by the Judicial Hearing Board to determine the Respondent's responsibility as to each of the charges. The presiding Student Conduct Administrator will act as a non-voting facilitator when conducting a review.

#### **6. Decision**

Upon a review of the totality of the information discussed during the deliberation process, a decision regarding the Respondent's responsibility as to each of the charges shall be made by a majority vote of the Judicial Hearing Board. A decision of responsibility shall be made only if the allegations contained in each charge have been established by a preponderance of the evidence standard.

#### **7. Recommendation/Determination of Sanctions**

The Judicial Hearing Board or Hearing Officer (in the case of an administrative hearing), is responsible for making a final disciplinary determination and assigning appropriate sanctions.

### **D. Post-Hearing Procedures**

#### **1. Notification**

The decision of the proceeding will be communicated in writing to the Respondent by the presiding Student Conduct Administrator/designee. Written notification will include the date and time of the hearing, the findings, and the sanctions to be imposed, if any. If the Respondent charged is found responsible and a sanction is to be imposed, the notification shall inform the Respondent of the right to an appeal and the method for submitting the appeal. All appeals must be filed within five (5) business days of receipt of notification of sanction to the Dean of Students. Respondent(s) must write their appeal in compliance with the Guidelines for a Written Appeal available in Dean of Students'/Vice President's office, and online in the Student Handbook. The request for an appeal review does not assume a review will be granted.

## 2. Hearing Documents

A written notification summarizing the main points of the proceedings and information in support/defense of allegations presented during the hearing become part of the proceeding's official record. Recordings made during the hearing also become part of the official record. These materials are confidential. However, these materials are made available, in cases of appeal and upon request, to the designated appellate officer or appellate board hearing the appeal. Unless otherwise required by law, all information obtained during the course of the investigation and hearing shall be protected from public release.

## 3. Enforcement

The presiding Student Conduct Administrator or other designated College official will ensure that any sanctions imposed are carried out on behalf of the College.

## E. Interim Action

Pending final action on a charge (including the appeals process), the status of the student is not altered, unless the continued presence of the student would constitute a clear and present danger to themselves, to the safety of others, or to the property of the College. When the continued presence of the student on campus is deemed to constitute a clear and present danger, to the safety of others or to the property of the College, or would pose a threat of disruptive interference with the normal conduct of an academic setting or residence hall, interim action may be taken. Interim action may include, but are not limited to:

- 1. Interim Suspension:** The temporary separation of the student from the College while disciplinary proceedings unfold. Students who have been interim suspended are unable to register for and attend classes or be present on College property without specific, written permission of the Dean of Students.
- 2. Interim Suspension from the Residence Halls:** The temporary removal of the student from on-campus housing while disciplinary proceedings unfold. Students who have been interim suspended from the residence halls are permitted to engage in course activity and utilize other campus spaces not affiliated with residence life.

Students under interim action may request a meeting with the Vice President for Student Affairs/designee in order to appeal the interim action. This request must be made no later than 5:00 p.m. of the business day following the date the student receives the letter of interim action, including days when classes are not in session. Students who have appealed an interim action must abide by the terms of this action pending the outcome of the appeal. Once an appeal outcome is decided, students will receive written notice.

Students under interim action must have written permission from the Dean of Students in order to have access to facilities, property, or services of the College.

## **F. Student Records**

### **1. Student Conduct Records**

Student conduct records shall contain documents and, when appropriate, recordings pertaining to proceedings carried out under the terms of the Student Code of Conduct.

### **2. Maintenance of Records**

Student conduct records (excluding recordings) will generally be maintained for a period of seven (7) years following the end of the academic year in which the matter was resolved, consistent with SUNY Records Retention Policy 6609.

### **3. Confidentiality of Records**

Student conduct records, except as hereinafter provided, will be confidential to the extent possible in accordance with federal and state laws relating to disclosure.

### **4. Academic Transcript Notation**

A record of student conduct action shall be placed on a student's academic transcript in the following cases:

- a. All cases in which the sanction imposed is expulsion or suspension from the College (this includes, but is not limited to, cases in which a student is found responsible for an act of violence that meets the reporting requirements found in the Clery Act at 20 U.S.C. § 1092 (f)(1)(F)(i)(I)-(VIII)<sup>109</sup> (referred to below as Clery conduct). A notation will be placed which states, "disciplinary suspension w/ dates of suspension," or "disciplinary expulsion." Furthermore, if a Respondent withdraws (officially or unofficially) from the College while Clery conduct charges are pending and fails to complete the student conduct process, a notation will be placed which states, "withdrew with disciplinary action pending."
- b. An academic integrity violation resulting in suspension or permanent expulsion.
- c. When a sanction that is imposed is not completed by a student. In this instance, in addition to an academic transcript notation, an administrative 'hold' will be placed on the student's academic record. The transcript notation and the hold will be removed upon the completion of the sanction.

