



Code of Student Conduct

Policy EM003

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Responsible Administrator(s): Vice President, Enrollment Management and Student Success; Dean of Students

Responsible Offices: Enrollment Management and Student Success

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I. Policy Statement

The Fashion Institute of Technology (“FIT” or “the college”) seeks to promote student well-being and a sense of belonging through a code of conduct that encourages students to take responsibility for their campus community and emphasizes the importance of personal accountability in their role as community members. To achieve its purpose, the Fashion Institute of Technology expects students to conduct themselves in a manner that is kind and compassionate and that honors civility, a core value of the institution. The Code of Conduct (or the “Code”) adopts a restorative practice approach and has been developed to support and reinforce FIT values that aim to create a welcoming, inclusive, and collaborative community committed to social justice and respectful of the rights and dignity of the individual. It is expected that students will refrain from conduct that threatens or endangers the health, safety, and welfare of their community.

All members of the FIT community have an obligation to support and obey college regulations, and all federal, state, and local laws. All members of the campus community have an obligation to uphold the values and principles of the Code of Conduct. Those who do not comply will be subject to disciplinary action by the college and, where applicable, may face action by federal, local, and/or state authorities.

II. Reason for the Policy

The purpose of the Code of Conduct is to promote student well-being and encourage the maintenance of a collaborative and harmonious campus community. The Code aligns with FIT’s central mission as an institution of higher education. The Code also informs the FIT community of the policies regulating student conduct on FIT-owned or -affiliated property as well as off-campus behavior as set forth in this policy. The Code is intended to give general guidance to the college as it handles specific cases arising under regulations authorized by the Board of Trustees and approved by the President. The Code provides a means for the exercise of student rights and responsibilities within the college’s student conduct system. The Code seeks to preserve the individual rights of students while ensuring that the interests of the entire college community are maintained.

III. Who Is Responsible for This Policy

- Dean of Students, or their designee¹

IV. Who Is Affected by This Policy

- All members of the FIT community
- Third parties

V. Definitions

- A. Student:** A person registered for, or auditing, credit or non-credit FIT courses, on either a full- or part-time basis. Any registered person is considered a student if they enroll in such courses or programs on a physical campus or site, whether in the U.S. or abroad, or via distance learning, the internet, or any other means of course-delivery technology. Students who withdraw after allegedly violating the Code are considered students for the purposes of this policy.
- B. Complainant:** An individual who brings forward a complaint about an alleged violation of the Code.
- C. Respondent:** An individual who is accused of an alleged violation of the Code.
- D. On-campus property:** Buildings or property owned, leased, or otherwise controlled by FIT, that are within a reasonably contiguous geographic area and are used for FIT's educational purposes, including residence halls.
- E. Non-Campus Property:** Any building or property that is owned, leased, or otherwise controlled by an FIT-recognized student organization or any building or property (whether domestic or international) that is owned, leased, or otherwise controlled by FIT that is not within the reasonably contiguous geographic campus area and is used in support of, or in relation to, FIT's educational purposes and is frequently used by students.
- F. Public property:** Property that is not privately owned that is within the FIT campus (e.g., West 27th Street) or that immediately borders and is accessible from the campus (e.g., West 26th and 28th Streets and the sidewalks on both sides of the streets).
- G. Preponderance of evidence:** The preponderance of evidence is the standard of proof that requires determining that the alleged conduct is "more likely than not" to have occurred.
- H. Restorative Practice:** the mechanism that governs the enforcement of the FIT Code and that is grounded in formal and informal processes that build and sustain a culture of kindness, respect, responsibility, and justice. This is achieved through emphasizing the importance of trusting relationships as central to building community and repairing relationships when harm has occurred.

¹ "Dean of Students" or "Dean" shall be known as "the Dean, or their designee" for the purposes of this policy.

VI. Principles

A. Good Samaritan/Medical Amnesty

In the spirit of community, FIT hopes that all students would help others if they were in need. The purpose of the Good Samaritan/Medical Amnesty policy is to help students take an active role in assisting themselves or other students if either the student or another person is under the influence of alcohol and/or drugs and requires medical attention. If students seek out medical assistance for themselves or assist others who may be intoxicated or under the influence of drugs, both will be granted amnesty from formal disciplinary charges at FIT if the situation meets the criteria listed below:

- i. The students involved agree to complete any educational sanction(s) or alcohol or drug assessment(s) as determined by the Dean of Students. Failure to complete the assigned sanction by any deadline set forth by the Dean of Students may result in formal disciplinary charges for the conduct at issue;
- ii. No other disciplinary violations are associated currently with the person, including, but not limited to, distribution of alcohol or drugs; hazing; vandalism; or sexual misconduct; and
- iii. The students involved do not have a record of past disciplinary offenses. In situations involving repeat offenses, the applicability of the Good Samaritan policy is at the discretion of the Dean of Students.

FIT's Good Samaritan/Medical Amnesty policy only extends to the college conduct process and does not guarantee protection from criminal or civil penalties.² FIT's Good Samaritan/Medical Amnesty policy is intended to support New York State's Good Samaritan Law, which is designed to encourage individuals to call 911 in the event of an alcohol- or drug-related emergency.

