



REGULATION: FGCU-PR4.002

Effective

**Student Code of Conduct and Student
Conduct Review Process**

*Date of
Regulation:*

January 18, 2011

A. INTRODUCTION

The Student Code of Conduct exists: (1) to define the behavioral rights and responsibilities of Florida Gulf Coast University students and registered student organizations (2) to foster and enhance the academic mission of the University, (3) to protect the rights of all university students, faculty, and staff, (4) to protect University property, (5) to protect the University community from disruption and harm, and (6) to encourage appropriate standards of individual and group behavior.

B. 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.

University disciplinary proceedings may be instituted based upon a student's alleged conduct that, if committed, would violate criminal law or this Student Code of Conduct without regard to the pendency of civil or criminal litigation. Proceedings under this Student Code of Conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings at the discretion of the President or designee.

C. AUTHORITY

1. The University Board of Trustees has given the University President the final responsibility and authority for the discipline of University students. The President has delegated authority to the Vice President for Student Affairs to enforce University regulations, policies, and state and federal law, related to the conduct of students.
2. Registered student organizations are also regulated under this authority.
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 abrogates the rights of a student.
4. Failure of a Student or Registered Student Organization to comply with 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. 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. DEFINITIONS

1. *Academic Integrity Committee (AIC)* – A hearing body comprised of students and faculty, formed to review charges of academic dishonesty.
2. *Administrative Hearing* – A proceeding conducted before a hearing officer, at which time the hearing officer reviews the information presented and makes a finding of “responsible” or “not responsible.”
3. *Advisor* – Any person (unrelated to the case at issue), including an attorney, chosen by the charged student to assist him or her throughout the disciplinary process.
4. *Charge* – 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. *Charged Student* – Any student who has been charged with an alleged violation of the Student Code of Conduct.

7. *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. *Complainant* – Any person who makes a complaint or reports a violation of the Student Code of Conduct or other University regulations and policies.
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 ensures that procedures are complied with by the hearing body.
11. *Good Standing*- A student who is free of academic or disciplinary probation.
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. *Hearing Body*- A committee established to resolve allegations of violations of the Student Code of Conduct and, if so determined, to recommend sanctions.
14. *Hearing Officer* – An individual designated to resolve allegations of violations of the Student Code of Conduct.
15. *Housing* – A residence in a University operated facility.
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.
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.
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.
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.

23. *Transcript Overlay* – A notation on a student’s university transcript that states the student is not in good disciplinary standing.
24. *University* – Florida Gulf Coast University, including all of its campuses, centers and off-site locations.
25. *University Community* – The student, faculty and staff of the University.
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.

E. 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. 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.

3. 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 information during proceedings under this Code, including knowingly initiating a false complaint.

4. 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 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 disrupt the teaching, research, administrative and/or public functions.
- f) Behavior that disrupts the study, sleep, privacy, or safety, of University community members.

5. Personal Abuse

- a) Physical harm or threat of physical harm to others or against oneself.
- b) Harassment or stalking, including written or electronic communication, that could cause severe emotional distress, intimidation, or coercion to another person.
- c) Direct verbal or written abuse, threats, intimidation, coercion and/or other conduct that endangers the health, safety, or wellbeing of others.
- d) Retaliation against or harassment of complainant(s) or other person(s) alleging misconduct.

6. Sexual Misconduct or Abuse

- 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 verbal, written, or electronic means.

7. Theft or Property Damage

- a) Unauthorized use, possession, or services of personal or public property.
- b) Damage or defacing of University property 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.

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. Express or implied consent of the victim will not be considered as a defense.

9. Unauthorized Use of Keys or Entry

- a) Unauthorized 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.
- c) Assisting with the unauthorized entry of others into any University premises.

10. Controlled Substances, Drug Paraphernalia and other Substances

- a) The possession, use, consumption, cultivation, manufacture, sale, or distribution of any 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.
- 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.

11. Alcohol

- a) Public intoxication.
- b) The use, possession, sale or distribution of alcoholic beverages other than as expressly permitted by law, University regulations and the University Alcohol Policy.
- c) Violation of the Housing Alcohol Policy.

