



FGCU REGULATION 4.002

Student Code of Conduct and Student Conduct Review Process

*Effective Date
of Regulation*

August 11, 2020

A. Introduction, Definitions, and Terms

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2. Purpose and Application

- a. The Student Code of Conduct and Student Conduct Review Process (Code) is created to promote a positive educational environment in which Students are encouraged to learn and develop as citizens and scholars. The Code is intended to provide a framework for individual and organizational conduct within which all members of the community are encouraged to challenge, explore, and investigate any subject of interest. This Code also exists to foster and enhance the academic mission of the University; to protect the rights of all University Students, faculty, and staff; to protect University property; to protect the University Community from disruption and harm; and to encourage appropriate standards of individual and group behavior.
- b. All Students are expected to comply with all local, state, and federal laws at all times. Additionally, Students are expected to comply with the standards of conduct set forth in the Code. This Code applies to all Students throughout their time as members of the University Community. The University recognizes Student success, as well as the security and integrity of the University Community, are affected by all areas of a Student's life. Therefore, Students are responsible for ensuring their behavior meets the standards and policies set forth in this document whether on or off campus. These standards are designed to foster an environment of personal, social, and ethical development and to promote the protection of the rights, responsibilities, safety, and welfare of the University Community, while ensuring that all community members are free to pursue their educational goals.
- c. The Code will be applied without regard to race, color, national origin, ancestry, religion, sex, sexual orientation, gender identity, marital status, age, physical or mental disability, or military or veteran status. Any Adjudication will be based solely

on the conduct for which Charges were brought against the Student.

3. Authority

The University Board of Trustees has delegated to the University President the final responsibility and authority for the discipline of University Students. The President has further delegated this authority to the Vice President for Student Success and Enrollment Management. The responsibility for the investigation and Adjudication of alleged acts of misconduct has been delegated to the Dean of Students and the faculty, as described in Article A.4. Registered Student Organizations are also subject to regulation and discipline under this Code.

4. Jurisdiction and Scope

- a. This Code shall apply to all Students and Registered Student Organizations of the University.
- b. This Code applies to conduct occurring on University Premises, or at any activity or event sponsored or operated by the University, including study abroad or exchange programs. However, the University reserves the right to impose discipline based on any Student conduct, regardless of location, that may adversely affect the University Community. This may include Violations which are alleged to have occurred partly or entirely through electronic means.
- c. The University's conduct process may be instituted based upon a Student's alleged conduct that, if committed, would violate criminal law or this Code without regard to the pendency of civil or criminal litigation. Proceedings under this Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings at the discretion of the President, or designee.
- d. Whether in-person or online, 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. If the Student continues to disrupt the classroom, the faculty member should make a written incident report to the Office of Student Conduct. The report is processed in accordance with the investigation and Student conduct review process as outlined in the Code.

5. Definitions

- a. *Academic Integrity Committee (AIC)*: A committee comprised of Students and faculty, trained to review alleged Violation(s) of academic integrity, make findings, and recommend sanctions to the Dean of Students.
- b. *Adjudication*: The process by which alleged Violations of this Code are resolved, including all Hearings and appeals.

- c. *Administrative Hearing*: A proceeding conducted before a Hearing Officer, who reviews the information presented, makes a finding of “responsible” or “not responsible” for the alleged Violation(s) of the Code, and may impose sanctions.
- d. *Advisor*: Any one person (unrelated to the case at issue), including an attorney, chosen by the Respondent Student or Organization, or Complainant to assist them.
- e. *Appeal Officer*: The University Official who has jurisdiction to consider an appeal of a determination under the Code.
- f. *Appellant*: Any person who has filed an appeal under Article F.
- g. *Chair*: A University Official designated to oversee the Hearing panel process.
- h. *Charge*: An alleged Violation of this Code.
- i. *Code*: FGCU Regulation 4.002, Student Code of Conduct and Student Conduct Review Process.
- j. *Complainant*: Any person alleged to have been the victim of one (1) or more Violations of Articles B.2.a., B.2.b.2), B.2.b.3), B.2.b.4), and B.2.b.5) or any other act of sexual misconduct as defined by this Code, any person to whom the University has a legal obligation to disclose the outcome of an Adjudication, or any person who must be informed of the outcome of Adjudication in order for sanctions to be effectively implemented. In cases where the person is deceased, this shall include the spouse, parent, or representative thereof.
- k. *Complaint*: A report or statement alleging a Violation of a specific provision of this Code.
- l. *Consent*: For purposes of the Code, the mutual assent by words or actions to engage in a particular sexual activity that must be made voluntarily and competently by all parties. In order for Consent to be given voluntarily, the party giving Consent must be free from threat, force, intimidation, extortion, or undue influence. In order for Consent to be given competently, each person giving Consent must have the mental ability to understand the encounter and agree to participate. If any person is incapacitated due to drug or alcohol use, or any other circumstance, and is unable to communicate Consent, which circumstance may include unconsciousness, disability, involuntary physical constraint, sleep, or other forms of helplessness, then that person lacks the necessary capacity to give Consent.
- m. *Day*: Any weekday not designated by the Office of Records and Registration on the academic calendar as a Day when classes will not be held. Saturday class Days will not be counted in establishing time periods under the Code.

- n. *Decision-Maker*: A University Official or panel designated to conduct conferences or Hearings with a Respondent Student or Organization alleged to have violated the Code of Conduct, and whom may recommend or impose sanctions, when appropriate.
- o. *Disciplinary Probation*: A period during which the Student is not in good standing and has restrictions placed upon the Student's participation in University activities.
- p. *Disciplinary Proceeding*: Any meeting, conference, or Hearing which occurs in the course of adjudicating one (1) or more alleged Violations of this Code.
- q. *Facilitator*: A University Official assigned by the Dean of Students, or designee, to coordinate the Hearing process and assist the committee in complying with Hearing procedures.
- r. *Good Disciplinary Standing*: A Student who does not have an incomplete or overdue sanction and is not currently on Disciplinary Probation.
- s. *Guest*: An individual not assigned to live in the particular room or apartment where the individual is present at the time of the alleged infraction or an individual who has been invited, escorted, or otherwise permitted to be present by a Student or Organization to a specific location, activity, or event.
- t. *Hearing*: An investigative and adjudicative proceeding before a Hearing Officer, Student Conduct Committee, or Residential Conduct Committee, the result of which will be a determination of responsibility or no responsibility for one (1) or more alleged Violations.
- u. *Hearing Officer*: A University official designated by the Dean of Students to address alleged Violations of the Code.
- v. *Hold*: An administrative notification that precludes administrative activity in the Student's academic record.
- w. *Notice*: Communication from the University for any purpose listed in this Code to an assigned University e-mail address. In some cases, hand delivery may be used in addition to email to communicate with Students. Notice refers to the act of delivery and is considered complete without regard to the choice to access, read, or respond to the communication.
- x. *Registered Student Organization (RSO or Organization)*: A group of Students who are registered with the Office of Student Involvement. This term includes all academic, athletic, general interest Student organizations, registered sport clubs, and organizations regulated by the Office of Fraternity and Sorority Life. The President of the Organization shall serve as the representative of the Organization for Adjudication under the Code.

- y. *Residential Conduct Committee (RCC)*: A committee comprised only of residential Students established to review Charges of Student conduct Violations alleged to have occurred in the residence halls. No faculty or staff are included in the RCC.
- z. *Respondent Organization*: An Organization that has been alleged to have violated the Code. For the purposes of communication and adjudicative proceedings, the term shall be used to designate the president of the Organization on record with the Office of Student Involvement as the representative of the accused Organization.
- aa. *Respondent Student*: A Student that has been alleged to have violated the Code.
- bb. *Student*: For purposes of this Code, any person who, at the time of an alleged Violation of this Code, meets one (1) or more of the following requirements:
 - 1) Any person notified of acceptance for admission to the University;
 - 2) Any person enrolled in one (1) or more 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;
 - 3) Any person living in property owned, operated, managed, or otherwise controlled by the University, unless the sole purpose of residence is in fulfillment of a requirement of employment;
 - 4) Any person who withdraws from the University at any point during Adjudication;
or
 - 5) Any person who, though not currently enrolled, is eligible to enroll in one (1) or more courses without completing the admission process.
- cc. *Student Conduct Committee (SCC)*: A committee of no less than three (3) and no more than six (6) Students, faculty, and staff established to review Charges of Student conduct Violations. Students shall make up no less than fifty percent (50%) of its membership.
- dd. *Title IX*: For purposes of this Regulation, Title IX means Title IX of the Education Amendments Act of 1972, and accompanying regulations.
- ee. *Transcript Overlay*: A notation on a Student's University transcript that states the Student is not in Good Disciplinary Standing due to a disciplinary suspension or expulsion.
- ff. *University*: Florida Gulf Coast University (FGCU), including all of its campuses, centers, and off-site locations.

