

**THE UNIVERSITY OF WEST FLORIDA  
NOTICE OF PROPOSED REGULATION AMENDMENT**

**REGULATION TITLE:** *UWF/REG-3.010 Student Code of Conduct*

**SUMMARY:** The proposed amendments to this regulation are as follows:

The following changes were made throughout the entire document: numbering and lettering changes to make formatting consistent; redundancies were removed or clarified, language was clarified and content was updated. Changes to each article are set forth below.

In **Article I**, the title of Article I. was amended to include “and Philosophy” and a philosophical framework was more clearly described. Delegation of authority was clarified to reflect that the Vice President for Student Affairs may further delegate responsibilities related to the Student Code of Conduct;

In **Article II**, all references of the “accused student” were changed to “charged student.” It was clarified that a “charged student” may also refer to a “student organization.” The definition for “good standing” was updated and clarified. The definition for “Sexual Misconduct, Sexual Violence and Gender-Based Discrimination” was updated to comport with recent changes in the *Sexual Misconduct, Sexual Violence and Gender-Based Discrimination* policy. The definition for “sexual contact” was removed as it is defined in the *Sexual Misconduct, Sexual Violence and Gender-Based Discrimination* policy;

In **Article III**, the definition for “no contact directive/order” was expanded and clarified. Clarifications were made to the review process for “interim measures”;

In **Article IV**, the violation sections were reorganized into eight categories and as a result, some provisions were moved to different Sections. The new categories are: Section 3. Disorderly, disruptive conduct, Section 4. Harm to Property and Section 5. Facilitating, Assisting, Inciting or Encouraging Others to Participate in Conduct that Violates this Student Code of Conduct. In addition, the title of Section 2, was amended and the word “disrespect” was removed and “harm to individuals” was added. The definition of “harassment” in Section 2.i. was enhanced. Individual charges under Section 6, “Obstruction of Disciplinary Process” were modified to include “or process” in addition to “proceeding.” And the violation for “Operating a motor vehicle while under the influence of alcohol” was removed from the Violation of Law Section, (now section 8);

In **Article V**, language was amended as follows:

- the “Notice of Charges” section was amended and shortened for clarification.
- the Dean of Students Office may withdraw charges, when charges are unwarranted or where insufficient evidence exists to continue.
- The “educational conference” section was amended to clarify that the educational conference is not a hearing and that it will be held by a conduct officer
- The time period for the sanction notification letter was extended from five days to 10 days.
- The “Hearing Procedures” section was expanded to include specific hearing notification for the charged student and victim.
- The title from Hearing Forum was changed to Hearing Option to make clearer that students have an option as to the type of hearing they would prefer. In the Hearing Option section, the criteria for selection of an “administrative hearing” were amended to also require the consent of the Dean of Students.
- In the pre-hearing information section, language was added requiring the University to provide, upon request, the charged student with a witness list within 3 days of the hearing. Language was

also added requiring the charged student to provide the University with a witness list within 3 days of the hearing.

- The title of the “confidentiality” section was changed to “closed hearings” and it was clarified that all Student Conduct Code hearings would be closed.
- The role of the “Hearing officer” was clarified.
- The “self-incriminating statements” section was expanded to include language stating that a charged student’s failure to make statements or answer questions should not factor into the determination for responsibility of charges.
- In the Witness section, changes were made to reflect that taped statements are no longer accepted and that witness statements must have a notarized signature.
- The word “Record” was clarified to specifically reflect “audio recording of hearing” and the timing of when the request for the record can be made was clarified.
- The “decisions of “responsible” or “not responsible” on the charge(s)” section was separated into the “determination of responsibility” and “recommended sanctions” sections.
- The “victim notification” section was amended and clarified.
- Specific actions that may be taken by the Dean of Students related to sanction recommendations were added.

In **Article VI**, language was amended as follows:

- The “Notice of Charges” section was amended and shortened for clarification.
- The “educational conference” section was amended to clarify that the educational conference is not a hearing and that it will be held by a conduct officer
- The time period for the sanction notification letter was extended from five days to 10 days.
- The “Hearing Procedures” section was expanded to include specific hearing notification for the charged student and victim.
- The title from Hearing Forum was changed to Hearing Option to make clearer that students have an option as to the type of hearing they would prefer. In the Hearing Option section, the criteria for selection of an “administrative hearing” were amended to also require the consent of the Dean of Students and offers the Complainant/Victim the opportunity to object.
- In the pre-hearing information section, language was added requiring the University to provide both the Complainant/Victim and the charged student with a witness list within 3 days of the hearing. Language was also added requiring the charged student and Complainant/Victim to provide the University with a witness list within 3 days of the hearing.
- A section describing victim notification was added.
- The title of the “confidentiality” section was changed to “closed hearings” and it was clarified that all Student Conduct Code hearings would be closed.
- The role of the “Hearing officer” was clarified.
- The “self-incriminating statements” section was expanded to include language stating that the failure of the charged student or complainant/victim to make statements or answer questions should not factor into the determination for responsibility of charges.
- A section was added explaining that the Charged student, Complainant/Victim and University may present information and witnesses at the hearing.
- In the Witness section, changes were made to reflect that taped statements are no longer accepted and that witness statements must have a notarized signature.
- The word “Record” was clarified to specifically reflect “audio recording of hearing” and the timing of when the request for the record can be made was clarified.
- The “decisions of “responsible” or “not responsible” on the charge(s)” section was separated into the “determination of responsibility” and “recommended sanctions” sections
- The “victim notification” section was amended and clarified.

- Specific actions that may be taken by the Dean of Students related to sanction recommendations were added.

In **Article VII**, “cost to the student” was added to the “drug testing” sanction;  
In **Articles VIII and IX**, changes were made to improve overall clarity;

**AUTHORITY:** Board of Governors Regulation 6.0105, *Student Conduct and Discipline*

**NAME OF UNIVERSITY OFFICIAL INITIATING PROPOSED REGULATION AMENDMENT:**  
Dr. Kevin Bailey, Vice President for Student Affairs

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION IS:** Anita Schonberger, Deputy General Counsel, [ashonberger@uwf.edu](mailto:ashonberger@uwf.edu), Phone (850) 474-3420; Bld. 10/Rm 114, 11000 University Parkway; Pensacola, FL 32514-5750. Any comments regarding the proposed regulation amendment must be sent in writing to the contact person on or before May 17, 2016 to receive full consideration.

**THE DATE THIS NOTICE WAS POSTED ON THE UWF BOARD OF TRUSTEES WEBSITE:**  
**April 27, 2016; DATE THIS NOTICE WAS PUBLISHED IN @UWF: May 2, 2016.**

**THE FULL TEXT OF THE PROPOSED AMENDMENT TO THIS REGULATION IS SET FORTH BELOW:**

## University of West Florida Regulation UWF REG-3.010 Student Code of Conduct

### Article I. General Policy and Philosophy

A critical mission of the University of West Florida (UWF) is to promote a vibrant academic atmosphere in which students not only receive a well-rounded education, but learn to become productive and ethical members of society. University students are encouraged to think critically about issues that affect us all, carry themselves with integrity, develop a sense of ethical responsibility as well as treat others in a manner in which they wish to be treated. As such, the University of West Florida represents a community that values the basic tenets of: responsibility, integrity, scholarship, creativity, diversity, excellence and care. It is hoped that after students graduate, they apply the knowledge acquired during their tenure at UWF into their professional and personal lives. To help accomplish these objectives, the University of West Florida has drafted a Student Code of Conduct that is structured so that, as members of the UWF community, students are informed of their required roles and responsibilities, the rights that pertain to them, as well as how the Student Code of Conduct is administered.

~~The University of West Florida is dedicated to the advancement of knowledge and learning and to the development of ethically responsible individuals.~~ University students and student organizations are expected to uphold appropriate standards of behavior and to respect the rights and privileges of others. ~~This Student Code of Conduct applies to individual students as well as student organizations.~~ All students and student organizations are expected to conduct themselves in accordance with all federal, state and local laws, and Board of Governors and University regulations, and policies.

The University is committed to ensuring that all students, faculty and staff are treated with dignity and respect. The University affirms its desire to maintain a learning and living environment for all students that is free from all forms of unlawful discrimination, harassment and retaliation. All members of the University community are responsible for ensuring that their conduct does not discriminate, harass or retaliate against others, and are to cooperate in maintaining a climate where discrimination, harassment and retaliation are not tolerated.

In keeping with the University of West Florida's values, any sanctions imposed are for the purposes of restoring the standards of the University community, educating students and student organizations about the seriousness of their action(s), promoting civility and positive growth, while maintaining the safety and integrity of the University community.

The Student Code of Conduct applies to all UWF campuses, UWF Sponsored programs, including international and exchange programs and to off-campus conduct. ~~This code applies to individual students as well as student organizations.~~

The University of West Florida President delegates administration of the Student Code of Conduct to the Vice President for Student Affairs, who ~~further~~ delegates portions of the administration of the Student Code of Conduct to the Dean of Students, who ~~may further delegate these responsibilities~~ ~~delegates portions to the Associate Dean of Students/Director of Student Rights and Responsibilities~~ and to other appropriate staff. All references to the Vice President for Student Affairs or Dean of Students in this Code also refer to ~~his/her~~ his or her designee(s).