12. Weapons, Firearms or Dangerous Materials

- a) Possession, storage or use of firearms, explosives, 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 at University sponsored or related activities.

13. 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.

14. Computer Misuse and Telecommunications Resources

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

- a) Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.
- b) Unauthorized transfer of a file.
- c) Use of another individual's identification and/or password.
- d) Use of computing facilities and resources to interfere with the work of another student, faculty member or University Official.
- e) Use of computing facilities and resources to send obscene or abusive messages.
- f) Use of computing facilities and resources to interfere with normal operation of the University computing system.
- g) Use of computing facilities and resources in violation of copyright laws.

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

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. 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. 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), failure to complete sanction(s) or violation of disciplinary probation.

18. Public Law

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

19. Complicity

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

20. Responsibility for Guest(s) of Student

Any Student will be held accountable for any damage or violation of University regulations and policies by the Student's guest(s).

F. INTERIM SUSPENSION

1. Authority of University

The 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 or removal from the University or from housing at any time prior to the conclusion of the University's disciplinary process, including 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 practicable. A hearing on the interim suspension will be held within five (5) class days of incident. The Student has three (3) class days to make a written request to appeal 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 student's 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.
- b) 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 Student 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) class 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 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.

6. The University cannot compel any person to attend a student disciplinary hearing on behalf of the charged student. The accused student is responsible for arranging for his or 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 of these witnesses is repetitious or irrelevant.
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 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 of the outcome of a conduct case must be based on one or more of the following causes:
 - a) Due process errors including the University’s failure to provide the student with notice or an opportunity to be heard;
 - b) The sanction(s) is (are) extraordinarily severe in relation to the offense committed; or
 - c) New information can be provided that was not available at the time of the original proceeding.

H. PROVISIONS FOR VICTIMS OF ACTS OF VIOLENCE

To ensure fairness to victims of acts of violence throughout the disciplinary process, the University has established the following position:

1. 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 the victim believes to be an appropriate sanction if the charged student is found to have been responsible of violating the Student Code of Conduct. This information may be used only in the sanctioning phase of deliberations if the charged student is found responsible.
6. Where 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 Charged Student. 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 the rights afforded to students in University disciplinary decisions.

1. Charges
 - a) No charges will be considered, and no charges can be filed under the Student Code of Conduct six (6) months after the date the alleged violation occurred except allegations alleging sexual misconduct or abuse may be considered no later than twelve (12) months after the date of the alleged sexual misconduct or abuse. 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.
 - b) A review of possible charges may be initiated in the following ways:
 - 1) Any individual may file a signed written statement to the Dean of Students' Office concerning an allegation of a violation of the Student Code of Conduct. The Statement should include all information and details specific to the

incident including dates, times, location and any witnesses. The information will be reviewed by the Dean of Students or designee to determine whether Student Code of Conduct charges will be filed or if alternative action is appropriate;

- 2) Any information that comes to the attention of the University in any manner, including any electronic social media that an alleged violation of the Student Code of Conduct is reported to have occurred;
 - 3) 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;
 - 4) An admission of guilt in any proceedings of the University is conclusive for adjudicating a Student Code of Conduct violation; or
 - 5) A verdict of guilty, adjudication withheld, a plea of guilty or similar disposition in a court of law by a charged student shall be deemed conclusive that the student is “responsible” for the purpose of University proceedings.
- c) 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:
- 1) Invoke an Interim Suspension; or
 - 2) Direct the University to commence conduct proceedings.
- d) At any time after making 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) A student’s conduct case record will be retained in the Office of the Dean of Students in accordance with the records retention schedule promulgated by the Florida Department of State.
- f) 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 five (5) class days prior to the conduct review conference. The official University email address and/or the address provided by the student to the Registrar’s Office will be used for all correspondence. The hearing officer may place a disciplinary hold on student records prohibiting the registration of any student who fails to respond to an official request from the Dean of Students or designee. All pending disciplinary matters must be resolved prior to the awarding of any degree or certificate.