- gg. *University Community*: Members of the University Community include members of the Board of Trustees, employees, Students, University Officials, and volunteers affiliated with FGCU.
- hh. *University Housing*: A residence in a University-operated facility.
- ii. *University Official*: Any individual authorized or directed by the President, or designee, to perform any delegated function for the University, including faculty, staff, and administrators.
- jj. *University Premises*: All land, buildings, facilities, and other properties owned, used, leased, operated, or otherwise controlled by the University or one of its direct support organizations, including adjoining sidewalks, streets, and public spaces.
- kk. *Violation*: An action or inaction that meets the definition of a standard of conduct found in Article B of the Code.
- ll. *Witness*: Any person with actual knowledge of an incident being Adjudicated who is present at a Hearing, either in person, via electronic means, or in writing, for the purpose of providing information for consideration by the Hearing Officer or relevant committee.

6. Disciplinary Records

- a. All records pertaining to the Student conduct process will be maintained by the Office of Student Conduct for a period of seven (7) years following the last semester in which a Student was enrolled at the University. In cases where a Student is suspended or expelled, all Student conduct records will be maintained permanently. A Student may inspect his or her own records by scheduling an appointment with the Office of Student Conduct.
- b. If a Student is suspended or expelled, a determination of a Violation of established laws or University regulations may be recorded in the Student's disciplinary record in the Dean of Students' Office and with the Office of Records and Registration.
- c. The release of Student disciplinary records will be governed by applicable University regulations and procedures as well as state and federal law.

B. Standards of Conduct

The following actions, including complicity to commit these actions, constitute conduct for which a Student, a group of Students, or an Organization may be subject to disciplinary action, whether such actions are engaged in, on, or off University Premises:

1. Standards Related to Academic Integrity

- a. Submitting the work of another person or entity as your own.
- b. Intentionally using or attempting to use any unauthorized assistance, including, but not limited to, materials, notes, study aids, or devices or communication of any kind during an academic exercise, including, but not limited to, quizzes, tests, or examinations.
- c. Use of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments.
- d. The acquisition, without permission, of tests or other academic material belonging to a member of the University faculty or staff.
- e. Engaging in any behavior specifically prohibited by a faculty member in the course syllabus or class instruction.
- f. Submitting work which has been submitted, in whole or in part, in a previous or concurrent class without instructor approval.
- g. Preparing or providing work with the knowledge or intention that it may be represented as the work of another.
- h. Sharing or disseminating tests, notes, slides, presentations, recordings, or any other material which is the intellectual property of an instructor or of the University without prior approval, when prohibited. This does not prohibit a Student from sharing his or her own papers, notes, or other written works in accordance with Article B.1.b.
- i. Falsifying, misrepresenting, or fraudulently presenting academic work.
- j. Using the work of another without giving proper credit and citation of source material using an approved style.
- k. Attempting to obtain a grade or other academic credit through improper means or otherwise subverting the educational process by any means whatsoever.
- l. Soliciting, assisting, concealing, or attempting any act of academic misconduct.

2. Standards Related to Persons

a. Sexual Misconduct

- 1) Sexual Abuse: Any sexual act, as defined in FGCU Regulation 1.009, Sexual Harassment Under Title IX, or Regulation 1.003, Non-Discrimination, Anti-

Harassment, and Sexual Misconduct, which includes rape, sexual assault, sexual battery, sexual exploitation, and other forms of non-consensual sexual activity directed against another person, by force, threat of force, or coercion without Consent, including instances where the person is incapable of giving Consent.

- 2) Sexual Harassment (as defined by FGCU Regulation 1.009, Sexual Harassment Under Title IX): Conduct on the basis of sex that satisfies one (1) of the following:
 - a) A Student conditioning the provision of a University aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
 - b) Unwelcome conduct of a sexual nature determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity.
- b. Acts of Violence
- 1) Physical Harm: Any action which causes physical harm to another person, or any attempted action which, if successful, would be reasonably foreseeable to result in physical harm to another person.
 - 2) Dating Violence: An act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on consideration of:
 - a) The length of the relationship.
 - b) The type of relationship.
 - c) The frequency of interaction between the persons involved in the relationship.Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.
 - 3) Domestic Violence: An act of violence committed:
 - a) By a current or former spouse or Intimate Partner of the Complainant;
 - b) By a person with whom the Complainant shares a child in common;
 - c) By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or Intimate Partner;

- d) By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
 - e) By any other person against an adult or youth Complainant who is protected from that person's acts under judicial order.
- 4) Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- a) Fear for the person's safety or the safety of others; or
 - b) Suffer substantial emotional distress.

For the purposes of this definition- (i) Course of conduct means two (2) or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property; (ii) Substantial emotional distress means significant mental suffering or anguish that may, but may not necessarily, require medical or other professional treatment or counseling; and (iii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

- 5) Hazing:
- a) Any action or situation, which occurs on or off University Premises, that 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 an RSO, or other group of Students, whether or not officially recognized by the University. Hazing includes, but is not limited to, pressuring or coercing the Student into violating federal or state law; any brutality of a physical nature, such as whipping, beating, branding, exposure to the elements, forced consumption of any food, liquor, drug, or other substance; or other forced physical activity that could adversely affect the physical health or safety of the Student; and also includes any activity that would subject the Student to extreme mental stress, such as sleep deprivation, forced exclusion from social contact, forced conduct that could result in extreme embarrassment, or other forced activity that could adversely affect the mental health or dignity of the Student.
 - b) The following do not constitute a defense to allegations of hazing: the Consent, whether expressed or implied, of the Complainant had been

obtained; the conduct or activity that resulted in the death or injury of a person was not part of any official organizational event or otherwise sanctioned or approved by the RSO, or other group of Students, whether or not officially recognized by the University; or the conduct or activity that resulted in the death or injury of Complainant was not done as a condition of membership into an RSO or other group of Students, whether or not officially recognized by the University.

c) All provisions of section 1006.63, Florida Statutes, are applicable to an allegation of hazing.

6) **Violent Disruption:** Any violent action taken with the intent of disrupting any University function, action, or operation. This Code shall be applied in accordance with FGCU Regulation 9.001, Use of University Facilities, and FGCU Regulation 9.004, Public Expression and Assembly, and shall not be construed to restrict any right listed in these Regulations except as otherwise stated in this Code.

7) **Threats:** Any statement or action which either directly or indirectly communicates a threat of, or intent to commit, physical harm toward an individual, group, or organization.

8) **Harassment:** Unwelcome conduct, including electronic and written communication, that is based upon race, color, religion, age, disability, sex, national origin, marital status, genetic predisposition, sexual orientation, gender identity/gender expression, and/or veteran status. Harassment is further defined as behavior so severe, pervasive, or persistent that it limits a Student's ability to participate in, or benefit from, an educational program, undermines the responsibilities of the employee, and/or creates a hostile working or learning environment.

3. Standards Related to Property

a. **Arson:** Intentionally or recklessly causing a fire that does, or has a potential to, result in damage to property owned by another person, entity, or the University.

b. **Vandalism, Damage, or Destruction of Property:** Damage or defacing of University personal property or Premises, or the personal property of another person whether or not it is on University Premises, including the unauthorized damage or removal of decorations, flyers, signage, or other posted materials without authorization.

c. **Trespassing:** Unauthorized or attempted entry to, or continued presence on, University Premises, in any University room, building, facility, motor vehicle, trailer, or machinery without proper authorization or access.

- d. Theft:
 - 1) Stealing: Taking property which belongs to another person, entity, or the University without authorization, payment, or express permission.
 - 2) Fraud: Using deception, forgery, counterfeiting, or other means to defraud another person, entity, or the University, of property.
 - 3) Sale or Possession of Stolen Property: Selling, attempting to sell, or having possession or control of any item that is known to be, or can reasonably be assumed to have been, stolen, or otherwise illegally obtained.
- e. Public Urination or Defecation: Attempted or actual urination or defecation in any public space.
- 4. Standards Related to Health, Welfare, and Safety
 - a. Weapons, Firearms, or Dangerous Materials:
 - 1) Possession, sale, storage, or use of 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, pellet, or bb guns or dangerous chemical, corrosive, biological, or radiological agents on University owned or affiliated property or at University sponsored or related activities.
 - 2) Possession or use of fireworks of any description, explosives, or chemicals, which are disruptive, explosive, corrosive, or radiological agents on University Premises or at University sponsored or related activities.
 - 3) Violation of FGCU Regulation 9.005, Possession of Firearms and Weapons on University Property.
 - b. Threats to the Safety of Others:
 - 1) Bomb Threats: Falsely reporting the existence of an explosive or incendiary device.
 - 2) Tampering with Safety Equipment: Tampering with, disabling, or damaging alarms, cameras, defibrillators, electronic surveillance equipment, exit signs, extinguishers, fire sensors, first aid kits, pull stations, sprinklers, smoke detectors, or other safety equipment, including, but not limited to, propping open doors.
 - 3) Tampering with Entries or Exits: Tampering with doors, door alarms, door locks, door handles, elevators, push bars, windows, window alarms, window locks, window screens, or other devices designed to provide entry, exit or security for

any University building including, but not limited to, magnetic door release devices.

