



FLORIDA GULF COAST UNIVERSITY

NOTICE OF REGULATORY ACTION

December 3, 2010

REGULATION TITLE:

Student Code of Conduct and Student Conduct Review Process

REGULATION NO.:

FGCU-PR4.002

SUMMARY:

Updates the Student Code of Conduct to reflect current practice and revise terms and procedures in the Student Conduct Review Process.

FULL TEXT:

The full text of the regulation being proposed is attached and can also be found at <http://www.fgcu.edu/generalcounsel/promulgation.asp>

LAW IMPLEMENTED:

§§1.001.74, 1006.60, 1006.61, 1006.62, 1006.63, Florida Statutes; Board of Governors Regulations 1.001 and 6.0105

UNIVERSITY OFFICIAL INITIATING THE PROPOSED REVISED REGULATION:

Michelle Yovanovich, Dean of Students

UNIVERSITY OFFICIAL APPROVING THE PROPOSED REGULATION:

Dr. Mike Rollo, Vice President for Student Affairs

PERSON TO BE CONTACTED REGARDING THE PROPOSED NEW REGULATION:

Diane St. John, Administrative Assistant, dstjohn@fgcu.edu; 239.590.7466 (Phone), 239.590.7470 (Facsimile); 10501 FGCU Blvd. S, Fort Myers, FL 33965-6565.

ANY COMMENTS REGARDING THE PROPOSED NEW REGULATION SHOULD BE SUBMITTED IN WRITING ON OR BEFORE DECEMBER 17, 2010 BY 5:00 P.M. THE COMMENTS MUST IDENTIFY THE REGULATION ON WHICH YOU ARE COMMENTING.

THIS NOTICE WAS POSTED ON THE FGCU WEBSITE ON: DECEMBER 3, 2010



REGULATION: FGCU-PR4.002

Effective

Student Code of Conduct and Judicial Student
Conduct Review Process

Date of
Regulation:

~~1/15/08~~

~~I.~~ A. INTRODUCTION

The Student Code of Conduct exists: (1) to define the behavioral rights and responsibilities of Florida Gulf Coast University students ~~(1) to and registered student organizations (2) to~~ foster and enhance the academic mission of the University, ~~(23)~~ to protect the rights of all university students, faculty, and staff, ~~(34)~~ to protect University property, ~~(45)~~ to protect the University community from disruption and harm, and ~~(56)~~ to encourage appropriate standards of individual and group behavior.

B. ~~II.~~ SCOPE

The right of all students to seek knowledge, form opinions, and freely express their ideas is fully recognized by the University. The Student Code of Conduct applies to student conduct and will not be used to discipline the lawful expression of ideas.

These regulations shall apply to all students and registered student organizations as defined in this policy of the University and shall be deemed a part of the terms and conditions of admission and enrollment of all students.

The University's jurisdiction regarding discipline is generally limited to the conduct of any student or registered student organization that occurs on university premises, including University Housing. However, the University reserves the right to impose discipline based on any student conduct, regardless of location, that may adversely affect the University community.

~~The right of all students to seek knowledge, form opinions, and freely express their ideas is fully recognized by the University. The Student Code of Conduct applies to student conduct and will not be used to discipline the lawful expression of ideas.~~

University disciplinary proceedings may be instituted ~~against~~ based upon a ~~student charged with student's alleged~~ student conduct that ~~potentially violates both their committed, would violate~~ criminal law ~~and/or~~ this Student Code of Conduct without regard to the pendency of civil or criminal litigation ~~in court or criminal arrest and prosecution~~. Proceedings under this Student Code of Conduct may be carried out

prior to, simultaneously with, or following civil or criminal proceedings ~~off-campus~~ at the discretion of the President or designee.

C. III. AUTHORITY

~~A.1.~~ The University Board of Trustees has given the University President ~~has~~ the final responsibility and authority for the discipline of University students. ~~—The~~ The President has delegated authority to the Vice President for Student Affairs, ~~as the President's designee, has the authority to~~ to enforce University regulations ~~and~~ policies, ~~as well as~~ and state and federal law ~~as they relate to Student Code of Conduct matters, and may take direct control of any case,~~ related to the conduct of students.

~~B.2.~~ Registered Sstudent organizations ~~charged with violating the Student Code of Conduct fall~~ are also regulated under ~~the~~ this authority ~~of the University conduct system.~~

~~The Student Conduct Committee has authority to make a finding of "responsible" and to recommend sanctioning to the President or designee.~~

3. The following procedures are designed to promote fairness, and will be adhered to as faithfully as possible. If exceptional circumstances dictate variation from these procedures, the variation will not invalidate a decision unless the variance prevents a fair hearing or abrogated the rights of a student.

~~C.4.~~ Failure of a Student or Registered Student Organization to comply with ~~duly established~~ federal or state laws or University regulations and policies may subject violator(s) to appropriate action by University authorities and/or appropriate civil and criminal authorities. ~~Serious violations~~ A determination of a serious violation of established laws or University regulations may be recorded in the individual(s) and/or organization(s) disciplinary record in the Dean of Students' Office ~~— and the Office of the Registrar if the individual is suspended or expelled.~~

D. IV. DEFINITIONS

1. Academic Integrity Committee (AIC) – A hearing body comprised of students and faculty, formed to review charges of academic dishonesty.

2. A. Administrative Hearing – A proceeding conducted before a Hearing Officer/hearing officer, at which time the Hearing Officer/hearing officer reviews the information presented to make and makes a finding of "responsible" or "not responsible."

3. B. Advisor – Any person (unrelated to the FGCU community (student, faculty, or staff), a member of the community, parent or case at

- issue), including an attorney, chosen by the charged student to assist him/ or her throughout the disciplinary process.
4. ~~C. Charge – A formal letter informing~~ Communication in writing which advises the student or Registered Student Organization of allegations of violation(s) of the Student Code of Conduct.
5. Charged Organization – Any Registered Student Organization which has been charged with an alleged violation of the Student Code of Conduct.
6. ~~D. Charged Student – Any student who has been formally~~ charged with an alleged violation of the Student Code of Conduct.
- ~~E. Cheating – Includes, but is not limited to: (1) intentionally using or attempting to use any unauthorized assistance (including, but not limited to materials, communication of information during an academic exercise, notes, study aids or other devices) in an academic exercise, including quizzes, tests, or examinations, (2) use of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments, (3) the acquisition, without permission, of tests or other academic material belonging to a member of the University faculty or staff, (4) engaging in any behavior specifically prohibited by a faculty member in the course syllabus or class discussion and (5) submitting work that borrows generously from work submitted in a previous or concurrent class, except where expressly permitted by the instructor~~
7. ~~F. Class day-~~ Any day that either classes or final exams are scheduled. Saturday class days will not be counted in establishing time periods under the Code.
8. ~~G. Complicity Complainant – Intentionally or knowingly helping or attempting to help another to commit an act which is~~ Any person who makes a complaint or reports a violation of the ~~law or of the~~ Student Code of Conduct or other University regulations and policies.
- ~~H. Fabrication – The inventing or counterfeiting of information with the intent to deceive.~~
- ~~I. Falsification/Fraud – The furnishing of false or misleading information to a University official or others, as well as forgery, alteration, misuse, or failure to provide required information on University documents, records, or identification cards.~~
9. Consent - Consent in an agreement or approval, freely and actively given in mutually understandable actions or words.
10. Facilitator – An individual who acts as the Chair of a hearing body and insures

that procedures are complied with by the hearing body.

11. ~~J. Good Standing-~~ A student who is ~~free of~~ from academic or disciplinary probation ~~holds~~.

~~K. Harassment – Conduct which creates an intimidating, hostile, or offensive environment.~~

12. ~~Guest(s) – Any individual (student or non-student) that is not assigned to live in the particular room/apartment where there is an alleged violation.~~

13. ~~L. Hearing Body-~~ ~~Any person or persons authorized by the Vice President for Student Affairs to conduct hearings to determine whether a student has violated~~ A committee established to resolve allegations of violations of the Student Code of Conduct and, if so determined, to recommend sanctions.

~~M. Student Conduct Committee – The Student Conduct Committee is a hearing body comprised of students, faculty and staff (at least 50% of which are students), formed to review charges of student conduct violations, to make findings as to “responsible” or “not responsible” and, if necessary, to make a sanction recommendation. Only current degree-seeking students who are in good standing are eligible to serve on this Committee.~~

~~N. Student Conduct Committee Hearing – A formal disciplinary proceeding conducted before the Student Conduct Committee, where information is presented and reviewed to support and refute charges.~~

14. ~~O. Hearing Officer – A Hearing Officer is a hearing body appointed by the Vice President for Student Affairs or designee to make the appropriate inquiries into the circumstances of a matter and to determine appropriate action, that being (1) dismissal of charge(s) , (2) interim suspension or (3) charge. The Hearing Officer conducts administrative hearings and may also serve as a facilitator in a Student Conduct Committee Hearing.~~ An individual designated to resolve allegations of violations of the Student Code of Conduct.