B. Prohibited Conduct

The Code primarily prohibits misconduct on FIT's campus and affiliated campus property (e.g., facilities rented or used as part of a program or activity sponsored or organized by FIT), but may also address conduct occurring anywhere off campus when the behavior, or the continued presence of an individual, violates any law, regulation, or ordinance, or, in the college's sole judgment, impairs, obstructs, or interferes with the mission, processes, or functions of FIT. The Code applies to both individual students and to student organizations consisting of any number of students. All references to students include student organizations. Students should be aware that FIT reserves the right to review and take disciplinary action based on conduct occurring off campus and/or between academic periods.

The following constitutes a non-exhaustive list of prohibited conduct, some of which are explained in further detail in other FIT policies (accessible online at FIT's website, including via links at the end of this policy). Please note that unless otherwise noted, any violation of an FIT policy may be subject to the disciplinary process described herein. In addition to the prohibited conduct enumerated in this policy, FIT also prohibits sexual misconduct (including sexual assault, stalking, and domestic and intimate partner

² Please see FIT's Sexual Misconduct Response policy for Alcohol/Drug Use Amnesty related directly to reports of domestic violence, dating violence, stalking, or sexual assault.

violence) and discrimination and discriminatory harassment. Definitions of such prohibited conduct are set forth in FIT's policies on [Sexual Misconduct Response](#) and [Nondiscrimination and Anti-Harassment](#).

- i. Physical Abuse**

Physical abuse of any person, including, but not limited to, injury, constraint of another's physical movement, or threat of harm toward another person is prohibited.
- ii. Non-Discriminatory Harassment**

Threatening, harassing, bullying, or intimidating a person, either verbally, in writing, or through electronic or other means is prohibited.
- iii. Theft /Unauthorized Possession/Damage/Misuse of Property**

Theft or damage, misuse and unauthorized possession or improper use of personal property; college property and buildings; and unauthorized or improper use of, or entry into, college facilities is prohibited.
- iv. Drugs and Alcohol**

Possession, consumption, sale, distribution, or use of illicit drugs or alcohol on campus is prohibited. Please refer to the college's [Drug and Alcohol Abuse Prevention](#) policy for more information on specific prohibited conduct related to drugs and alcohol. In evaluating whether the prohibition on drugs and alcohol have been violated by a preponderance of the evidence, the college may make a determination based on, but not limited to, one or more of the following: the smell of alcohol, marijuana, or other drugs in or outside of any room, presence of smoke, and physical, mental, or behavioral impairments, characteristics, or actions associated with being under the influence of drugs or alcohol.
- v. Tobacco Use**

The use of tobacco products on campus, including but not limited to, the use of e-cigarettes and electronic smoking or vaping devices is prohibited in accordance with [college policy](#).
- vi. Misappropriation and Unauthorized Use**

Unauthorized use or misappropriation of FIT's funds, name, and/or logo or any other works or information belonging to FIT or another person or entity is prohibited.
- vii. Dishonesty**

Conduct that is dishonest, deceptive, or misleading is prohibited. The college requires that each student act with integrity in all college activities, academic or otherwise. Lying, dishonesty, or misrepresenting information to any college official, faculty member, or office—including members of the Department of Public Safety—is prohibited. Lying, misrepresentation, or furnishing false information that inhibits or interferes with a college investigation or hearing will be considered a serious offense. Providing false information about one's academic history, credentials, or in any other context is prohibited.

viii. Disruption

Behavior that substantially disrupts college activities, academic or otherwise, is prohibited.

ix. Unauthorized Use or Misuse of Electronic Devices

The college places certain limitations on the use of personal technology devices on campus. Electronic devices, including but not limited to, cellular phones, digital cameras, laptops, tablets, and pagers shall not be used in a manner that causes disruption in the classroom, library, or any college-owned or college-operated facility, except as approved by an instructor or college official.

Electronic devices shall not be used for the purpose of unauthorized recording, including photographing, filming, audio recording, or any other recording via any technology. Unauthorized recording includes recording of test questions, class work, or projects, or for other prohibited or illegal activity; recording individuals in secured areas such as restrooms, locker rooms, or other premises and/or circumstances where there is an expectation of privacy; recording any individual against their will; and recording private, nonpublic conversations, as well as meetings, classroom activities, or in other non-public educational settings, without the knowledge and consent of all participants.

The use of undisclosed or hidden recording devices is prohibited in any circumstance where knowledge and consent of all participants would be required. Class audio recordings may be made only for personal use and only with consent of the professor of the class, and students in the class should generally be informed when a class may be subject to recording. Students requesting recording as an accommodation for a disability should contact [FIT-ABLE](#).

x. Abuse of Internet, Electronic Communications, and Social Media

Students must use the internet, electronic communications, and social media responsibly. Prohibited conduct, including harassment of any kind, online or via electronic communications, is a violation of the Code and is a potential violation of the law, regardless of whether the conduct occurs using FIT's network or computer facilities.

The use of any electronic device operated across the FIT network facilities and resources in violation of copyright law, the Code, or any other FIT policy is prohibited. This includes the downloading and/or distribution of copyrightable materials, such as music, videos, text, graphics, 3D models, sensor designs, art, photographs, and software, without permission or legal authority. FIT's [Acceptable Use for FIT IT Systems](#) policy prohibits a variety of behaviors, including inappropriate use of computer resources, hacking, mining, and restrictions on devices. Students' online activity is also subject to other FIT policies, including but not limited to, Accessible Use of FIT IT Systems, [Information Security](#), and [Social Media](#).