- 4) Misuse of Emergency Reporting Systems: Activating any emergency response system, including emergency call boxes, elevator call buttons, fire alarm pull stations, the 911 reporting system, or any other system designed for use in reporting an emergency, when no emergency exists.
 - 5) Failure to Evacuate: Failing to evacuate any building after an alarm has been activated or Notice has otherwise been given of a fire, fire drill, false alarm, or other order to evacuate.
- c. Controlled Substances:
- 1) Manufacture or Production: The manufacture or production of any controlled substance or related paraphernalia including, but not limited to, the manufacture or production of concentrates or edible goods containing controlled substances.
 - 2) Distribution: The delivery or attempted delivery of any controlled substance or related paraphernalia. Attempted delivery may be established by the presence of paraphernalia commonly associated with distribution, by the manner in which the substances are packaged, or by the volume of the substance possessed.
 - 3) Use or Possession: The use or possession of any controlled substance as defined by federal law unless prescribed to that Student in compliance with federal law.
 - 4) Misuse of Medication: Knowingly misusing any legally prescribed medications or using non-prescription medications in a manner other than their directed use.
 - 5) Paraphernalia: The possession of any item primarily intended for, designed for, or which can be demonstrably linked to, the manufacture, sale, distribution, use, or possession of a controlled substance. Such items include, but are not limited to, bong, bowls, grinders, pipes, scales, and vaporizers.
- d. Alcohol:
- 1) Sale: The sale of alcohol either directly or indirectly without a license.
 - 2) Providing Alcohol to a Minor: Purchasing, serving, supplying, or otherwise providing alcohol to a person under the legal age.
 - 3) Possession or Consumption: Possessing, carrying, consuming, or being under the influence of alcohol while under the legal age or while on University Premises except as permitted in FGCU Regulation 9.002, Possession, Service, or Consumption of Alcohol, or its corresponding policy, FGCU Policy 4.002,

Alcohol Policy.

- 4) Driving While Under the Influence of Controlled Substance(s) or Alcohol: Citation for operation of a motor vehicle while impaired or with a blood alcohol test result above the applicable legal limit.
 - e. Disruptive Conduct: Behavior that disrupts the study, sleep, privacy, or safety, of University Community members on or off University Premises or any 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.
 - f. Responsibility of Premises: Failure to maintain reasonable control of areas for which a Student is responsible, including assigned residence hall rooms, off campus apartments, houses, or other similar locations.
 - g. Use of Tobacco Products on University Premises: The use of tobacco products or smoking devices including vaporizers on University Premises in Violation of FGCU Regulation 9.007, Use of Tobacco Products and Consumption of Food on University Premises.
 - h. Gambling: Organizing or engaging in any game of chance for money or other gain on University Premises, including in University Housing, in Violation of any federal, state, or local law, rule, regulation, or ordinance.
5. Standards Related to University Operations
- a. Misuse of Resources: Use or misappropriation of University space, facilities, funds, supplies, equipment, labor, material, or other resources without authorization.
 - b. False Information: Knowingly providing false information to a University Official.
 - c. Frivolous Complaint: Knowingly filing a complaint that is trivial, superficial, senseless, groundless, or brought in bad faith.
 - d. Providing False Information on an Application: Knowingly providing false information to the University for the purpose of gaining admission to the University.
 - e. Failure to Comply: Failure to comply with University regulations, policies, or lawful directives, including orders of no contact, of University Officials or law enforcement officers acting in the performance of their duties.
 - f. Misuse of University Documents: Forgery, alteration, or other misuse of University documents or records.

- g. Misuse of ID Cards: Loaning, borrowing, altering, or replicating University, state or federal ID cards or other documents or failing to present or surrender a University ID card upon the request of a University or public official.
- h. Misuse of Keys: Duplication, improper use, or unauthorized loaning of keys to any University Premises.
- i. Amplified Sound: Use of amplified sound without prior authorization or in areas where amplified sound is prohibited by regulation, policy, or University posted sign.
- j. Operating an Unregistered RSO: Engaging in organizational activities on behalf of an Organization which has been placed on organizational suspension or organizational expulsion, or operating an unregistered Student organization which represents itself as an RSO.
- k. Campus Disturbances: Intentional interference with the educational operation of the University or any Violation of FGCU Regulation 9.004, Public Expression and Assembly, except as permitted by law.
- l. Commercial Solicitation: Commercial solicitation on University Premises without prior approval from a University Official or any Violation of FGCU Regulation 9.006, Solicitation on Campus.
- m. Computer Misuse and Telecommunications Resources:
 - 1) Unauthorized access into a file to use, read, transfer, or change the contents, or for any other purpose.
 - 2) Use of another individual's identification or password without express authorization.
 - 3) Use of computing facilities and resources to interfere with the work of another Student or University Official.
 - 4) Any attempt to interfere with the normal operation of the University computing system.
 - 5) Use of computing facilities and resources in Violation of copyright laws.
 - 6) Use of the University e-mail system in Violation of FGCU Policy 3.021, Email, where that policy applies to Students.
 - 7) Misuse of any technical equipment, resource, or infrastructure in Violation of FGCU Policy 3.022, Technology Acceptable Use Policy and Procedure.

6. Standards Related to the Administration of the Code

- a. **Failing to Comply with Interim Measures:** Failure to comply with the requirements imposed in conjunction with an interim measure as described in Article C.
- b. **Retaliation:** Adverse actions taken by or on behalf of the Respondent Student or Organization against an individual because of his or her participation in the Disciplinary Proceeding.
- c. **False Statements or Complaints:** Making untrue or distorted statements, or omitting or misrepresenting information during proceedings under this Code, including knowingly initiating a false Complaint.
- d. **Discouraging a Complaint:** Deterring or attempting to deter any person from filing a Complaint alleging a Violation of this Code.
- e. **Influencing a Witness:** Any intentional act which attempts to discourage, interfere with, or otherwise alter or inhibit the testimony of any person identified as a Witness in any Adjudication under the Code.
- f. **Influencing a Hearing Officer:** Any intentional act which attempts to intimidate or influence a Hearing Officer or other person Charged with administering any portion of this Code.
- g. **Subversion of the Process:** Any intentional act by a Hearing Officer, SCC or RCC member, Appeals Officer, or other person Charged with administering any portion of this Code with intent to inappropriately influence any investigation, Adjudication, or appeal.
- h. **Noncompliance:** Failing to comply with a sanction or any provision, limitation, or other restriction issued in conjunction with an ongoing or completed Adjudication.

7. Other Standards of Conduct

- a. **Aiding and Abetting:** A person assisting in any Violation of this Code.
- b. **Complicity:** To be associated with or to be present during the commission of any act by another that constitutes a Violation of University regulation or policy or if the behavior is considered to constitute permission, to contribute to, or to condone a Violation of a University regulation or policy.
- c. **Responsibility for Guest(s) of Student or Organization:** Actions taken by a Guest shall be the responsibility of the host Student or RSO.

- d. Alleged Violation of Federal, State, or Local Laws: Violation of any federal, state, or local law, rule, regulation, or ordinance.
- e. University Designated Student Residence Violations: Violations of any policy or regulation governing University Housing, as well as the University Housing rental agreement, as described in the Housing and Residence Life Community Guidebook which are incorporated by reference into this Code.

C. Interim Measures

1. If the Dean of Students, or designee, has reasonable cause to believe a Student poses a serious and direct threat to the safety or well-being of one (1) or more members of the University Community or to the continued effective operation of the University, an interim measure may be imposed to mitigate or remove the threat. In the case of Title IX alleged Violations, interim measures (or supportive measures), will be based on an individualized safety and risk analysis, where it is determined that an immediate threat to the physical health or safety of any Student or other individual arising from the allegations of Sexual Harassment justifies removal, and in such case, the Dean of Students, or designee, will provide the Student Respondent or Organization with Notice and an opportunity to challenge the decision immediately following the removal. Any interim measure is temporary and shall only be enforced until the completion of Adjudication.
2. Issuance of Interim Measures
 - a. Upon Notice of a Student's actions which pose a serious and direct threat to the safety or well-being of one or more members of the University Community, the Dean of Students, or designee, will base the decision to impose interim measures on the Student on an individualized assessment taking into account all available information and determine what measure, if any, is appropriate to mitigate or remove the threat.
 - b. Interim Measures for Students
 - 1) The decision to suspend the rights of a Student for an interim period will be communicated to the Student's University e-mail account and will become effective upon Notice to the Student, and in the case of Title IX alleged Violations, will provide Notice of the Student's right to an immediate appeal of the decision. This Notice will include the date, time, and location of the Hearing on the alleged Violations or on the basis of the interim measures. Failure or refusal to accept, access, or read the Notice will not invalidate or postpone this action, alter the date and time of the scheduled Hearing, or be considered as a basis for Appeal.
 - 2) The University will maintain consistent contact with the parties to ensure that all safety, emotional, and physical well-being concerns are being addressed. The

Dean of Students, or designee, in consultation with the Office of Institutional Equity and Compliance (OIEC) where an Complainant is involved, may place any appropriate restriction, limitation, or condition on a Student's activity, including, but not limited to, banning a Student from or limiting a Student from accessing any or all areas of University Premises; limiting a Student's access to University services; restricting or denying a Student's participation in University sponsored activities; and issuing an order of no contact with respect to University Officials or Students on University Premises or at University-sponsored events; or requiring or prohibiting certain specified activities.