15. ~~Housing – A residence in a University operated facility.~~

~~P. Notice of Student Code of Conduct Charge – The written notice given to the charged student listing the allegations of misconduct.~~

~~Q. Plagiarism - Includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgement. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.~~

- ~~R.16.~~ Premises – All land, buildings, facilities, and other properties in the possession of or owned, used, leased, or operated by the University or one of its direct support organizations.
- ~~S.17.~~ Preponderance of Information – Evidence, considered as a whole, that indicates the facts sought to be proved are more likely than not.
18. Registered Student Organization (RSO) - A group of students who have complied with the requirements for registration as a group by the University.
19. Residential Conduct Committee (RCC) – A hearing body comprised of residential students established to review charges of student conduct violations which occur in housing.
- ~~T. Stalking~~ – ~~To follow another person or repeatedly interact with a person so as to harass that person.~~
- ~~U.20.~~ Student – All persons taking courses at or through FGCU, either full-time or part-time, degree-seeking or non-degree-seeking, on campus, through distance learning or as part of an international program. ~~Persons who withdraw after allegedly violating the Student Code, who are not officially enrolled for a particular term but who have a continuing relationship with the University or who have been notified of their acceptance for admission are considered “students” as are persons who are living in University residence halls.~~
21. Student Conduct Committee (SCC) – A hearing body comprised of students, faculty and staff established to review charges of student conduct violations.
22. Student Conduct Committee Hearing – A disciplinary proceeding conducted before the Student Conduct Committee, where information is presented and reviewed to address the alleged violation(s) of the Student Code of Conduct.
- ~~V. Student Organization~~ – ~~Any number of persons who have complied with the formal requirements for recognition by the University.~~
23. Transcript Overlay – A notation on a student’s university transcript that states the student is not in good disciplinary standing.
- ~~W.24.~~ University – ~~The term “University” means~~ Florida Gulf Coast University, including all of its campuses, centers and off-site locations.
- ~~X.25.~~ University Community – ~~Any person who is a~~ The student, faculty and staff ~~University official or a guest~~ of the University.
- ~~Y.26.~~ University Official – Any person employed by the University to perform assigned teaching, research, administrative, professional or other

responsibilities.

27. Victim – The person who is the object of the alleged violation of the Student Code of Conduct.

~~A.E. V.~~ **PROHIBITED CONDUCT**

The following actions, including complicity to commit these actions, constitute conduct for which a student, a group of students, or a registered student organization may be subject to disciplinary action, whether such actions are engaged in on or off University premises:

1. ~~A.~~ Academic Dishonesty

a) Cheating, includes, but is not limited to:

- 1) intentionally using or attempting to use any unauthorized assistance (including, but not limited to materials, communication of information during an academic exercise, notes, study aids or devices) in an academic exercise, including, but not limited to, quizzes, tests, or examinations;
 - 2) use of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments;
 - 3) the acquisition, without permission, of tests or other academic material belonging to a member of the University faculty or staff;
 - 4) engaging in any behavior specifically prohibited by a faculty member in the course syllabus or class discussion;
 - 5) submitting work that has been purchased or borrows generously from work submitted in a previous or concurrent class, except where expressly permitted by the instructor; or
 - 6) communication to another through written, visual, electronic, or oral means.
- b) Selling notes, handouts, or other materials without authorization or using them for any commercial purpose without the express written permission of the University and the instructor.
- c) Falsifying or misrepresenting your academic work.
- d) Plagiarism: using work appropriated without any indication of the source.
- e) Knowingly helping another student violate academic behavior standards.

2. Arson

Intentionally or recklessly causing a fire that may result in damage to the Premises.

~~Cheating, plagiarism, fabrication and falsification, forgery, misuse of any University document, record, or instrument of identification, multiple submissions, bribery, and/or theft of academic materials.~~

~~B. Acts of Dishonesty (Non-academic)~~

~~Cheating, forgery, bribery, theft, conversion (using as your own, the property of another), and/or misuse of property.~~

3. ~~C.~~ Falsification/Fraud/False Testimony

- a) Withholding related information, or furnishing false or misleading information (oral or written) to University officials, university and non-university law enforcement officers, faculty or staff.
- b) Possession, use or attempted use of any form of fraudulent identification.
- c) Forgery, alteration or misuse of any University document, material, file, record or instrument of identification, including the University's name or logos.
- d) Deliberately and purposefully providing false or misleading verbal or written information about another person.
- e) Falsifying, distorting, or misrepresenting of information during proceedings under this Code, including knowingly initiating a false complaint.

~~Providing false or misleading information to a University official or hearing body, forgery, the withholding of required information or the misuse or alteration of University documents or the University's name or logos, impersonation or misrepresentation, acting on behalf of another person, group or the University without authorization or prior consent, and/or knowingly providing a worthless check in payment to the University or to a member of the University community.~~

4. ~~D.~~ Disruptive Conduct

- a) An act that impairs, interferes with, or obstructs the University or any part thereof or the rights of other members of the University community, including but not limited to obstructing or disrupting teaching, research administrative and/or public service functions.
- b) Any act which deliberately impedes or interferes with the normal flow of pedestrian and vehicular traffic.
- c) Misuse of any University safety equipment, firefighting equipment, or fire alarms.
- d) A false report of an explosive or incendiary device, which constitutes a threat or bomb scare.
- e) An act, which aids, abets, or procures another person to obstruct or disrupts the teaching, research, administrative and/or public functions.
- f) Behavior that disrupts the study, sleep, privacy, or safety, of University community members.

~~Disruptive, disorderly or reckless conduct including, but not limited to, indecent exposure, threats, harassment, fighting or physically assaulting another person, recklessly causing physical harm, obstructing or disrupting teaching, research, administrative and public service functions, which include falsely reporting a fire, explosion or an explosive device, breach of the peace, causing a disturbance or being unruly.~~

5. ~~E.~~ Personal Abuse

- a) ~~Violence, Physical harm or~~ threat of ~~violence or disregard of potential~~ physical harm to others or against oneself.
- b) Harassment or ~~actions which endanger any member or guest of the University community~~ stalking, including ~~physical,~~ written or electronic communication, that could cause severe emotional distress, intimidation, or coercion to another person.
- c) Direct verbal, ~~or sexual assault~~ or written abuse, threats, intimidation, coercion and ~~relationship/domestic violence/~~ or other conduct that endangers the health, safety, or wellbeing of others.
- d) ~~F.~~ Retaliation against or harassment of complainant(s) or other person(s) alleging misconduct.

6. ~~F.~~ Sexual Misconduct or Abuse

~~Sexual misconduct or abuse includes, but is not limited to sexual assault, forcible sodomy, voyeurism, exposure of one's sexual organs, or any sexual act that occurs, regardless of personal relationship, without the consent of the other person. Consent is not presumed when circumstances imply force, fear, intoxication, drug use or other instances where cognitive abilities may have been affected. This provision also encompasses conduct of a sexual nature that creates an intimidating, hostile or offensive environment for another person such as unwanted, unwelcome, inappropriate or irrelevant sexual activities, comments or gestures.~~

- a) Engaging in nonconsensual sexual conduct which occurs on or off the FGCU campus.
- b) Taking sexual advantage of a person who is unable to provide consent.
- c) An attempted act of sexual misconduct.
- d) Unwelcome sexual advances, requests for sexual favors, or conduct of a sexual nature which prevents or impairs another person's enjoyment of the educational benefits, atmosphere, or opportunities provided as part of the University.
- e) Exposure of one's body in such a manner that another person reasonably could be offended or to display sexual behavior which another person reasonably finds offensive.
- f) Trespassing, spying, or eavesdropping activities of a sexual nature.
- g) Attempting to commit by solicitation sexual acts with a minor by oral, written, or electronic means.

~~G.~~ 7. Theft/Property Damage

- a) ~~The attempted~~ Unauthorized use, possession, or ~~actual theft~~ services of ~~and/~~ personal or ~~damage to public or private property, as well as, possession or destruction.~~

b) Damage or defacing of ~~such~~ University property ~~with disregard of possible harm to such~~ or Premises or the property. ~~— of another person whether or not it is on University premises.~~

c) Attempting to repair damages without prior authorization from University officials.

~~H.8.~~ Hazing

Acts pursuant to Section 1006.63, Florida Statutes, as well as any action or situation which recklessly or intentionally endangers the mental or physical health or safety of a student for purposes including, but not limited to, initiation or admission into or affiliation with, or as a condition of continued membership in, a University registered group or organization ~~operating under the sanction of the University.~~ Express or implied consent of the victim will not be considered as a defense.