The Student Code of Conduct shall be reviewed, at minimum, every three years under the direction of the Vice President for Student Affairs by a committee composed of at least 50% students appointed by the student body president.

### Article II. Definitions ~~for Purposes of the Student Code of Conduct~~

1. ~~Accused/Charged student~~ **Student**: any student ~~accused~~ ~~alleged~~ to have violated ~~of violating~~ this Student Code of Conduct. For the purposes of this regulation, "charged student" may also

- include a student organization alleged to have violated this Student Code of Conduct.
2. **Complainant:** any person who ~~submits a statement alleging~~alleges that a student violated this Student Code of Conduct and may ~~include in~~any student who submits allegations of a violation under Title IX.
3. **Conduct Officer:** a University official authorized by the Vice President for Student Affairs to administer the Student Code of Conduct.
4. **Dean of Students:** the individual designated by the University with responsibility for administering the Student Code of Conduct.
5. **Dean of Students Office:** the department designated by the University with responsibility for administering the Student Code of Conduct. The Office of Student Rights and Responsibilities (OSRR) is included ~~within~~the Dean of Students Office.
6. **Faculty memberMember:** means any person hired by the University to conduct classroom or teaching activities or who is otherwise considered by the University to be a member of its faculty.
7. **Good standingStanding:** is a conduct status describing a student who ~~has misconduct charges pending against him or her,~~is ~~not~~ on conduct related probation, and/or ~~does not have~~has pending, incomplete or overdue misconduct~~related~~ sanctions~~is not considered a student in good standing.~~ Students adversely affected by their standing within the University (i.e. a student wishing to run for ~~an~~ Student Government Association Office) may submit a request for an expedited student conduct hearing to the Vice President of Student Affairs.
8. **Hearing Administrator:** a University official authorized by the Vice President for Student Affairs to ~~conduct~~administer student conduct administrative hearings, to determine if the UWF Student Code of Conduct has been violated, and to recommend sanctions to the Dean of Students.
9. **May:** the term “may” is used in the permissive sense.
10. **More likelyLikely than notNot:** refers to the standard of proof used in student conduct hearings. ~~Hearing Officers~~Hearing Administrators and Student Conduct Committees will determine student responsibility by a preponderance of the evidence, or a determination of whether it is more likely than not that the charged student~~committed an infraction~~ violated the Student Code of Conduct.
11. **Sexual Misconduct, Sexual Violence and Gender-Based Discrimination:** for the purposes of this ~~policy~~regulation, sexual misconduct, sexual violence and gender-based discrimination is a broad term used to describe any behavior that would violate provisions of University Policy P-14.02 Sexual Misconduct, Sexual Violence, Gender-Based Discrimination and Retaliation (“Title IX Policy”), including but not limited to sexual exploitation, non-consensual sexual contact, non-consensual intercourse, dating violence, domestic violence, sexual harassment, stalking, violence based on gender, gender-based discrimination, retaliation ~~non-consensual sexual contact (including rape and sexual assault), stalking, dating/domestic violence, sexual harassment, gender-based discrimination,~~ or other violations perpetrated against a victim because of the victim’s gender.
12. **Shall:** the term “shall” is used in the imperative sense.
13. **Student:** includes all persons enrolled at the University of West Florida, either full-time or part-time, degree seeking or non-degree seeking, and persons who are not officially registered for courses for a particular term but who ~~are expected to~~ have a continuing relationship with the University, including students admitted but not yet enrolled at the University. ~~For the purposes of this regulation, “student” may also include a student organization.~~
14. **Student Conduct Committee:** consists of ~~persons~~faculty and staff representatives appointed by the Vice President for Student Affairs and student representatives appointed by the President of the Student Government Association. The committee is assigned on a case-by-case basis to ~~conduct~~administer student conduct hearings, to

determine if the UWF Student Code of Conduct has been violated, and to recommend sanctions to the Dean of Students.~~to hear cases of alleged student misconduct.~~ The Committee assigned to hear a particular case must consist of at least 50% students ~~who shall be appointed by the president of the Student Government Association. Faculty and staff members are appointed by the Vice President for Student Affairs.~~

15. **Student Organization:** means any number of persons who ~~make up are recognized by the University as~~ a registered student organization, including sports clubs and other student groups. ~~The student organization's executive officer will serve as the representative for the group during the conduct process unless the student organization designates in writing to the Dean of Students Office another student member to represent the group during the conduct process.~~
16. **University:** means all locations of the University of West Florida including the on-line campus.
17. **University ~~community~~Community:** includes any person who is a student, faculty member, ~~staff member,~~ or ~~any other~~ employee ~~or guest~~ of the University. ~~A person's status in a particular situation shall be determined by the Dean of Students and/or his/her designee.~~
18. **University ~~official~~Official:** includes any person employed by the University performing assigned administrative or professional responsibilities.
19. **University ~~premises~~Premises:** for the purposes of this policy, includes all land, facilities, and other property in the possession of, owned, or controlled by the University (including adjacent streets and sidewalks), including property at which University-sponsored events are held for the duration of the event.
20. **University ~~rules~~Rules, ~~regulations~~Regulations and ~~polices~~Policies:** UWF ~~S~~students must comply with all applicable University regulations and policies. University regulations can be found at <http://uwf.edu/trustees/regulations/>.- University policies can be found at <http://www.uwf.edu/president/policies/>.- ~~Some~~ ~~S~~select regulations and policies applicable to students are also contained in the UWF Student Handbook.
21. **Victim:** for the purposes of this policy, a victim is any individual ~~that has who has alleged injury or harm been injured or harmed~~ by a UWF student. ~~Certain v~~Victims are entitled to varying levels of participation in the student conduct process, depending on the nature of the allegations. As articulated in the Family Educational Rights to Privacy Act (See 34 C.F.R. § 99.31 and 99.39) a victim ~~that who~~ has been subject to any of the following violations or attempted violations: Arson, Assault, Burglary, Criminal Homicide, Destruction/damage/vandalism of property, Kidnapping, Robbery, Forcible Sex Offences, Non-forcible sex offenses (incest or statutory rape) is entitled to be notified of ~~his or her rights and of~~ the outcome of the disciplinary process. As defined by the Title IX Amendments of the Higher Education Act of 1972 (See 20 U.S.C. §1681-1688), a victim that is the subject of sexual misconduct, sexual violence or gender-based discrimination, has the right to participate fully in the investigation and adjudication of the alleged misconduct, as outlined in Article VI of this regulation. All other victim rights articulated in this regulation apply to all victims.
22. **Sexual Contact:** ~~is the deliberate touching of a person's intimate parts (including genitalia, groin, breast or buttocks or clothing covering any of those areas), or causing a person to touch his or her own or another person's intimate parts.~~

### Article III. University Authority

1. **Off-campus conduct:** the University may take disciplinary action against a student or student organization for violations committed off-campus where one of the following applies: (a) ~~The~~ ~~the~~ off-campus conduct demonstrates that the continued presence of the student or organization on campus presents a danger to the health, safety, or welfare of the University

community;

(b) ~~The~~ the off-campus conduct is disruptive to the orderly processes and functions of the University; (c) ~~The~~ the off-campus conduct is intimidating or threatening to the University community or an individual within the University community; (d) ~~The~~ the off-campus conduct is of such a serious nature that it adversely affects the student's suitability to remain a part of the University community; or (e) ~~The~~ the off-campus conduct is such that it could constitute a violation of the law

2. **Court or Administrative ~~proceedings~~ Proceedings outside Outside of the University:**

charges by public authorities will not prevent the University from charging a student with violations of this student code of conduct. If a student is charged by the outside authorities with an act that is also a violation of a University regulation or policy or of the ~~University~~ Student Code of Conduct, the University may, but is not required to, delay its proceedings pending the outcome of the off-campus proceeding. The University reserves the right to amend its charge(s) based on information obtained through an outside proceeding where that information is relevant to activity adversely affecting the University community. If the outside charges have been dismissed, are not prosecuted, are not heard, or if adjudication of guilt is withheld, such action will have no bearing on the University charges.

3. **Cease and ~~desist~~ Desist:** University officials and faculty may, under appropriate circumstances, order a student to cease and desist from an activity considered to be disruptive to the University.

3.4. **No Contact Directive/Order:** University officials may, under appropriate circumstances, order a student to cease and desist from having any direct and/or indirect contact (including notes, email, text, social media, phone calls or contact made through a third party) with another student(s).