- 3) Interim measures shall remain in effect until a final decision has been made on the Complaint or until the Dean of Students, or designee, determines that the reason for imposing an interim measure no longer exists, or in accordance with C.4.c.
- 4) In cases which are being investigated under Article D.3, the University will provide to the alleged Complainant copies of all correspondence related to the interim measures sent to the Respondent Student that relate to the alleged Complainant, take steps to prevent the recurrence of any harassment, correct any discriminatory effects on the Complainant and other alleged Complainants, and may implement interim measures as are appropriate and as required by law, which may include those listed above as well as other remedial measures as listed in Article D.3.
- 5) If an interim measure implemented is a suspension, which lasts for more than ten (10) 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.

3. Interim Measures for Organizations

- a. The decision to suspend the rights of an Organization for an interim period will be communicated via email to the president of the Organization to his or her University email account and will become effective upon Notice to the Organization. This Notice will include the date, time, and location of a meeting to discuss the alleged Violations and a timeline for investigation and Adjudication. Failure or refusal to accept, access, or read the notification will not invalidate or postpone this action, alter the date and time of the Adjudication, or be considered as a basis for appeal.
- b. The Dean of Students, or designee, may place any appropriate restriction, limitation, or condition on an Organization's activity, including, but not limited to, an immediate ban of all activities, programs, social events, funding requests, and budget expenditures of the Organization. If an interim suspension is upheld on appeal, the Organization may petition the Dean of Students, or designee, to be allowed to conduct business meetings while awaiting Adjudication of the alleged Violation of the Code.

- c. Interim measures shall remain in effect until a final decision has been made on the Complaint or until the Dean of Students, or designee, determines that the reason for imposing an interim measure no longer exists, or in accordance with C.4.c.
- d. In cases which are being investigated under Article D.3., the University will provide copies to the Complainant of all correspondence sent to the Respondent Organization, take steps to prevent the recurrence of any harassment, correct any discriminatory effects on the Complainant and other Complainants, and may implement interim measures as are appropriate and as required by law, which may include those listed above as well as other remedial measures as listed in Article D.3.

4. Appeals of Interim Measures

- a. An appeal may be submitted at any time during the period of the interim measures.
- b. An appeal of any interim measures will be heard by the Vice President for Student Success and Enrollment Management, or designee, within three (3) Days of receipt of an appeal by the Office of Student Conduct. The appeal may be delayed due to a semester break or closing of the University. The appeal of the interim measure must be based upon one of the following:
 - 1) An egregious error pertaining to the Respondent Student or Organization's involvement; or
 - 2) A contention that the Violation, even if proven, does not pose a threat to the safety or well-being of one or more members of the University Community, or to the continued effective operation of the University.
- c. If it is determined by the Vice President for Student Success and Enrollment Management, or designee, that an interim measure is not appropriate, the Respondent Student or Organization's status will be reinstated pending Adjudication under the relevant procedures as described in Article D of the Code.
- d. The Vice President for Student Success and Enrollment Management, or designee, at his or her discretion, may modify or impose a less restrictive interim measure as an outcome of an appeal.

D. Procedures for Adjudication

1. Generally Applicable Procedures

- a. Administrative Process: The Code is an administrative rather than a judicial process and as such, legal concepts, definitions, limits, objections, processes, procedures, regulations, and standards, including the Florida Evidence Code, the Florida Rules of

Civil Procedure, and the Florida Rules of Criminal Procedure do not apply unless otherwise expressly noted in this Code or required by law. The Adjudication of an alleged Violation of the Code will be conducted without regard for concurrent legal proceedings or timelines.

- b. Notice: Students are responsible for maintaining, updating, and regularly checking their University provided email account. Messages sent to a Student's University provided email account will constitute official Notice for the purposes of this Code. Email is the University's official communication with Students and it is an expectation that Students maintain responsibility for checking their email. In some cases, hand delivery may be used in addition to email.
- c. Timeliness of Reporting: All allegations of Violations of the Code must be reported within six (6) months of the date the alleged Violation occurred, except in cases which are alleging a Violation of Articles B.2.a., B.2.b.2), B.2.b.3), B.2.b.4), and B.2.b.5) for which there is no time limit. This limit may be waived in writing by the Dean of Students for good cause. However, in no case, except those identified above, will an alleged Violation be charged more than six (6) months after a University Official becomes aware of the Violation and the identity of the respondent.
- d. Deviations from Established Procedures: The procedures in the Code are designed to promote fairness and will be adhered to as faithfully as possible. If exceptional circumstances necessitate deviation from these procedures, such deviation shall not invalidate the outcome of the process unless the fundamental right to a fair Hearing or another legal right has been denied.
- e. Standard of Proof: The standard of proof necessary for a determination that a Violation of any provision of this Code has occurred is a preponderance of the evidence. This means the information presented supports the finding that the Violation more likely than not occurred. All Hearings shall be conducted on the basis that the Respondent Student or Organization is not in Violation. The burden of proof shall not be upon the Respondent Student or Organization who is subject to the Hearing.
- f. Enrollment During Adjudication: Except as noted in Article C, the Student's enrollment status shall remain unchanged pending the University's final decision in the matter. The Adjudication process shall continue without regard to a Student's decision to withdraw from classes at any point between the alleged Violation and the final decision. In the event that a Student has withdrawn from the course prior to the completion of Adjudication, and is found responsible for an Academic Integrity Violation, the Student will be restored to the class roster and a Hold will be placed which will prevent the Student from withdrawing from the course in question. All pending disciplinary matters for a Respondent Student must be resolved prior to the awarding of any degree or certificate. The University will not unreasonably delay the resolution of outstanding disciplinary matters when a Respondent Student has

completed all requirements for the awarding of his or her degree or certification.

- g. Freedom From Self-Incrimination: No participant in the Adjudicative process, including the Respondent Student or Organization, Complainant, or Witness will be required to present testimony that is self-incriminating. The option of a Respondent Student or Organization, or Complainant, to avail themselves of this provision will not be considered as an admission of responsibility. The University will proceed, without regard for a Student's choice to invoke this provision, to make a determination as to responsibility based upon the information available at the time of the Hearing. A Student's choice to omit information in relation to this provision will not be considered as grounds for appeal under Article F.
- h. Advisors
 - 1) The Respondent Student or Organization may have, at his or her own expense and initiative, one (1) Advisor present at all meetings and official proceedings. The Student is responsible for completing all required documentation including a Release of Education Records to a Third Party, with the Office of Student Conduct, should they wish their Advisor to have access to their records.
 - 2) Students must provide Notice to the University if they choose to use an attorney as an Advisor at least two (2) Days prior to the Hearing. If this Notice is not provided, the Student may be required to select a non-attorney Advisor or proceed without an Advisor, except in Title IX cases in which an Advisor will be provided if the Respondent Student or Organization, or Complainant, does not have an Advisor.
 - 3) The Advisor may be present, but shall not speak for, or present the case for, the Student or otherwise participate directly in the meeting or proceeding, except as provided in this Regulation during an Adjudication based upon allegations of Violations of Title IX. An Advisor may not provide a statement as a Witness.
 - 4) It is the Student's responsibility to make appropriate arrangements for the Advisor to attend the Hearing. A Hearing will not be delayed or rescheduled based on the unavailability of an Advisor.
 - 5) The University will directly communicate with the Respondent Student or Organization about the case. It is the responsibility of the Respondent Student or Organization to relay information about the case to his or her Advisor in the Adjudicative process.
 - 6) In cases involving Title IX, a Respondent Student or Organization, and Complainant may be accompanied by an Advisor of their choosing at the Hearing; but must be represented by an Advisor for purposes of cross-questioning of the other party and Witness(es). If a party does not have an Advisor of their choosing

present at the Hearing, the University shall provide an Advisor of the University's choosing to conduct cross-questioning on the party's behalf.

