



FGCU REGULATION 4.002

Student Code of Conduct and Student Conduct Review Process

*Effective Date
of Regulation*

June 13, 2023

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. The University, in accordance with the Board of Governors State University System Free Expression Statement, adopted a Statement of Free Expression on May 11, 2022:

Florida Gulf Coast University vigorously protects freedom of inquiry and expression and categorically expects civility and mutual respect to be practiced by faculty, students, and staff in all deliberations on its campus. As such, the FGCU Community as well as the Florida Gulf Coast University Board of Trustees shares the commitment of the State University System of Florida and the Florida Board of Governors to civil discourse and endorses their commitment with this Statement of Free Expression.

This Statement supports the Code's purpose to promote a positive education

environment in which Students are encouraged to learn and develop as citizens and scholars.

- c. 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.
- d. 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 through the Office of Student Conduct 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 Preg

- 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 on which classes are held. Saturday class Days will not be counted in establishing time periods under the Code.
 - n. *Decision Maker*: A University Official or panel, or designee of a University Official, designated to conduct sessions, 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 Proceeding*: Any session, meeting, conference, or Hearing which occurs in the course of adjudicating one (1) or more alleged Violations of this Code and including cases alleging Violation of Title IX.
 - p. *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.
 - q. *Good Disciplinary Standing*: A Student enrolled at Florida Gulf Coast University who is not currently under disciplinary probation, deferred suspension, suspension or expulsion or does not have an incomplete or overdue sanction. Failure to maintain Good Disciplinary Standing may result in restrictions from participation in privileges, Registered Student Organizations, and extracurricular activities.
 - r. *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.
 - s. *Hearing*: An 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.

- t. *Hearing Officer*: A University Official designated by the Dean of Students to address alleged Violations of the Code.
- u. *Hold*: An administrative notification that precludes administrative activity in the

- 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.
- bb. *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.
- cc. *Title IX*: For purposes of this Regulation, Title IX means Title IX of the Education Amendments Act of 1972, and accompanying regulations.
- dd. *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.
- ee. *University*: Florida Gulf Coast University (FGCU), including all of its campuses, centers, and off-site locations.
- ff. *University Community*: Members of the University Community include members of the Board of Trustees, employees, Students, University Officials, and volunteers affiliated with FGCU.
- gg. *University Housing*: A residence in a University-operated facility.
- hh. *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.
- ii. *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.
- jj. *Violation*: An action or inaction that meets the definition of a standard of conduct found in Article B of the Code.
- kk. *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

- 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. Obtaining help with, assisting in, hiding, or attempting any act of academic misconduct.

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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 w _

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) 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.

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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.

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.2, 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.2.
- 5)

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.8) for which there is no time limit. This limit may be waived in writing by the Dean of Students for good cause

based upon allegations of Violations of Title IX.

- 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.
 - 7) The Advisor, including an Advisor participating in a Title IX case, may not serve in any other role in the Adjudication, including as an investigator or in an information gathering role, Hearing Officer, member of an SSC or RCC convened to hear or decide the Charges or any appeal of the same case. An Advisor may not provide a statement as a Witness, except that in Title IX cases, an Advisor may also testify as a Witness or provide a Witness statement.
1. 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. In Title IX cases, cross-questioning of the other party and Witness(es) will occur by the directly c

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.

- 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.8) 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.8) 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 o

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the alleged Violation(s) of the Code through e-mail to their University-issued email address. The University-issued Eagle email address is the official method for communicating with a Student concerning all University actions addressing the Student's academic and conduct status. All Students are expected to maintain their University-issued Eagle email address and review email messages sent by the University. Alternative methods for communicating with a Student may be used when the Dean of Students determines that extenuating circumstances exist that require the use of an alternative method to communicate with the Student. In all cases, the Student must receive written Notice of the allegations.

