



**Number:** UWF/REG-3.010  
**Title:** Student Code of Conduct  
**Responsible**  
**Department:** Dean of Students Office

## **I. General Statement:**

A critical mission of the University of West Florida (“UWF” or the “University”) 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, and treat others in a manner in which they wish to be treated. In addition, Students have a duty to care for others in the University Community, on or off campus, by rendering aid and seeking help from appropriate medical, emergency, or University Staff members during a moment of need. The University 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, UWF has a Student Code of Conduct (“Code”) 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, and how the Code is administered.

University Students and student organizations are expected to uphold appropriate standards of behavior and to respect the rights and privileges of others. This Code applies to individual Students and student organizations. All Students and student organizations are expected to conduct themselves in accordance with all federal, state, and local laws, Board of Governors regulations, and University regulations and policies.

The University is committed to ensuring that all Students, faculty, and Staff are treated with dignity and respect. UWF 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, while respecting the First Amendment rights of others.

As a recipient of Federal funds, the University is required to comply with Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. (“Title IX”), which prohibits discrimination on the

basis of sex in education programs or activities. This Code sets forth rights and procedures for Title IX cases and Non-Title IX cases.

In keeping with UWF'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), and promoting civility and positive growth while maintaining the safety and integrity of the University Community.

The Code applies to all UWF campuses, UWF sponsored programs, including international and exchange programs, and to off-campus conduct.

The University President delegates administration of the Code to the Vice President of Academic Engagement and Student Affairs, who delegates portions of the administration of the Code to the Dean of Students, who may further delegate these responsibilities to other appropriate Staff. All references to the Vice President of Academic Engagement and Student Affairs or Dean of Students in this Code also refer to that individual's designee(s).

The Code shall be reviewed periodically under the direction of the Vice President of Academic Engagement and Student Affairs by a committee including student representation appointed by the President of the SGA.

## **II. Definitions**

- Advisor – Any support person, advocate, or legal representative that the Student chooses at their own expense and initiative to advise the Student before, during, or after a hearing.
- Charged Respondent – any Student alleged to have violated this Code . For the purposes of this regulation, “Charged Respondent” may also include a student organization alleged to have violated this Code.
- Complainant – any person who alleges that a Student violated this Code and this term includes any Student who submits allegations of a violation under Title IX.
- Consent – an affirmative act or statement by each person that is informed, freely given, and mutually understood. Consent cannot be gained by Force, by intimidation, through threats, by ignoring or acting in spite of the objections of another, by coercion, through manipulation or assumption, or from an individual who is incapacitated.
- DAESA – Department of Academic Engagement and Student Affairs.
- Dean of Students Office – the department designated by the University with responsibility for administering the Code.
- Force – physical violence, threat, intimidation, or coercion.
- Good Standing – a conduct status describing a Student who is not on conduct-related probation and does not have pending, incomplete, or overdue misconduct sanctions. Students adversely affected by their standing within the University (e.g., a Student wishing to run for an SGA Office) may submit a request for an expedited student conduct hearing to the VP-DAESA.

