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- 3) **Deferred Suspension:** A designated period of time where the Student is allowed to continue enrollment so to demonstrate the ability to abide by the Code. A Student on Deferred Suspension is considered to be not in Good Disciplinary Standing with the University. If the Student is found responsible for violation of the Code while under a Deferred Suspension, the Deferred Suspension will convert to a Suspension. If the Student appeals the determination of responsibility that results in the conversion of the Deferred Suspension to a Suspension, the Suspension will not be applied until after the appeal decision is issued.
  - 4) **Suspension:** A period of time, not to exceed three (3) years, when a Student may not attend classes or participate in University related activities, whether the class or activity occurs on or off University Premises. The University Registrar, or designee, is instructed to place a Transcript 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 the Student's record to prevent registration. All assigned educational sanctions must be completed prior to the restoration of the Student's privileges; otherwise, the disciplinary suspension will remain in effect. A suspended Student is not permitted on University Premises during the length of their suspension. If a suspended Student is found on University Premises, the University Police will be notified.
  - 5) **Expulsion:** Removes the Student from his or her academic program and permanently separates the Student from the University without opportunity to graduate or re-enroll. The University Registrar, or designee, is instructed to permanently place a Transcript Overlay on the Student's transcript indicating the expulsion. Further, a Hold will be permanently placed on the Student's record to prevent future registration. An expelled Student is not permitted on University Premises. If an expelled Student is found on University Premises, the University Police will be notified.
- b. **Educational Sanctions:** Educational sanctions are intended to provide Students with an opportunity to reflect and learn from the Adjudication of a Violation or attempt to restore or promote the academic environment of the University Community. Common educational sanctions include, but are not limited to:
- 1) **Class or Workshop:** Required attendance at a class or workshop designed to educate Students as to the risks and consequences of exhibited behaviors. Any assigned classes shall be non-credit and will not be reflected on a Student's



transcript. The Student is responsible for any costs associated with participation in a class or workshop.

- 2) **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 services. The Student found responsible for an alcohol, drug, or behavioral Violation may be referred to the University Counseling and Psychological Services Office or to an outside agency or counselor based on the seriousness of the Violation. The Student must comply with all recommendations established as a result of any assessment resulting from the imposition of this sanction.
- 3) **Exclusion from University Housing:** The Student is prohibited from visiting University Housing unless prior approval has been given by the Dean of Students, or designee. The Student may be allowed to be present in University Housing conference rooms or academic advising offices with the prior approval of the Dean of Students, or designee.
- 4) **Modification of University Housing Assignment:** Reassignment of the Student to another location in University Housing.
- 5) **Removal from a Course or Section:** Reassignment of the Student to another section of a course or dismissal from a course.
- 6) **Restitution:** Payment to compensate for actual damages or loss of services to the University.
- 7) **Restorative Service Hours:** Assignment to perform tasks or services under the supervision of a University department or community service agency. These hours may not be used to fulfill service learning graduation requirements or the community service requirements of any RSO.
- 8) **Restrictions:** Restrictions may be imposed on a Student which include, but are not limited to, participation in Organizations, or Student groups, activities, or events; entrance to University Housing areas or any other areas on campus or University Premises; prohibition on contact with a specified person(s) within the University Community;
- 9) **Written Assignment:** A designated written activity related to the specific Violation(s).

### 3. Organizational Sanctions

- a. **Organizational Probation:** A period of time, not to exceed one (1) calendar year, during which an Organization is considered not in Good Disciplinary Standing with

the University.

The Hearing Officer shall determine specific restrictions appropriate to the Violation which may include, but are not limited to:

- 1) A restriction from engaging in, participating in, hosting, or sponsoring social events or mixers;
  - 2) A restriction from hosting events off University Premises;
  - 3) A restriction from hosting events that involve alcohol;
  - 4) A restriction from traveling using University funds or representing the University in any way;
  - 5) A restriction on the number or type of events that an Organization may host or sponsor;
  - 6) A requirement that any event or activity, including official business meetings or philanthropic activities, must be approved in advance by the Office of Student Involvement or the Sport Club Coordinator, in consultation with the Dean of Students' Office; or
  - 7) A fraternity and sorority on probation may not participate in any Greek Week events or participate in intramural sports or other social competitions. All recruitment activities of a fraternity or sorority on probation must be approved by the Office of Student Involvement in consultation with the Dean of Students' Office at least thirty (30) calendar Days prior to the beginning of recruitment activities.
- b. Organizational Suspension: A period of time, not to exceed three (3) years, when an Organization may not operate on University Premises or affiliate itself with the University in any way. An Organization which is determined to have continued operation despite suspension may have the term of suspension extended.
- c. Organizational Expulsion: A period of time, not less than seven (7) years, when an Organization may not operate on University Premises or affiliate itself with the University in any way. An Organization which is determined to have continued operation despite suspension may have the term of expulsion extended. Following Organizational expulsion, the Dean of Students, or designee, must approve of the return of that Organization. This decision may be revisited once per academic year and is not subject to appeal.
- d. Educational Sanctions: All members of an Organization or a subset of members of the Organization deemed appropriate may be required to complete an educational