- xi. Hazing**
Hazing occurs when, during another person’s initiation into or affiliation with any organization, a person intentionally or recklessly engages in conduct that creates a substantial risk to the mental or physical health to such other person or a third person, regardless of whether injury actually results. Hazing is prohibited and is also a violation of New York state penal law. Individuals and/or organizations found responsible for hazing may face loss of college recognition, disciplinary charges, and/or criminal charges.
- xii. FIT Campus Card and Campus Access/Unauthorized Persons on Campus**
Unauthorized or improper use of, or entry into, college property and facilities is prohibited. The [FIT Campus Card and Campus Access](#) policy requires students to display a valid FIT ID card to enter campus buildings, residence halls, and FIT vehicles. A person is loitering and trespassing when they remain in or about a building without written permission to do so, or with no legitimate reason for being there, or when they have been banned from campus or a specific area on campus.
- xiii. On-Campus Demonstration or Protest**
Students shall not engage in substantially disruptive activities while on the college campus or property. FIT supports students’ rights to dissent peacefully, however, any form of on-campus protesting that violates federal, state, or local laws or regulations or interferes with the college’s ability to function as an educational institution is prohibited. All demonstrations/protests must be registered and scheduled in advance with the Department of Student Life.
- xiv. Food and Beverages**
Eating and drinking are permitted only in designated areas, and are prohibited in classrooms, labs, and other restricted facilities.
- xv. Animals**
Pets are not permitted inside college buildings and residential halls. Service animals and emotional support animals are permitted in accordance with the [Disability Accommodations for Service and Emotional Support Animals](#) policy.
- xvi. Wheeled Recreational Equipment**
Wheeled recreational equipment including, but not limited to, skates, bicycles, hoverboards, e-scooters or e-bikes *may not be used inside any college building.*

Bicycles must be stored on bike racks provided on campus. No electric modes of wheeled recreational equipment are permitted inside campus buildings. Non-electric scooters and skateboards may be brought inside campus buildings provided they are properly stored (for example, folded and placed in a backpack) and do not obstruct any points of egress, office flow, or class flow. Students are responsible for their personal belongings and should not leave their equipment unattended. FIT is not responsible for damage, loss, theft, or other harm to students’ personal property.

Requests for exceptions may be sent to dean_of_students@fitnyc.edu and must be approved in writing by the Dean of Students, or their designee.

xvii. Gambling or Gaming

Gambling or gaming, as defined by federal and state law, as well as all forms of betting (regardless of legality), are prohibited on college property. Utilizing college resources, including information technology resources, to engage in or coordinate gambling, gaming, or betting activities is also prohibited.

xviii. Weapons and Hazardous Materials/Chemicals

The use, possession, or storage of any firearms or weapons; dangerous materials or chemicals, flammable liquids, or explosive materials, except as specifically authorized in FIT-supervised activities; or items that pose a potential hazard to the safety or health of others, including but not limited to, explosive devices and firecrackers, are prohibited on campus, including residence halls and FIT vehicles. Pepper spray and mace must be securely stored and may not be misused or otherwise used in any way other than good-faith uses for their intended purposes.

xix. Fire Safety

Interfering with, misusing, tampering with, or damaging fire safety equipment; unauthorized burning of any material on campus; disregarding a fire alarm signal or refusing to evacuate a building; reckless or intentionally activating an alarm when an emergency situation does not exist are all prohibited.

C. Failure to Comply

Students are expected to comply with instructions, requests, or orders of a college official, a college official's designee, or college document. This includes, but is not limited to, college administrators, faculty, and staff, such as residential staff, departmental staff, resident assistants, buildings and grounds personnel, and campus security officers. Examples of failure to comply include, but are not limited to:

- i. Failing to comply with the directive of any college official or faculty member;
- ii. Failing to comply with the terms of any policy, procedure, or agreement between a student and a college official or department;
- iii. Failing to comply with any applicable federal, state, or local law;
- iv. Failing to comply with instructions from members of the Department of Public Safety and federal, state, or local law enforcement;
- v. Failing to comply with identification requirements; and
- vi. Failing to comply with a sanction issued by the Dean of Students, Academic Affairs, the Student Conduct Council, a hearing panel assembled pursuant to the Sexual Misconduct Response policy, or any other sanction imposed pursuant to FIT policy.

VII. Responsibilities

The Dean of Students, or their designee, is responsible for timely and fair implementation of this policy. Further details can be found in the Procedures section.

VIII. Procedures

The following procedures apply to alleged violations of the Code. Separate procedures are set forth in FIT's Sexual Misconduct Response policy and Nondiscrimination and Anti-Harassment policy for conduct implicating those policies. FIT will make the determination as to which policy is most appropriate.

A. Reporting

As soon as possible after learning of a violation of the Code, or other college policy or law, students, employees, or anyone else in the FIT community should notify the Dean of Students in writing. Students also have the option to report incidents to other college personnel, such as residential life staff, student life staff, the Affirmative Action Officer/Title IX Coordinator (for incidents under the Sexual Misconduct Response policy or the Nondiscrimination and Anti-Harassment policy), the Department of Public Safety, and other faculty or staff. Please know that reports submitted anonymously may make it more difficult for the Dean of Students Office to investigate the reported incident. Finally, students may also report confidentially, or anonymously, via the [FIT Reporting System](#).

i. False Complaints

Members of the FIT community who knowingly make false reports will be subject to disciplinary action.