i. Witnesses

- 1) The University may request the attendance at a Hearing of any Witnesses who may have information regarding the alleged Violations. The names of all requested Witnesses will be included in the record of the Adjudication.
- 2) A Respondent Student or Organization may call Witnesses to speak on their behalf. Notice of the names of Witnesses is not required for Administrative Hearings.
- 3) A Witness must have actual knowledge pertaining to the alleged Violations. A Witness who can only provide second-hand information or who is speaking only to the character of the Respondent Student or Organization or to the character of any party will not be allowed to present information.
- 4) Cross-questioning of Witnesses will occur at the sole discretion of the SCC or RCC Chair or Hearing Officer, who may place reasonable restrictions on the subject matter, length and format of questioning. If the Chair denies a request to cross-question a Witness, a reason for the decision will be provided either in writing or verbally on the official recording, and placed in the conduct record for the case under Adjudication. In Title IX cases, cross-questioning of the other party and Witness(es) will occur by the Advisor. All cross-questioning of the parties and Witnesses must be conducted directly and orally by a party's Advisor. At the Hearing, before a party or Witness can respond to a question posed by an Advisor, the University Official or panel of officials must first determine whether the question is relevant, and if not, explain the basis for disallowing the question.
- 5) At the request of the Respondent Student or Organization, a Witness may be questioned, or at the discretion of the Hearing Officer or Dean of Students, or designee, Witness statements may be taken at a different time or location from the Hearing or may be submitted in writing. In such cases, a video or audio recording or copy of written statements will be made available to the Respondent Student or Organization. In Title IX cases, all questioning must occur at a live Hearing. Information protected under a privilege recognized by state or federal law cannot be disclosed, used, or relied upon unless the person who holds the right to exercise the privilege waives the application of the privilege. Any Hearing that is conducted virtually through technology shall enable the parties to simultaneously see and hear each other.
- 6) The failure or refusal of a Witness to present information at a Hearing, following a request by the Respondent Student or Organization or the University, shall not be grounds for appeal or delay of the Hearing unless the name or existence of the

Witness was not available to both the Hearing Officer and the Respondent Student or Organization. In a Title IX case, if a party or Witness does not submit to cross-questioning at the live Hearing, the Decision-Maker(s) must not rely on any statement of that party or Witness in reaching a determination regarding responsibility; provided, however, that the Decision-Maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or Witness's absence from the live Hearing or refusal to answer cross-questioning or other questions.

2. Adjudication of Cases of Academic Integrity Violations

When a faculty member believes there to be sufficient evidence that an academic integrity Violation may have occurred, the following procedures will apply.

- a. Determination of Prior Record: The faculty member of record will contact the Office of Student Conduct via email with the Student's name and University Identification Number (UIN) to determine if the Student has a prior academic integrity Violation. Only emails sent from the faculty's University email account can be accepted.
- b. Resolution by Faculty Hearing
 - 1) In cases where the Student does not have a prior history of academic integrity Violations, the faculty member of record for the class communicates with the Respondent Student and informs him or her of the allegations against them and initiates a meeting with the Student to discuss the allegation. This meeting will include a review of the Charges, evidence, and proposed sanction(s). This meeting can take place in person or through any form of electronic means which are mutually agreed upon by the Student and faculty member.
 - 2) If, following this meeting, the faculty member determines that there is insufficient evidence to move forward with the case, the faculty will notify the Office of Student Conduct of this resolution for tracking and statistical purposes by completing the Faculty Referral and Summary Adjudication form.
 - 3) If the Respondent Student accepts responsibility for the academic integrity Violation, the faculty member will ensure that the Student completes the Student Responsibility for Faculty Summary Resolution of Academic Integrity Violation form and the Student will receive an academic sanction determined by the faculty member of record, which may include a failing grade in the class. After completing this meeting, the faculty member completes the Faculty Referral and Summary Adjudication form. The completed Faculty Referral and Summary Adjudication form is then submitted to the Office of Student Conduct to be included in the Student's conduct file and the matter will be considered resolved.

- 4) If a faculty resolution between the faculty member and the Student cannot be reached, the faculty member will refer the matter to the Office of Student Conduct for resolution under the procedures listed below.
- c. Faculty Referral
- 1) If the allegations are complex or egregious in nature, the alleged Violation is not limited to a single course, the Student has previously been found to have committed an academic integrity Violation or if, after the faculty member of record communicates with, and informs the Student of, the allegation against him or her, the Student denies responsibility for the alleged Violations, the faculty member will meet with the Student to inform them that the matter is being referred to the Office of Student Conduct and will complete a Faculty Referral/Summary Adjudication form and submit the form to the Office of Student Conduct. The matter will be addressed by the Office of Student Conduct which will coordinate an academic integrity Hearing. The Office of Student Conduct will investigate the allegation and coordinate the Hearing process through the AIC.
 - 2) In cases which are determined to be complex, involve allegations of academic integrity Violations in multiple courses, or which may involve multiple Students alleged of collaborating in one or more Violations, at the discretion of the Dean of Students, the University may determine the type of Hearing to be utilized in resolving the case.
- d. Academic Integrity Committee Hearing Process
- 1) The Respondent Student shall receive written Notice of the date, time, and location of the AIC Hearing. This Notice will include the name and UIN of the Respondent Student, the date and approximate location of the alleged Violation, if available, a listing of the alleged Violations of the Code, and contact information for the Hearing Officer or Facilitator of the committee reviewing the case. Additionally, the Notice will include specific references to the applicable section of the Code, the procedures to be used in adjudicating the Violation, and the rights of the Respondent Student.
 - 2) The AIC will hear the case and make a determination of whether there is a preponderance of information to find the Respondent Student responsible for academic integrity Violations. If the AIC is unable to come to a majority decision on any Charge, a finding of not responsible will be entered for that Charge.
 - 3) The Dean of Students will receive the decision of the AIC, and if there is a determination of responsibility, the recommended sanctions of the AIC. The Dean of Students may modify or alter the recommended sanctions, at his or her discretion, but shall provide a written explanation of the modifications. The

outcome letter shall include the determination of responsibility, the recommended sanctions, as well as any modifications or alteration of the recommended sanctions, which shall be sent to the Respondent Student and faculty of record within five (5) Days of the date of the Hearing.

- 4) After the determination by the Dean of Students, as needed, the faculty of record will assign the Student a final grade (which may include a failing course grade). The faculty member will then, if necessary, process the appropriate grade change with the Office of Records and Registration.
 - 5) The Respondent Students has the right to appeal a decision of the AIC in accordance with the appeal procedure provided for in Article F.
 - 6) In the event that the AIC fails to have quorum, or if it is impractical to convene the AIC within a reasonable period of time due to circumstances outside the control of the Office of Student Conduct, the case may be heard and decided by the Dean of Students, or designee.
- e. Academic Integrity Committee Composition: The AIC is coordinated by the Office of Student Conduct to resolve cases of alleged Academic Integrity referred by the faculty. It is comprised of faculty and Students as follows:
- 1) The Assistant Dean of Students for Student Conduct, or designee, serves as Facilitator to the AIC to coordinate the Hearing process and to assist the committee in conducting the Hearing in accordance with this Code. The Facilitator will not ask questions during the process, will not participate in deliberations, and will not vote on the final outcome.
 - 2) When a Respondent Student or Organization is referred for a Hearing, the Office of Student Conduct or University Housing convenes a committee from the pool of faculty and Student members of the University Community to service on the AIC.
 - 3) The Chair of each Hearing will be selected from the AIC members comprising the AIC for that case and shall serve as a voting member.
- f. If a Student is found responsible for a Violation of academic integrity, a Hold will be placed on the Student's account preventing the Student from withdrawing from the course and the Student will not be eligible to utilize the grade forgiveness process for the course. In the event the Student has withdrawn from the course prior to the completion of Adjudication, the Student will be restored to the class roster. The faculty member is responsible for notifying the Student that he or she has been reenrolled in the course.
3. Provisions Related to Adjudications Involving Complainant: At no time in any Disciplinary Proceeding will the prior conduct, including sexual conduct, of a

Complainant be considered, evaluated, questioned, or reviewed except as it may relate directly to interactions between the Respondent Student or Organization and Complainant in the context of the alleged Violation. The Dean of Students or designee, may at his or her discretion, choose not to pursue Charges against Complainants for Violations of Code, including, but not limited to, standards relating to alcohol or drug use.

a. Charges

When the Office of Student Conduct receives information from any source which alleges that a Violation of one of the standards in this section has occurred, the Office of Student Conduct will receive this information, as well as any other information which may be available, and forward this information to the OIEC for review. The OIEC shall review the information, complete its investigative process, and shall notify the Office of Student Conduct of the following outcomes:

- 1) **Insufficient Information for Charges:** In cases where the OIEC has determined that there is not sufficient information that any Violation of standards of conduct addressed in Articles B.2.a., B.2.b.2), B.2.b.3), B.2.b.4), and B.2.b.5) of the Code has occurred, the case will be reviewed by the Office of Student Conduct and, if other potential Violations of the Code are present, the Office of Student Conduct may initiate the Adjudication process. If there is insufficient information to support allegations that other Violations occurred, the report will be closed without Charges.
- 2) **Sufficient Information for Charges:** In cases where the OIEC has determined that there is sufficient information that one or more Violation of standards of conduct addressed in Articles B.2.a., B.2.b.2), B.2.b.3), B.2.b.4), and B.2.b.5) of the Code has occurred, all information, including an investigative report, will be communicated to the Office of Student Conduct for Adjudication.
- 3) **No Charges to Be Filed:** If a Complainant has requested that the alleged Violations of the Code not be Adjudicated and, after an analysis of the totality of the circumstances, the OIEC agrees with the course of action, the Office of Student Conduct will close the case without Charges.

b. Amnesty Provision for Students

- 1) Allegations of off-campus conduct alleging Violations of section B.2 of this Code of Conduct should be brought to the University's attention as soon as possible, regardless of whether or not it occurred at a University-sponsored event. Therefore, Students who make a good faith report, on their own behalf or on behalf of another person, of Violations of B.2 of this Code of Conduct may not be subject to disciplinary actions related to intoxication or possession under the Student Code of Conduct in connection with the reported situation, provided that any such Violations did not, and do not, place the health or safety of any other

person at risk.