- 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 seven (7) 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 Dean of Students, or designee, will assign a case to a Hearing Officer, SCC or RCC, as appropriate. 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) A Hearing Officer, or SCC or RCC member, may request a recusal from the Hearing where the Hearing Officer, SCC, or RCC member states that a personal or professional relationship previously or currently exists with the Complainant or Respondent that would bias the Hearing Officer, SCC, or RCC member in deliberating the allegations of Violations of the Code, or that there currently exists an academic interaction, including the participation of the Complainant or Respondent in an academic course or academic-related extracurricular activity

that would bias the Hearing Officer, SCC, or RCC member in deliberating the allegations of Violations of the Code. When a request for recusal is submitted, the Dean of Students, or designee, shall determine whether the request for recusal is appropriate. If the request for recusal is accepted, the Hearing will be reassigned to another Hearing Officer or the committee member removed, as appropriate.

- 7) The Respondent Student or Organization will have an information review session with the Office of Student Conduct scheduled at least five (5) Days prior to the scheduled date of the Hearing. The Respondent Student or Organization may reschedule this information review session by contacting the Office of Student Conduct. The purpose of this information review session will be to allow the Respondent Student or Organization to discuss the Charges, their rights and options in the Hearing process, and to review any and all documents and information relating to the Charges. The documents and information to be provided for review to the Respondent Student or Organization will include a listing of all known Witnesses and all known information relating to the Charges, including inculpatory and exculpatory information gathered by the Office of Student Conduct. In Title IX cases, the Respondent Student or Organization and Complainant will have an information review session with the Office of Student Conduct scheduled at least ten (10) days prior to the scheduled date of the Hearing.
- 8) 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.
- 9) 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.
- 10) 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. Consistent with this Code, 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.

11) 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.

3. Adjudication of Cases of Academic Integrity Violations

When a faculty member believes there is 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 member'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 will communicate with the Respondent Student and informs him or her of the allegations against them and initiate a meeting with the Student to discuss the allegation(s). 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 f

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

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 Records & 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 a 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 member. 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. Moreover, 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 administratively placed in a Hold.

considered grounds for appeal.

- 9) 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.

6. Procedures for Adjudication of all O²

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

- 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

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.

7. 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.

Any sanction, except Expulsion or Revocation of Degree (described below), may be issued in a deferred status, contingent upon compliance with a designated set of conditions, including appropriate future conduct for an established period of time. When a deferred sanction is issued the failure to comply with the designated conditions will result in the enactment of the deferred sanction elements immediately. Deferred sanction may only be appealed at the time of issuance. A deferred sanction cannot be appealed at the time of issuance.

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- 2) Probation: A period of time during which the Student is still enrolled but is not in Good Disciplinary Standing. Further misconduct could result in the sanction of a Deferred Suspension, Suspension, or Expulsion. The terms of probation will be determined at the time probation is issued. Probation may include restrictions according to the severity of the offense. Restrictions may 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; or prohibition on contact with a specified person(s) within the University Community.
 - 3) Deferred Suspension: A designated period of time where the Student is allowed to continue enrollment so to demonstrate the ability to abide by the Code. A Student on Deferred Suspension is considered to be not in Good Disciplinary Standing with the University. If the Student is found responsible for Violation of the Code while under a Deferred Suspension, the Deferred Suspension will convert to a Suspension. If the Student appeals the determination of responsibility that results in the conversion of the Deferred Suspension to a Suspension, the Suspension will not be applied until after the appeal decision is issued.
 - 4) Suspension: A period of time, not to exceed three (3) years, when a Student may not attend classes or participate in University related activities, whether the class or activity occurs on or off University Premises. The University Registrar, or designee, is instructed to place a Transcript Overlay on the Student's transcript during the period of suspension indicating the period of suspension. Further, while on disciplinary suspension, a Hold will be placed on the Student's record to prevent registration. All assigned educational sanctions must be completed prior to the restoration of the Student's privileges; otherwise, the disciplinary suspension will remain in effect. A suspended Student is not permitted on University Premises during the length of their suspension. If a suspended Student is found on University Premises, the University Police will be notified.
 - 5) Expulsion: Removes the Student from his or her academic program and permanently separates the Student from the University without opportunity to graduate or re-enroll. The University Registrar, or designee, is instructed to permanently place a Transcript Overlay on the Student's transcript indicating the expulsion. Further, a Hold will be permanently placed on the Student's record to prevent future registration. An expelled Student is not permitted on University Premises. If an expelled Student is found on University Premises, the University Police will be notified.
- b. Educational Sanctions: Educational sanctions are intended to provide Students with an opportunity to reflect and learn from the Adjudication of a Violation or attempt to restore or promote the academic environment of the University Community. Common educational sanctions include, but are not limited to:

- 1) **Class or Workshop:** Required attendance at a class or workshop designed to educate Students as to the risks and consequences of exhibited behaviors. Any assigned classes shall be non-credit and will not be reflected on a Student's transcript. The Student is responsible for any costs associated with participation in a class or workshop.
- 2) **Counseling Assessment and Compliance:** Referral for assessment (at the Student's expense) to a licensed mental health professional or counseling center for general mental health or other counseling services. The Student found responsible for an alcohol, drug, or behavioral Violation may be referred to the University Counseling & Psychological Services (CAPS) 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 or other areas on the Main Campus or University

and is not subject to appeal.

- d. Educational Sanctions: All members of an Organization or a subset of members of the Organization deemed appropriate may be required to complete an educational sanction. Educational sanctions are intended to provide the Students with an opportunity to reflect and learn from the determination of responsibility for a Violation or attempt to restore or promote the academic environment of the University Community. Common educational sanctions are listed under Article E.2.b.
 - e. Organization Specific Sanctions: Additional sanctions specific to Organizations, which may be found in the Organization's Constitution, the Office of Student Involvement policies, policies maintained by other University entities with appropriate jurisdiction, or the by-laws or regulations of the affiliate's national organization.
4. When a Respondent Student or Organization is found responsible for B.2.a., B.2.b.2), B.2.b.3), B.2.b.4), B.2.b.5) and B.2.b.8), the sanctions shall place an emphasis on correcting and preventing a recurrence of the incident and promoting the safety of the Complainant(s) and the University Community.
 5. Decisions regarding falsification of admission or re-admission information may result in sanctions up to and including the revocation of admission (with or without the loss of earned credit) or the revocation of a degree which was previously conferred.
 6. A Student who fails to complete sanctions will have a disciplinary Hold placed on his or her record. This Hold will affect the Student's ability to register, add, drop, or withdraw from classes, receive transcripts, or access various University services. In severe situations, the Student may also be Charged with additional Violations of the Code.

F. Procedures for Appeal

1. A Student may appeal the decision of the Hearing Officer or Committee. It is a procedural action to ensure Respondent Students or Organizations received 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 or opposition to appeal prior to review by the Appeal Officer and, if an appeal review 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

There are four (4) bases for an appeal from a decision of a Hearing Officer or Committee:

- a. Due Process Error: An allegati

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- 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; or
 - 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**

The Student has a limited time to appeal the Hearing Officer or Committee decision.

- 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. An extension of the time to submit an appeal may be granted in 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 determined to be necessary in the sole discretion of the Appeal Officer, a meeting to discuss the appeal will be scheduled within five (5) Days of the date of receipt of an appeal unless there is good cause to schedule the meeting after this five (5) Day period, which will be communicated in writing 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 from the date of appeal meeting.
 - d. The sanctions for the Appellant Student will be pending until the appeal outcome is concluded. The University may place a Hold on the Students record during the Hearing and appeal processes.
4. **Jurisdiction**

The Vice President for Student Success & Enrollment Management is authorized to review appeals. The Vice President for Student Success & Enrollment Management may

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.

History of Regulation

New 01/15/08; Amended 01/18/11; Amended 09/20/11; Amended 04/17/12; Amended 06/19/12; Amended 06/17/14; Amended 09/08/15; Amended 04/11/17; Amended 06/11/19; Amended 01/14/20; Amended (Emergency) 08/11/20; Amended 10/29/20; Amended 06/08/21; Amended 09/14/21; Amended 06/13/23

*Approved by Florida Gulf Coast University Board of Trustees
June 13, 2023*