The written notice will include the following:

- a) The student’s name, University identification number, and address;

- b) A description of the alleged violation(s) including date(s), time(s), and place(s) of the incident(s) and the resulting charges;
- c) Source(s) of information;
- d) Link to the student's rights and conduct process in the Student Code of Conduct; and
- e) Notice to attend a conduct review conference to clarify rights and procedures.

3. Conduct Review Conference

- a) A Student alleged to have violated the Student Code of Conduct will receive a 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 receive information 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). These options are: case dismissal, 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.

- (3) 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
- f) The charged student will have 24 hours from receipt of the written notice describing the outcome of the Conduct Review Conference to inform the Dean of Students, by either email notification or by written notice, whether the Student chooses a hearing before a Hearing Officer or the Student 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.

4. Formal Hearings

There are two types of formal hearings: administrative hearings before a hearing officer and Student Conduct Committee hearings before a hearing body.

- a) Hearings are scheduled no earlier than five (5) and no later than fourteen (14) class days following the conduct review conference, or at the discretion of the Hearing Officer and due to extenuating circumstances the hearing might be delayed. A student may waive, in writing, the scheduled time period and have the case heard immediately by the Hearing Officer following the Conduct Review Conference.
- b) Adjudication proceedings under the Student Code of Conduct are administrative in nature. Therefore the Florida Evidence Code, the Florida Rules of Civil Procedure and the Florida Rules of Criminal Procedure shall not apply in student conduct hearings.
- c) The administrative or committee hearings will be digitally recorded by the 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.
- d) The hearing body determines responsibility of a violation of the Student Code of Conduct. This decision is determined by a preponderance of the information presented. The Student Conduct Committee recommends sanctions when necessary to the Dean of Students or designee. In administrative hearings, the hearing officer determines responsibility and the sanction.

- e) Prior records of disciplinary action, victim impact statements and past criminal convictions are considered by the hearing body only in the sanctioning phase of deliberations if the student is found responsible.
- f) If a student fails to attend his or her scheduled hearing, the case will be heard in the student's absence and the student will be informed of the decision in writing.
- g) 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 arise from the same incident, those cases may be heard jointly at the discretion of the Dean of Students or designee.
- h) Previously unknown or undisclosed information obtained in a hearing may result in subsequent charges and potentially result in another hearing.
- i) Prior to the subsequent hearing, the student will be permitted to inspect any additional information received by the hearing officer or committee.
- j) Participants in a hearing may include the charged student, the hearing body, witnesses (upon call of the hearing body), and the facilitator.
- k) The Charged 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 Student 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. Student Conduct Committee Hearings

- a) The Student Conduct Committee shall include University faculty, staff and Students. Each Student 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 Student Conduct Committee hearings. The order of business may be adjusted by the facilitator.
 - 1) Introduction of the hearing body and accused student.
 - 2) Presentation of charges by the Student Conduct Committee facilitator.
 - 3) The student pleads “responsible” or “not responsible” to the alleged violation(s).
 - 4) Opening statement of the charged student.
 - 5) Questions directed to the charged student by the hearing body and/or facilitator.
 - 6) Presentation of material witnesses by the University, followed by questioning of those witnesses by both parties. Each witness is dismissed after questioning.
 - 7) Presentation of material witnesses by the charged student, followed by questioning of those witnesses by both parties. Each witness is dismissed after questioning.
 - 8) 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.
 - 10) Closing statement of the charged student.
 - 11) 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) 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 be made in favor of the charged student. Previous violations are to be considered only in the sanctioning phase of deliberations.
 - 13) The decision of the committee as to “responsibility” and recommended sanctions is given to the facilitator and then to the Dean of Students or designee. The Dean of Students or designee makes the final decision and communicates the decision in writing to the student.
 - 14) The student is informed of the right to appeal the decision of the Hearing Body.
- c) Postponement of the hearing will only be allowed at the discretion of the Dean of Students or designee.
- d) Any participant determined by the hearing body to be unruly or disruptive to the hearing process will be removed from the hearing. 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 the removal from the hearing for unruly or disruptive behavior.
- e) The decision of the committee shall be communicated in writing to the Charged Student.