Appeals seeking removal of a transcript notation should be submitted, in writing, to the Executive Dean of Student Engagement/designee. Such notation shall not be removed prior to one year after the conclusion of a term suspension. A transcript notation that a student, "withdrew with disciplinary action pending," may only be removed by completing the student conduct process. Transcript notations of expulsion and academic dishonesty are permanent and not subject to appeal. However, if a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

## Section V: Sanctions

The determination of sanctions for violations of the Student Code of Conduct shall be made by the presiding Student Conduct Administrator in the case of a judicial board hearing, or the Dean of Students/designated Student Conduct Administrator in the case of a non-board hearing or Administrative Agreement. This determination shall take into consideration all relevant factors, including but not limited to, the facts and circumstances surrounding the incident(s) that gave rise to the violation, the Respondent's state of mind, any mitigating factors, and any past student conduct record of the Respondent. More serious sanctions may be imposed for multiple or repeated violations.

### **A. List of Sanctions**

The following sanctions may be impressed once a determination has been made. Failure to complete a sanction may result in a Registration, Transcript, and/or Diploma hold being placed on the student's account:

1. **Conduct Warning:** is an official acknowledgement that one or more violations of the Student Code of Conduct have occurred and is considered a low-level sanction. Conduct warnings serve as notice to a student that the behavior is counter to the expectations within the Student Code of Conduct. Conduct warnings do not have a duration associated with them.
2. **Restitution:** may include payment to an individual or to the College to cover the cost of damage, destruction, defacement, theft, or unauthorized use of property.
3. **Loss of Privileges:** is the loss of specified privileges, such as the use of a particular facility, visitation to a residence hall, housing priority, and contact with an individual or other privilege for a designated period of time.
4. **Disciplinary Probation:** is a serious and active response to a violation of the Student Code of Conduct and may include educational sanctions or other requirements as a term of the probation. This is imposed for serious violations or a pattern of violations of the Student Code of Conduct. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found responsible for further violations of the Student Code of Conduct during the probationary period. While on probation, students may be ineligible to receive certain College awards or scholarships. At the discretion of campus offices and programs, students on probation may be ineligible for employment and/or participation in certain campus programs.
5. **Educational Interventions:** students may be assigned to attend a workshop, complete an online module, write a position paper, and/or meet with an office related to the incident.
6. **Term Suspension:** is the separation of the student from the College for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified. Students who have been suspended are unable to register for and attend classes or be present on College property without specific

7. **Expulsion:** is the permanent separation of the student from the College. Students who have been expelled may not be on campus without specific, written permission from the Dean of Students.
8. **No Contact Order:** a written directive prohibiting contact with a protected individual, directly, through a third party and/or via electronic means. The written directive is mutual and applies both on and off campus.

## **B. Specific Sanctions Pertaining to Residential Students**

1. **Administrative Reassignment:** A student may be reassigned to an available space on campus at the discretion of a College official. The student shall be required to move to the new assignment within a specified period of time to be subject to immediate suspension from the residence halls.
2. **Residential Probation:** Students may be placed on residential probation for a specified period of time. During this time, students are permitted to continue to reside in residence life housing. Violations of College policies during the probationary period may result in additional sanctions including, but not limited to, housing suspension or expulsion.
3. **Suspension from the Residence Halls:** A student may be required to move out of the residence halls for a given period. The student may apply to be readmitted to the residence halls following the period of suspension. No preference shall be given to such student in the readmission or re-entry process. Any individual under suspension from the residence halls is prohibited from entering all residence facilities. Any individual found violating these terms of suspension from the residence halls may be suspended from the College and subject to arrest by University Police for trespass.
4. **Expulsion from the Residence Halls:** A student may be required to move out of the residence halls completely and permanently. Any individual expelled from the residence halls is prohibited from entering all residence facilities. Any individual found violating these terms of suspension from the residence halls may be suspended from the College and subject to arrest by University Police for trespass.

## **Section VI: Judicial Appeals**

Judicial Appeals are considered by an appellate officer/appellate board who receives, reviews, and may hear appeals of conduct decisions made by the presiding Student Conduct Administrator/Judicial Hearing Board. The appellate officer/board's responsibility is to recommend to the Vice President of Student Affairs/designee to accept, reduce, modify, or remove the sanctions imposed by the presiding Student Conduct Administrator/Judicial Hearing Board after review of all evidence and information pertinent to the student's appeal. Final decisions on all appeals will be determined by the Vice President for Student Affairs.