- 2) Students should understand that this directive applies only to this Code and does not preclude or prevent action by police or other legal authorities. As such, any Violation of federal or state criminal law involving the use or possession of alcohol or illegal drugs may result in prosecution, and FGCU cannot grant amnesty from proceedings in the federal or state criminal justice system.
- 3) Law enforcement agencies may act within their jurisdiction in enforcing any applicable federal, state, or local laws.

c. Notice and Scheduling of Disciplinary Proceedings

- 1) The Respondent Student or Organization and Complainant will be given Notice of the alleged Violation(s) of the Code through e-mail to their University-issued email address.
- 2) The Notice will include the name and UIN of the Respondent Student or Organization, the date and approximate location of the alleged Violation, if available, a listing of the alleged Violations of the Code, and contact information for the Hearing Officer reviewing the case. Additionally, the Notice will include specific reference to the applicable section of the Code, the procedures to be used in adjudicating the Violation, and the rights of the Respondent Student or Organization and Complainant.
- 3) The Notice will also inform the Respondent Student or Organization and Complainant of the date, time, and location for a Hearing to resolve the matter. This Hearing will be scheduled at least five (5) but no more than fifteen (15) Days from the date of the Notice and will be scheduled to avoid conflicting with any registered class, examination, or other academic commitment. Other conflicts may be accommodated at the discretion of the Hearing Officer.
- 4) At the discretion of the Dean of Students, or designee, a case may be directly assigned to the SCC or RCC for Adjudication.
- 5) The Respondent Student or Organization may request to be notified of the selection of the Hearing Officer or SCC or RCC members for the case and shall have the opportunity to challenge the impartiality of the individual(s). The Respondent Student or Organization shall state via email the basis for such challenge at least two (2) Days prior to the Hearing date. The Dean of Students, or designee, shall determine whether the challenge is valid. If the challenge is found valid and is accepted, the Hearing will be reassigned to another Hearing Officer or the committee member removed, as appropriate.

- 6) The Respondent Student or Organization will have the right to request a conduct review conference be scheduled prior to the scheduled date of the Hearing. The purpose of this conference will be to allow the Respondent Student or Organization to discuss the Charges, their rights and options in the Hearing process, and to inspect any and all documents and information relating to the Charges. In Title IX cases, the Respondent Student or Organization and Complainant are required to be provided a conduct review conference prior to the scheduled date of the Hearing. Failure to attend or request to reschedule prior to a scheduled Hearing will result in forfeiture of the opportunity for a conduct review conference.
- 7) The Respondent Student or Organization, or Complainant, will have the right to reschedule this Hearing to another, mutually agreeable date. The meeting must be rescheduled within thirty (30) calendar Days of the date of the original Notice. The process will not be postponed exclusively to accommodate requests for records or documents not held by the Office of Student Conduct.
- 8) At any point, up to the date and time of the Hearing scheduled in the original Notice, or the date and time of the rescheduled Hearing, if applicable, the Respondent Student or Organization may notify the Hearing Officer that they wish to exercise their right to have the Hearing held before the SCC or RCC.
- 9) At the request of the Respondent Student or Organization, any Disciplinary Proceeding may be held virtually, either through the use of written statements via email, or through other telephonic or technological means which are mutually agreeable to the Dean of Students, or designee, and the Respondent Student or Organization. Upon request by the Student Respondent or Organization, Complainant, or Witnesses, the University may permit an individual to provide relevant information during the Disciplinary Proceeding virtually if mutually agreeable to the requesting party and the Dean of Students, or designee. In Title IX cases, this individual may be cross-questioned by the Advisor. Any Hearing that is conducted virtually through technology shall enable the parties to simultaneously see and hear each other.
- 10) If the Respondent Student or Organization fails to appear at the Hearing at the date, time, and location listed in the Notice, does not avail themselves of their rights under Articles D.4.b.6) and D.4.b.7), or does not appear at any other scheduled or mutually agreed upon Hearing, the Hearing will be held in their absence.

d. Administrative Hearings

- 1) All Administrative Hearings will be digitally recorded by the Hearing Officer where the Respondent Student or Organization has the potential for receiving a sanction of suspension or expulsion from the University and will serve as the sole

official verbatim record of the Disciplinary Proceeding. Any other recordings, including videotaping, of any Hearing is prohibited except to the extent necessary to facilitate Witness statements or the remote participation of one or more parties through technological means. In Title IX cases, all hearings will be digitally recorded by the hearing officer.

- 2) During the Hearing, the Respondent Student or Organization and Complainant may present any information which they believe to be relevant to the alleged Violations of the Code. The Respondent Student or Organization, the Complainant, and the University will also be permitted to present any Witnesses they believe to be relevant, subject to the limitations described in Article D.1.h. The Hearing Officer will also have the opportunity to ask any questions which he or she believes to be relevant.
- 3) All cross-questioning between the Respondent Student or Organization and Complainant will be through the submittal of questions in writing to the Hearing Officer who will have discretion as to which questions, if any, will be asked, and who will exercise discretion in selecting questions that are relevant, appropriate, not duplicative, and do not violate the rights afforded under the Code to the individual being questioned. All questions submitted will be included in the record for the Hearing. In Title IX cases, the Respondent Student or Organization, and Complainant, may be accompanied by an Advisor of their choosing at the Hearing; but must be represented by an Advisor for purposes of cross-questioning of the other party and Witnesses. If a party does not have an Advisor of their choosing present at the Hearing, the University shall provide an Advisor of the University's choosing to conduct cross-questioning on the party's behalf. All cross-questioning of the parties and Witnesses must be conducted directly and orally by a party's Advisor. At the Hearing, before a party or Witness can respond to a question posed by an Advisor, the University Official or panel of officials must first determine whether the question is relevant, and if not, explain the basis for disallowing the question.
- 4) At the request of the Respondent Student or Organization or Complainant, the Hearing Officer may consider structuring the Hearing in such a manner that neither party is physically present in the same location at the same time, using telephonic, technological, or other means. In Title IX cases, all questioning must occur at a live Hearing. Information protected under a privilege recognized by federal or state law cannot be disclosed, used, or relied upon unless the person who holds the right to exercise the privilege waives the application of the privilege. Any Hearing that is conducted virtually through technology shall enable the parties to simultaneously see and hear each other.
- 5) Previously unknown or undisclosed information that concerns potential Violations of the Code obtained in a Hearing may result in additional Charges and potentially result in another Hearing.

- 6) Previous Violations and Impacted Persons statements are to be considered only in the sanction phase of deliberations.
 - 7) In cases where multiple Students and/or Organizations are Charged, information provided at one Hearing may be used as evidence in the related cases(s). When the Hearing Officer determines the facts and circumstances of an incident involving more than one individual are interrelated, a Hearing Officer may join the individual cases into one case in order to expedite it and to share evidence. However, the written agreement of all Respondent Students or Organizations and Complainants in the case must be obtained to join the cases and in no instances will cases of sexual misconduct be joined with a case not involving sexual misconduct.
 - 8) After the conclusion of the Hearing, the Hearing Officer will communicate the outcome of the Adjudication in writing to the Respondent Student or Organization and Complainant within five (5) Days of the date of the Adjudication. The notification of outcome will inform the parties of both the findings of the Adjudication and any sanctions which have been imposed, as well as the completion or due date of each sanction. In situations of multiple Respondent Students or Organizations related to a single or series of incidents, the outcome of the Hearings may be communicated within five (5) Days of the last Respondent Student or Organization's Hearing.
- e. Hearings by the Student Conduct Committee
- 1) SCC Composition
 - a) The Dean of Students, or designee, shall appoint a Facilitator to the SCC to coordinate the Hearing process and to assist the SCC in complying with the Hearing procedures under the Code. The Facilitator will not ask questions during the Disciplinary Proceeding, will not participate in deliberations, and will not vote on the final outcome.
 - b) When a Student or Organization is referred for a Hearing, the Office of Student Conduct convenes a SCC from the pool of members of the University Community who have received specialized training in this type of Hearing to serve on the SCC.
 - c) The Chair of each Hearing will be selected from the committee members comprising the SCC and shall serve as a voting member. At no time shall less than fifty percent (50%) of the voting members be Students.
 - d) All SCC Hearings will be digitally recorded by the Facilitator. This recording will serve as the sole official verbatim record of the Disciplinary Proceeding.