~~I.9.~~ Unauthorized Use of Keys and/or Entry

a) Unauthorized ~~possession, duplication or~~ attempted entry or continued presence in any room, building, motor vehicle, trailer or machinery without proper authorization.

b) Duplication or improper use of keys to any University ~~premises, or~~ Premises.

c) Assisting with the unauthorized entry, ~~or attempted entry to, or use of others into any~~ University premises.

~~J.10.~~ Controlled Substances ~~and~~, Drug Paraphernalia ~~and other~~ Substances

a) ~~Use,~~The possession, use, consumption, cultivation, manufacture, sale, ~~and/or~~ distribution of any ~~narcotic, controlled substances~~ drug or drug paraphernalia, or prescription drug not prescribed to the student.

b) The delivery or attempt to deliver or obtain any drug or drug paraphernalia.

c) A violation of any applicable local, state, or federal law relating to drugs or drug paraphernalia, as defined in Chapter 893, Florida Statutes, ~~or attempt to obtain such items, except as expressly permitted by law.~~

d) The misuse of a prescription drug.

e) The unprescribed use, inhalation or ingestion of a substance that will alter a student's mental state.

~~K.11.~~ Alcohol

a) Public intoxication ~~and/or the~~.

b) The use, possession, sale ~~and/or~~ distribution of alcoholic beverages ~~except other than~~ as expressly permitted by law, University regulations and the University Alcohol Policy.

c) Violation of the Housing Alcohol Policy.

~~L.12.~~ Weapons/Firearms/Chemicals or Dangerous Materials

a) ~~Illegal or unauthorized possession~~ Possession, storage or use of firearms, ~~fireworks,~~ explosives, ~~other~~ ammunition, weapons or other dangerous articles or substances including but not limited to tasers, switchblade knives, and non-lethal weapons, such as air soft guns, or dangerous chemical corrosive or biological chemicals or agents on University owned or affiliated property or at University sponsored/related activities.

b) Possession or use of fireworks of any description, explosives, or chemicals which are disruptive, explosive, or corrosive on University premises or ~~use of any such item, even if legally possessed, in a manner that harms, threatens or causes fear to others. Weapons include, but are not limited to ammunition, metallic knuckles, slingshots, bows and arrows, switch-blades, knives, Air soft guns, pellet guns, BB guns, and paintball guns~~ at University sponsored/related activities.

~~13. M.~~ Campus Disturbances and Demonstrations, Parades, or Picketing

Unlawful interference with academic freedom and freedom of speech of any member of the University community, as well as intentional interference with the educational function of the University.

~~N.14.~~ Computer Misuse and Telecommunications Resources

~~Includes~~ Violations of this provision include, but ~~is~~ are not limited to:

~~1.a)~~ Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.

~~2.b)~~ Unauthorized transfer of a file.

~~3.c)~~ Use of another individual's identification and/or password.

~~4.d)~~ Use of computing facilities and resources to interfere with the work of another student, faculty member or University Official.

~~5.e)~~ Use of computing facilities and resources to send obscene or abusive messages.

~~6.f)~~ Use of computing facilities and resources to interfere with normal operation of the University computing system.

~~7.g)~~ Use of computing facilities and resources in violation of copyright laws.

~~8.h)~~ Any violation of the FGCU Policy 3.022 – Technology Acceptable Computer Use Policy and ~~Network Policy.~~ Procedure.

~~O.15.~~ University Designated Student Residence Violations

Violations of any policy, rule or regulation governing University student residences, as well as, the housing rental agreement.

16. ~~P.~~ Noncompliance with an Official Request

Failure to comply with University regulations, policies and/or lawful directives of University officials or law enforcement officers acting in the performance of their duties.

17. ~~Q.~~ Disregard for the Student Code of Conduct Process

Action which interferes with or obstructs the Student Code of Conduct Process or acts which constitute violation of sanction(s), ~~including~~ failure to complete ~~sanctions imposed against the student, and/~~sanction(s) or violation of disciplinary probation.

18. ~~R.~~ Public Law

Violation of any federal, state, or local law, rule, regulation or ordinance.

19. ~~S.~~ Complicity

To be associated with or to be present during the commission of any act by another that constitutes a violation of University policy ~~and/~~ or if the behavior is considered to constitute permission, ~~is judged~~ to contribute to, or to condone a violation ~~is prohibited. of a University regulation or policy.~~

20. ~~T.~~ Responsibility for ~~Guests~~Guest(s) of Student

Any Students will be held accountable for any damage or violation of University ~~rules and~~ regulations and policies by ~~their guests on campus or in University Housing.~~the Student's guest(s).

F. ~~VI.~~ INTERIM SUSPENSION

1. Authority of University

The ~~President~~Dean of Students or designee has the authority to determine if ~~an alleged~~ violation by a student or a registered student organization warrants an interim suspension ~~of a student or a student organization's privileges~~or removal from the University or from housing at any time prior to the conclusion of the University's disciplinary process, including ~~during~~ the appeal process. The criteria used in making this determination are:

- a) Whether the student or registered student organization poses an ongoing threat of harm, disruption of, or interference with, the normal operations of the University; and

- b) Whether interim suspension is necessary to protect the health (physical and mental), safety or general welfare of the University community or to preserve University property.

2. Student Interim Suspension

a) An interim suspension means a student cannot be on University property, cannot attend classes (including online classes), and cannot use University facilities. An interim suspension may also include removal from Housing. An interim suspension requires the student be notified in writing as soon as practical. ~~The student has the opportunity to be heard on whether~~ A hearing on the interim suspension should continue until a hearing is ~~will be held on the actual violation of the~~ within five (5) business class days of incident. The Student Code of Conduct. The student will be heard on ~~has three (3) class days to make a written request to appeal the Interim Suspension at a. The appeal of the interim suspension will be heard by the Vice President for Student Conduct Committee hearing~~ Affairs or designee within three (3) class days of receipt of the ~~notice of the Interim Suspension letter unless a later time is agreed upon by both parties~~ appeal. The hearing may be delayed due to a semester break or closing of the University. The student's ~~challenge~~ appeal of the Interim Suspension must be based on one of the following:

- 1) an egregious error pertaining to the student's involvement; or
- 2) a contention that the violation, even if proven, does not pose a threat to the health, safety or general welfare of the University community and thus does not warrant an interim suspension.

~~Upon the recommendation of the President or designee the University may remove a student from on-campus housing if it is necessary to protect the health, safety and general welfare of individuals or property and prohibit the resident from visiting the housing areas prior to the student's hearing with a hearing body. The aforementioned hearing will take place within a reasonable time after notification to the student.~~

~~If it is an affected student organization, immediate suspension means a ban on all activities, programs, social events, funding requests and budget expenditures. Organizations may be allowed to conduct business meetings provided that 1) they notify and receive permission from the Dean of Students or designee in advance and 2) an advisor recognized by the University attends the meeting.~~

~~VII. STUDENT RIGHTS~~

~~An accused student has the following rights:~~

~~A. The right to a fair and impartial hearing.~~

~~B. The right to be notified in writing of the charges against him or her and the~~

~~alleged misconduct upon which the charge is based with reasonable access to the case file prior to and during the hearing, in reasonably sufficient detail to prepare for a hearing.~~

- ~~C. The right to be assisted by an advisor of his/her choice, at his/her own expense. The advisor does not speak or actively participate on behalf of the student unless expressly authorized to do so by the hearing body. If the student's advisor is an attorney, the attorney must abide by the same guidelines as any other advisor and may not actively represent the accused student. However, the attorney may, in an unobtrusive manner, give advice to the student regarding how to present his/her defense. If the student desires to bring an attorney as an advisor, the student must notify the Dean of Students' no less than two (2) class days prior to the hearing. The advisor may not also serve as a witness.~~
- ~~D. The right to question all witnesses who testify at the hearing and to challenge all written statements presented at the hearing.~~

b) The right to present witnesses to testify in his/her own defense. The charged student is responsible for contacting his/her witnesses and for ensuring their appearance at the hearing. The Dean of Students or designee will not compel the accused student's witnesses to testify. If it is determined by the Vice President for Student Affairs or designee that an interim suspension is not appropriate, the student's status will be reinstated and the conduct process will commence as per the Student Code of Conduct.

1) If the Interim Suspension lasts for more than ten (10) class days but the Student is subsequently found not responsible for the violation, the University shall be refunded a pro-rata portion of any charges for tuition and out-of-state fees, as appropriate.

c) The hearing to address the underlying charge for the interim suspension will be addressed in accordance with this Code.