sanction. Educational sanctions are intended to provide the Students with an opportunity to reflect and learn from the determination of responsibility for a Violation or attempt to restore or promote the academic environment of the University Community. Common educational sanctions are listed under Article E.2.b.

- e. **Organization Specific Sanctions:** Additional sanctions specific to Organizations, which may be found in the Organization's Constitution, the Office of Student Involvement policies, policies maintained by other University entities with appropriate jurisdiction, or the by-laws or regulations of the affiliate's national organization.
4. When a Respondent Student or Organization is found responsible for B.2.a., B.2.b.2), B.2.b.3), B.2.b.4), and B.2.b.5), the sanctions shall place an emphasis on correcting and preventing a recurrence of the incident and promoting the safety of the Complainant(s) and the University Community.
5. Decisions regarding falsification of admission or re-admission information may result in sanctions up to and including the revocation of admission (with or without the loss of earned credit) or the revocation of a degree which was previously conferred.
6. 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, add, drop, or withdraw from classes, receive transcripts, or access various University services. In severe situations, the Student may also be Charged with additional Violations of the Code.

## **F. Procedures for Appeal**

1. An appeal is not a new Hearing; it is a procedural safeguard to ensure Respondent Students or Organizations receive a Hearing consistent with the procedures of this Code. An appeal may be filed by the Respondent Student or Organization or by a Complainant in any case adjudicated under the procedures listed in Article D.3. In such cases, both parties will have the opportunity to submit an appeal and/or opposition to appeal prior to review by the Appeal Officer and, if an appeal Hearing is scheduled, both parties will have an opportunity to present information to the Appeal Officer, in separate meetings, prior to a final decision.
2. **Basis for Appeal**
  - a. **Due Process Error:** An allegation of significant procedural error which both a) denied the Appellant a right set forth in the Code and b) likely altered the outcome of the Hearing.
  - b. **New Evidence Unavailable at Hearing:** An allegation that there is evidence which a) is likely to have altered the outcome of the Hearing and b) was not available to the Hearing Officer and the Appellant at the time of the Hearing. Failure to present

evidence or information available at the time of the Hearing is not grounds for appeal.

- c. Sanctions Imposed Are Extraordinarily Severe: The Appellant alleges the sanctions are disproportionate, given the nature of the Violation(s) and in light of the Appellant previous conduct history.
- d. Conflict Of Interest Or Bias in Title IX cases: The Appellant alleges the Decision Maker had a conflict of interest or bias that affected the outcome of the matter.

### 3. Timeline for Appeal

- a. The outcome of a conduct Hearing may be appealed within three (3) Days of the date of the decision letter by filing a written appeal which may be submitted by email using the Student Conduct Appeal form. Extensions shall be granted at the sole discretion of the Dean of Students, or designee, and shall only be granted in exceptional circumstances where the failure to file an appeal within the designated period was demonstrably outside the control of the requesting party. The decision of the Dean of Students, or designee, to grant or deny an extension shall be communicated in writing to the Student and shall be final.
- b. Appeals will be reviewed and, if appropriate, an appeal Hearing will be scheduled within five (5) Days of the date of receipt of an appeal unless there is good cause to extend this timeline, which will be communicated to all parties involved in the appeal.
- c. The outcome of an appeal will be communicated in writing to all parties involved in the appeal within five (5) Days of the date of the last appeal Hearing
- d. An Appellant's academic status will remain unchanged during the appeal or review process though other sanctions may be in effect during the period of appeal. The University reserves the right to place a Hold on the Students record during the Hearing and appeal processes.