B. Investigation

Every reasonable effort will be made to complete investigations within 45 days of the report of the alleged violation. Investigations will be led by the Dean of Students, and/or his/her designee, and may include participation by the offices of Public Safety, General Counsel, Information Technology, and the Assistant Vice President for Administration, among other departments at FIT, when appropriate.

C. Protective Measures

The college may employ interim protective measures, including but not limited to: suspension, class changes, meeting room changes, residential room changes, and restriction of interaction. The college reserves the right to take interim measures as appropriate.

D. Request for Disability Accommodations in Conduct Process

Students with disabilities may be eligible for accommodations during the student conduct process. If a student is seeking accommodations due to disability, they must make a request to the Office of Disability Services, FIT-ABLE, and provide the required documentation under FIT's Disability Accommodations and Support Services policy. Students can make a request at any point during the student conduct process, however, accommodations cannot be provided retroactively. Students are encouraged to make their requests as early as possible during the process to ensure approved accommodations are implemented in a timely fashion. Students requesting such accommodations should fully [review FIT's Disability Accommodations and Support Services](#) policy.

E. Student Disciplinary Process

Although FIT has an obligation to uphold federal, state, and local laws, FIT's rules and regulations operate independently from them. As such, FIT may pursue enforcement of its own rules whether or not legal proceedings are initiated. The Code is inspired by the principles of Restorative Practice, which seeks to (a) support and care for individuals and communities that have been harmed and compassionately respond to their needs, and, (b) respect the rights of all individuals in this process and encourage harmed individuals to have a voice in the process as well as create space for students who have caused harm to express remorse, make amends, and take steps to repair the harm caused. It is important to recognize that while individual accountability and acceptance of responsibility is primary, there are often other mitigating social factors at play that promote or reinforce negative behavior. Ultimately, the conduct process must keep community responsibility in context and strive for the common good.

i. Dean of Students Procedures

All infractions of the Code are initially handled by the Dean of Students. A restorative approach recognizes the uniqueness of each situation, and the conduct process will vary in order to optimize individual and community repair and wellbeing. Whenever possible, the complainant(s) shall submit allegations in writing to the Dean of Students.

Upon receiving notice of a potential violation of the Code, the Dean of Students shall initiate a disciplinary review process using a restorative approach. The Dean of Students will begin the investigatory process by gathering preliminary information from available sources. If the alleged conduct, even if proven, would not amount to a Code of Conduct violation, the Dean may dismiss the complaint. If applicable, the Dean will provide written notice of the allegations, including the time, place, and nature of the alleged violation to the respondent(s) and the complainant as appropriate.

This notice of allegations will also state the date, time, and location for a meeting at which the respondent(s) will discuss the allegations with the Dean.³ The complainant will also have the opportunity to meet individually with the Dean. At these meetings the respondent(s) and the complainant will have the opportunity to provide and respond to information, witness statements, and evidence related to allegations. If a restorative approach is appropriate, the Dean may invite both parties to join the Dean or their designee(s) in a guided restorative session.

A respondent's unexcused absence from any meeting with the Dean does not prevent the Dean from further investigation of the allegations and may result in a finding of responsibility against them. Notice of whether a non-legal advisor

³ Pending the meeting, the Dean may temporarily suspend the respondent if, in the Dean's discretion, the respondent poses a substantial risk of self-harm or harm to others or take other protective interim measures at the Dean's discretion.

will attend or legal counsel will be present must be submitted in writing to the Dean three (3) business days before the scheduled meeting.

The following sections summarize when a matter will be resolved at the Dean's level or referred to the Council for adjudication.

- **Where Expulsion/Suspension is Warranted, and the Student Admits to the Charges**

The Dean will determine whether the nature of the admitted-to conduct warrants the respondent's suspension or expulsion from the college. If so, the Dean will refer the matter to the Student Conduct Council for consideration of the sanctions of suspension and expulsion, per Section F (ii) – Student Conduct Council Procedures.

- **Where Expulsion/Suspension is Not Warranted, and the Student Admits to the Charges**

If in the Dean's determination the conduct does not warrant suspension or expulsion, the Dean may impose another sanction and will consider the respondent's entire academic and/or disciplinary record in deciding the appropriate sanction in accordance with the disciplinary sanction sections of this Code. The Dean will send the respondent(s) a written copy of the final sanctioning decision within 10 business days of the respondent's admission to the charges.

- **Where Expulsion/Suspension May Be Warranted, and the Respondent Does Not Admit to the Charges**

If the respondent *does not* admit to the alleged conduct and, upon conclusion of the Dean's meeting and review of the evidence and information submitted by both parties, the Dean determines that, if the respondent is responsible in whole or in part for the alleged conduct, there may be justification to suspend or expel the respondent, the Dean will refer the entire matter to the Student Conduct Council (see section ii) to make findings of fact and a decision on the sanctions, of which suspension and expulsion are possible.