3. Registered Student Organization(s) Interim Suspension

a) The Dean of Students may impose an interim suspension on a registered student organization. An interim suspension of a registered student organization means an immediate ban of all activities, programs, social events, funding requests and budget expenditures of the group. If permitted by the Dean of Students or designee the suspended organization may be allowed to conduct business meetings while awaiting a hearing of the alleged violation of the Student Code of Conduct. A hearing on the interim suspension will be held within five (5) business days of incident. The registered student organization has three (3) class days to make a written request to appeal the imposition of the interim suspension. The appeal of the interim suspension will be heard by the Vice President for Student Affairs or designee within three (3) class days of receipt of the appeal. The hearing may be delayed due to a semester break or closing of the University. The registered student organization's appeal of the interim suspension must be based on one of the following:

- 1) an egregious error pertaining to the registered student organization's involvement; or
- 2) a contention that the violation, even if proven, does not pose a threat to the health, safety or general welfare of the University community and thus does not warrant an interim suspension.
- b) If it is determined by the Vice President for Student Affairs or designee that an interim suspension is not appropriate, the registered student organization's status will be reinstated and the conduct process will commence as per the Student Code of Conduct.
- c) The hearing to address the charge which is the basis for the interim suspension will be addressed in accordance with this Code.

G. THE STUDENT CONDUCT REVIEW PROCESS

The following rights shall be explained to each charged student prior to the commencement of any conduct hearing:

1. The charged student shall be afforded ~~reasonable~~ written notice of no less than five (5) class days, prior to the hearing. The University will communicate using the student's electronic University email address and the last physical address provided by the student to the Registrar. Notice shall include:
 - a) The student's name and address.
 - b) Date, time and location and nature of the proceeding of the hearing.
 - c) The alleged violation of the Student Code of Conduct.
2. The student may have (at his or her own expense and initiative), an advisor present at the hearing. It is the student's responsibility to make appropriate arrangements for the advisor to attend the hearing time scheduled by the administrative office hearing the case. The advisor may be present, but shall not speak for, or present the case, for the student or otherwise participate directly in the proceeding. A Student must sign a Third Party Release form for their advisor to obtain access to a Student's education record.
3. Communication regarding the case will be made directly with the student.
4. All hearings shall be conducted on the basis that the charged student is not in violation. The burden of proof shall not be upon the charged student who is subject to the hearing.
5. During the conduct review conference, the student may inspect any information presented in support of the charges and take notes.
- ~~E~~.6. The University cannot compel any person to attend a student disciplinary hearing on behalf of the accused student. The accused student is responsible for arranging for his/her own witnesses and presenting information during the proceeding. The student may hear and question adverse witnesses who

testify at the hearing. The hearing body shall have the authority to limit the number of witnesses in order to avoid unreasonable delays where the testimony ~~would be~~ of these witnesses is repetitious or ~~unnecessary.~~ irrelevant.

~~F. The right to be present during the entire hearing (except for deliberation) and to be aware of all information considered in the proceeding. The accused student may, however, elect not to appear and failure to appear shall not be construed as an admission of responsibility.~~

~~G. The right to remain silent and such silence shall not be construed as an admission of responsibility.~~

~~H. The right to be notified in writing of the decision of the hearing body within ten (10) class days of the date of the hearing. In cases of extenuating circumstances or matters complex in nature, notification of a decision may extend beyond ten (10) class days. The student will be notified of such circumstances. The student has the right to appeal the decision of the hearing body within five (5) class days of receiving the decision.~~

7. The student shall not be required to present self-incriminating information.

8. A finding of "responsible" or "not responsible" on the charges shall be based solely on the information presented at the hearing. The finding of "responsible" shall be based on a preponderance of the information.

9. Should the hearing body determine a finding of "responsible," prior conduct history may then be reviewed or used in determining sanctions.

10. The results of any formal hearing shall be ~~made available~~ provided in writing to the student within ten (10) class days following the hearing.

11. Except in cases where the Dean of Students or designee determines that the safety, health, or general welfare of any part of the University community is at risk, necessitating an interim suspension, the student's enrollment status shall remain unchanged pending the University's final decision in the matter. Notwithstanding, a hold will be placed on the student's records pending the outcome of the case.

~~12.~~ An appeal ~~may only~~ of the outcome of a conduct case ~~must~~ be based on one or more of the following causes:

a) ~~1.~~ Due process errors ~~involving violations of the charged student's rights that substantially affected the outcome of the hearing~~ including the University's failure to provide the student with notice or an opportunity to be heard;

b) ~~2.~~ The sanction(s) is (are) extraordinarily ~~disproportionate~~ severe in relation to the offense committed; or

c) ~~3.~~ New information can be provided that was not available at the time of the original proceeding.

VIII. VICTIM RIGHTS

H. ~~Alleged~~ PROVISIONS FOR VICTIMS OF ACTS OF VIOLENCE

To ensure fairness to victims of Student Code of Conduct violations have the following rights:

~~A. To be assisted by an advisor of his/her choice and have that advisor accompany him/her when presenting information to the hearing body and to any other relevant meetings held~~ acts of violence throughout the disciplinary process. However, the advisor will not be allowed to speak or actively participate unless expressly authorized to do so by the hearing body. ~~A witness in the case may not serve as an advisor to a victim.~~ the University has established the following position:

1. ~~B. To submit a~~ A victim may have a person of her or his choice accompany them throughout the Student Conduct Review process. This person will act as a support person or advisor but will not represent the victim. Moreover, neither the support person nor the advisor will be allowed to address the hearing officer or hearing body on behalf of the victim.
2. A victim will receive notice of the hearing no less than five (5) class days prior to the date of the hearing.
3. A victim may submit a list of questions related to the alleged incident, prior to the hearing. However, the hearing officer or facilitator shall not be required to ask these questions of the witness.
4. A victim may not have his or her past conduct, including sexual history, considered when making a determination as to "responsible" or "not responsible." The issue of relevancy of the victim's past conduct shall be determined by the hearing officer during the deliberation.
5. A victim may make a "victim impact statement" and offer to the hearing officer a suggestion of what they believe to be an appropriate sanction if the charged student is found to ~~the hearing body.~~ have been responsible of the Student Code of Conduct. This information may be used only in the sanctioning phase of deliberations, if the charged student is found responsible ~~for the charge(s).~~

~~C. To have unrelated past behavior excluded from the hearing. The Hearing Officer will decide if such information is unrelated.~~

~~D. To submit questions requested to be posed during the hearing to the Hearing Officer forty-eight (48) hours prior to the hearing requested. The Hearing Officer will then consider posing these questions to the charged student.~~

- ~~E. At the request of the victim in cases involving sexual misconduct, physical violence or stalking charges, the alleged victim may request to present his/her side of the story in a separate room from the charged student so long as the charged student may hear all of the alleged victim's testimony and the process does not unduly compromise the charged student. (Consent to such request will not interfere with the charged student's right to question the victim.)~~
- ~~F. To be present throughout the hearing, or portions thereof. This option will be offered at the option of the Hearing Officer.~~
- ~~G. To have any personal property returned to them if in the current possession of the University. The determination of when this property is to be returned is left to the discretion of the Hearing Officer and/or University Police.~~
- ~~H. To be notified of the outcome in writing, including both the decision and the sanctions imposed, if any, on the accused student.~~

~~IX. PROCEDURES~~

~~6. TheWhere the student conduct review process addresses an allegation of sexual misconduct or abuse, the Clery Act provides that both the victim and the accused must be informed of the final outcome of the student conduct review process without a commitment to protect the confidentiality of the information. The "final outcome" means only the final determination with respect to the alleged sexual misconduct or abuse and any sanction that is imposed against the accused. If the alleged victim of such crime or offense is deceased as a result of such crime or offense, the next of kin shall be considered as the alleged victim for purposes of this paragraph.~~

I. PROCEDURES

The Vice President for Student Affairs or designee is charged with implementing the Student Code of Conduct. —All procedures will be consistent with ~~all~~ appropriate~~the~~ rights ~~accorded~~afforded to students in University disciplinary decisions.

~~A.1. Charges may result from:~~

~~a) Reports of violation of thisNo charges will be considered, and no charges can be filed under the Student Code made by, but not limited to, university personnel, law enforcement, students, and community members, must be~~

~~made within~~ of Conduct six (6) months ~~of~~ after the date the alleged violation occurred ~~except allegations alleging sexual misconduct, sexual or abuse, or knowledge of the alleged violation. No student domestic violence may be charged with a violation of the Student Code of Conduct if the report is made more~~ considered no later than ~~6~~ twelve (12) months after the ~~alleged violation is to have occurred. This provision shall not apply to incidents involving patterns of behavior (i.e. stalking, sexual misconduct, domestic violence, etc.). These alleged violations (involving patterns of behavior) must be reported within one (1) calendar year from the date of the incident or knowledge of the incident.~~ alleged sexual misconduct. The Vice-President for Student Affairs may waive the time period for filing charges after making a finding in writing that waiving the time period for filing charges is in the best interest of the University.