7. Witnesses

- a) It is at the discretion of the hearing officer or committee to call witnesses to support the charges against the charged student in an administrative or Student Conduct Committee hearing proceeding.
- b) Character witnesses may provide testimony in the form of a written statement.
- c) Witnesses may not also serve as the advisor to a victim or charged student.
- d) Each party is responsible for arranging the attendance of witnesses to present testimony.
- e) Witnesses may include, but will not be limited to persons who can give a firsthand account of the incident.
- f) Witnesses who are victims of acts of violence will testify in accordance with the victim rights provisions of Section H of the Code.
- g) A Student's advisor may not testify as a witness.

8. Disciplinary Sanctions

- a. The following sanctions or combination of sanctions (with or without appropriate modifications) may be imposed upon any student found to be responsible for a violation of the Student Code of Conduct:
 - 1) Reprimand – An official written warning 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 warning, subsequent action may be imposed.
 - 2) Community Service Hours – Assignment to perform tasks or services under the supervision of a University department or community service agency.
 - 3) Educational Activities - An assignment of activities including, but not limited to, reflective or research papers and classes or seminars or other such activities that address this subject matter of the violation, as part of a sanction under this Code.
 - 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 violation. Students must comply with all recommendations established as a result of any assessment resulting from the imposition of this sanction.
 - 5) Restitution – Payment of actual damages or loss of services to the University or the victim.
 - 6) Disciplinary Probation – Disciplinary Probation status for a specific length of time during which the student is considered not in good standing. Restrictive conditions may be imposed as an element of probation and vary according to the 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 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 Student Code of Conduct during the period of Disciplinary Probation, a sanction of suspension or expulsion from the University may be imposed.
- 7) Restrictions – Restrictions may be imposed on a student which include but are not limited to:
 - (a) Participation in student clubs, groups, activities or events.
 - (b) Entrance to University Housing areas or any other areas on campus or University property.
 - (c) Prohibition on contact with a specified person(s) within the University Community.
 - 8) Change in University Housing assignment – removal or reassignment of the student to another location in University Housing.
 - 9) Exclusion or removal from Housing. Exclusion or removal may be permanent or for a specified period of time. If the student is excluded or removed from Housing, the Housing Agreement will be cancelled. The Terms and Conditions of the Housing Agreement regarding cancellation fees and pro-ration of rental fees will apply.
 - 10) Removal from the classroom and/or the course - including but not limited to: dismissal from the course or reassignment to another section.
 - 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.
 - 13) Withholding of registration, diplomas, transcripts or other records.
 - b. The following sanctions may be imposed upon groups or registered student organizations found to have violated the Student Code of Conduct:
 - 1) Those sanctions listed in Section 7(a) above.
 - 2) Disciplinary Suspension or Disciplinary Expulsion of registered student organizations includes temporary or permanent loss of recognized status with the University.
 - 3) Additional sanctions specific to registered student organizations may be found in the organization's constitution, the Office of Sorority and Fraternity Life, and the Office of Student Involvement policies and a national affiliate, if applicable.
 - c. Any sanction that separates a student from the University will be noted on that student's academic transcript. A lesser sanction 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. 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. A student who fails to complete sanctions will have a disciplinary hold placed on his or her record. This hold will affect the student’s ability to register for classes and the student may receive additional charges under the Student Code of Conduct. Disciplinary holds will not be removed until the sanctions are completed.
 - f. A student may be asked to provide the hearing officer with a sanction status report.

J. APPEALS WITHIN THE STUDENT CONDUCT REVIEW PROCESS

1. Appeal Requests

The student may appeal the outcome of a conduct hearing in writing within three (3) class days from the date of the decision letter by filing a written 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:

- a) Due process errors involving the University’s failure to provide the student with notice and an opportunity to be heard;
- b) The sanction(s) is (are) extraordinarily severe in relation to the offense committed; or
- c) New information can be provided that was not available at the time of the original proceeding.