- Hearing Administrator – a University official authorized by the Vice President of Academic Engagement and Student Affairs to administer student conduct proceedings, including administrative hearings, to determine if the UWF Code or Title IX policy has been violated, and to recommend applicable sanctions.
- Incapacitation – a temporary or permanent state in which a person cannot make informed, rational judgments because the person lacks the physical or mental capacity to understand the nature or consequences of their words or conduct, or the person is unable to physically or verbally communicate Consent.
- May – the term “may” is used in the permissive sense.
- Office of Student Rights and Responsibilities (“OSRR”) – a unit within the Dean of Students Office.
- Sexual Harassment – unwelcome conduct based on sex, gender, sexual orientation, or gender identity, that is sufficiently severe or pervasive so that it alters the terms and conditions of the Complainant’s employment or educational environment. For Title IX cases, “Sexual Harassment” is as defined in University Policy P-14, Sexual Harassment and Misconduct, as it may be amended.
- SGA – Student Government Association.
- Shall – the term “shall” is used in the imperative sense.
- Staff – any person who is a University employee who is not a faculty member, including executive, administrative, workforce, and OPS (other personnel services) employees.
- Stalking – engaging in a course of conduct over a period of time, however short, directed at a specific person that would cause a reasonable person to fear for their safety, the safety of others, or suffer substantial emotional distress and serves no legitimate purpose.
- Student – includes all persons enrolled at UWF, 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 who have been suspended from UWF and do not require readmission to the University, and Students admitted but not yet enrolled at the University. For the purposes of this regulation, “Student” also includes a student organization, which includes all student clubs and organizations recognized by the University pursuant to SA-22, Student Organizations, as it may be amended. The executive officer of a student organization will serve as the representative of the organization throughout any conduct proceeding.
- Student Conduct Hearing Board – consists of faculty and Staff representatives appointed by the VP-DAESA and Student representatives appointed by the President of the SGA. The Student Conduct Hearing Board assigned to adjudicate a particular case must consist of at least 50% Students. The chair of the Student Conduct Hearing Board shall be a faculty or Staff representative. The Student Conduct Hearing Board is assigned on a case-by-case basis to administer student conduct hearings. The Student Conduct Hearing Board will determine whether the Code or Title IX policy has been violated. For non-Title IX cases, the Student Conduct Hearing Board will recommend applicable sanctions to the Dean of Students. For Title IX cases, the Student Conduct Hearing Board will determine the applicable sanctions. University Community – includes any person who is a Student, faculty member, or employee of the University. University Official – includes any person

employed by the University performing assigned administrative or professional responsibilities.

- University Premises –all land, facilities, and other property in the possession of, owned by, or controlled by the University, including property at which University-sponsored events are held for the duration of the event. This term includes University online classrooms and other online settings when they are under the control of the University.
- Victim – any individual who has allegedly suffered injury or harm by a UWF Student. 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 and Privacy Act, a Victim who has been subject to any of the following violations or attempted violations is entitled to be notified of his or her rights and of the outcome of the disciplinary process: Arson, Assault, Burglary, Criminal Homicide, Destruction/damage/vandalism of property, Kidnapping, Robbery, Forcible Sex Offences, and Non-forcible sex offenses (incest or statutory rape). For all Title IX cases, Complainants and Respondents have the right to participate fully in the investigation and proceedings. All other Victim rights articulated in this regulation apply to all Victims.
- VP-DAESA – the Vice President of DAESA. This term includes any vice president presiding over DAESA or designee, regardless of a variation of the vice president’s title (e.g., Associate Vice President).

### **III. University Authority**

#### **A. Off-Campus Conduct**

The University may take disciplinary action against a Student for violations committed off-campus where one of the following applies:

1. The off-campus conduct demonstrates that the continued presence of the Student on campus presents a danger to the health, safety, or welfare of the University Community;
2. The off-campus conduct is disruptive to the orderly processes and functions of the University;
3. The off-campus conduct is intimidating or threatening to the University Community or an individual within the University Community;
4. 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
5. The off-campus conduct is such that it could constitute a violation of the law.

#### **B. Court or Administrative Proceedings Outside of the University**

Charges by public authorities will not prevent the University from charging a Student with violations of this Code. 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 Code, 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 charges 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.

#### C. Cease and 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.

#### D. 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).

##### 1. Interim Measures

Interim measures may be taken by the University at any time if it is determined that a Student'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 in writing. Interim measures may include, but are not limited to:

##### a. Interim 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 or participate in any University activity without the written permission of the Dean of Students.

##### b. Restrictions on Activity

The Dean of Students may restrict a Student'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; or participating in University activities, student organizations, or student activities.

c. Interim Removal from Housing and/or 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.

