

NOTICE OF NEW REGULATION

December 5, 2007

REGULATION TITLE:

Code of Conduct and Judicial Process

REGULATION NO.:

FGCU-PR4.002

SUMMARY:

The new regulation is being processed in order to create guidelines by which student conduct will be governed and by which violations will be processed.

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>

AUTHORITY:

Board of Governors Resolution dated January 7, 2003 and Florida Statutes Sections 1006.60-1006.63.

UNIVERSITY OFFICIAL INITIATING THE PROPOSED REVISED REGULATION:

Michele Yovanovich, Dean of Students

UNIVERSITY OFFICIAL APPROVING THE PROPOSED REGULATION:

Dr. J. Michael Rollo, Vice President, Student Affairs

PERSON TO BE CONTACTED REGARDING THE PROPOSED NEW REGULATION:

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ANY COMMENTS REGARDING THE PROPOSED NEW REGULATION SHOULD BE SUBMITTED IN WRITING ON OR BEFORE WEDNESDAY, DECEMBER 19, 2007, BY 5:00 P.M. THE COMMENTS MUST IDENTIFY THE REGULATION ON WHICH YOU ARE COMMENTING.

THIS NOTICE WAS POSED ON THE FGCU WEBSITE: ON OR BEFORE DECEMBER 5, 2007.

I. INTRODUCTION

The Student Code of Conduct exists to define the behavioral rights and responsibilities of Florida Gulf Coast University students (1) to foster and enhance the academic mission of the University, (2) to protect the rights of all university students, faculty, and staff, (3) to protect University property, (4) to protect the University community from disruption and harm and (5) to encourage appropriate standards of individual and group behavior.

II. SCOPE

These regulations shall apply to all students and 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 a student charged with conduct that potentially violates both the criminal law and 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.

III. AUTHORITY

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

B. Student organizations charged with violating the Student Code of Conduct fall under the 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.

C. Failure to comply with duly established laws or University regulations may subject violator(s) to appropriate action by University authorities and/or appropriate civil and criminal authorities. Serious violations 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.

IV. DEFINITIONS

A. *Administrative Hearing* – A proceeding conducted before a Hearing Officer, at which time the Hearing Officer reviews the information presented to make a finding of “responsible” or “not responsible.”

B. *Advisor* – A member of the FGCU community (student, faculty, or staff), a member of the community, parent or an attorney chosen by the charged student to assist him/her throughout the disciplinary process.

C. *Charge* – A formal letter informing the student of allegations of violation(s) of the Student Code of Conduct.

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

F. *Class day*- Any day that either classes or final exams are scheduled.

G. *Complicity* – Intentionally or knowingly helping or attempting to help another to commit an act which is a violation of the law or of the Student Code of Conduct.

- 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.
- J. *Good Standing*- a student who is free from academic or disciplinary probation holds.*Harassment* – Conduct which creates an intimidating, hostile, or offensive environment.
- K. *Hearing Body*- Any person or persons authorized by the Vice President for Student Affairs to conduct hearings to determine whether a student has violated the Student Code of Conduct and, if so determined, to recommend sanctions.
- L. *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.
- M. *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.
- N. *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.
- O. *Notice of Student Code of Conduct Charge* - The written notice given to the charged student listing the allegations of misconduct.
- P. *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.

Q. 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.

R. Preponderance of Information – Evidence, considered as a whole, that indicates the facts sought to be proved are more likely than not.

S. Stalking – To follow another person or repeatedly interact with a person so as to harass that person.

T. 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.

U. Student Organization - Any number of persons who have complied with the formal requirements for recognition by the University.

V. University – The term “University” means Florida Gulf Coast University, including all of its campuses, centers and off-site locations.

W. University Community – Any person who is a student, University official or a guest of the University.

X. University Official – Any person employed by the University to perform assigned teaching, research, administrative, professional or other responsibilities.

V. PROHIBITED CONDUCT

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

A. Academic Dishonesty

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.

C. Falsification/Fraud/False Testimony

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.

D. Disruptive Conduct

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.

E. Personal Abuse

Violence, threat of violence or disregard of potential harm to others or against oneself or actions which endanger any member or guest of the University community, including physical, verbal, or sexual assault and relationship/domestic violence.

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.

G. Theft/Property Damage

The attempted or actual theft of and/or damage to public or private property, as well as, possession or destruction of such property with disregard of possible harm to such property.

H. 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 group or organization operating under the sanction of the University. Express or implied consent of the victim will not be a defense.