### 4. Jurisdiction

- a) The Vice President for Student Success and Enrollment Management designates the following:
  - 1) The appeal of the outcome of an Administrative Hearing shall be considered by the immediate supervisor of the Hearing Officer so long as the supervisor is also a Hearing Officer. In all other cases, the appeal will be considered by the Dean of Students, or designee.
  - 2) The appeal of the outcome of a Hearing by the RCC shall be considered by the Associate Director for Residence Education, or designee.

- b) The appeal of the outcome of a Hearing heard by the AIC or SCC shall be considered by the Vice President for Student Success and Enrollment Management, or designee.

## 5. Appeal Hearings

- a. An appeal Hearing may be granted by the Appeal Officer. This decision is based on the Appellant's written information provided in the appeal.
- b. If an Appeal Officer finds insufficient information to support any potential basis for appeal he or she may find the appeal without merit and deny it without a Hearing.
- c. If an appeal is permitted, it will be scheduled within five (5) Days of receiving the written request for appeal unless an Appeal Officer determines that good cause exists for deferring the appeal for a longer period of time.
- d. The Appellant is permitted to bring an Advisor to an appeal Hearing, subject to the same restrictions as applied to Advisors during the initial Hearing. However, in Title IX cases where an Advisor is permitted to speak for a party in the cross-questioning of the other participants at the live Hearing, an Advisor is unable to speak on behalf of the Respondent Student or Organization or Complainant during the appeal Hearing.
- e. Witnesses are not permitted in appeal proceedings, though written statements may be provided to prove the existence of information which was not available at the time of the Hearing.

## 6. Appeal Decisions

- a. **Decision Upheld:** A finding that the Hearing was appropriately conducted, the sanctions are appropriate to the situation under appeal, and any procedural errors are unlikely to have altered the decision.
- b. **Decision Modified:** A modification of sanctions may only remove a sanction or reduce the severity of a sanction unless the sanctions are modified to reflect the written request of the Appellant, which may include replacing one sanction with another or adding an additional sanction in exchange for a reduction in an original sanction.
- c. **Decision Reversed:** A directed finding of not responsible for all Charges.
- d. **New Hearing:** A new Hearing may be ordered. In these circumstances, a Hearing will be scheduled within five (5) Days of written notification of the outcome of the appeal. This new Hearing may not be held by the same Hearing Officer or, if the case was heard through an AIC, SCC, or RCC Hearing, no members from the first Hearing

may sit on the second AIC, SCC, or RCC.

7. A Student may seek judicial review of the final University decision made under this Code pursuant to Florida Rule of Appellate Procedure 9.190(b)(3), applicable to review of quasi-judicial decisions of an administrative body not subject to the Administrative Procedure Act, by filing a petition for certiorari review with the circuit court within thirty (30) calendar days of the final University decision. If a Student seeks review with the court, the Student must also provide a copy of the petition to the Office of the General Counsel, Florida Gulf Coast University, 10501 FGCU Blvd. S. Fort Myers, Florida 33965.

## **G. Special Provisions and Procedures for Review**

1. When a Respondent Student or Organization is Charged with Violations occurring during the last two (2) weeks of the semester or during summer sessions, the Dean of Students, or designee, will determine the type of Hearing provided for the Student to ensure that the Student is given adequate Notice and that due process is observed.
2. The Vice President for Student Success and Enrollment Management, or designee, shall establish a committee which shall include Student representation, for the periodic evaluation of its Student disciplinary system. The committee shall review the Code and Student Conduct Review Process at least once every two (2) years. The committee membership shall be made up of no less than fifty percent (50%) Student members and shall include representation by at least one (1) member of the faculty and one (1) member of the administrative staff.

### *Authority*

*Title IX of the Education Amendments Act of 1972, and accompanying regulations  
Sections 1006.60, 1006.61, 1006.62, 1006.63, Florida Statutes  
BOG Regulation 1.001, University Board of Trustees Powers and Duties  
BOG Regulation 6.0105, Student Conduct and Discipline*

### *History of Regulation*

*New 01/15/08; Amended 01/18/11; Amended 09/20/11; Amended 04/17/12; Amended  
06/19/12; Amended 06/17/14; Amended 09/08/15; Amended 04/11/17; Amended 06/11/19;  
Amended 01/14/20; Amended (Emergency) 08/11/20; Amended 10/29/20; Amended 06/08/21*

*Approved by Florida Gulf Coast University Board of Trustees  
June 8, 2021*