2. Review of Interim Measures

The Student has the opportunity to submit a written request for a review to the VP-DAESA regarding the interim measures. If requested, the review will be conducted by the VP-DAESA within five business days of the receipt of the written request. During the review, the Student will be provided with the opportunity to explain that individual's perspective related to the basis and continued need for the interim measures. The scope of this 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.

3. Termination of Interim Measures

Interim measures may be lifted at the conclusion of the interim measure review process or at the conclusion of the disciplinary hearing. Interim measures will be lifted when the University determines that a Student's presence or activities no longer adversely affect the health, safety, or welfare of the University Community.

4. Student Enrollment Status

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 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 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.

E. Interpretation and Application

Any question of interpretation or application of the Code shall be referred to the VP-DAESA. Where an individual is both an employee and a Student, the individual may face disciplinary action as a Student and as an employee.

## IV. Violations

The following conduct, whether completed or attempted (including aiding, assisting, abetting, conspiring, soliciting, inciting, or encouraging), violates the Code. Where applicable, behavior will be judged by a reasonable person standard.

### A. Deceit of Any Kind, including but not limited to:

1. Forgery, alteration, or misuse of identification, documents, records, keys, or access codes.
2. Failure to present proper identification upon request by University Officials, including law enforcement officers.
3. Furnishing false or misleading information to the University.
4. Unauthorized possession, duplication, or use of keys, access cards, or identification cards belonging to the University.
5. Impersonation, misrepresentation, or other actions taken to deceive University Officials, faculty, or Students with regards to one's identity.
6. Providing false information to a University Official or to a non-University law enforcement official, including student conduct hearing bodies.

### B. Harm to Individuals, including but not limited to:

1. 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.
2. Intentional physical unpermitted touching or injury to another person including, but 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.
3. Sexual abuse or threat of such abuse.
4. 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.
5. 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 Consent; engaging in voyeurism; or knowingly or recklessly exposing another person to a significant risk of a sexually transmitted infection, including HIV.
6. Conduct which is lewd, lascivious, or voyeuristic.
  7. Stalking, including cyberstalking.
  8. Endangering the health, safety or welfare of members or guests of the University which encompasses:
    - a. Physical violence towards another person or group;
    - b. Actions that interfere with the freedom of another person to move about in a lawful manner;
    - c. Voluntarily abstaining from rendering aid to a person in danger, including but not limited to someone who is present at a sexual assault but fails to intervene; failing to call for emergency medical assistance at a hazing event; failing to call for emergency medical assistance for signs of alcohol poisoning or the use of other substances for someone in need of medical help.
  9. Harassment based on any legally protected class. Harassment is defined as conduct that is sufficiently severe or pervasive so as to unreasonably interfere with an individual's academic or employment status or performance. Harassment on the basis of these protected classes may include threatened or actual physical harm or abuse, Stalking, or other intimidating conduct directed against the individual based on his or her protected class. Conduct that would meet the threshold for Title IX's definition of Sexual Harassment will be addressed according to University Policy P-14, Sexual Harassment and Misconduct, as it may be amended.
  10. Conduct not of a sexual nature and unrelated to the Victim's protected class, if any, including any gesture, written, verbal, or physical act, or any electronic communication (including text messages and postings on websites or social media), that places a reasonable person in fear of harm to their person or damage to their property, infringes upon rights of personal privacy, has the effect of substantially interfering with a reasonable person's academic performance or ability to participate in opportunities or benefits provided by the University, or has the effect of substantially interfering with the orderly operation of the University.
  11. Retaliation – An adverse action taken that may dissuade a reasonable person from making a complaint, cooperating in an investigation, or participating in a University administrative process.