1.b) A review of possible charges may be initiated in the following ways:

- 1) ~~(a)~~ Any individual may provide file a signed written statement to the Dean of ~~Students or designee. Written statements~~ Students' Office concerning an allegation of a violation of the Student Code of Conduct. The Statement should include all information ~~the person making and details specific to the complaint can produce. All~~ incident including dates, times, location and any witnesses. The information will ~~then~~ be reviewed by ~~an appropriate staff member~~ the Dean of Students or designee to determine whether Student Code of Conduct charges will be filed or if alternative action is appropriate.;
 - 2) ~~(b)~~ Any information that comes to the attention of the University ~~(via media or other indirect means, including but not limited to, Facebook.com, MySpace.com, YouTube.com, etc.)~~ in any manner including any electronic social media that an alleged violation of the Student Code of Conduct is reported to have occurred.;
 - 3) ~~(c)~~ The University may also amend its charge(s) or file with new charges based on information obtained through an outside proceeding, additional investigation, or other credible sources where that information is relevant to activity adversely affecting the University community.;
 - ~~(i)~~ 4) Any An admission of guilt ~~or responsibility made by a student at off-campus~~ in any proceedings ~~shall be of the University is~~ conclusive for University purposes. adjudicating a Student Code of Conduct violation; or
 - ~~(ii)~~ 5) A verdict of guilty, adjudication withheld, a plea of guilty or similar disposition in a court of law by a charged student ~~will operate as a~~ shall be deemed conclusive finding that the student is "responsible" for the purpose of University proceedings.
- c) ~~2.~~ Upon review of the information to determine if there are reasonable grounds to believe that the allegations of the complaint are true, the Dean of Students or designee may:

- ~~(a) Dismiss the charge(s) based on insufficient information to proceed. Such disposition shall be final and there shall be no subsequent proceedings;~~
- ~~(b) Invoke an Interim Suspension;~~
- ~~(c) 1) Dispose of a complaint administratively by mutual consent of the parties involved. Such disposition shall be final and there shall be no subsequent proceedings; or~~
- ~~(d) File formal charge(s)~~
- 2) 3. Direct the University to commence conduct proceedings.
- d) At any time after making ~~such determinations~~ the determination under I.1(c), above, the Dean of Students or designee may place a disciplinary hold on the records and registration of the charged student until the sanction(s) have been resolved. No student may modify his/ or her registration status in any way while a disciplinary hold is in place.
- e) B. Maintenance of Records: A student's conduct case record will be maintained retained in the Office of the Dean of Students in accordance with the records retention schedule promulgated by the Florida Department of State.
- f) Release of Records: The release of student disciplinary records will be governed by applicable federal and state laws regarding the privacy of education records.

2. Notice-

Any charged student will be given written notice of the alleged violation(s) of the Student Code of Conduct (i.e. Charge Letter) no later than ~~the conclusion of the pre-hearing information session(s).~~ five (5) class days prior to the conduct review conference. The official ~~mailing address on file with the~~ University email address and/or the address provided by the student to the Registrar's Office will be used for all ~~disciplinary notices.~~ correspondence. The ~~Hearing Officer~~ hearing officer may place a disciplinary hold on ~~the student~~ records and prohibiting the registration of any student who fails to respond to ~~a charge letter.~~ an official request from the Dean of Students or designee. ~~Any~~ All pending disciplinary matters must be resolved prior to the awarding of any degree or certificate.

The written notice will include the following:

- 1. a) The student's name, University ~~Identification Number (UIN);~~ identification number, and address;
- 2. b) ~~Description~~ Brief A description of the alleged violation(s) including date(s), time(s), and place(s);) of the incident(s) and the resulting charges;
- 3. c) Source(s) of information;
- 4. ~~The student's right to select a type of hearing, either before a Student Conduct Committee or an Administrative Hearing.~~

- d) ~~5.~~ Link to the student's rights ~~under~~ and conduct process in the Student Code of Conduct.; and
- e) ~~6.~~ An invitation Notice to attend a ~~pre-hearing informational session~~ conduct review conference to clarify rights and procedures.

3. ~~7.~~ Link Conduct Review Conference

A Student alleged to have violated the Student Code of Conduct:

<http://studentservices.fgcu.edu/JudicialAffairs/Studentguidebook.htm>

~~C. Pre-Hearing Information Session.~~

- ~~1.a)~~ At the pre-hearing information session, the charged student has the right to review all information currently available to be used in his/her case and to select will receive a hearing type. It is the student's responsibility to schedule an appointment for a pre-hearing. The pre-hearing will be scheduled within five (5) class days from the date of the notice. notice to attend a required conduct review conference with the designated staff of the Dean of Students' Office to discuss the charges. The notice shall also state the charged student has the opportunity to inspect all information no less than three (3) class days prior to the conduct review conference and shall provide to the Dean of Students any information related to the charges. The Student may be accompanied by the Student's advisor when inspecting the information and at the Conduct Review Conference. Although the advisor may be present at the Conference, the advisor may not speak on behalf of the Student or otherwise participate.
- b) If the student fails to schedule or attend that conference within three (3) class days of receipt of the notice, a hearing will be scheduled for the student according to his or her class schedule.
- c) A student who leaves the University or withdraws from a class before a disciplinary matter is resolved will have a hold placed on his or her record that will prohibit the student from future enrollment until such time as the matter is resolved.
- d) The student will ~~be informed of the~~ receive information ~~at the conference~~ with the notice regarding the Student Conduct Review Process, including the student's rights and an opportunity to inspect and/or review the information known at the time charges are prepared.
- e) At the conclusion of the conduct review conference, the Dean of Students or designee discusses the options for resolution of the disciplinary charge(s) ~~against him or her, as well as the procedure~~. These options are: case

dismissal, ~~an informal hearing~~ acceptance of responsibility for the charges or a formal hearing.

- (1) If the charges are dismissed, no further action will be taken by the University and the charged student will be notified in writing of the dismissal.
- (2) If the charged student chooses to accept responsibility for the charges, the Dean of Students or designee will determine sanctions in accordance with this Code. The charged student will be notified in writing of the University's acknowledgement of the charged student's acceptance of responsibility and the sanctions to be applied. The Student must sign a form indicating that the student waives his or her right to a hearing.
- a) If the charged student chooses to request a formal hearing, the charged student will be notified in writing of the University's acknowledgement of the charged student's decision to proceed to a formal hearing. The notification will also provide the charged student with information concerning the formal hearing process
- (3)
- f) ~~Following the conduct review conference, the~~ The charged student will have 24 hours from ~~the conduct review conference~~ receipt of the written notice provide in 1.3(e)(c), above, to ~~decide~~ inform the Dean of Students, by either email notification or by written notice, ~~which what type of hearing process the charged student would prefer to use to be utilized in resolving the allegations of whether~~ the Student chooses a hearing before a Hearing Officer or the Conduct Committee.

In circumstances where a case is more complex, the University will determine the type of hearing to be utilized for resolution of the case. This determination will be made at the Conduct Review Conference.

1. ~~Options for Determining Resolution of Disciplinary Charges~~

- a) ~~Case Dismissal: The Dean of Students or designee may dismiss a case upon a finding that there are insufficient facts or information to substantiate the allegation of a violation of the Student Code of Conduct.~~
3. ~~Following the pre-hearing information session, the charged student will have a 24-hour consideration period to select either a Student Conduct Committee Hearing or to select an Administrative Hearing. The 24-hour consideration period may be waived by the student in writing through the use of a "Waiver of 24-Hour Consideration Period" Form in order to resolve a case immediately.~~
- b) ~~4. In most cases, the selected hearing shall be no sooner than three (3) class days from the date of the pre-hearing information session (unless waived by the student in writing) and Informal Hearing: Alleged violations of~~

~~the Student Code of Conduct will not result in suspension or expulsion may be heard in an informal hearing immediately following the conduct review conference. If the matter is not resolved informally, the case will be heard in a formal hearing by a hearing officer as an administrative hearing or by a conduct committee.~~

- ~~c) Formal Hearing: If an alleged violation of the Student Code of Conduct will result in suspension or expulsion and is not dismissed or otherwise resolved, then the conduct hearing process will commence.~~
- ~~d) Participants in a hearing may include the charged student, the hearing body, material witnesses (when called upon by the hearing body), and the facilitator.~~

4. Formal Hearings

There are two types of formal hearings: administrative hearings before a hearing officer and conduct committee hearings before a hearing body.

Hearings are scheduled no earlier than five (5) and no later than fourteen (14) class days from following the pre-hearing information session, unless extenuating circumstances make this scheduling prohibitive.