I. Unauthorized Use of Keys and/or Entry

Unauthorized possession, duplication or use of keys to any University premises, or unauthorized entry, or attempted entry to, or use of University premises.

J. Controlled Substances and Drug Paraphernalia

Use, possession, sale, and/or distribution of any narcotic, controlled substances or drug paraphernalia, as defined in Chapter 893, Florida Statutes, or attempt to obtain such items, except as expressly permitted by law.

K. Alcohol

Public intoxication and/or the use, possession, sale and/or distribution of alcoholic beverages except as expressly permitted by law, University regulations and the University Alcohol Policy.

L. Weapons/Firearms/Chemicals

Illegal or unauthorized possession or use of firearms, fireworks, explosives, other weapons or dangerous chemicals 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.

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. Computer Misuse and Telecommunications Resources

Includes, but is not limited to:

1. Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.
2. Unauthorized transfer of a file.
3. Use of another individual's identification and/or password.
4. Use of computing facilities and resources to interfere with the work of another student, faculty member or University Official.
5. Use of computing facilities and resources to send obscene or abusive messages.
6. Use of computing facilities and resources to interfere with normal operation of the University computing system.
7. Use of computing facilities and resources in violation of copyright laws.
8. Any violation of the FGCU Acceptable Computer and Network Policy.

O. University Designated Student Residence Violations

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

P. Noncompliance with an Official Request

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

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/or violation of disciplinary probation

R. Public Law

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

S. Complicity

To be associated with or 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 condone a violation is prohibited.

T. Responsibility for Guests

Students will be held accountable for any damage or violation of University rules and regulations by their guests on-campus or in University Housing.

VI. INTERIM SUSPENSION

The President or designee has the authority to determine if a violation warrants an interim suspension of a student or a student organization's privileges 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 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.

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 requires the student be notified in writing as soon as practical. The student has the opportunity to be heard on whether the interim suspension should continue until a hearing is held on the actual violation of the Student Code of Conduct. The student will be heard on the Interim Suspension at a Student Conduct Committee hearing 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. The student's challenge of the Interim Suspension must be based on one of the following:

- an egregious error pertaining to the student's involvement; or
- 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.
- E. 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. The hearing body shall have the authority to limit the number of witnesses in order to avoid unreasonable delays where the testimony would be repetitious or unnecessary.
- 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.
- I. An appeal may only be based on one or more of the following causes:

1. Due process errors involving violations of the charged student's rights that substantially affected the outcome of the hearing;
2. The sanction(s) is (are) extraordinarily disproportionate to the offense committed; or
3. New information can be provided that was not available at the time of the original proceeding.

VIII. VICTIM RIGHTS

Alleged 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 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.
- B. To submit a victim impact statement to the hearing body. 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

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

A. Charges may result from:

1. Reports of violation of this Code made by, but not limited to, university personnel, law enforcement, students, and community members, must be made within six (6) months of the alleged violation, or knowledge of the alleged violation. No student may be charged with a violation of the Student Code of Conduct if the report is made more than 6 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. A review of possible charges may be initiated in the following ways:

(a) Any individual may provide a signed written statement to the Dean of Students or designee. Written statements should include all information the person making the complaint can produce. All information will then be reviewed by an appropriate staff member to determine whether Student Code of Conduct charges will be filed or if alternative action is appropriate.

(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.) that an alleged violation of the Student Code of Conduct is reported to have occurred.

(c) The University may also amend its charge(s) based on information obtained through an outside proceeding where that information is relevant to activity adversely affecting the University community.

(i) Any admission of guilt or responsibility made by a student at off-campus proceedings shall be conclusive for University purposes.

(ii) 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 conclusive finding that the student is "responsible" for the purpose of University proceedings.

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) 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)

3. At any time after making such determinations, 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/her registration status in any way while a disciplinary hold is in place.

B. 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). The official mailing address on file with the University will be used for all disciplinary notices. The Hearing Officer may place a disciplinary hold on the records and registration of any student who fails to respond to a charge letter. Any pending disciplinary matters must be resolved prior to the awarding of any degree or certificate.

The written notice will include the following:

1. The student's name, University Identification Number (UIN), and address;
 2. Description of the alleged violation including date(s), time(s), and place(s);
 3. 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.
 5. Link to the student's rights under the Student Code of Conduct.
 6. An invitation to attend a pre-hearing informational session to clarify rights and procedures
 7. Link to the Student Code of Conduct.
- <http://studentservices.fgcu.edu/JudicialAffairs/Studentguidebook.htm>

C. Pre-Hearing Information Session.

1. 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 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.