12. The University prohibits any form of hazing of its Students, including hazing by Students or other persons associated with any Student, organization, or group, at any time, and at any location.
  - a. Hazing means any action or situation, which occurs on or off university property, that recklessly or intentionally endangers the mental or physical health or safety of a Student for purposes including, but not limited to:
    - i. Initiation into any organization operating under the sanction of a postsecondary institution;
    - ii. Admission into any organization operating under the sanction of a postsecondary institution;
    - iii. Affiliation with any organization operating under the sanction of a postsecondary institution; or
    - iv. The perpetuation or furtherance of a tradition or ritual of any organization operating under the sanction of a postsecondary institution.

Hazing includes, but is not limited to, pressuring or coercing the Student into violating state or federal law; any brutality of a physical nature, such as whipping, beating, branding, exposure to the elements, forced consumption of any food, liquor, drug, or other substance; or other forced physical activity that could adversely affect the physical health or safety of the Student; and also includes any activity that would subject the Student to extreme mental stress, such as sleep deprivation, forced exclusion from social contact, forced conduct that could result in extreme embarrassment, or other forced activity that could adversely affect the mental health or dignity of the Student. Hazing does not include customary athletic events or other similar contests or competitions or any activity or conduct that furthers a legal and legitimate objective.
  - b. Hazing also includes observation of hazing activities by bystanders, defined as individuals in a position to intervene, but who fail to intervene.
13. 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.
14. Failure to Render Aid – This section imposes a duty of reasonable assistance on any Student who knows that another individual faces grave physical danger if assistance can be rendered without peril to the responding Student(s). The following instances constitute a failure to render aid and violate the Code:

- a. Voluntarily abstaining from giving assistance to a Victim or person in danger of becoming a Victim of a sexual assault.
  - b. Failing to call for emergency assistance for signs of alcohol or drug poisoning.
  - c. Failing to call for emergency assistance when one knows that a person is in grave physical danger or has been exposed to bodily harm.
  - d. Failing to call for emergency assistance during a hazing incident.
  - e. Failing to inform University Officials of an emergency incident.
  - f. Failing to make an effort to prevent persons who have abused alcohol or other drugs from harming themselves or others, especially while driving a motor vehicle.
- C. Disorderly or Disruptive Conduct, including but not limited to:
1. Conduct that is disorderly, disruptive, or in any way interferes with or obstructs the orderly conduct, processes, 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. This applies to acts that occur both inside and outside the classroom setting and may include use of electronic or cellular equipment. This also applies to behavior off campus during a University sanctioned event or activity or an event where the Student serves as a representative of the University.
  2. Conduct that substantially disrupts or materially interferes with University activities or that reasonably leads University Officials to anticipate such disruption or interference.
  3. Failure to comply with a directive or lawful order of a University Official or any non-University law enforcement official.
  4. Commercial solicitation on campus without prior approval from University Officials, including, but not limited to, accessing University email information and sharing University email information with a third party for the purposes of commercial solicitation.
  5. Remote-controlled aircraft or vehicles, including but not limited to:
    - a. Unauthorized on-campus use of any remote-controlled aircraft or vehicle.
    - b. Failure to comply with established laws and guidelines for authorized use of remote-controlled aircraft or vehicles.

D. Harm to Property, including but not limited to:

1. Participation in acts of vandalism individually or as a member of a group.
2. Unauthorized entrance into or occupancy of any administrative office, residence hall, classroom, or other University facility.
3. 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.
4. Posting of commercial advertising on University property or engaging in commercial activity on University property or in conjunction with University events without appropriate authorization.

E. Facilitating Student Conduct – Aiding, assisting, abetting, conspiring, soliciting, inciting, or encouraging others to engage in conduct which violates this Code.