### **A. Grounds for Appeal**

Students found responsible for violations of the Student Code of Conduct may appeal such findings on the following limited grounds:

1. Significant violation of student conduct procedures;
2. New information, unavailable at the time of the hearing, has become available and could have substantially impacted the decision; and/or
3. The sanction(s) issued is/are disproportionate in relation to the student's conduct record and/or nature of the violation.

### **B. Petition for Appeal**

Students wishing to appeal a conduct determination must submit a written application, dated and affixed with the student's signature, to the Office of the Dean of Students within five (5) business days of receipt of written notification of sanctions or verification of electronic transmission. The application for appeal must identify which of the three grounds forms the basis of the appeal. Students must be in compliance with the directives of the conduct determination at the time of their appeal and until a final decision on their appeal is rendered.

### **C. Appeal Procedure**

If the appeal has been submitted within the specified time frame and has identified at least one of the permissible grounds for appeal, the appellate officer/board will review the complete record of the case, the statements of any parties, or any other information in defense of allegations, and where necessary, may require interviews with the parties involved. The appellate officer/board will be a neutral decision maker who will conduct the appeal in an impartial manner. The student(s) shall be notified in writing of the decision. The decision of the College will be final.

## **Section VII: Appendix**

### **A. Academic Integrity**

Each member of the Farmingdale State College campus community is expected to maintain academic integrity. Farmingdale State College has developed regulations concerning academic dishonesty and integrity to protect all students and to maintain an ethical academic environment. Academic dishonesty cannot be condoned or tolerated in a college community. Such behavior is considered a violation of the Student Code of Conduct, and students found responsible for committing an intentional act of fraud, cheating, or plagiarizing will face conduct action.

View the full policy: <https://www.farmingdale.edu/policies/?pid=214095>

### **B. Acceptable Use Policy for Computer Facilities**

The Farmingdale State College community is encouraged to make innovative and creative use of information technologies in support of education and research. Access to information representing a multitude of views on current and historical issues should be allowed for the interest, information, and enlightenment of the FSC community. This policy is designed to guide

students, faculty, staff, and others in the acceptable use of computer and information systems and networks provided by FSC. It is meant as an application of the principles concerning the use of the network in a legal, ethical, collegial, and nondestructive manner.

View the full policy: <https://www.farmingdale.edu/policies/?pid=214259>

#### **D. Student Bill of Rights**

Farmingdale State College is committed to providing options, support, and assistance to members of our community that are affected by sexual assault, sexual harassment, intimate partner violence and stalking, regardless of whether the crime occurred on campus, off campus, or while studying abroad. The rights enumerated in the Student's Bill of Rights are afforded to all students reporting sexual violence, as well as all students accused of sexual violence, regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

##### **All students have the right to:**

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure from the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institutional representatives as practicable and not to be required to un-necessarily repeat a description of the incident;
8. Be free from retaliation by the institution, the accused and/or respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the College.

##### **Victims/survivors have many options that can be pursued simultaneously, including one or more of the following:**

- Receive resources, such as counseling and medical attention;
- Confidentially or anonymously disclose a crime or violation
- Make a report to:



- An employee with the authority to address complaints, including the Title IX Coordinator, a Student Conduct employee, or a Human Resources employee;
- University Police;
- Local law enforcement; and/or
- Family Court or Civil Court

View the full Student Bill of Rights: <https://www.farmingdale.edu/dean/title-ix/bill-of-rights.shtml>

#### **E. Students of Concern Committee**

The Students of Concern Committee (SCC) is a multi-disciplinary team focused on early intervention for any student who has raised concerns and may be at risk of harming wither themselves or others, or who poses a significant disruption to the living, learning, or work environment of the College. The team receives and reviews reports of threats and other concerning student behavior to develop a support plan that mitigates risk and promotes student well-being and success within existing College policies.

To learn more about the SCC: <https://www.farmingdale.edu/dean/scc.shtml>

#### **F. Title IX Policies & Procedures**

Title IX of the Educational Amendments of 1972 prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX's prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student's ability to equally access the College's educational programs and opportunities.

View the Formal Grievance Procedure: <https://www.farmingdale.edu/policies/?pid=257029>

View the Informal Resolution Process: <https://www.farmingdale.edu/policies/?pid=257057>

**View the Rules of Decorum:** <https://www.farmingdale.edu/policies/?pid=257053>

#### **Amendments and Modification**

Amendments, modifications, or revisions of the Student Code of Conduct are the purview of Farmingdale State College's College Council. In meeting this responsibility, a Committee, comprised of representatives from the student body, faculty, and staff, reviews the Student Code of Conduct on an annual basis. All recommendations and proposed changes are brought before the full Council for ratification before subsequent publication.