2. The student will be informed of the charge(s) against him or her, as well as the procedure to be utilized in resolving the allegations of violation(s) 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.
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 no later than fourteen (14) class days from the pre-hearing information session, unless extenuating circumstances make this scheduling prohibitive.
5. If a student fails to schedule 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. 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 due to extenuating circumstances. Depending on the availability of a hearing officer, if a student wants to resolve his/her case more expeditiously, the student may waive this time period and have the case heard immediately.
2. The accused student shall be granted all rights guaranteed him or her by the Student Code of Conduct.
3. The Florida Rules of Evidence, as well as Civil and Criminal Procedure, applicable to civil and criminal cases shall not apply in student conduct hearings.

4. The administrative or committee hearings will be tape recorded by the Hearing Officer or chair where the student has the potential for receiving a sanction of suspension or expulsion from the University and will serve as the official record of the proceeding. Videotaping of the hearing is prohibited.
5. The hearing body determines responsibility of a violation of the Student Code of Conduct. This is determined by a preponderance of information. A recommendation of sanctions from the hearing body will be determined if the student is found responsible.
6. Prior records of disciplinary action and victim impact statements are considered by the Hearing Body only in the sanctioning phase of deliberations. Past criminal convictions also may be considered if relevant to the proceedings.
7. If a student fails to attend his/her scheduled hearing, the case will be heard in the student's absence and he/she will be informed in writing of the decision.
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.
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 from the same incident, those cases may be heard jointly. In cases where information regarding a charged student may prejudice the other charged student(s), that case may be heard separately.
11. Information obtained in a hearing may result in the adjustment of the original charges.

E. Student Conduct Committee Hearings.

The following order of presentation is recommended for use in Hearings:

1. Introduction of the hearing body and accused student for the tape recording.
2. Presentation of charges by the Committee chair.
3. Plea of responsible or not responsible is made by student.
4. Opening statements (if any) by the Chair of the Student Conduct Committee, followed by the opening statement of the charged student.
5. Presentation of information and witnesses by the University, followed by questioning of those witnesses by both parties. Each witness is dismissed after questioning.
6. Presentation of information and 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. Closing statements (if any) by the hearing body, followed by the closing statement of the charged student.
9. All persons are excused from the hearing room for deliberations except the hearing body.
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.
11. The decision of the Student Conduct Committee is made as a recommendation to the Dean of Students. Once the final decision is made, 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.
13. The Chair of the Student Conduct Committee shall have the right to limit the length of testimony of any witness or participant in the hearing.
14. Postponement of the hearing will only be allowed at the discretion of the Dean of Students' or designee.
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 student may be subject to additional charges for violation of the Student Code of Conduct related to behavior during the hearing process.

F. Witnesses.

1. For Administrative Hearings-

- (a) It is at the discretion of the Hearing Officer to call witnesses to support the charges in an administrative 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. Character witnesses may only provide testimony in the form of a written statement.

(b) 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.

(b) Student Conduct Committee hearings will only include the charged student, the elected advisor, Hearing Officer, Hearing Assistant and Student Conduct Committee members. Witnesses may include, but will not be limited to, resident assistants, alleged victim(s) and any witness(es) who can give a first hand account of the incident but may only be present in the hearing during the time they are testifying.

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

G. SANCTIONS.

1. In light of the facts and circumstances of each case, the following sanctions, or combination of sanctions (with or without appropriate modifications) may be imposed upon any student found to have violated the Student Code of Conduct:

(a) Reprimand - A written warning statement placed in a student's disciplinary file.

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

(c) Educational Activities - Attendance at educational programs, interviews with appropriate officials, planning and implementing educational programs, writing research papers or other educational activities.

(d) 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 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. Students must comply with all recommendations established as a result of any

assessment.