4.5. **Interim ~~measures~~ Measures:** Interim measures may be taken by the University at any time if it is determined that a student or student organization's continued presence on campus may adversely affect the health, safety or welfare of the University community. Notice of interim measures shall be provided to the student or student organization in writing.

a. Interim measures may include, but are not limited to:

i. **Interim ~~suspension~~ Suspension:** the Dean of Students may temporarily suspend a student from the University. A student who is suspended is required to leave the University premises. During the interim suspension period the student may not visit or come onto any UWF campus without the written permission of the Dean of Students.

ii. **Restrictions on ~~activity~~ Activity:** the Dean of Students may restrict a student or student organization's activities. Restrictions on activities may include, but are not limited to: registering for or attending class; accessing or contacting certain individuals (no contact ~~directive~~/order); accessing University property, facilities, resources or equipment; participating in University activities, student organizations or student activities.

iii. **Interim ~~removal~~ Removal from Housing and Administrative Housing Reassignment:** The Dean of Students or the Director of Housing and Residence Life may temporarily remove a student from University housing and/or administratively reassign a student within University housing.

b. **Review of ~~interim~~ Interim ~~measures~~ Measures:** The student or student organization has the opportunity to submit a written request for a ~~hearing~~ review to the Vice President for Student Affairs regarding the interim measures. If requested, the ~~hearing~~ review will be conducted by the Vice President for Student Affairs ~~or his/or her designee~~ within ~~three~~ five business days of the receipt of the written request. During the review the student will be provided with the opportunity to explain his or her perspective related to the basis and continued need for the interim measures. The scope of this ~~hearing~~ review is limited solely to the determination of whether that student's presence or

continuation of activities adversely affects the health, safety or welfare of the University community.

- c. **Termination of Interim Measures:** Interim measures ~~will~~ may be lifted at the conclusion of the ~~interim measure review process or at the conclusion of the disciplinary hearing, or, if the student or student organization seeks review of the interim measures, at the conclusion of the review process,~~ Interim measures will may be lifted ~~or~~ when the University determines that a student or student organization's presence or activities no longer adversely affect the health, safety or welfare of the University community.
- d. **Student ~~enrollment~~ Enrollment statusStatus:** If a student's enrollment status is changed as a result of an interim measure, but the student is subsequently found not responsible for the violation, the University shall:
  - i. Correct any record of the change in enrollment status in the student's records and other reports in a manner compliant with State and Federal laws and;
  - ii. Refund to the student, at a minimum, a pro rata portion of any tuition/fees and other University specific fees and charges as appropriate due to the temporary change in enrollment status and in a manner consistent with University policy and procedures.

**5.6. Interpretation and ~~application~~ Application:** Any question of interpretation or application of the Student Code of Conduct shall be referred to the Vice President for Student Affairs. Where an individual is both an employee and a student, his or her status in a given situation shall be determined by the Vice President for Student Affairs.

#### Article IV. Violations of the Student Code of Conduct

The following conduct, whether completed or attempted, violates the ~~University~~ Student Code of Conduct. ~~Where applicable behavior will be judged by a reasonable person standard.~~

1. Deceit of any kind, including but not limited to:
  - a. Forgery, alteration or misuse of University documents, records, or identification cards.
  - b. Failure to present proper identification upon request by University officials, including law enforcement officers.
  - c. Furnishing false ~~or misleading~~ information to the University.
  - d. Unauthorized possession, duplication or use of keys, access cards, or identification cards belonging to the University.
  - e. Impersonation, misrepresentation or other actions taken to deceive University officials, ~~faculty~~, or students with regards to one's identity.
2. ~~Harm~~ **Disrespect to Individuals** ~~persons or to property of others or of the University~~, including but not limited to:
  - a. Physical and/or psychological abuse or threat of such abuse ~~or harm~~. –Abuse is defined as any action taken with the intention of harming or injuring another person.
  - b. Intentional physical ~~assault~~ ~~unpermitted touching~~ or injury to another person. ~~–Assault includes~~ ~~including~~, but is not limited to hitting, slapping, punching, kicking, shoving or otherwise touching in an injurious or threatening manner, or the brandishing or use of a weapon or other object intended to injure or cause physical harm.
  - c. Sexual abuse or threat of such abuse.
  - d. Performing sexual acts and/or sexual touching on or with another individual without the consent of the individual, when the individual is unable to give consent or after the individual has withdrawn consent. (For additional information ~~-see the Sexual Misconduct, Sexual Violence and Gender-Based Discrimination Policy~~).
  - e. Taking sexual advantage of another person, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such other

person; causing the prostitution of another person; recording, photographing or transmitting identifiable images of private sexual activity or intimate parts of another person without that person's effective consent; allowing third parties to observe private sexual acts without the other person's consent; engaging in voyeurism; and/or knowingly or recklessly exposing another person to a significant risk of a sexually transmitted infection, including HIV.

~~e.f.~~ **Conduct which is lewd, indecent, lascivious, or voyeuristic.**

~~f.g.~~ Stalking, following or otherwise contacting another person repeatedly, so as to put that person in fear for his or her safety.

~~g.h.~~ Endangering the health, safety or welfare of members or guests of the University.

~~h.i.~~ Harassment based on any of the following protected classes: gender (including gender identity and sex), race, color religion, national origin, age, disability, marital status, veteran status or sexual orientation. Harassment is defined as conduct that **is sufficiently severe or pervasive so that it** unreasonably interferes with an individual's academic or employment status or performance ~~by creating an intimidating, hostile or offensive working environment or an educational environment.~~ (Harassment on the basis of these protected classes may include ~~treatment that is based on prejudiced stereotypes of a group to which that individual may belong such as objectionable epithets,~~ threatened or actual physical harm or abuse, stalking, or other intimidating conduct directed against the individual based on his or her protected class.)

~~i.j.~~ Conduct that creates an intimidating, ~~intolerable~~ **hostile**, or offensive campus, educational or working environment for another person, unrelated to the victim's protected class, if any.

~~j.k.~~ Hazing, defined as any act or situation that recklessly or intentionally endangers the mental or physical health or safety of an individual for purposes of, including but not limited to, initiation or admission into, affiliation with, or as a condition for the continued membership with any organization operating under the sanction of the University.

1. Actions which are committed without regard for the possible harm to self, other individuals, a group, or which may result in injury or damage to an individual or group

~~3.~~ **Disorderly, disruptive conduct, including but not limited to:**

~~a.~~ Conduct which is disorderly and/or disruptive or in any way interferes with the administration or functions of the University, interferes with the freedom of movement of members or guests of the University community, or interferes with the rights of others to carry out their activities or duties.

~~b.~~ Conduct that substantially disrupts or materially interferes with University activities or that reasonably leads University authorities to forecast such disruption or interference

~~c.~~ Failure to follow directives of University officials.

4. **Harm to Property, including but not limited to:**

~~a.~~ **Participation in acts of vandalism individually or as a member of a group.**

~~b.~~ Unauthorized entrance into or occupancy of any administrative office, **residence hall**, classroom, or other University facility.

~~c.~~ Theft, the unauthorized use, unauthorized possession or unauthorized destruction of University resources or property of others; or acts committed with disregard for such resources or property.

~~d.~~ ~~Soliciting, aiding, abetting, inciting or encouraging others to participate in conduct which violates this Student Code of Conduct.~~

~~e.~~ Posting of commercial advertising on University property or engaging in commercial activity on University property or in conjunction with University events without appropriate authorization.

5. **Facilitating, assisting, inciting or encouraging others to participate in conduct which violates this Student Code of Conduct**

~~3-6.~~ **Obstruction of Disciplinary Process - Acts that disrupt or interfere with the University**

disciplinary process, including but not limited to:

- a. Knowingly falsifying, distorting or misrepresenting information in a disciplinary proceeding **or process.**
  - b. Deliberately disrupting or interfering with the orderly conduct of a disciplinary proceeding **or process.**
  - c. Knowingly initiating a complaint or referral without cause.
  - d. Use of threats, coercion, intimidation, or harassment to discourage ~~an individual's~~ participation in or **the** use of the disciplinary process, **or to alter the decision or outcome of a disciplinary proceeding or process.**
  - e. Tampering with information to be used in a University disciplinary process.
  - f. Attempting to influence the impartiality of a member of the disciplinary process.
  - g. Violating and/or failing to comply with or fulfill disciplinary sanctions.
- 4.7.** Computer, network, and/or data misuse including but not limited to:
- a. Unauthorized access, entry or use of a University's or another's computer, computer system, network, software, password, account or data.
  - b. Unauthorized alteration or degradation of computer equipment, software, network, data or system performance.
  - c. Unauthorized copying or distribution of University data.
  - d. Unauthorized use, duplication, sharing, or distribution of copyrighted materials or other intellectual property, including computer software or other media such as music and videos.
  - e. Use of a computer or computer system in the commission of a crime to violate or facilitate the violation of laws, Board of Governors or University regulations or policies.
  - f. Any unauthorized commercial use of University computer or computing resources.
  - g. Any unauthorized use of electronic or other devices to make an audio or video recording.
  - h. Use of computing facilities and resources to interfere with the work of another student, faculty member, staff member or University official.
  - i. Use of University computing facilities or resources to send obscene or abusive material.
  - j. Any other violation of the University Computer Use Policy or other policies related to computer use on campus.