2. Appeal Hearings

- a) The necessity for an appeal hearing will be at the discretion of the University Official to which the Student has appealed. This decision is based on the student’s written information provided in the appeal. If 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.

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

3. Appeal Decisions

- a) Based on information presented on appeal, the original determination may be upheld, modified, reversed, or a new hearing may be ordered.
- b) All appeal 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.
- c) Except in the case of an Interim Suspension, the student's academic status will remain unchanged during the appeal or review process; however, University Housing status and other activities may be affected.
- d) The appeal decision of the Vice President for Student Affairs is final and the 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 remove a 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 written incident report made to the Dean of Students' Office. The report is processed in accordance with the investigation and student conduct review process as outlined in the Student Code of Conduct.

L. RESOLUTION OF ALLEGATION OF ACADEMIC DISHONESTY

A student charged with academic dishonesty will have the case resolved as follows:

- 1. The faculty member of record in the class meets with the student and informs him or her of the allegations against the student. If the student accepts responsibility for the academic dishonesty, the student will receive an academic sanction determined by the faculty member of record, which may include a failing grade in the class. In concert with this meeting, the faculty member completes the Summary Adjudication form and secures the signature of the student. Summary Adjudication forms are available online at: <http://studentservices.fgcu.edu/judicialaffairs/forms.html>.
- 2.a) The completed Summary Adjudication form is then submitted to the Dean of Students' Office to be included in the student's conduct file; or
- b) If, after the faculty member of record meets with, and informs, the student of the allegation against him or her, the student denies responsibility for the actions, or the allegations are so egregious (such as having more than 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:
 - 1) 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.
 - 2) 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.
 - 3) 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 Academic Integrity Committee will proceed to hear the case and make a determination of whether there is a preponderance of information to find the student responsible for academic dishonesty. If the student is determined to be responsible for academic dishonesty, the committee will recommend a disciplinary sanction which may include expulsion.
5. The Dean of Students will review the decision of the Academic Integrity Committee, make the final determination, and provide written notice of the determination to the student and faculty of record.
6. After the determination by the Academic Integrity Committee, the faculty of record will assign the student a final grade (which may include a failing course grade). The faculty member may then, 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:

- 1) 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.
- 2) Five faculty members from each academic college are recommended by the Dean to serve for a one year appointment that can be renewed.
- 3) Two students from each college are selected in consultation with Student Government through an interview process established by the Dean of Students.
- b) When a student is referred for a hearing, the Dean of Students' convenes a committee from the pool of appointees to serve on the committee for the case using the following guidelines:
 - 1) Two (2) faculty members from the college making the referral (if available),
 - 2) One (1) faculty member from any of the remaining colleges, and
 - 3) Three (3) students from a different college than the college making the referral.
- c) The Chair of each hearing will be selected by the committee members comprising the Hearing Body.
- d) Students have the right to appeal a decision of the Academic Integrity Committee to the Vice President for Student Affairs using the process as described in Section J.
- e) The Academic Integrity Committee process is separate from the Grade Appeals process, which is managed by the Colleges in the Division of Academic Affairs.

M. JUDICIAL PROCEDURES FOR VIOLATIONS OCCURRING DURING THE LAST TWO WEEKS OF THE FALL OR SPRING SEMESTER OR DURING SUMMER SESSIONS

When a student is charged with violations occurring during the last two weeks of the semester or during summer sessions, the Dean of Students' Office will determine the type of hearing provided for the student. Under certain circumstances, hearings may occur in the subsequent semester.

N. PERIODIC REVIEW OF THE STUDENT CODE OF CONDUCT AND STUDENT CONDUCT REVIEW PROCESS

The Vice President for Student Affairs shall establish a committee to review the Student Code of Conduct and Student Conduct Review Process. The committee shall review the Student Code of Conduct and Student Conduct Review Process 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 18, 2011

Law Implemented:

§§1001.74, 1006.60, 1006.61, 1006.62, 1006.63, 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 January 18, 2011

Effective Date of Regulation:

January 18, 2011