Any other recordings, including videotaping, of any Hearing is prohibited except by an authorized University Official, to the extent necessary to facilitate Witness statements or the remote participation of one or more parties through technological means. In Title IX cases, all hearings will be digitally recorded by the hearing officer.

- e) During the Hearing, the Respondent Student or Organization will be given an opportunity to accept or deny responsibility for each Charge and the Respondent Student or Organization and Complainant will be given an opportunity to present any information that they believe to be relevant to the alleged Violations of the Code. Both the Respondent Student or Organization, Complainant, and the University will also be permitted to present any Witnesses they believe to be relevant, subject to the limitations described in Article D.1.h. The SCC members will also have the opportunity to ask questions, subject to the discretion of the Chair.
- f) All cross-questioning between the Respondent Student or Organization and Complainant will be through the submittal of written questions submitted to the Chair who will have sole discretion as to which questions, if any, will be asked. All questions submitted will be included in the record for the Hearing. In Title IX cases, each Complainant or Respondent Student or Organization may be accompanied by an Advisor of their choosing at the Hearing; but must be represented by an Advisor for purposes of cross-questioning of the other party and Witnesses. If a party does not have an Advisor of their choosing present at the Hearing, the University shall provide an Advisor of the University's choosing to conduct cross-questioning on the party's behalf. All cross-questioning of the parties and Witnesses must be conducted directly and orally by a party's Advisor. At the Hearing, before a party or Witness can respond to a question posed by an Advisor, the University Official or panel of officials must first determine whether the question is relevant, and if not, explain the basis for disallowing the question.
- g) At the request of the Respondent Student or Organization and Complainant, the Chair may structure the Hearing in such a manner that neither party is physically present in the same location at the same time, using telephonic, technological, or other means, as determined appropriate by the Chair. In Title IX cases, all questioning must occur at a live Hearing. Information protected under a privilege recognized by federal or state law cannot be disclosed, used, or relied upon unless the person who holds the right to exercise the privilege waives the application of the privilege. Any Hearing that is conducted virtually through technology shall enable the parties to simultaneously see and hear each other.
- h) The Chair may limit the length of testimony of any Witness or participant in the Hearing if the information is redundant or irrelevant to the case.

2) Deliberations

- a) All persons are excused from the Hearing room for deliberations, except the SCC and the Facilitator. The Facilitator does not participate in the deliberations but may advise the Hearing Body as appropriate. Deliberations are not recorded.
- b) The SCC considers only information introduced in the Hearing. The decision of responsibility is based on whether the preponderance of information presented supports a decision that the alleged Violation more likely than not occurred, and is decided by a simple majority vote. In cases of a tie, the decision will be made in favor of the Respondent Student or Organization that the Respondent Student or Organization is not responsible.
- c) Previous Violations and Complainant statements are to be considered only in the sanctioning phase of deliberations.
- d) The decision of the SCC as to responsibility of the Respondent Student or Organization for the alleged Violations and recommended sanctions is given, in writing, to the Facilitator and then to the Dean of Students, or designee.
- e) The Dean of Students, or designee, may modify or alter the recommended sanctions, at his or her discretion, but shall provide a detailed explanation of the modifications, to include the assigned sanctions and the rationale for any and all alterations, in the outcome letter.
- f) Following the Hearing, the Dean of Students, or designee, will communicate the outcome of the Adjudication in writing to the Respondent Student or Organization and Complainant, if one is present in the case, within five (5) Days of the date of the Adjudication. The notification of outcome will inform the Respondent Student or Organization of both the findings of the Adjudication and each sanction which has been imposed as well as the completion or due date of each sanction, if applicable. In situations in which multiple Respondent Students or Organization have been found responsible for Violations of the Code related to a single or series of related incidents, the outcome of the Hearings may be communicated within five (5) Days of the last Respondent Student or Organization's Hearing.
- g) The Respondent Student or Organization has the right to appeal a decision of the Chair of the SCC in accordance with the appeal procedure described in Article F.
- h) Any participant, including a Respondent Student or Organization and Complainant, or an Advisor, determined by the SCC to be unruly or disruptive

to the Disciplinary Hearing, will be removed from the Hearing. The Hearing will continue in their absence and their removal from the Hearing will not be considered grounds for appeal.

- i) If it is impractical to convene a quorum of the SCC within a reasonable period of time due to circumstances outside the control of the University, the case may be heard and decided by a Hearing Officer, unless objected to by the Respondent Student or Organization or Complainant.

4. Procedures for Adjudication of all Other Alleged Misconduct

a. Charges

When the Office of Student Conduct receives information from any source which indicates that a Violation of the Code may have occurred, the Office will review this information, as well as any other information which may be available. Upon review, if it is determined that there is sufficient information to indicate that a Code Violation may have occurred and to indicate that one or more Students or Organizations may have been involved, in any manner, Charges may be filed by the University and Notice will be provided to the Respondent Student or Organization consistent with this Code.

b. Notice and Scheduling of Disciplinary Proceedings

- 1) The Respondent Student or Organization will be given Notice of the alleged Violation(s) of the Code through e-mail to their University-issued email address.
- 2) The Notice will include the name and UIN of the Respondent Student or Organization, the date and approximate location of the alleged Violation, if available, a listing of the alleged Violations of the Code, and contact information for the Hearing Officer reviewing the case. Additionally, the Notice will include specific reference to the applicable section of the Code, the procedures to be used in adjudicating the Violation, and the rights of the Respondent Student or Organization and Complainant.
- 3) The Notice will also inform the Respondent Student or Organization of the date, time, and location for a Hearing to resolve the matter. This Hearing will be scheduled at least five (5) but no more than fifteen (15) Days from the date of the Notice and will be scheduled to avoid conflicting with any registered class, examination, or other academic commitment. Other conflicts may be accommodated at the discretion of the Hearing Officer.
- 4) At the discretion of the Dean of Students, or designee, a case may be directly assigned to the SCC or RCC for Adjudication.

- 5) The Respondent Student or Organization may request to be notified of the selection of the Hearing Officer or SCC or RCC members for the case and shall have the opportunity to challenge the impartiality of the individual(s). The Respondent Student or Organization shall state via email the basis for such challenge at least two (2) Days prior to the Hearing date. The Dean of Students, or designee, shall determine whether the challenge is valid. If the challenge is found valid and is accepted, the Hearing will be reassigned to another Hearing Officer or the committee member removed, as appropriate.
- 6) The Respondent Student or Organization will have the right to request a conduct review conference be scheduled prior to the scheduled date of the Hearing. The purpose of this conference will be to allow the Respondent Student or Organization to discuss the Charges, their rights and options in the Hearing process, and to inspect any and all documents and information relating to the Charges.
- 7) The Respondent Student or Organization will have the right to reschedule this Hearing to another, mutually agreeable date. The meeting must be rescheduled within thirty (30) calendar days of the date of the original Notice. The process will not be postponed exclusively to accommodate requests for records or documents not held by the Office of Student Conduct.
- 8) At any point, up to the date and time of the Hearing scheduled in the original Notice, or the date and time of the rescheduled Hearing, if applicable, the Respondent Student or Organization may notify the Hearing Officer that they wish to exercise their right to have the Hearing held before the SCC or RCC.
- 9) At the request of the Respondent Student or Organization, any Disciplinary Proceeding may be held virtually, either through the use of written statements via email, or through other telephonic or technological means which are mutually agreeable to the Dean of Students, or designee, and the Respondent Student or Organization.
- 10) If the Respondent Student or Organization fails to appear at the Hearing at the date, time, and location listed in the Notice, does not avail themselves of their rights under Articles D.4.b.6) and D.4.b.7), or does not appear at any other scheduled or mutually agreed upon Hearing, the Hearing will be held in their absence.

c. Administrative Hearings

- 1) All Administrative Hearings will be digitally recorded by the Hearing Officer where the Respondent Student or Organization has the potential for receiving a sanction of suspension or expulsion from the University and will serve as the sole official verbatim record of the Disciplinary Proceeding. Any other recordings,

including videotaping, of any Hearing is prohibited except to the extent necessary to facilitate Witness statements or the remote participation of one or more parties through technological means.