- ~~5. If a student fails to schedule conduct review conference, or attend a scheduled pre-hearing information session, and five (5) class days have expired since the date of the notice, the student waives his/her right to a pre-hearing information session. At that time, a formal hearing before a Hearing Officer or a Student Conduct Committee (hearing body chosen at the discretion of the University) will be scheduled and the student will be notified. The date of the formal hearing will be no sooner than three (3) class days nor later than fourteen (14) class days from the day it is scheduled. The student shall be notified in writing of the hearing type, its date, time, and location. The latest mailing address provided to the University will be used for all correspondence. It is the student's responsibility to keep the University informed of his/her current mailing address, to check his/her mailbox and to check his/her University student e-mail account.~~

D. Hearings.

- ~~1.a) Hearings are scheduled at least three (3) class days from the pre-hearing information session and no later than fourteen (14) class days, or at the discretion of the Hearing Officer Hearing Officer and due to extenuating circumstances. Depending on the availability of a hearing officer, if a student wants to resolve his/her case more expeditiously, the the hearing might be delayed. A student may waive this time his or her right to a 24 hour waiting in writing the scheduled time period and have the case heard immediately. by the Hearing Officer following the conduct review conference.~~

- ~~2.~~ ~~The accused student shall be granted all rights guaranteed him or her by~~ Adjudication proceedings under the Student Code of Conduct.
- ~~3.b)~~ are administrative in nature. Therefore The Florida Evidence Code, The Florida Rules of Evidence, as well as Civil and Procedure and The Florida Rules of Criminal Procedure, ~~applicable to civil and criminal cases~~ shall not apply in student conduct hearings.
- ~~c)~~ 4. The administrative or committee hearings will be ~~tape~~ digitally recorded by the ~~Hearing Officer or chair~~ hearing body where the charged student has the potential for receiving a sanction of suspension or expulsion from the University and will serve as the official verbatim record of the proceeding. Videotaping of the hearing is prohibited. ~~Transcripts of hearings may be obtained at the student's expense.~~
- ~~d)~~ 5. The hearing body determines responsibility of a violation of the Student Code of Conduct. This decision is determined by a preponderance of the information. ~~A recommendation of~~ presented. The conduct committee recommends sanctions ~~from~~ when necessary to the Dean of Students or designee. In administrative hearings, the hearing ~~body will be determined if the student is found responsible~~ officer determines responsibility and the sanction.
- ~~6.e)~~ Prior records of disciplinary action ~~and,~~ victim impact statements and past criminal convictions are considered by the ~~Hearing Body~~ hearing body but only in the sanctioning phase of deliberations. ~~Past criminal convictions also may be considered if relevant to the proceedings.~~ if the student is found responsible.
- ~~7.f)~~ If a student fails to attend his/ or her scheduled hearing, the case will be heard in the student's absence and he/she the student will be informed ~~in writing~~ of the decision in writing.
- ~~8.~~ ~~The student may be asked to sign a Statement of Understanding to indicate receipt of the decision made by the Hearing Body. In the event that the~~

~~student does not attend the hearing and the hearing is held in absence, the hearing officer will sign the form and indicate the absence of the student on the Statement of Understanding form.~~

~~a. All hearing decisions will be communicated in writing to the charged student and include the hearing decision, and sanctions imposed (if applicable).~~

~~9. A decision letter will be sent to the student within ten (10) class days from the conclusion of the hearing. This time limit may be extended if necessary at the discretion of the hearing officer based on extenuating circumstances or due to the complex nature of the matter.~~

~~g) 10. In cases involving multiple students charged, information provided at one hearing may be used as evidence in the related cases(s). When two or more individual cases stem arise from the same incident, those cases may be heard jointly. In cases where information regarding a charged student may prejudice at the other charged student(s), that case may be heard separately discretion of the Dean of Students or designee.~~

~~h) 11. Information Previously unknown or undisclosed information obtained in a hearing may result in the adjustment of the original subsequent charges. and potentially result in another hearing.~~

~~E. Student Conduct Committee Hearings:~~

~~i) Prior to the subsequent hearing, the student will be permitted to inspect any additional information gathered received by the hearing officer or committee.~~

~~j) Participants in a hearing may include the charged student, the hearing body, material witnesses (when called upon by call of the hearing body), and the facilitator.~~

~~k) The Student shall have an opportunity to inspect all information to be presented at the hearing no later than three (3) class days before the scheduled date of the hearing.~~

5. Administrative Hearings

- a) Administrative hearings shall be conducted by a hearing officer designated by the Dean of Students.
- b) The charged student shall be informed of the hearing officer assigned to his or her case and shall have the opportunity to challenge the impartiality of the individual within three (3) class days of notification. The student shall state in writing the basis for such challenge. The Dean of Students or designee shall determine whether the hearing officer is impartial. A hearing officer determined not to be impartial will be excused; however, indiscriminate challenges shall not be permitted. In the event that a student has opted not to challenge the impartiality of a hearing officer within the allotted three (3) class days, the assigned hearing officer shall remain as scheduled.
- c) The Dean of Students or designee may refer cases directly to the conduct committee.
- d) At hearings conducted by an administrative hearing officer, the hearing officer shall determine the finding of responsibility of the violation(s) of the Student Code of Conduct. If found "responsible", the student will be given an appropriate sanction by the hearing officer.

6. Conduct Committee Hearings

- a) The conduct committee shall include University faculty, staff and Students. Each conduct committee shall have no less than fifty percent (50%) of its membership include Students.
- b) The following order of presentation is recommended for use in ~~Hearings~~:conduct committee hearings. The order of business may be adjusted by the facilitator.
 - 1) ~~1.~~ Introduction of the hearing body and accused student ~~for the tape recording.~~
 - 2) ~~2.~~ Presentation of charges by the ~~Committee chair.~~ conduct committee facilitator.
 - 3) ~~3. Plea of~~ The student pleads "responsible" or "not responsible ~~is made by student.~~" to the alleged violation(s).
 - 4) ~~4.~~ Opening ~~statements (if any) by the Chair of the Student Conduct Committee, followed by the opening~~ statement of the charged student.
 - 5) ~~5.~~ Questions directed to the charged student by the hearing body and/or facilitator.
 - 6) Presentation of ~~information and~~material witnesses by the University, followed by questioning of those witnesses by both parties. ~~Each witness is dismissed after questioning.~~

- 7) ~~6.~~ Presentation of ~~information and~~ material witnesses by the charged student, followed by questioning of those witnesses by both parties. -Each witness is dismissed after questioning.
- ~~7. Questions directed to the charged student by the hearing body.~~
- 8) ~~8. Closing statements (if~~ The facilitator may limit the length of testimony of any) witness or participant in the hearing if the information is redundant or irrelevant to the case.
- 9) Questions directed to the charged student by the hearing body, ~~followed by the closing.~~
- 10) Closing statement of the charged student.
- 11) ~~9.~~ All persons are excused from the hearing room for deliberations except the hearing body. The facilitator does not participate in the deliberations but may advise the Hearing Body as appropriate.
- 12) ~~10.~~ The hearing body considers only information introduced in the hearing. The decision of responsibility is based on the preponderance of information and is decided by a simple majority vote. -In cases of a tie, the decision will ~~always~~ be made in favor of the charged student. - Previous violations are to be considered only in the sanctioning phase of deliberations.
- 13) ~~11.~~ The decision of the ~~Student Conduct Committee is made~~ committee as a ~~recommendation to~~ “responsibility” and their recommended sanctions is given to the facilitator and then to the Dean of Students. ~~Once or~~ designee. The Dean of Students or designee makes the final decision ~~is made, and communicates this the decision in writing to~~ the student ~~is sent a letter (to the student’s on campus mailbox and or address of record) outlining the decision.~~
- ~~12.~~ The student is informed of the right to appeal ~~and the appropriate procedure for initiating it.~~
- 14) ~~13. The Chair~~ the decision of the ~~Student Conduct Committee shall have the right to limit the length of testimony of any witness or participant in the hearing.~~ Hearing Body.
- c) ~~14.~~ Postponement of the hearing will only be allowed at the discretion of the Dean of ~~Students’~~ Students or designee.
- d) ~~15.~~ Any participant determined by the hearing body to be unruly or disruptive to the hearing process will be removed from the hearing. ~~Under such conditions, that~~ A student may be subject to charges and a charged student may be subject to additional charges for violation of the Student Code of Conduct related to ~~behavior during~~ the removal from the hearing ~~process for unruly or disruptive behavior.~~
- e) The decision of the committee shall be communicated in writing to the Charged Student.

7. F. Witnesses-

~~1. For Administrative Hearings-~~

a) It is at the discretion of the ~~Hearing Officer~~hearing officer or committee to call witnesses to support the charges against the charged student in an administrative or conduct committee hearing proceeding, ~~although he/she may gather any additional information needed during the investigation. During the hearing, the student will be informed of any additional information gathered by the Hearing Officer and have an opportunity to respond. The charged student may call witnesses and present information.~~

~~(a)b)~~ Character witnesses may ~~only~~ provide testimony in the form of a written statement.

~~(b)c)~~ Witnesses may not also serve as the advisor to a victim or charged student.