**5.8.** Violations (or conduct which could constitute a violation), of federal, state, local laws, County or municipal ordinances, Board of Governors or University regulations, or policies including, but not limited to:

- a. Prohibited Uses of Drugs
  - i. Possessing or using narcotics, prescription drugs (without a valid prescription or in an unauthorized manner), or other controlled substances, or possessing drug paraphernalia, as prohibited by Florida Law.
  - ii. Using non-controlled substances not intended for human consumption (i.e. spice, bath salts, rubbing alcohol) or not in compliance with manufacturer specifications for the purposes of reaching an altered or intoxicated state.
  - iii. Sale or distribution of narcotics, prescription drugs (without a valid prescription or in an unauthorized manner), other controlled substances, or drug paraphernalia, as prohibited by Florida Law.
  - iv. Being under the influence of any substance to the point at which an individual has lost normal control of his **or** her body or mental faculties or both.
  - ~~iv.v.~~ **Disorderly conduct while under the influence of a substance including but not limited to endangering the safety of himself/herself or, another person, destruction of property, or causing a public disturbance**
  - ~~v.vi.~~ **Being under the influence of an illegal substance and endangering his or her own safety or the safety of another person or property**
- b. Prohibited Uses of Alcohol:

- i. Any possession or consumption of alcohol that is in violation of the University's Alcohol policy.
- ii. Possessing, purchasing or consuming alcohol if under the legal age.
- iii. Misrepresenting one's age for the purposes of purchasing or consuming alcohol.
- iv. Purchasing, furnishing or serving alcohol to any underage person.
- v. Possessing, furnishing or consuming alcohol in unauthorized areas of the University.
- vi. Possessing or using a common source of alcohol (i.e. kegs, beer bongs, or their equivalent) on University Premises.
- ~~vii. Operating a motor vehicle while under the influence of alcohol.~~
- ~~viii.vii.~~ Being intoxicated to the point at which an individual has lost normal control of his or her body or mental facilities or both.
- ~~ix.viii.~~ Disorderly intoxication: being intoxicated and endangering the safety of another person or property or being intoxicated or drinking alcoholic beverages in a place on campus at which it is not permitted and causing a public disturbance.
- ~~x.ix.~~ Drinking games: participation in games which involve the consumption of alcoholic beverages on University Premises
- c. Illegal or unauthorized possession or use of firearms, explosives, ammunition, fireworks, weapons (such as metallic knuckles, slingshots, bows and arrows, and knives), or other deadly weapons or dangerous chemicals, likely to cause harm to another, or to University property.
- d. Actions which cause or attempt to cause a fire or explosion, falsely reporting a fire, explosion or an explosive device, tampering with fire safety equipment or failure to evacuate University buildings during a fire alarm.
- e. Obstruction of the free flow of pedestrian or vehicular traffic on University premises or at University sponsored or supervised functions.
- f. Cruelty to animals.
- g. Violations of the Residential Standards of Community Living.
- ~~6.9.~~ Any other violation (or conduct which could constitute a violation) of the federal, state, local laws, County or municipal ordinances, Board of Governors or University regulations, or policies.

## **Article V. Procedures for Charges, Educational Conferences and Hearings (Non-Title IX)**

1. Determination of Charges
  - a. Alleged violations of the Student Code of Conduct may be reported to the Dean of Students Office by anyone, including but not limited to: (a) University Police or other University departments, (b) faculty, staff, or students or (c) third parties.
  - b. The Dean of Students Office will review the information to determine if a student will be charged with violating the Student Code of Conduct.
  - c. The Dean of Students Office may not charge a student with a violation of the Student Code of Conduct more than one year after the date the conduct occurred or was discovered; whichever is later. University administrators; **however**, may exercise professional discretion when applying the time provision to account for circumstances that warrant an extension of the one-year time limit from the date of discovery.
  - ~~e-d.~~ If at any time during the course of the conduct process the Dean of Students Office determines that either charges are not warranted or that insufficient evidence exists to continue, then the charges may be withdrawn, and the student will be so notified via email.
2. Notice of Charges
  - a. The Dean of Students Office will notify the **charged** student via email of the allegations and charge(s).
  - b. The notice will include **scheduling information for the Educational Conference**~~the date~~

- and time of an Educational Conference. The conference will be scheduled no earlier than three business days from the date of the notice unless requested by the student. If the time or date of the Educational Conference is not convenient to the student, the charged student must notify the Dean of Students Office within two business days to reschedule.
- c. ~~If at any time during the course of the conduct process the Dean of Students Office determines that either charges are not warranted or that insufficient evidence exists to continue, then the charges may be withdrawn, and the student will be so notified via email.~~
3. Educational Conference
- a. ~~The Educational Conference is not a hearing.~~ The purpose of the Educational Conference is for the Conduct Officer to review with the charged student the allegations and charges, the Student Code of Conduct, the hearing ~~forum~~ options, the conduct process, possible sanctions ~~(if the charged student/student organization accepts responsibility or is found responsible for the alleged violations,~~ and to answer ~~student/student organization~~ questions.
- b. During the Educational Conference the charged student will be given the opportunity to accept responsibility or not accept responsibility for the charges.
- c. If the charged student accepts responsibility for the charges:
- i. The charged student will be asked to sign ~~at the Educational Conference form~~ Form indicating his or her acceptance of responsibility and that he or she is waiving his or her ~~the~~ right to a hearing.
- ii. An email documenting the charged student's responsibility and the sanctions will be sent to the charged student within ~~ten five~~ business days from the Dean of Students Office.
- d. If the charged student does not accept responsibility for the charge(s):
- i. The charged student will be asked to sign ~~a an Educational Conference form~~ Form indicating that he or she does not accept responsibility for the charges and will be asked to select a hearing ~~forum~~ option.
- ii. The Dean of Students Office will schedule the hearing providing the charged student with a minimum of five business days' notice.
- e. If the charged student fails to attend the Educational Conference ~~or complete the Educational Conference Form~~, the matter will be referred for hearing to the Student Conduct Committee.
4. Hearing ~~Forum~~ Options
- a. ~~A~~ The charged student has the right to a hearing before the Student Conduct Committee. This committee must be composed of at least 50% students.
- b. In the alternative, the charged student may choose to have an Administrative Hearing ~~a hearing~~ before a Hearing ~~Officer~~ Administrator if the following conditions are met:
- i. ~~If~~ The charged student selects the Hearing Officer forum, he or she will be asked to sign a waiver of the right to a hearing before the Student Conduct Committee, and
- ii. ~~or~~ An Administrative Hearing is permitted by the Dean of Students.
5. Hearing Procedures
- The Student Conduct Committee Hearing and the Administrative Hearing ~~hearing process~~ are education processes and are not a legal in nature ~~process, it is an educational process.~~ Formal rules of process, procedure and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in Student Code of Conduct proceedings.
- a. **Hearing Notification:** the University will notify the charged student via email of the date, time and location of the hearing no less than five days in advance of the hearing. This notification will also advise the charged student of his or her rights in the student

- conduct process. If the time or date of the Hearing is not convenient to the charged student, the charged student must submit a written request to reschedule the hearing to the Dean of Students Office within two business days of the date of the notice.
- b. **Alleged-Victim Hearing Notification:** the University will notify the ~~alleged~~-victim via email of the date, time and location of the hearing no less than five days in advance of the hearing. This notification will also advise the ~~alleged~~-victim of his/ or her rights in the student conduct process, including but not limited to, the right to submit a list of questions, the right to submit a victim impact statement, ~~the right to request a copy of his or her record,~~ and the right to provide information ~~in a closed session or~~ in a separate room from the charged student. ~~Alleged victims of certain offenses defined by FERPA (20 U.S.C. § 1232g), have the right to be notified of the outcome of the proceedings.~~
- b.c. **Pre-hearing Hearing information Informationnotice:** the University will make available, upon request ~~by the charged student,~~ pre-hearing information including a copy of the hearing procedures, ~~and~~ copies of records that will be presented by the University at the hearing, ~~and a list of potential University witnesses.~~ The pre-hearing information will be available at least three business days in advance of the hearing at the Dean of Students Office. The charged student must ~~also provide to~~ the Dean of Students Office ~~with a list of potential witnesses and~~ copies of any records that ~~he/she or she~~ will present at the hearing at least three business days in advance of the hearing.
- e.d. **Failure to appear:** if ~~a-the~~ charged student fails to appear, the hearing will proceed in the charged student's absence.
- e. **Closed Hearings:** hearings are closed to the public and only the charged student, victim/complainant where authorized, and advisors may attend. Witnesses may not be present in the proceedings except to provide information when called upon.
- d.f. **Confidentiality:** ~~all hearings shall be closed and confidential unless requested by the charged student, in writing, three business days prior to the hearing, and the following conditions are met: (a) all students involved in the hearing as witnesses and the alleged victim(s) consent in writing prior to the hearing, and (b) such request does not conflict with law, Board of Governors or University regulation or policy. The Dean of Students will make the final determination regarding open and closed hearings.~~
- e.g. **Student Advisor-/Student Advocate:**
- i. **Student Advisor:** a charged student is entitled to have any one person at the hearing to serve as his or her advisor. ~~The charged Sstudents~~ may consult with ~~his or her~~~~their~~ advisor during the hearing process. However, this consultation must take place in a manner that does not disrupt the proceedings. The advisor shall not speak on behalf of the charged student, question witnesses, present information or argument before the panel. The advisor shall not serve as a witness. The name and role of the advisor must be ~~provided given~~ to the Dean of Students Office ~~in writing~~ at least ~~72-~~ ~~hours~~ ~~three business days~~ prior to the scheduled meeting/hearing. ~~If the advisor is an attorney, this must be disclosed at that time, as the University attorney must also be present at the meeting/hearing.~~
  - ii. **Student Advocate:** a student advocate is an individual appointed by the Student Government Association President. The student advocate is available upon request to assist students with information regarding university policies, the student conduct process and appeal procedures.
- f.h. **Role of the Hearing ~~Officer-Administrator~~ or Student Conduct Committee Chair:** the Hearing ~~Officer-Administrator~~ or Student Conduct Committee Chair will preside over the hearing, be responsible for the order and decorum of the hearing, and will ensure that the hearing procedures are followed. At his or her discretion, the Hearing ~~Officer-Administrator~~ or Student Conduct Committee Chair may:
- i. Accept information for consideration.
  - ii. Make determinations regarding requests for postponements, ~~where appropriate.~~