- 2) During the Hearing, the Respondent Student or Organization may present any information which they believe to be relevant to the alleged Violations of the Code. The Respondent Student or Organization and the University will also be permitted to present any Witnesses they believe to be relevant, subject to the limitations described in Article D.1.h. The Hearing Officer will also have the opportunity to ask any questions which he or she believes to be relevant.
 - 3) Previously unknown or undisclosed information that concerns potential Violations of the Code obtained in a Hearing may result in additional Charges and potentially result in another Hearing. If it is mutually agreed to by the Respondent Student or Organization and the Hearing Officer, this new Hearing may be waived, in writing, by the Respondent Student or Organization and the additional Charges disclosed in the current Disciplinary Proceeding may be addressed in the current Disciplinary Proceeding.
 - 4) Previous Violations and Impacted Persons statements, are to be considered only in the sanction phase of deliberations.
 - 5) In cases where multiple Students and/or Organizations are Charged, information provided at one Hearing may be used as evidence in the related cases(s). When the Hearing Officer determines the facts and circumstances of an incident involving more than one individual are interrelated, a Hearing Officer may join the individual cases into one case in order to expedite it and to share evidence. However, the written agreement of all Respondent Students or Organizations and Impacted Persons in the case must be obtained to join the cases and in no instances will cases of sexual misconduct be joined with a case not involving sexual misconduct.
 - 6) After the conclusion of the Hearing, the Hearing Officer will communicate the outcome of the Adjudication in writing to the Respondent Student or Organization within five (5) Days of the date of the Adjudication. The notification of outcome will inform the parties of both the findings of the Adjudication and any sanctions which have been imposed as well as the completion or due date of each sanction. In situations of multiple Respondent Students or Organizations related to a single or series of incidents, the outcome of the Hearings may be communicated within five (5) Days of the last Respondent Student or Organization's Hearing.
- d. Hearings by the Student Conduct Committee or Residential Conduct Committee

- 1) Committee Composition

- a) The Dean of Students, or designee, shall appoint a Facilitator to the SCC or RCC to coordinate the Hearing process and to assist the committee in conducting a Hearing consistent with the procedures contained in the Code. The Facilitator will not ask questions during the Hearing, will not participate in deliberations, and will not vote on the final outcome.
 - b) When a Student or Organization is referred for a Hearing, the Office of Student Conduct or University Housing convenes a committee from the pool of members of the University Community to serve on the SCC or RCC.
 - c) The Chair of each Hearing will be selected from the committee members comprising the SCC or RCC and may serve as a voting member. At no time shall less than fifty percent (50%) of the voting members be Students.
- 2) All SCC Hearings will be digitally recorded by the Facilitator and official notes of RCC Hearings will be taken by the Chair. This recording will serve as the sole official verbatim record of the Disciplinary Proceeding. All other recordings, including videotaping or audio recordings, of any Hearing is prohibited except to the extent necessary to facilitate Witness statements or the remote participation of one or more parties through technological means.
 - 3) During the Hearing, the Respondent Student or Organization will be given an opportunity to:
 - a) accept or deny responsibility for all Charges;
 - b) present an opening Student statement;
 - c) present Witnesses and question any Witnesses presented by either side subject to the limitations described in Article D.1.h.;
 - d) respond to questions presented by committee members; and
 - e) present a closing Student statement.
 - 4) The Chair may limit the length of testimony of any Witness or participant in the Hearing if the information is redundant or irrelevant to the case.
 - 5) Deliberations
 - a) All persons except the SCC/RCC members and the Facilitator are excused from the deliberations. Deliberations are not recorded.
 - b) The SCC/RCC considers only information introduced in the Hearing. The standard of proof necessary for a determination that a Violation of any

provision of this Code has occurred is a preponderance of the evidence. This means that the information presented supports the finding that is more likely than not that the Violation occurred and is decided by a simple majority vote. In cases of a tie, the decision will be made in favor of the Respondent Student or Organization.

- c) Prior records of disciplinary action, Complainant statements, and past criminal convictions are considered by the SCC/RCC only in the sanctioning phase of deliberations, if the Student is found responsible.
 - d) The decision of the SCC/RCC as to responsibility of the Respondent Student or Organization for the alleged Violations and recommended sanctions is given, in writing, to the Facilitator and then forwarded to the Dean of Students or designee.
- 6) The Dean of Students, or designee, will receive the determination of responsibility of the SCC or RCC as well as the recommended sanctions. The Dean of Students, or designee, may modify or alter the recommended sanctions, at their discretion, and shall provide an explanation of the modifications, in the outcome letter.
 - 7) The Dean of Students, or designee, will communicate the outcome of the Adjudication in writing to the Respondent Student or Organization within five (5) Days of the date of the Adjudication. The notification of outcome will notify the Respondent Student or Organization of both the findings of the Adjudication and any sanctions which have been imposed as well as the completion or due date of each sanction. In situations in which multiple Respondent Students or Organization related to a single or otherwise related incident, the outcome of the Hearings may be communicated within five (5) Days of the last Respondent Student or Organization's Hearing.
 - 8) Respondent Students or Organizations have the right to appeal a decision of the SCC or RCC in accordance with the appeal procedure described in Article F.
 - 9) Any participant, including Respondent Student or Organization or an Advisor, if determined by the Chair of the SCC or RCC to be unruly or disruptive to the Hearing, will be removed from the Hearing. The Hearing will continue in their absence and the removal will not be considered grounds for appeal.
 - 10) In the event that the SCC or RCC fails to reach quorum, or if it is impractical to convene the SCC or RCC within a reasonable period of time due to circumstances outside the control of the University, the case may be heard and decided by an appropriate Hearing Officer, including the Facilitator.

5. Waiver of Certain Rights: A Student may voluntarily waive one or more rights, including, but not limited to, the right to a Hearing, the right to call Witnesses, or the right to an Advisor, in order to take part in an expedited Hearing process. The choice to waive or exercise any right granted under this Code shall not affect the outcome of the Hearing or any sanctions, if applicable, and is not grounds for appeal.

E. Sanctioning

The Dean of Students, or designee, may impose one or more of the following sanctions upon any Respondent Student or Organization being found to be responsible for a Violation of the Code.

1. Academic Sanctions

- a. Academic Reprimand: A written warning that behaviors exhibited are inconsistent with the values and standards set forth by the University and are not acceptable behavior for Students of the University and that any penalties assessed by the faculty member are sufficient to address the Violation.
- b. Recommended Adjustment of Course Grade: A recommendation to the faculty member of record that the AIC finds reduction in letter grade for the course in which a Violation occurred is appropriate.
- c. Recommended Failure of a Course: A recommendation to the faculty member of record that the AIC finds a grade of F assigned for the course in which the Violation occurred is appropriate.
- d. Educational Sanction: Following an Academic Integrity Hearing, the Dean of Students, or designee, may impose any educationally based sanction, including but not limited to, those detailed in Article E.2.b.
- e. 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 academic suspension, a Hold will be placed on a Student's record to prevent registration. All other assigned educational sanctions must be completed prior to the restoration of Student privileges; otherwise, the academic suspension will remain in effect. A suspended Student is not permitted on University Premises during the length of his or her suspension. If a suspended Student is found on University Premises, the University Police will be notified. This sanction may only be imposed by the Dean of Students, or designee.

- f. **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. This sanction may only be imposed by the Dean of Students, or designee
- g. **Revocation of Degree:** Revocation of a previously awarded academic degree. This sanction may only be imposed in situations where it has been determined a degree was obtained as a result of fraud or a significant portion of the work submitted in fulfillment of, and indispensable to the attainment of, said degree was obtained via one or more academic integrity Violations. This sanction may only be imposed by the Dean of Students, or designee.

2. Administrative Sanctions

- a. **Alteration of Student Status:** These sanctions alter a Student's fundamental relationship with the University.
 - 1) **Reprimand:** An official written disciplinary warning that the Student's behavior is in Violation of the Code, and that if the Student is subsequently found in Violation of a similar policy, additional sanctions may be imposed.
 - 2) **Probation:** A period of time during which the Student is considered not in Good Disciplinary 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, denial of the privilege to occupy a position of leadership or responsibility in any University RSO, publication, or activity or ability to represent the University in an official capacity or position. If the Student is found responsible for another Violation of the Code during the period of Probation, a sanction of suspension or expulsion from the University may be imposed.
 - 3) **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.

- 4) **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. Any sanction may be issued in a conditional status, contingent upon compliance with a designated set of conditions, including appropriate future conduct for an established period of time. In these situations, failure to comply with the designated conditions will result in the enactment of the conditional sanction immediately. Conditional sanctions may only be appealed at the time of issuance. Appeals at the time of implementation will not be considered timely and will not be heard.
 - 5. 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.
 - 6. 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.

7. 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 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.
- b. The appeal of the outcome of a Hearing by the RCC shall be considered by the Associate Director for Residence Education, or designee.
- c. 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, they must also provide a copy of the petition to the following university office or official: 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 Regulation) 08/11/20*

*Approved by Florida Gulf Coast University Board of Trustees
August 11, 2020*