~~2. For Student Conduct Committee Hearings-~~

~~(a)~~ Appropriate witnesses may be called to provide information to support the charges for a Student Conduct Committee hearing. It is not the responsibility of the Dean of Students' Office to contact or to require the witnesses for the accused to attend the hearing. Charged students who wish to question adverse witnesses or evidence will be given the opportunity to do so.

d) Student Conduct Committee hearings will only include the charged student, the elected advisor, Hearing Officer, Hearing Assistant and Student Conduct Committee members. ~~Witnesses may not participate in the conduct review conference. The charged student is responsible for arranging the attendance of witnesses in support of the charged student.~~Each party is responsible for arranging the attendance of witnesses to present testimony.

e) Witnesses may include, but will not be limited to, ~~resident assistants, alleged victim(s) and any witness(es)~~ persons who can give a ~~first hand~~firsthand account of the incident ~~but may only be present in the hearing during the time they~~.

f) Witnesses who are testifying, victims will testify per their in accordance with the victim rights as outlined in this code provisions of Section H of the Code.

~~(b)g)~~ A Student's advisor may not testify as a witness.

~~(c) Witnesses may not also serve as the accused advisor/victim advisor.~~

G. SANCTIONS-

8. ~~In light of the facts and circumstances of each case, the~~ Disciplinary Sanctions

1. ~~The~~ following sanctions, or

a. combination of sanctions (with or without appropriate modifications) may be imposed upon any student found ~~to have violated~~ to be responsible for a violation of the Student Code of Conduct:

(a)1) Reprimand ~~— A~~ An official written warning ~~statement placed in a~~ that the student's behavior is in violation of the Student Code of Conduct, and that if the student is subsequently found responsible for another such violation while on disciplinary file, warning, subsequent action may be imposed.

(b)2) Community Service Hours ~~—~~ Assignment to perform tasks or services under the supervision of a University department or community service agency.

(c)3) Educational Activities - ~~Attendance at educational programs, interviews with appropriate officials, planning and implementing educational programs, writing~~ An assignment of activities including, but not limited to reflective or research papers and classes or seminars or other educational activities such activities that addresses this subject matter of the violation, as part of a sanction under this Code.

(d)4) Counseling Assessment and Compliance ~~—~~ Referral for assessment (at the student's expense) to a licensed mental health professional or counseling center for general mental health or other counseling issues. Students found responsible for alcohol, drug or behavioral violations may be referred to the FGCU Counseling and Student Health Office or to an outside agency or counselor based on the seriousness of the offense. violation. Students must comply with all recommendations established as a result of any assessment. resulting from the imposition of this sanction.

(e)5) Restitution ~~—~~ Payment of actual damages or loss of services to the University or the victim.

(f)6) Disciplinary Probation ~~— A period~~ Disciplinary Probation status for a specific length of time during which a student found "responsible" for violating the Code the student is considered not in good standing. Restrictive conditions may be imposed as an element of Conduct must remain free of future violations probation and satisfy other imposed sanctions. Any further violation of the Student Code of Conduct places vary according to the student's status with severity of the offense. Restrictive conditions include, but may not be limited to the following: denial of the privilege to occupy a position of leadership or responsibility in any University in jeopardy. Registered student organization, publication, or activity, or ability to represent the University in an official capacity or position. If the student is found "responsible" for another violation of the Code during the period of Disciplinary Probation, serious consideration will be given to imposing a sanction of suspension or expulsion from the University. may be imposed.

~~(g)7~~ Restrictions ~~—Some of the following restrictions—~~ Restrictions may be imposed on a student ~~including, which include~~ but are not limited to:

~~i.(a)~~ Participation in student clubs, groups, activities or events.

~~ii.—Representation of the University on athletic teams.~~

~~iii.—Holding leadership positions in any student club or organization.~~

~~iv.(b)~~ Entrance to University Housing areas or any other areas on campus or University property.

~~(c) v.—Contact~~ Prohibition on contact with ~~another a~~ specified person(s) ~~.)~~ within the University Community.

~~(h) —Change in University Housing assignment.~~

~~8) (i) Exclusion (either temporary or permanent) from — removal or reassignment of the student to another location in~~ University Housing. ~~If the Housing contract is broken, the student is responsible for all associated fees.~~

~~9) (j) Exclusion or removal from on-campus housing. Exclusion or removal may be permanent or for a specified period of time. If the student is excluded or removed from on-campus housing, the Housing Agreement will be cancelled. The Terms and Conditions of the Housing Agreement outline all policies regarding cancellation fees and pro-ration of rental fees.~~

~~10) Removal from the classroom and/or the course— - including but not limited to: dismissal from the course or reassignment to another section.~~

~~(k) —Suspension — Separation from the University for a specified period of time.~~

~~(l) —Expulsion — Separation from the University without the possibility of re-admission.~~

~~11) -Suspension-~~ A period of time when a student may not attend classes, or participate in University related activities, whether the class or activity occurs on or off campus. The Registrar's Office is instructed to place an overlay on the student's transcript during the period of suspension indicating the period of suspension. Further, while on disciplinary suspension, a hold will be placed on a student's record to prevent registration. All assigned educational sanctions must be completed prior to the restoration of student privileges; otherwise the disciplinary suspension will remain in effect.

12) Disciplinary Expulsion- Removes the student from his or her academic program and permanently separates a student from Florida Gulf Coast University without opportunity to graduate or re-enroll. The Registrar's Office is instructed to permanently place an overlay on the student's transcript indicating the expulsion. Further, a hold will be permanently placed on a student's record to prevent future registration.

~~(m)~~ 13) Withholding of registration, diplomas, transcripts or other records.

~~(n) — Transcript Notations — A written notation indicating that disciplinary action was taken.~~

~~(o) — Revocation of course grade and/or degree.~~

~~(p) — Students will normally forfeit tuition and housing fees if found responsible for a Student Code of Conduct violation resulting in removal from the classroom, suspension or expulsion. A student may also forfeit academic credit accordingly and must see his/her professor to determine the impact on grades based on a withdrawal. Students who are excluded from living in University Housing must contact the Director of Housing and Residence Life to determine the financial impact of the canceled contract).~~

b. 2.—The following sanctions may be imposed upon groups or registered student organizations found to have violated the Student Code of Conduct:

1) ~~(a)~~ Those sanctions listed in Section A above.

2) Disciplinary Suspension or Disciplinary Expulsion of registered student organizations includes temporary or permanent loss of recognized status with the University. _____

3) ~~(b)~~ Additional sanctions specific to registered student organizations may be found in ~~organizational constitutions~~ organization's constitution, the Office of Greek Sorority and Fraternity Life, and the Campus Office of Student Involvement Office policies and a national affiliate, if applicable.

c. 3.—Any sanction that separates a student from the University will ~~be~~ noted on that student's academic transcript. A lesser sanction ~~may~~ will not be noted on the transcript. The following notation will be added to the transcript while suspension or expulsion is in effect. "The student is not in good standing with the University. For more information, contact the Dean of Students' Office."

d. 4.—Decisions regarding falsification of admission or re-admission information may be forwarded to the appropriate office for review of the application and appropriate action regarding admission.

- e. ~~5.—Students~~ A student who ~~fail~~ fails to complete sanctions will have a disciplinary hold placed on ~~their records affecting their~~ his or her record. ~~This hold will affect the student's~~ ability to ~~perform registration~~ register for ~~classes~~ and ~~the student~~ may receive additional charges ~~under the Student Code of Conduct~~. Disciplinary holds will not be ~~lifted~~ removed until the sanctions are completed.
- f. ~~XI.—~~ A student may be asked to provide the hearing officer with a sanction status report.

J. APPEALS WITHIN THE STUDENT CONDUCT REVIEW PROCESS

1. ~~A.—~~Appeal Requests

The student ~~has one appeal by right and~~ may appeal the outcome of a ~~Judicial Hearing~~ conduct hearing in writing ~~to the Vice President of Student Affairs (or designee)~~ within ~~five (5)~~ three (3) class days from the date of the decision letter by filing a written ~~petition for appeal.~~ appeal. The appeal of the outcome of a residence conduct hearing of the Resident Conduct Committee shall be considered by the Coordinator of Residence Hall Judicial Programs or similarly designated University Official. The appeal of the outcome of a conduct hearing held by the Hearing Officer shall be considered by the Dean of Students. The appeal of the outcome of a conduct hearing held by the Hearing Body shall be considered by the Vice President for Student Affairs. An appeal must be based on one or more of the following grounds:

- 1.a) Due process errors involving ~~violations of the charged student's rights that substantially affected the outcome of the hearing.~~ the University's failure to provide the student with notice and an opportunity to be heard;
- b) ~~2.—~~ The sanction(s) is (are) extraordinarily ~~disproportionate~~ severe in relation to the offense committed; or
- c) ~~3.—~~ New information can be provided that was not available at the time of the original ~~hearing.~~ proceeding.