- **Where Expulsion/Suspension is Not Warranted, and the Respondent Does Not Admit to the Charges**

If, upon conclusion of the disciplinary meeting and review of the evidence and information submitted by both parties, the Dean determines that, even if the respondent is responsible in whole or in part for the alleged conduct, there are no grounds to consider suspension or expulsion, the Dean shall render a decision. If the respondent is found responsible by the Dean, the Dean may impose sanction(s) in accordance with the obligations of this Code. The Dean shall consider the respondent's entire academic and/or disciplinary record in issuing a sanction and will send the respondent a written copy of the final decision within 10 business days of the disciplinary meeting.

ii. Student Conduct Council Procedures

If the Dean determines there may be justification to suspend or expel a respondent, a hearing before the Student Conduct Council will be scheduled. The Dean will notify the respondent in writing of the alleged conduct, as well as the time, place, and location of the hearing and the Student Conduct Council hearing procedures. The hearing will be held even if the respondent declines to attend. Pending the hearing, the Dean may temporarily suspend the respondent if, in the Dean's determination, the respondent poses a substantial risk of self-harm or harm to others or take other protective interim measures at the Dean deems appropriate.

The Student Conduct Council (the "Council") is made up of three voting faculty or staff members, one of whom will serve as Chair, and two voting students. The President or the President's designee shall determine the application, selection, and training process for Council members. All Council members must be present for the hearing. Every reasonable effort will be made to conduct the hearing within 10 business days of the Dean's referral.

A list of witnesses, written evidence, and notice of whether a non-legal advisor or legal counsel will be present must be submitted by all parties in writing to the Council three (3) business days before the scheduled hearing. The respondent has the right to: present witnesses, cross-examine witnesses (through the Council), and submit relevant evidence on their behalf, in writing or verbally. The complainant and/or a college representative will also have the opportunity to submit evidence and witnesses. The Council will make and retain a verbatim record of the hearing that will be stored with the Dean of Students. However, the Council is not responsible for recording malfunctions, errors, or lost or destroyed recordings. After all presentations are complete, the Council will deliberate in a closed session and arrive at a decision. A decision must be reached by a majority vote of the Council. The deliberations and vote will remain confidential. In matters referred to the Council by the Dean of Students under this Code, the Council shall make findings of fact and determine an appropriate sanction. In matters referred to the Council pursuant to the Nondiscrimination and Anti-Harassment policy, the Council accepts the findings of fact made by the Affirmative Action Officer and solely considers an appropriate sanction.

If the Council finds that a violation of the Code of Student Conduct or other college policy occurred, it shall consider whether to impose the disciplinary sanction of suspension or expulsion in accordance with the disciplinary sanction sections of this Code. The Council shall consider the respondent's entire academic and/or disciplinary record in determining whether to impose such sanctions. If the Council determines that suspension or expulsion is warranted, the sanction will be issued in the written copy of the final decision. If the Council determines that suspension or expulsion are not warranted, the Council will remand the matter to the Dean of Students to consider imposition of a sanction other than suspension or expulsion. The Council will send the respondent(s),

and complainant (s) as appropriate, a written copy of the outcome, including the sanction (if applicable) within 10 business days of the hearing.

G. Student Appeals

i. Respondent(s) found responsible for offenses under the Code and or FIT policy may appeal on the following limited grounds:

- Procedural error affecting the decision or sanction;
- Appearance of substantive new evidence not available at the time of the decision; and/or
- Excessiveness or insufficiency of the sanction.

Neither deliberate omission of information by the appealing party in the original investigation nor disagreement with the decision or sanction are, by themselves, grounds for appeal. Any new evidence or proof of a procedural error should be included in the request for review. In cases where the Dean refers a matter to the Council for consideration of suspension or expulsion, the respondent may not appeal the Dean's determination, but they may appeal the decision(s) of the Council, as set forth in this policy.

ii. Respondent(s) may appeal a decision in the following manner:

The purpose of an appeal is not to initiate a review of substantive issues of fact or to re-hear the case. Respondents may appeal the outcome or sanction decisions to the President or the President's designee(s) by following the procedures listed below:

- All appeals must be in writing and made within ten (10) business days of the date of the Council's notification of the outcome of the Conduct hearing or the Dean of Student's decision letter.
- The President or designee(s) shall consider the respondent's entire academic and/or disciplinary record, review all relevant and available information and any information submitted by the respondent, and shall render a decision within ten (10) business days of the date of the appeal.
- The President or designee(s) may:
 - Return the case to the Dean of Students or the Council and task them with reviewing the decision with the substantial new information;
 - Return the case to the Dean of Students or the Council to correct the procedural problem and re-review the case; or
 - Change the sanction (increase or decrease) or task the Dean of Students or the Council with reviewing and amending the originally imposed sanction.

If the original decision is upheld by the President or designee(s), this decision will be final. Additionally, decisions made by the President or designee(s) are also final.

H. Burden of Proof

All decisions by the Dean of Students and the Council will be based on a “preponderance of evidence” which is a “more likely than not” standard.

i. Non-Legal Advisor/Legal Counsel

Any respondent(s) charged or involved in a case involving the Code may have a non-legal advisor or legal counsel present at any meeting or hearing with the Dean of Students or the Council. Respondents must provide advance written notice to the Dean of the presence of a non-legal advisor or legal counsel, and their affiliation with the respondent, within three (3) business days prior to their scheduled meeting or hearing. Failure to present timely notice will result in a rescheduling of the meeting or hearing. Such non-legal advisor or legal counsel accompanying a respondent is not allowed to participate in the disciplinary process, including responding to questions on the respondent’s behalf, offering arguments on the respondent’s behalf, or otherwise participating in disciplinary proceedings other than to speak with the student before, after, or on breaks from the meeting or hearing. Respondents will be required to sign a FERPA release, allowing the non-legal advisor or legal counsel to hear protected student information pertaining to the case. The non-legal advisor or legal counsel will be required to leave the meeting or hearing if they violate any of the above terms.