- (e) Restitution - Payment of actual damages or loss of services to the University.
- (f) Disciplinary Probation - A period of time during which a student found “responsible” for violating the Code of Conduct must remain free of future violations and satisfy other imposed sanctions. Any further violation of the Student Code of Conduct places the student’s status with the University in jeopardy. 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.
- (g) Restrictions - Some of the following restrictions may be imposed on a student including, but not limited to:

 - i. 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. Entrance to University Housing areas or any other areas on campus or University property.
 - v. Contact with another specified person(s).
- (h) Change in University Housing assignment.
- (i) Exclusion (either temporary or permanent) from University Housing. If the Housing contract is broken, the student is responsible for all associated fees.
- (j) Removal from the classroom and/or the course.
- (k) Suspension - Separation from the University for a specified period of time.
- (l) Expulsion - Separation from the University without the possibility of re-admission.
- (m) 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).
2. The following sanctions may be imposed upon groups or organizations found to have violated the Student Code of Conduct:
- (a) Those sanctions listed in Section A above. Suspension or Expulsion of student organizations includes temporary or permanent loss of recognized status with the University.
- (b) Additional sanctions specific to student organizations may be found in organizational constitutions, the Office of Greek Life, and the Campus Involvement Office policies.
3. Any sanction that separates a student from the University will be noted on that student's academic transcript. A lesser sanction may 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."
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.
5. Students who fail to complete sanctions will have a disciplinary hold placed on their records affecting their ability to perform registration and may receive additional charges. Disciplinary holds will not be lifted until the sanctions are completed.

XI. APPEALS

A. Appeal Requests

The student has one appeal by right and may appeal the outcome of a Judicial Hearing in writing to the Vice President of Student Affairs (or designee) within five (5) class days from the date of the decision letter by filing a written petition for appeal. An appeal must be based on one or more of the following grounds:

1. Due process errors involving violations of the charged student's rights that substantially affected the outcome of the hearing.
2. The sanction(s) is (are) extraordinarily disproportionate to the offense committed.

3. New information that was not available at the time of the original hearing.

B. Appeal Hearings and Reviews of Recommended Sanctions

1. The necessity for a hearing will be at the discretion of the Vice President of Student Affairs (or designee).
2. If a hearing is permitted, it will be scheduled within ten (10) class days of receiving the written request for appeal
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. Recommended sanctions by hearing bodies are reviewed for final action by the appropriate authority as outlined in the Student Code of Conduct.

C. Appeal Decisions

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.
2. All appeal and review decisions are communicated 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.
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 status and other activities may be affected.
4. The decision of the Vice President of Student Affairs (or designee) is final.

XII. 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 the day. In addition, faculty members may seek permanent removal of a disruptive student from the class by way of a referral to the Dean of Students' Office for a necessary due process hearing under the Student Code of Conduct.

XIII. RESOLUTION OF ALLEGATION OF ACADEMIC DISHONESTY

Students accused of violations of academic honesty will have their case resolved in one of two manners.

- A. The faculty member of record in the class meets with the student and informs him or her of the allegations against them. If the student accepts responsibility for the academic dishonesty, he/she will receive a sanction determined by the faculty member of record, of up to and including a failing grade in the class. The Summary Adjudication form is 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;

- B. If, after the faculty member of record meets with 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 more severe penalty than failure in the class, the matter is referred to the Dean of Students' Office for a hearing before the Academic Integrity Committee. The committee will proceed to hear the case and make a finding of fact and determination if the student is responsible for academic dishonesty. If the student is held to be responsible, the committee will recommend a sanction of up to and including expulsion, to the Division of Student Affairs for final action. In addition, the committee will inform 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 then processes the appropriate grade change with the Office of the Registrar.

Academic Integrity Committee

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. The Office of the Dean of Students 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. Five faculty members are recommended to serve by the Dean of each College for a one year appointment that can be renewed.

- C. 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. When a student is referred for a hearing, the Dean of Students' Office convenes a committee from the pool of appointees to serve as the Hearing Body for the case using the following guidelines:
 - a. Three faculty members from the college making the referral,
 - b. Two faculty members from different colleges, and
 - c. Two students from a different college than the college making the referral.
- E. The Chair of each hearing will be selected by the committee members comprising the Hearing Body.
- F. Student's have the right to appeal to the Vice President for Student Affairs, a decision of the Academic Integrity Committee using the same process as the Student Conduct Committee.
- G. Any further action regarding student's grades will follow the Grade Appeals process outlined by the Division of Academic Affairs.

XIV. JUDICIAL PROCEDURES FOR VIOLATIONS OCCURING DURING THE LAST TWO WEEKS OF THE SEMESTER OR DURING SUMMER SESSIONS

When a student is charged with an alleged violation during the last two weeks of any 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 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 semester begins, provided that witnesses are available.

Action by Florida Gulf Coast University Board of Trustees:

Approved: January 15, 2008

Specific Authority:

BOG Resolution dated January 7, 2003

Law Implemented:

1006.60, 1006.61, 1006.62, 1006.63 FS.

History of Rule:

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