2. ~~B.—~~Appeal Hearings ~~and Reviews of Recommended Sanctions~~

- 1.—The necessity for an appeal hearing will be at the discretion of the ~~Vice~~

~~President of Student Affairs (or designee).~~

- a) ~~2.~~ University Official to which the Student has appealed. This decision is based on the student's written information provided in the appeal. If a hearing an appeal is granted, the burden of proof rests with the student to show, by a preponderance of the information presented, that the grounds for an appeal have been met.
- b) If an appeal is permitted, it will be scheduled within ten (10) class days of receiving the written request for appeal unless good cause exists for deferring the scheduling more than ten (10) class days after receiving the noticed appeal. The student may waive the ten (10) day period and request the appeal be heard at a mutually agreeable time in less than ten (10) days.

~~3. If a hearing is permitted, the student may bring an advisor to the appeal hearing.~~

~~4. On appeal, the burden of proof rests with the student to clearly and convincingly show by a preponderance of the information presented, that the grounds for an appeal have been met.~~

~~5.c)~~ Recommended sanctions by hearing bodies are reviewed for final action by the appropriate authority as outlined in the Student Code of Conduct.

~~3. C.~~ Appeal Decisions

a) ~~1.~~ Based on information presented on appeal ~~or review to the Vice President of Student Affairs (or designee),~~ the original determination may be upheld, modified, reversed, or a new hearing may be ordered.

b) ~~2.~~ All appeal ~~and review~~ decisions are communicated in writing to the student within ten (10) class days of the appeal hearing, unless notification is given that additional time is necessary for consideration of the record on appeal. ~~In most cases it will be adjudicated within twenty (20) class days of receipt of their request for an appeal.~~

c) ~~3.~~ Except in the case of an Interim Suspension, the student's academic status will remain unchanged during the appeal or review process; however, ~~on campus housing~~ University Housing status and other activities may be affected.

~~4.~~ The appeal decision of the Vice President ~~of~~ for Student Affairs ~~(or designee)~~ is final.

- d) ~~XII. Standards for Behavior In~~ and the ~~Classroom~~ student shall be informed that at the time the appeal decision is communicated he or she may appeal the final decision to an outside judicial forum.

K. STANDARDS FOR BEHAVIOR IN THE CLASSROOM

Faculty members have the primary responsibility of managing the classroom environment. Faculty members may temporarily remove a disruptive student from the classroom for disruption on the day that it occurs. In addition, faculty members may seek permanent removal of a disruptive student from the class by way of a referral written incident report made to the Dean of Students' Office ~~for a necessary due~~. The report is processed in accordance with the investigation and student conduct review process ~~hearing under~~ as outlined in the Student Code of Conduct.

~~XIII. RESOLUTION OF ALLEGATION OF ACADEMIC DISHONESTY~~

L. ~~Students~~ RESOLUTION OF ALLEGATION OF ACADEMIC DISHONESTY

A student ~~accused of violations~~ violation of ~~charged with~~ academic ~~honesty~~ dishonesty will have ~~their~~ the case resolved ~~in one of two manners as follows:~~

1. The faculty member of record in the class meets with the student and informs him or her of the allegations against ~~them~~ the student. If the student accepts responsibility for the academic dishonesty, ~~he/she~~ the student will receive ~~a~~ an academic sanction determined by the faculty member of record, ~~of up to and including~~ which may include a failing grade in the class. ~~The~~ In concert with this meeting, the faculty member completes the Summary Adjudication form ~~is~~ and secures the signature of the student. Summary Adjudication forms are available online at: <http://studentservices.fgcu.edu/judicialaffairs/forms.html>.
- A. 2.a) The ~~completed by the faculty member and both the student and faculty member sign the completed form. The~~ Summary Adjudication form is then submitted to the Dean of Students' Office to be included in the student's conduct file. ~~The faculty member processes the appropriate grade change with the Office of the Registrar;~~ or

b) If, after the faculty member of record meets with and informs, the student ~~and informs him or her~~ of the allegation against him or her, the student denies responsibility for the actions, or the allegations are so egregious ~~that in the faculty member's judgment, if proven, would warrant a~~ (such as having more severe penalty than failure in the class, one incident of academic dishonesty on record with the University or in the course) the matter is immediately referred to the Dean of Students' Office for a hearing before the Academic Integrity Committee.

3. Procedure for reporting academic dishonesty:

a) Faculty must contact the Dean of Students' Office by emailing JudicialAffairs@fgcu.edu with the student's name and University Identification Number (UIN) to determine if the student has a prior academic dishonesty history. Only emails sent from the faculty's University email account will be accepted.

b) Once the Dean of Students' Office has been contacted, the Dean of Students' Office will notify the Registrar's Office that the student may not withdraw from the class during the hearing process. If a student attempts to drop a class prior to the end of the hearing process, the student will be restored to the class roster and the appropriate grade or penalty will be imposed if applicable.

c) The faculty member has the authority to adjudicate first offense violations of academic dishonesty and impose a grade penalty. Second offenses must be referred to the Dean of Students' Office for hearing under the Academic Integrity Committee.

4. The ~~committee~~ Academic Integrity Committee will proceed to hear the case and make a ~~finding of fact and~~ determination if of whether there is a preponderance of information to find the student ~~is~~ responsible for academic dishonesty. ~~If the student is held~~ determined to be responsible for academic dishonesty, the committee will recommend a disciplinary sanction ~~of up to and including which may include~~ expulsion, ~~to the Division of Student Affairs for final action. In addition, the committee,~~

5. The Dean of Students will ~~inform~~ review the decision of the Academic Integrity Committee, make the final determination, and ~~correspond with~~ provide written notice of the determination to the student and faculty of record.

~~B.6.~~ After the determination by the Academic Integrity Committee, the faculty of record ~~of their findings and that faculty~~ will assign the student a final grade (which may include a failing course grade). The faculty member may then ~~processes, if necessary, process~~ the appropriate grade change with the Office of the Registrar.

7. ~~Academic Integrity Committee~~

a) The Academic Integrity Committee is coordinated by the Dean of Students' Office to resolve cases of alleged academic dishonesty referred by the faculty. It is comprised of faculty and students in the following structure:

A.1) The ~~Office of the Dean~~ of Students or designee serves as advisor to the Academic Integrity Committee to coordinate the hearing process and to assist the committee in providing fair and impartial hearings for students accused of academic dishonesty.

B.2) Five faculty members from each academic college are recommended ~~to serve~~ by the Dean ~~of each College~~ to serve for a one year appointment that can be renewed.

C.3) Two students from each college are selected in consultation with Student Government through an interview process established by the Dean of Students' ~~Office. They serve one year appointments.~~

D.b) When a student is referred for a hearing, the Dean of Students' ~~Office~~ convenes a committee from the pool of appointees to serve as on the ~~Hearing Body~~ committee for the case using the following guidelines:

1) ~~Three~~ Two (2) faculty members from the college making the referral, (if available).

a.2) ~~Two~~ One (1) faculty members from ~~different~~ any of the remaining colleges, and

b.3) ~~Two~~ three (3) students from a different college than the college making the referral.

E.c) The Chair of each hearing will be selected by the committee members comprising the Hearing Body.

d) ~~Student's~~ Students have the right to appeal ~~to the Vice President for Student Affairs,~~ a decision of the Academic Integrity Committee to the Vice President for Student Affairs using the ~~same~~ process as ~~the Student Conduct~~ described in Section J.

F. ~~The Academic Integrity~~ Committee.

G.e) ~~Any further action regarding student's grades will follow~~ process is separate from the Grade Appeals process ~~outlined,~~ which is managed by the Colleges in the Division of Academic Affairs.

M. ~~XIV.~~ **JUDICIAL PROCEDURES FOR VIOLATIONS OCCURING DURING THE LAST TWO WEEKS OF THE FALL OR SPRING SEMESTER OR DURING SUMMER SESSIONS**

When a student is charged with ~~an alleged violation~~ violations occurring during the last

two weeks of anythe semester or during ~~the~~ summer sessions ~~the student may choose one of the following options:~~

~~A. The case may be heard immediately by~~ the Dean of ~~Students or designee~~Students' Office will determine the type of hearing provided ~~that witnesses are available (this is the only option available to graduating seniors). Based on the discretion of the Dean of Students or designee, the case may be heard administratively or by the committee when the next~~for the student. Under certain circumstances, hearings may occur in the subsequent semester ~~begins, provided that witnesses are available.~~

N. PERIODIC REVIEW OF CODE

The Vice President for Student Affairs shall establish a committee to review the Code. The committee shall review the Code at least once every two years. The committee membership shall have Students make up at least one half of the membership.

Action by Florida Gulf Coast University Board of Trustees:

Approved: ~~January 15, 2008~~ _____, 2010

~~Specific Authority:~~

~~BOG Resolution dated January 7, 2003~~

Law Implemented:

§§1.001.74, 1006.60, 1006.61, 1006.62, 1006.63 ~~FS., Florida Statutes; BOG~~

Regulations 1.001 & 6.0105

History of Rule:

New 1-17-99, Amended 6-15-04

History of Regulation:

New January 15, 2008, Amended _____

Effective Date of Regulation:

~~January 15, 2008~~ _____