I. Compliance

Failure to participate or comply with procedures at any point during the respondent’s disciplinary process may result in adjudication of the complaint in the respondent’s absence, including the imposition of sanctions, and may result in further disciplinary sanctions for the failure to participate and/or comply with procedures.

J. Education and Training

FIT provides training to members of the community who may have to adjudicate Code of Student Conduct violations.

L. Respondent Rights and Protections

i. Statement of Rights for Respondents

All respondents are presumed not responsible until the preponderance of evidence requires a conclusion to the contrary. The following rights extend to all respondents subject to the disciplinary process at FIT:

- a) The right to be treated with respect by all persons involved in the investigation and disciplinary process;
- b) The right to a fair, impartial, and equitable process;
- c) The right to timely and written notification of charges and meeting/hearing information unless delayed due to extenuating or unexpected circumstances;

- d) The right to be presumed not responsible until found responsible by the preponderance of evidence standard;
- e) The right to have a legal or non-legal advisor with them throughout the conduct process, subject to limitations as set forth in this policy;
- f) The right to participate or decline to participate in the investigation, disciplinary, or hearing process. In this case, a decision will be based on the information available to the Dean of Students and/or Student Conduct Council. By refusing to participate, respondents are not excused from being held accountable for violations of the Code and may be subject to additional penalties as outlined within the Code (see "Compliance" in section "I" above);
- g) The right to be informed, in writing, of the outcome of the disciplinary meeting or hearing, pending all appeals;
- h) The right to appeal the decision and/or sanction of the Dean of Students or Student Conduct Council based on specific grounds as outlined within the Code;
- i) The right to understand that information collected during the Conduct process may be subpoenaed in criminal or civil proceedings, subject to applicable law, as the college's conduct process is separate from criminal and civil processes; and
- j) The right to privacy throughout the Conduct process.

ii. Privacy

The college complies with the Family Educational Rights and Privacy Act (FERPA), which provides for certain protections for education records, including those related to the disciplinary process. All records for all students involved in the disciplinary process, to the extent they are subject to FERPA, will be kept in accordance with FERPA.

iii. Non-retaliation

Retaliation is an adverse action against an individual for reporting a violation in good faith or against any individual 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, and adverse educational or employment consequences and bullying. Any individual or group of individuals can be responsible for retaliation.

All members of the FIT community are prohibited from engaging in retaliation against an individual who, in good faith, reports or complains of a violation of the Code or participates in any way in the investigation or disciplinary process (for example, a witness). Reports or complaints of retaliation will be investigated and any individuals found to have engaged in retaliation may be subject to disciplinary action in accordance with the processes and procedures set forth in this Code, or, depending on the nature of the allegations, as determined by the Vice President for Human Resources and Labor Relations or their designee (for employees accused of retaliation).

iv. Sanctions

Except as set forth in this policy regarding Exceptional Measures, no respondent may be penalized before having been afforded an opportunity to challenge the accusation(s). Accordingly, unless the respondent is deemed by FIT to pose a significant threat to the health or safety of themselves or others, any respondent accused of violating the Code shall be entitled to remain an active member of the FIT community, including remaining enrolled in classes, pending the outcome of the disciplinary proceedings.

v. Disclosure to Victims of Crimes of Violence

FIT will, upon written request, disclose to the alleged victim of a crime of violence (as that term is defined in section 16 of title 18 of the United States Code), or a non-forcible sex offense (incest or statutory rape), the report on the results of any disciplinary proceeding conducted by such institution against a respondent who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for such purposes. Note that instances of sexual misconduct are governed by FIT's Sexual Misconduct Response policy, under which FIT notifies both the complainant and respondent simultaneously and thus it is not necessary to make a written request.

IX. Disciplinary Sanctions, Obligations, and Other Measures

A. Disciplinary Sanctions, Obligations and Other Measures

After disciplinary proceedings, the college may impose sanctions or corrective action to resolve disciplinary matters. While sanctions are disciplinary actions imposed by the college on the individual(s) responsible for causing harm, "obligations" are restorative actions that the responsible parties must engage in to rectify and heal the harm caused to the community. Obligations may include, but are not limited to, educational sanctions and/or participation in other restorative practices noted below. The following are examples of sanctions, obligations, and other forms of measures that can be taken.

i. Course Change or Removal

FIT has the right to remove a respondent found responsible for Code violations from a course(s) and/or reassign the respondent to another course or section. Course removal will not result in a refund and will be identified in the respondent's transcript as a withdrawal (WD). Course reassignments will be based on the availability of comparable courses and the student's schedule.

ii. Protective Measures

The college may employ protective measures, including but not limited to: class changes, meeting room changes, residential room changes, and no contact orders.