- iii. Make determinations as to procedural questions. Make procedural modifications for purposes of expediting a process or in the interest of fairness or safety.
- iv. Exclude repetitious or irrelevant information.
- ~~iii~~v. Dismiss any person who is disorderly, disruptive, or non-compliant.
- ~~iv~~vi. Take any other appropriate action deemed necessary.
- ~~g~~i. **Self-Incriminating statements:** ~~the charged~~ student will **not** be compelled to make self-incriminating statements. Any information shared by the ~~accused~~ **charged** student during an educational conference may be presented during a hearing. **Failure of the charged student to make a statement or to answer questions shall not be considered in the determination of whether or not a student is responsible for violating the Student Code of Conduct.**
- ~~h~~j. **Information:** the Dean of Students Office and the charged student will be given an opportunity to provide information at the hearing. This may include, but is not limited to, witnesses, pertinent records, documents, written or oral statements, and investigative reports. The **charged** student will also be given an opportunity to inspect records provided by the Dean of Students Office.
- ~~i~~k. **Witnesses:** The Dean of Students Office and the charged student may call witnesses. In order to preserve the educational atmosphere of the hearing and to avoid creation of an adversarial environment, all questions for witnesses will be directed through the Hearing ~~Officer~~ **Administrator** or Student Conduct Committee Chair. If a witness cannot appear, ~~he/she~~ **he or she** may submit a ~~his or her~~ **written statement for consideration as long as the witness' signature is notarized** ~~or taped statement may be considered~~. Witnesses will be permitted inside the hearing room only during their point of participation. Witnesses may be recalled by the Hearing Committee and/or Hearing ~~Officer~~ **Administrator**.
- ~~j~~l. **Questions:** The ~~alleged~~ **alleged** victim has the right to provide a list of questions that he or she would like the charged student to be asked by the Hearing ~~Administrator~~ **Officer** or Chair of the Student Conduct Committee at the disciplinary hearing.
- ~~k~~m. **Separation of ~~Alleged Complainant/Victim,~~ ~~or~~ **Witness, and/or Charged Student:** The ~~alleged~~ **alleged** complainant/victim and/or any witness may request that he or she be permitted to participate in a separate room from the charged student ~~organization~~ at the disciplinary hearing. ~~This request will generally be granted so long as the process allows the charged student/organization to hear the information presented by the alleged victim or witness and to have the Hearing Officer or Chair of the Student Conduct Committee ask the alleged victim or witness questions.~~**
- ~~l~~n. **Past Behavior:** ~~An alleged~~ **alleged** victim's or charged ~~student~~ **student's** ~~has a right to have his or her~~ **past unrelated** behavior shall be excluded from the disciplinary hearing. ~~The issue of relevance of the past behavior shall be determined by the Hearing Officer or Chair of the Student Conduct Committee. An accused~~ **charged** student's misconduct history ~~will not be presented at the disciplinary hearing. This information~~ may only be presented ~~once~~ after a finding of responsibility has been determined and only for the purpose of recommending sanctions ~~reached within the context of determining appropriate sanctions.~~
- ~~m~~o. **Audio Recording of Hearing:** Student Conduct Committee Hearings and Administrative Hearings will be audio recorded. ~~there~~ There shall be a single audio record of all ~~student conduct~~ **hearings**. This audio record is the official record and is the property of the University and will be considered part of the charged student's disciplinary record. ~~Student Conduct Committee Hearings will be audio recorded and the recording will become part of the record. For hearings before a Hearing Officer, the Officer's notes will become part of the record.~~ The charged student may submit a written request for a copy of the audio recording ~~in writing~~ which will be provided ~~after receipt of the hearing decision letter~~ **at cost**.
- ~~n~~p. **Standard of ~~proof~~ **Proof:**** the burden to prove disciplinary cases rests with the University and ~~not with the charged student~~. The standard of proof shall be "more likely than not."

This means that the information presented supports the finding that it was more likely than not that the violation occurred.

- ~~o-q.~~ **Multiple Students Charged:** in cases involving multiple students charged from the same incident, information obtained at one hearing may be used at another hearing provided that each charged student involved has the opportunity to review and respond to the information at his or her hearing.
- ~~p-r.~~ **Deliberations:** are closed and the decision making shall include only the Hearing ~~Officer-Administrator~~ or the Student Conduct Committee members and the Dean of Students as appropriate ~~involved in the decision making process.~~
- s. **Determination of Responsibility Decisions of “responsible” or “not responsible” on the charge(s):** shall be based on the information presented at the hearing. The the Hearing ~~Officer-Administrator~~ or Student Conduct Committee (by majority vote) shall determine whether the charged student/~~respondent~~ has violated the Student Code of Conduct. A finding of “responsible” or “not responsible” shall be made for each charge.
- t. **Recommendation of Sanctions:** ~~The the Hearing Officer Administrator/ or Student Conduct Committee will also, in consultation with the Associate Dean/Director of OSRR~~ ~~Dean of Students or,~~ make recommendations for sanctions in those cases where the charged student is found responsible for violating the Student Code of Conduct. The ~~Associate Dean/Director of OSRR~~ Dean of Students may take any of the following actions related to the sanctions recommended by the Student Conduct Committee or Hearing Administrator:
  - i. Adopt the recommended sanctions
  - ii. Modify the recommended sanctions
  - iii. Reject the recommended sanctions, or
  - iv. Remand the matter for a rehearing

Where the Student Conduct Committee or Hearing Administrator’s recommended sanctions are not adopted by the Dean of Students, the Dean of Students shall provide the charged student with the reasons for not adopting the recommendations in writing.

- ~~q-u.~~ **Victim Impact Statement:** If the charged student is found responsible, the victim has a right to submit a victim impact statement to the Hearing ~~Officer-Administrator~~ or Chair of the Student Conduct Committee for consideration at the sanctioning phase only. The statement may include a description of how the victim was impacted by the conduct violation and may include recommendations for sanctions, penalties or restitution. However, the Hearing ~~AdministratorOfficer~~ or Student Conduct Committee is not bound by those recommendations.
- ~~r.~~ **Sanctions:** ~~The Hearing Officer/Conduct Committee will, in consultation with the Associate Dean/Director of OSRR his or her, make recommendations for sanctions in those cases where the charged student is found responsible. his or hershall make the final determination as to any sanctions.~~
- ~~s-v.~~ **Notice of decisionsHearing Decision Notification:** A written decision letter from the Dean of Students Office will be provided to the charged student within ~~five-ten~~ business days following the close of the hearing. This time may be extended for deliberations when necessary and the student shall be notified of any such extensions. The decision letter shall contain a decision on each charge, any findings of fact and any sanctions.
- ~~t-w.~~ **Victim Hearing Decision Notification:** Victims of certain offenses defined by FERPA (see Article II. 21), have the right to be notified of the outcome of the proceedings. ~~Victims have the right to be notified of the outcome of the disciplinary process in those cases where the charged student’s behavior would constitute any of the following offenses: Arson, Assault, Burglary, Criminal Homicide, Destruction/damage/vandalism of property, Kidnapping, Robbery, Foreible Sex Offences, and Non forcible sex offenses (incest or statutory rape).~~ A written decision

letter from the Dean of Students Office will be provided to the victim within ten business days following the close of the hearing. This time may be extended for deliberations when necessary and the victim shall be notified of any such extensions. The hearing decision notification provided to the victim of final results may only include 1) the name of the student, 2) the violation with which the student was charged, 3) whether the charged student was found “responsible or “not responsible,” and 4) any sanction(s) imposed. (See 34 C.F.R. Sections 99.31 and 99.39)

6. **Student Withdrawal:** If a student withdraws from the University with misconduct charges pending against him or her, the conduct process will continue with or without his/her participation.
7. **Student Status:** the student’s permanent status on campus will remain unchanged pending the final decision of the hearing process and/or any appeal.
8. **Hold on Student’s Records:** the University may place a hold on the records or registration of any student who fails to respond to a University disciplinary notice or fulfill any sanctions previously issued by the University. The University may take other action necessary for resolution of a case prior to the student’s enrollment in a subsequent semester, transfer or graduation. All pending disciplinary matters must be resolved prior to a student’s graduation, transfer from, or continued education at the University of West Florida.
9. **Accommodations for Students with Disabilities:** any student with a disability may request reasonable accommodations during the disciplinary process. If accommodations are desired, this request must be made to the Student Disability Resource Center at least three business days in advance of the hearing. If necessary, the Hearing Administrator or Student Conduct Committee may postpone the hearing to provide reasonable accommodations.
10. **Safety procedures:** the Hearing Officer or Student Conduct Committee may accommodate concerns for the safety of the individuals involved by providing separate facilities or other reasonable alternatives.

#### **Article VI. Procedures for Charges, Educational Conferences and Hearings (Title IX Cases)**

Federal anti-discrimination laws articulated in Title IX of the Education Amendments of 1972 (20 U.S.C. §1681-1688) and federal regulations or guidelines require that institutions of higher education provide an equitable process for adjudicating cases of sexual misconduct, sexual violence and gender-based discrimination (“Title IX”). As such, the University has established an alternative hearing procedure under this policy to address and adjudicate alleged sexual misconduct, sexual violence and gender-based discrimination violations where the accused charged student is a University student and the complainant is a University student or employee.

When the University has received a Title IX complaint of sexual misconduct, sexual violence or gender-based discrimination, the University’s Title IX Coordinator will review the complaint to determine whether, assuming the allegations to be true, the Sexual Misconduct, Sexual Violence or Gender-Based Discrimination Title IX Policy would be violated based on the allegations. If the allegations would constitute a violation, the Title IX Coordinator will assign the case to a Title IX Investigator. The Investigator is a neutral fact-finder who, during the course of the investigation, typically conducts interviews with the complainant, the charged student/accused student, and any witnesses. At the conclusion of the investigation, if it is determined that there is sufficient cause to move forward with formal charges of misconduct against a student under this regulation, the Title IX Coordinator will notify the Dean of Student’s Office.

1. Notice of Charges
  - a. The Dean of Students Office will notify the charged student via email of the allegations and charge(s).

- a. The notice will include ~~scheduling information for the Educational Conference~~~~the date and time of an Educational Conference. The conference will be scheduled no earlier than three business days from the date of the notice unless requested by the student.~~ If the time or date of the ~~Educational conference~~ Conference is not convenient to the ~~student~~ charged student, the charged student must notify the Dean of Students Office within two business days to reschedule.
2. Educational Conference
  - a. **For the Charged Student: The Educational Conference is not a hearing .** The purpose of the Educational Conference is ~~for the Conduct Officer~~ to review with the charged student the allegations and charges, the Student Code of Conduct, the hearing forum options, the conduct process, and possible sanctions, and to answer questions.
  - b. During the conference the charged student will be given the opportunity to accept responsibility or not accept responsibility for the charges.
  - c. If the charged student accepts responsibility for the charges:
    - i. The charged student will be asked to sign ~~the Educational Conferencea form~~ Form indicating his or her acceptance of responsibility and that he or she is waiving ~~the his or her~~ right to a hearing.
    - ii. An email documenting the charged student's responsibility and the sanctions will be sent concurrently to the charged student as well as the complainant/victim within ~~five-ten~~ business days of the Educational Conference by the Dean of Students Office.
  - d. If the charged student does not accept responsibility for the charges:
    - i. The charged student will be asked to sign ~~a an Educational Conference form~~ Form indicating that he or she does not accept responsibility for the charges and will be asked to select a hearing ~~forum~~ option.
    - ii. The Dean of Students Office will schedule the hearing providing the charged student and the complainant with a minimum notice of five business days.
  - e. If the charged student fails to attend the Educational Conference ~~or complete the Educational Conference Form~~, the matter will be referred for hearing to the Student Conduct Committee.
  - f. **Complainant/Victim Educational ConferenceFor the Complainant:** The complainant/victim will be given the opportunity to participate in a separate Educational Conference, the purpose of which is ~~for the Conduct Officer~~ to explain the conduct process and hearing procedures, possible sanctions for the charged student, and to answer questions.
3. Hearing ~~Forum~~ Options
  - a. ~~A~~ The charged student has the right to a hearing before the Student Conduct Committee. This committee must be composed of at least 50% students.
  - b. In the alternative, the charged student may choose to have ~~an Administrative a hearing- Hearing~~ before a Hearing ~~Officer~~ Administrator if the following conditions are met:
    - i. ~~-If the~~ The charged student ~~selects the Hearing Officer forum, he or she will be asked to~~ signs a waiver of the right to a hearing before the Student Conduct Committee, and
    - ii. ~~or~~ An Administrative Hearing is permitted by the Dean of Students, and
    - iii. ~~or~~ No objection is raised by the complainant/victim.
4. Hearing Procedures
 

The ~~Student Conduct Committee Hearing and the Administrative Hearing~~ Hearing process is ~~are educational processes and are not a legal in nature~~ process, it is an educational process. Formal rules of process, procedure and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in Student Code of Conduct proceedings.

  - a. **Hearing Notification:** the University will notify the charged student via email of the

- date, time and location of the hearing no less than five days in advance of the hearing. This notification will also advise the charged student of his or her rights in the student conduct process. If the time or date of the Hearing is not convenient to the charged student, the charged student must submit a written request to reschedule the hearing to the Dean of Students Office within two business days of the date of the notice.
- b. **Complainant/Victim Hearing Notification:** the University will notify the complainant/victim via email of the date, time and location of the hearing no less than five days in advance of the hearing. This notification will also advise the complainant/victim of his or her rights in the student conduct process, including but not limited to, the right to submit a list of questions, the right to submit a victim impact statement, the right to request a copy of his or her record, and the right to provide information in a separate room from the charged student.
- a.c. ~~Pre-hearing Hearing information Information notice:~~ the University will make available, upon request by the charged student and or the complainant/victim, pre-hearing information including a copy of the hearing procedures, ~~and~~ copies of records that will be presented by the University at the hearing, ~~and a list of potential University witnesses.~~ The pre-hearing information will be available at least three business days in advance of the hearing at the Dean of Students Office. ~~The charged student must provide the Dean of Students Office with a list of potential witnesses and copies of any records that he or she will present at the hearing at least three business days in advance of the hearing.~~
- b.d. **Failure to appear:** if either the charged student or the complainant/victim fail to appear, the hearing will proceed in the absence of those persons.
- e. **Closed Hearings:** hearings are closed to the public and only the charged student, victim/complainant where authorized, and advisors may attend. Witnesses may not be present in the proceedings except to provide information when called upon.
- e. ~~Confidentiality: all hearings shall be closed to the public and confidential. Only the Representative of the Dean of Students Office, the charged student, the complainant, their advisors and any witnesses may be present at the hearing.~~
- d.f. **Student Advisor / Student Advocate:**
- i. **Student Advisor:** a charged student and complainant/~~alleged~~ victim are each entitled to have any one person at the hearing to serve as his or her advisor. The Charged Student and ~~Complainant~~complainant/~~alleged~~ victim may each consult with his or her advisor during the hearing process. However, this consultation must take place in a manner that does not disrupt the proceedings. The advisor shall not speak on behalf of the student, question witnesses or present information. The advisor shall not serve as a witness. The name and role of the advisor must be ~~given~~provided to the Dean of Students Office in writing at least ~~72-hour~~three business days prior to the scheduled meeting/hearing. If the advisor is an attorney, this must be disclosed at that time, as the University attorney must also be present at the meeting/hearing.
  - ii. **Student Advocate:** a student advocate is an individual appointed by the Student Government Association President. The student advocate is available upon request to assist students with information regarding university policies, the student conduct process and appeal procedures.
- e.g. **Role of the Hearing ~~Officer-Administrator~~ or Student Conduct Committee Chair:** the Hearing ~~Officer-Administrator~~ or Student Conduct Committee Chair will preside over the hearing, be responsible for the order and decorum of the hearing, and will ensure that the hearing procedures are followed. At his or her discretion, the Hearing ~~Officer-Administrator~~ or Student Conduct Committee Chair may:
- i. Accept information for consideration.
  - ii. Make determinations regarding requests for postponements, ~~where appropriate.~~