- iii. Admonition**
The college may issue a verbal warning that a respondent's conduct is improper or violates the college's rules or regulations, coupled with a direction to cease and desist.
- iv. Disciplinary Probation**
FIT may place a respondent on disciplinary probation for a designated period of time; more severe disciplinary sanctions may be imposed if the respondent is found responsible for further violations of the Code or FIT policy during the probationary period. Disciplinary probation is a serious response to a violation resulting in a notation to the respondent's permanent file at FIT and may include, but is not limited to, other education sanctions as well as restriction or revocation of privileges and/or college awards or scholarships.
- v. Reprimand**
The college may issue a formal written notice that the respondent has engaged in improper conduct, including warning that subsequent violations will result in more severe disciplinary action.
- vi. Restitution**
The college may require reimbursement by transfer of property, money, or services to FIT or a member of the FIT community in an amount not in excess of the damage or loss incurred.
- vii. Restorative Practice**
An agreement to participate in a restorative practice process which could include conferences, restorative circle(s), leadership coaching, reparation service/written reflection and/or re-entry circle. Participation in these practices are considered obligations and are designed to resolve matters and restore peace in the community.
- viii. Fines**
The college may assess a monetary fine as a penalty for improper conduct or violation of college rules and regulations. Fines for specific violations are enumerated in applicable college publications (i.e. catalogs or student and resident handbooks).
- ix. Educational Sanction**
FIT may impose educational sanctions to help respondents understand the harm that has been caused and to seek reparations. Such sanctions may include, but are not limited to, community service or participation in a project or activity, either within or outside the college, during a specific period and in a manner consistent with the nature and severity of the violation(s).
- x. Restriction or Revocation of Privileges**

FIT may alter, limit, or revoke a respondent's privileges associated with membership or participation in the college community for a specified or indefinite period of time. Examples of such privileges include, but are not limited to: entering college property or facilities; use of or participation in programs, activities, events, and services on or off campus; membership, election to, or holding office in a club, organization, or society; representing the college on a committee or in a program or activity; visitation by guests; participation in recreational, intramural, or varsity athletic programs; and use of college technology resources.

xi. Suspension

A suspended respondent will be temporarily deprived of some, or all rights and privileges normally afforded an enrolled student. While suspended, a respondent may be separated from their campus residence, class or classes, and/or college facilities or premises, and have their rights and privileges revoked for a specified period. Conditions may be placed on the respondent's return.

xii. Expulsion

An expelled respondent may not return to residence and/or the college. The respondent is permanently separated and loses all rights and privileges associated with membership in the college community.

xiii. Administrative Holds

If a respondent fails to comply with a disciplinary sanction, such as failing to pay a fine or comply with educational sanctions, the Dean of Students may place an administrative hold on a respondent's account. While an administrative hold is in effect, the respondent may not register, access course information, or receive official or unofficial transcripts, except transcripts will not be withheld for failure to pay a fine or other debt to the college. The hold will be removed promptly upon the respondent's full compliance with the disciplinary sanctions.

xiv. Transcript Notations

Where a respondent is suspended, the following notation will be listed on that respondent's transcript: "Suspended after a finding of responsibility for a code of conduct violation." Where a respondent is expelled, the following notation will be listed on that respondent's transcript: "Expelled after a finding of responsibility for a code of conduct violation." Should a respondent withdraw from the college while conduct charges are pending and the respondent declines to complete the student conduct process, the following notation will be listed on that respondent's transcript: "Withdrew with conduct charges pending."

A notation of suspension may be appealed, in writing, to the Dean of Students. Appeals may be granted provided that one year has passed since the conclusion of the suspension, the term of suspension was completed, and any conditions complied with, and the Dean of Students has determined that the respondent is once again in good standing with all applicable college standards. Notations for

expulsion may not be appealed or removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

B. Exceptional Measures

In appropriate circumstances as determined by the Dean of Students, the college may in its discretion take exceptional measures, which may be temporary or permanent. The application of these measures will not preempt disciplinary action. Withdrawal from the college will not preempt the disciplinary process. Such measures include:

i. Residence Hall/ Temporary Reassignment and Restriction from Facilities

The Dean of Students or Director of Residential Life may temporarily reassign a resident to another facility and/or restrict a resident from specific campus facilities pending completion of the disciplinary process. In such instances, the Dean of Students or Director of Residential Life shall grant an immediate review on request of any resident so reassigned and/or restricted with respect to the basis for such a reassignment and/or restriction.

ii. Temporary Restriction from Personal Contact

The Dean of Students or Director of Residential Life may temporarily restrict a student from any personal, verbal, written, telephone, and electronic contact with another person pending an investigation and/or hearing. In such instances, the Dean of Students or the Director of Residential Life shall grant an immediate review on request of any individual so restricted with respect to the basis for such a restriction.

iii. Parental/Guardian Notifications

Where an individual poses a significant threat to the health or safety of themselves or others as determined by the Dean of Students, the college may in its discretion notify the parents/guardians of the student. For notification procedures pertaining to a student's violation of federal, state, or local law, or FIT policy regarding use or possession of alcohol or a controlled substance, please see FIT's Drug and Alcohol Abuse Prevention policy.

iv. Reflection Letter of Understanding

The respondent will reflect upon what has been learned from their experience. The respondent will outline their understanding of the requirements to remain at FIT and understands that failure to meet those requirements may result in additional disciplinary action and or separation from FIT. The length and structure of such letter will be specifically assigned to the student by the Dean of Students.