- iii. Make determinations as to procedural questions. Make procedural modifications for purposes of expediting a process or in the interest of fairness or safety.
- iv. Exclude repetitious or irrelevant information.
- ~~iii-v.~~ Dismiss any person who is disorderly, disruptive, or non-compliant.
- ~~iv-vi.~~ Take any other appropriate action deemed necessary.
- h. **Self-Incriminating statements:** ~~the charged~~ student will **not** be compelled to make self-incriminating statements. Any information shared by the ~~accused~~ **charged** student or complainant/victim during an educational conference may be presented during a hearing. Failure of the charged student or complainant/victim to make a statement or to answer questions shall not be considered in the determination of whether or not a student is responsible for violating the Student Code of Conduct.
- f.i. **Information:** the Dean of Students Office and the charged student, and the complainant/victim will be given an opportunity to provide information at the hearing. This may include, but is not limited to, witnesses, pertinent records, documents, written or oral statements, and investigative reports. The charged student and the complainant/victim will also be given an opportunity to inspect records provided by the Dean of Students Office.
- ~~g-j.~~ **Presentation of Information:** the primary information presented at the hearing will be the report of the Title IX Investigator. After the Investigator has shared his/ or her findings, both the charged student and the complainant/victim will have the opportunity to challenge or question the contents of the report. In challenging or questioning the findings, the complainant and the charged student will be given an opportunity to provide information including, but not limited to, witnesses, records, documents, and written or oral statements. ~~The charged student and complainant will also be given an opportunity to inspect records provided by the Dean of Students Office and/or Title IX Investigator at the hearing.~~
- h.k. **Witnesses:** The Dean of Students Office, ~~Both~~ the complainant/victim, and the charged student may call witnesses. Witnesses may be questioned by all parties, including the charged student, the complainant/victim, and the Hearing Officer/Conduct Committee. In order to preserve the educational atmosphere of the hearing and to avoid creation of an adversarial environment, all questions for witnesses will be directed through the Hearing ~~Officer-Administrator~~ or Student Conduct Committee Chair. If a witness cannot appear, he or she may submit ~~this or her~~ written statement for consideration as long as the witness' signature is notarized ~~or taped statement may be considered.~~ Witnesses will be permitted inside the hearing room only during their point of participation. Witnesses may be recalled by the Hearing Committee and/or Hearing Administrator. ~~Witnesses will be required to wait outside until their point of participation and will be asked to leave the hearing after being questioned.~~
- i.l. **Questions:** The complainant/victim has the right to provide a list of questions that he or she would like the charged student to be asked by the Hearing Administrator or Chair of the Student Conduct Committee at the disciplinary hearing.
- j.m. **Separation of Alleged Complainant/Victim, or Witness, and/or Charged Student:** The ~~alleged~~ complainant/victim and any witnesses may request that they be permitted to participate in a separate room from the charged student at the ~~disciplinary~~ hearing. ~~This request will generally be granted so long as the process allows the charged student to have the Hearing Officer or Chair of the Student Conduct Committee ask the alleged victim and witnesses questions.~~
- k. **Record:** there shall be a single record of all student conduct hearings. This record is the official record and is the property of the University. ~~Student Conduct Committee Hearings will be audio recorded and the recording will become part of the record. For hearings before a Hearing Officer, the Officer's notes will become part of the record. The student may request a copy in writing which will be provided at cost.~~

- n. **Past Behavior:** A Complainant/~~alleged~~ victim's past behavior shall be excluded from the disciplinary hearing. ~~or~~The charged student has a right to have his or her past unrelated behavior excluded from the disciplinary hearing. The issue of relevance of the charged student's past behavior shall be determined by the Hearing ~~Officer-Administrator~~ or Chair of the Student Conduct Committee. ~~A n-accused student's~~charged student's past misconduct history will not be presented at the disciplinary hearing. This information may only be presented once a finding has been reached within the context of determining appropriate sanctions.
- l.o. **Audio Recording of Hearing:** Student Conduct Committee Hearings and Administrative Hearings will be audio recorded. There shall be a single audio record of all hearings. This audio record is the official record and is the property of the University and will be considered part of the charged student's disciplinary record. The charged student may submit a written request for a copy of the audio recording which will be provided after receipt of the hearing decision letter.
- m.p. **Standard of proofProof:** the burden to prove disciplinary cases rests with the University and not with the charged student. The standard of proof shall be "more likely than not." This means that the information presented supports the finding that it was more likely than not that the violation occurred.
- n.q. **Multiple studentsStudents chargedCharged:** in cases involving multiple students charged from the same incident, information obtained at one hearing may be used at another hearing provided that each charged student involved has the opportunity to review and respond to the information at his or her hearing.
- o.r. **Deliberations:** are closed and the decision making shall include only the Hearing ~~Officer-Administrator~~ or the Student Conduct Committee members and the Dean of Students as appropriateinvolved in the decision making process.
- s. **Determination of ResponsibilityDecisions of "responsible" or "not responsible" on the charge(s):** shall be based on the information presented at the hearing. The the Hearing ~~Officer-Administrator~~ or Student Conduct Committee (by majority vote) shall determine whether the charged student/~~respondent~~ has violated the Student Code of Conduct. A finding of "responsible" or "not responsible" shall be made for each charge.
- t. **Recommendation of Sanctions:** The the Hearing ~~OfficerAdministrator/~~ or Student Conduct Committee will also, in consultation with the ~~Associate Dean/Director of OSRR~~Dean of Students~~or~~, make recommendations for sanctions in those cases where the charged student is found responsible for violating the Student Code of Conduct. The ~~Associate Dean/Director of OSRR~~ Dean of Students may take any of the following actions related to the sanctions recommended by the Student Conduct Committee or Hearing Administrator:
  - i. Adopt the recommended sanctions
  - ii. Modify the recommended sanctions
  - iii. Reject the recommended sanctions, or
  - iv. Remand the matter for a rehearing

Where the Student Conduct Committee or Hearing Administrator's recommended sanctions are not adopted by the Dean of Students, the Dean of Students shall provide the charged student with the reasons for not adopting the recommendations in writing.

- p.u. **Victim Impact Statement:** If the charged student is found responsible, the complainant/victim has a right to submit a victim impact statement to the Hearing ~~Officer-Administrator~~ or Chair of the Student Conduct Committee for consideration at the sanctioning phase only. The statement may include a description of how the complainant was impacted by the conduct violation and may include recommendations for sanctions, penalties or restitution. However, the Hearing ~~Officer-Administrator~~ or Student Conduct

Committee is not bound by those recommendations.

- ~~q. **Sanctions:** The Hearing Officer/Conduct Committee will, in consultation with the Associate Dean/Director of OSRR, make recommendations for sanctions in those cases where the charged student is found responsible.~~
  - ~~r. **Notice of decisions:** a written decision letter from the Dean of Students Office will be provided concurrently to both the charged student and the complainant within five business days following the close of the hearing. This time may be extended for deliberations when necessary and the parties shall be notified of any such extensions. The decision letter shall contain a decision on each charge, any findings of fact and any sanctions.~~
  - v. **Hearing Decision Notification:** A written decision letter from the Dean of Students Office will be provided to the charged student within ten business days following the close of the hearing. This time may be extended for deliberations when necessary and the student shall be notified of any such extensions. The decision letter shall contain a decision on each charge, any findings of fact and any sanctions.
  - w. **Complainant/Victim Hearing Decision Notification:** Complainants/victims have the right to be notified of the outcome of the proceedings. A written decision letter from the Dean of Students Office will be provided to the victim within ten business days following the close of the hearing. This time may be extended for deliberations when necessary and the victim shall be notified of any such extensions. The hearing decision notification provided to the victim may only include 1) the name of the student, 2) the violation with which the student was charged, 3) whether the charged student was found “responsible or “not responsible,” and 4) any sanction(s) imposed.
5. **Student Withdrawal:** If a student withdraws from the University with misconduct charges pending against him or her, the conduct process will continue with or without his/her participation.
  6. **Student status-Status** the student’s permanent status on campus will remain unchanged pending the final decision of the hearing process and/or any appeal.
  7. **Hold on student’s-Student’s recordsRecords:** the University may place a hold on the records or registration of any student who fails to respond to a University disciplinary notice or fulfill any sanctions previously issued by the University. The University may take other action necessary for resolution of a case prior to the student’s enrollment in a subsequent semester, transfer or graduation. All pending disciplinary matters must be resolved prior to a student’s graduation, transfer from or continued education at the University of West Florida.
  8. **Accommodations for students-Students with disabilitiesDisabilities:** any student with a disability may request reasonable accommodations during the disciplinary process. ~~If accomidations are desired, This-this~~ request must be made to the Student Disability Resource Center at least three business days in advance of the hearing. ~~If necessary, the hearing- Hearing officer-Officer~~ or Student Conduct Committee **Chair** may postpone the hearing to provide reasonable accommodations.

## Article VII. Sanctions

A ~~charged student-or student organization~~ found responsible for violations shall be subject to sanctions commensurate with the offense. Consideration may be given to aggravating and mitigating circumstances, ~~and prior conduct record.~~ The Hearing ~~OfficersAdministrator/Student Conduct Committee~~ will recommend sanctions to the ~~Associate Dean/Director of OSRR~~Dean of Students. ~~-Final determination of sanctions is made by the Dean of StudentsAssociate Dean.-~~ Recommended sanctions may be adopted, modified or rejected. ~~Where the Student Conduct Committee or Hearing Administrator’s recommended sanctions are not adopted by the Dean of Students, the Dean of Students shall provide the charged student and complainant/victim with the reasons for not adopting the recommendations in writing.If final sanetions, as determined by the Associate Dean, differ from the recommended sanctions of the Hearing Officer/Conduct Committee, then the rationale for the sanction will be stated in the charged student’s decision-~~

~~letter. A sanction of expulsion must be reviewed and approved by the Dean of Students.~~ One or more of the following sanctions may be imposed for any single violation.