v. Executive Suspension

The Dean of Students may suspend the respondent(s) charged with an infraction, pending the completion of the disciplinary process, whenever the Dean of Students determines that the respondent would pose a significant threat to the health or safety of themselves or others. In such instances, the Dean of Students shall grant an immediate review on request of any respondent

so suspended with respect to the basis for such suspension, at which time the suspended respondent shall have the right to present statements tending to show that the basis for executive suspension does not exist. Suspension may apply to a portion of the college or the entire campus.

vi. Executive Suspension from the Residence Halls

The Dean of Students or Director of Residential Life may suspend from the residence halls respondent(s) charged with an infraction pending the completion of the disciplinary process whenever the Dean of Students or the Director of Residential Life determines that the respondent would pose a significant threat to the health or safety of themselves or others. In such instances, the Dean of Students or the Director of Residential Life shall grant an immediate review on request of any respondent so suspended with respect to the basis for such a suspension, at which time the suspended respondent may have the right to present statements tending to show that the basis for the executive suspension from the residence halls/apartments does not exist. Suspension may apply to all residence facilities, an individual residence hall/apartment, or any portion thereof.

vii. Withdrawal Prior to Hearing

Any respondent who withdraws or fails to return to the college while disciplinary action is pending or fails to appear for a scheduled hearing will be ineligible for readmission, registration, receipt of a transcript, or diploma until the outstanding matter is resolved. The college reserves the right to formally restrict individual(s) from the campus grounds while such disciplinary action is pending. Any further readmission would require an appeal in writing to the Dean of Students and approval by the Dean of Students.

viii. Mandated Assessment

The Dean of Students may direct a respondent to participate in an individualized psychological and/or medical assessment whenever the behavior of the respondent is deemed to pose a significant threat to the health or safety of themselves or others. The assessment process is designed to assess the factors that contributed to the respondent's behavior and to assist the respondent in accessing resources in order to maintain appropriate behavior.

Failure to respond to a directive from an FIT official to complete the mandated assessment, or failure to provide necessary records of prior treatment by the date requested, may result in administrative action, up to and including suspension from the college and/or the residence halls until the assessment and records request requirements are met.

ix. Separation Prior to Assessment

The respondent who leaves (including certain voluntary leaves of absence for medical reasons), withdraws, is administratively suspended/withdrawn, or fails to return to the college before an assessment has been completed, may not be permitted to register for classes or return to campus until the outstanding matter is resolved.

x. Withdrawal by Administrative Action

The Dean of Students may initiate and approve procedures for the administrative withdrawal from the college and/or residence halls where the respondent does not want to withdraw voluntarily and, in the Dean of Student's reasonable discretion, the current medical knowledge and/or the best available objective evidence indicates that the respondent poses a significant threat to the health or safety of the respondent or others, where a respondent is unable or unwilling to carry out substantial self-care obligations, or where a respondent poses an actual risk to their own safety not based on mere speculation, stereotypes, or generalizations about individuals with disabilities, and the respondent does not want to take a leave voluntarily.

Respondents may challenge the administrative withdrawal through the submission of a written appeal to the Dean of Students supported by medical and/or mental health professional documentation. Administrative withdrawal actions may be reconsidered by the Dean of Students at regular intervals upon the written request of the respondent. The Dean of Students may elect to appoint an independent medical and/or mental health professional or a panel of professionals to provide input to the Dean of Students with respect to administrative withdrawal determinations.

C. Return to the College

Respondents who leave the college, whether the leave is voluntary or involuntary, may be required to complete the following steps, in the discretion of the Dean of Students, before they may return to the college and/or residence halls:

- i. The college has completed an individualized assessment for the purpose of evaluating the respondent's readiness to return to the college, which may include receiving and evaluating documents provided by a treating practitioner.
- ii. The Dean of Students has approved the decision to permit the respondent to register for classes, return to campus, and/or live in a campus residence. Registration and/or housing assignment is not permitted until readiness to return to school has been thoroughly evaluated.

D. Violations of Other Published Policies and Laws

It is the obligation of every student to notify the Dean of Students Office if they are criminally charged with a felony or violent misdemeanor if that charge occurred at any time from when the student pays their admissions deposit through graduation or separation from the institution, regardless of geographic location of the event that led to the criminal charge. Failure to do so may result in conduct charges under this Code by the college against the student.

The college may review the facts underlying the criminal charge to determine if the underlying events give rise to a policy violation.

In addition to the above-outlined behaviors and policies, students are prohibited from engaging in conduct that violates any other college policy, including but not limited to:

- i. Conduct that violates or is in contravention of the Student Rights and Responsibilities Manual;
- ii. Conduct that violates the policies of the Resident Handbook; and
- iii. Conduct that violates any statute, regulation, or ordinance.

X. Related Policies

- See [Student Rights and Responsibilities](#) for relevant policies
- See [College Policy Library](#) for all FIT policies

XI. Related Documents

- FIT's Reporting System
- [Dean of Students](#)
- New York State's Good Samaritan Law
- N.Y. Public Health Law 3000-a
- [Reporting Suspected Misconduct](#)
- [Student Complaint Resolution](#)
- [Student Rights and Responsibilities](#)

XII. Contacts

- **Dean of Students**
Enrollment Management and Student Success
Business and Liberal Arts Center B221
(212) 217-3070