1. **Expulsion:** a student who is expelled is permanently deprived of his or her privilege to continue at the University in any capacity. The student may not visit or come onto any UWF campus without specific written permission of the Vice President for Student Affairs. Expelled students are not in good standing.
2. **Suspension:** a student who is suspended is required to leave the University for a specified period of time. The student must comply with all sanctions and complete all requirements prior to re-admission. During the suspension period the student may not visit or come onto any UWF campus without specific written permission of the Vice President for Student Affairs. While serving a suspension a student is not in good standing.
  1. **Disciplinary probation:** a written disciplinary sanction notifying a student or student organization that the behavior is in serious violation of University standards. Any additional violations occurring during a probationary period may result in more serious sanctions. In addition, restrictions may be placed on a student's or student organization's activities. Restrictions that may be imposed during a probationary period may include, but are not limited to, restriction of the privilege to: (a) participate in student activities or in student organizations; (b) represent the University on athletic teams, or in other leadership positions; (c) have access to University housing facilities or other areas on campus; (d) have use of University resources and/or equipment; (e) have contact with specified person(s). When on disciplinary probation a student is not in good standing.
  - ~~1.2. **Disciplinary reprimand:** a written disciplinary sanction notifying a student ~~or student organization~~ that the behavior did not meet University standards. All disciplinary reprimands will be taken into consideration if further violations occur.~~
  - ~~2. **Disciplinary probation:** a written disciplinary sanction notifying a student or student organization that the behavior is in serious violation of University standards. Any additional violations occurring during a probationary period may result in more serious sanctions. In addition, restrictions may be placed on a student's or student organization's activities. Restrictions that may be imposed during a probationary period may include, but are not limited to, restriction of the privilege to: (a) participate in student activities or in student organizations; (b) represent the University on athletic teams, or in other leadership positions; (c) have access to University housing facilities or other areas on campus; (d) have use of University resources and/or equipment; or (e) have contact with specified person(s).~~
3. **Loss of University privileges:** temporary or permanent loss of University privileges may include use of University facilities, resources, equipment, attendance at athletic functions, University Commons access, library use, parking privileges, University computer usage, and/or residence hall or other visitation.
  - ~~4.1. **Suspension:** a student who is suspended is required to leave the University for a specified period of time. The student must comply with all sanctions and complete all requirements prior to re-admission. During the suspension period the student may not visit or come onto any UWF campus without specific written permission of the Vice President for Student Affairs.~~
  - 5.4. **Deactivation of recognized Student-student Organization-organization status:** temporary or permanent loss of all privileges, including University recognition.
  - ~~6.1. **Expulsion:** a student who is expelled is permanently deprived of his or her privilege to continue at the University in any capacity. The student may not visit or come onto any UWF campus without specific written permission of the Vice President for Student Affairs.~~
  - 7.5. **Restitution:** the student ~~or student organization~~ is required to pay for damages and/or loss of ~~use of an~~ individual's or University property. Payment is limited to the actual cost of repair or replacement of such property.
  - 8.6. **Community/University service:** a student ~~or student organization~~ is required to complete a specified number of hours of service to the campus or general community.

- 9-7. Education requirements:** a student is required to complete a specified educational sanction related to the violation committed. Such educational requirements may include, but are not limited to, completion of a seminar, report, alcohol or drug assessment, presentations, and/or counseling.
- 10-8. Fines:** Monetary fines established by the Dean of Students, subject to the approval of the Board of Trustees, will be published on the Office of Student Rights and Responsibility website ([www.uwf.edu/osrr](http://www.uwf.edu/osrr)).
- 11-9. Drug Testing:** a student found responsible for any drug-related violation may be sanctioned to random drug screening for a specified period of time **at the cost to the student**. Positive (failed) test results ~~would~~**may** constitute a violation of this policy and ~~would~~**may** trigger further disciplinary charges.
- 12-10. University Housing assignment change or removal:** a student is required to (a) relocate to a new University housing assignment; (b) leave University housing for a specified period of time; or (c) leave University housing permanently.
- 13-11. No contact order:** a directive informing the student that he or she is not to have any contact, direct or indirect, with one or more designated persons or group(s) through any means, including personal contact, e-mail, telephone, text messaging, social media or via third parties.
- 14-12. Denial of further registration and/or credits:** further registration may be denied and/or credits and degrees may be invalidated or revoked for false, fraudulent or incomplete statements made by a student in his or her application for admission, residency affidavit, or accompanying documents or statements in connection with, or supplemental to, the application for admission to or graduation from the University.
- 15-13. Denial or revocation of academic credit:** degrees and credit awarded by the University may be invalidated or revoked, credits may be denied and grades may be reduced for conduct involving violations of academic honesty rules, regulations, or policies.
- 16-14. Withholding degrees:** the University may withhold issuing a degree, diploma or transcript pending compliance with University regulations, or policies or pending completion of the process set forth in this Student Code of Conduct, including the completion of all imposed sanctions.

#### **Article VIII. Appeal ~~of~~ (Non-Title IX Cases)**

1. ~~The~~A student ~~or student organization~~ found responsible for violating the Student Code of Conduct may appeal the decision ~~and or sanctions finding them responsible for the charges~~ by submitting an appeal in writing to the Vice President for Student Affairs within 10 business days of the date of the decision letter.
2. The Vice President for Student Affairs ~~or designee~~ will review the appeal. Grounds for appeal are limited to the following:
  - a. the student's rights, as outlined in this regulation, were violated in the hearing process;
  - b. new information is discovered that was not available at the time of the hearing;
  - c. the information presented does not support the decision; or
  - d. the sanction(s) imposed ~~was/were~~ not appropriate for the violation.
3. The Vice President for Student Affairs ~~or designee~~ may uphold the decision and/or sanctions, modify the decision and/or sanctions, remand the case to the same Hearing ~~Officer~~Administrator/Committee for reconsideration of the decision and/or sanctions, or remand the case to a new Hearing ~~Officer~~Administrator/Committee for a new hearing. Unless the appeal decision is to remand the case, the appeal decision is considered the final decision of the University.
4. A copy of the decision of the Vice President of Student Affairs ~~or designee~~ shall be forwarded to the charged student, the victim (where permitted by ~~FERPA~~law) and to the Dean of Students Office for filing and for distribution to the appropriate parties.

5. If the final decision of the University is a sanction of suspension or expulsion, a charged student may seek judicial review of the final decision pursuant to Florida Rule of Appellate Procedure 9.190(b)(3), (which is 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 for Escambia County within thirty (30) days of the final decision of the University. If the student seeks review with the court, he or she must also provide a copy of the petition for certiorari review to the Office of the Vice President for Student Affairs, University of West Florida, Bldg. 10, 11000 University Parkway, Pensacola, FL 32514.

#### **Article IX. Appeal of (Title IX Cases)**

1. Both the complainant/victim and the charged student may appeal the decision and or sanction(s) in writing to the Vice President for Student Affairs. The appeal must be received in the Vice President for Student Affairs Office within 10 business days of the date of the decision letter.
2. If either the complainant/victim or charged student submits an appeal, the other individual will be notified and provided with a copy of the appeal and will be given 10 business days to respond to the appeal in writing. The Title IX Coordinator will also be provided with a copy of the appeal. The Vice President for Student Affairs or designee will review the appeal, including all information provided by all parties. Grounds for appeal are limited to the following:
  - a. the complainant's or charged student's rights, as outlined in this regulation, were violated in the hearing process;
  - b. new information is discovered that was not available at the time of the hearing;
  - c. the information presented does not support the decision; or
  - d. the sanction(s) imposed were not appropriate for the violation.
3. The Vice President for Student Affairs or designee may uphold the decision and/or sanctions modify the decision and/or sanctions, remand the case to the same Hearing ~~Officer~~Administrator/Committee for reconsideration of the decision and/or sanctions, or remand the case to a new Hearing ~~Officer~~Administrator/Committee for a new hearing. Unless the appeal decision is to remand the case for a new hearing, the appeal decision is considered the final decision of the University
4. A copy of the decision of the Vice President of Student Affairs shall be forwarded to both complainant and charged student, to the Title IX Coordinator and to the Dean of Students Office for filing and for distribution to the appropriate parties.
5. If the final decision of the University is a sanction of suspension or expulsion, a charged student may seek judicial review of the final decision pursuant to Florida Rule of Appellate Procedure 9.190(b)(3), (which is 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 for Escambia County within thirty (30) days of the final decision of the University. If the student seeks review with the court, he or she must also provide a copy of the petition certiorari review to the Office of the Vice President for Student Affairs, University of West Florida, Bldg. 10, 11000 University Parkway, Pensacola, FL 32514.

#### **Article X. Records**

1. Records of disciplinary actions shall be maintained by the Dean of Students Office.
2. Student files involving cases that do not result in suspensions or expulsions shall be expunged seven years after the final decision. Records of cases that result in suspensions or expulsions are kept permanently. Statistical and database information may be kept permanently at the University.
3. Students found "not responsible" for a charge or charges or students against whom charges

~~are dropped~~have been withdrawn, are considered not to have a disciplinary record for those charges. However, the records will be maintained by the University in accordance with Section 1002.22, F.S. and with applicable State record retention laws.

**Article XI. Transcript Notations**

1. A temporary notation will be placed on the student's transcript during any period of suspension.
2. If a student is expelled, a permanent notation will be placed on the student's transcript.

*Authority Sections 1006.60 FS. 1006.61, 1006.62, 1006.63, Florida Statutes, Board of Governors Regulation 6.0105.*

*History- Formerly FAC Rule 6C6-3. 010 adopted 10/1/75, Amended 10-24-79, 12-29-80, 8-9-81, 8-30-83, Formerly 6C6-3. 10, Amended 10-26-86, 4-21-91. Converted to UWF/REG 3.010 7/21/07, amended 8/28/06, 8/27/07, 8/23/10, 6/4/~~20~~10, 3/19/~~20~~13, 9/9/14. \_\_\_\_\_*