F. Obstruction of Disciplinary Process – Acts that disrupt or interfere with the University disciplinary process, including but not limited to:

1. Knowingly falsifying, distorting or misrepresenting information in a disciplinary proceeding or process.
2. Deliberately disrupting or interfering with the orderly conduct of a disciplinary proceeding or process.
3. Knowingly initiating a complaint or referral without cause.
4. Use of threats, coercion, intimidation, or harassment to discourage participation in or the use of the disciplinary process, or to alter the decision or outcome of a disciplinary proceeding or process.
5. Tampering with information to be used in a University disciplinary process.
6. Attempting to influence the impartiality of a member of the disciplinary process.
7. Violating and/or failing to comply with or fulfill disciplinary sanctions.

G. Computer, Network, and/or Data Misuse including, but not limited to:

1. Unauthorized access, entry or use of a computer, computer system, network, software, password, account, or data belonging to the University or another individual.

2. Unauthorized alteration or degradation of computer equipment, software, network, data or system performance.
3. Unauthorized copying or distribution of University data.
4. Unauthorized use, duplication, sharing, or distribution of copyrighted materials or other intellectual property, including computer software or other medias such as music and videos.
5. 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.
6. Any unauthorized commercial use of University computer or computing resources.
7. Any unauthorized use of electronic or other devices to make an audio or video recording.
8. Use of computing facilities and resources to interfere with the work of another Student, faculty member, Staff member or University Official.
9. Any other violation of SA-19, Student Communications Policy; IT-01, UWF Electronic Communications Policy; or other policies related to computer and data use on campus, as they may be amended.

H. 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:

1. Prohibited Uses of Drugs
  - a. 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.
  - b. 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.
  - c. Sale or distribution of narcotics, prescription drugs, other controlled substances, or drug paraphernalia, as prohibited by Florida Law.
  - d. 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 facilities or both.

- e. Disorderly conduct while under the influence of a substance including, but not limited to, endangering one's own safety or that of another person, destruction of property, or causing a public disturbance.
  - f. Being under the influence of an illegal substance and endangering one's own safety or the safety of another person or property.
2. Prohibited Uses of Alcohol
- a. Any possession or consumption of alcohol that is in violation of UWF/REG 5.017, Alcoholic Beverages on Campus Property, or SA-24, Alcohol Policy for Student Organization Sponsored Events, as they may be amended.
  - b. Possessing, purchasing or consuming alcohol if under the legal age.
  - c. Misrepresenting one's age for the purposes of purchasing or consuming alcohol.
  - d. Purchasing, furnishing, or serving alcohol to any underage person.
  - e. Possessing, furnishing, or consuming alcohol in unauthorized areas of the University.
  - f. Possessing or using a common source of alcohol (i.e. kegs, beer bongs, or their equivalent) on University Premises.
  - g. Being intoxicated to the point at which an individual has lost normal control of his or her body or mental faculties or both.
  - h. Disorderly intoxication: being intoxicated and endangering the safety or another person or property; being intoxicated or drinking alcoholic beverages in a place on campus at which it is not permitted and causing a public disturbance.
  - i. Drinking games: participation in games that involve the consumption of alcoholic beverages on University Premises.
3. 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 person or to University property.

4. Actions that 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.
5. Obstruction of the free flow of pedestrian or vehicular traffic on University Premises or at University sponsored or supervised functions.
6. Cruelty to animals.
7. Willfully entering a campus restroom or changing facility designated for the opposite sex and refusing to depart when directed by a University Official with the exception of the following circumstances: (a) to accompany a person of the opposite sex for the purpose of assisting or chaperoning a child under the age of 12, an elderly person, a person with a disability, or a person with a developmental disability, as those terms are defined in section 553.865, Fla. Stat.; (b) for law enforcement or governmental regulatory purposes; (c) for the purpose of rendering emergency medical assistance or to intervene in any other emergency situation where the health or safety of another person is at risk; (d) for custodial, maintenance, or inspection purposes, provided that the restroom or changing facility is not in use; or (e) if the appropriate designated restroom or changing facility is out of order or under repair and the restroom or changing facility designated for the opposite sex contains no person of the opposite sex.
8. Violations of the UWF Housing and Residence Life Handbook.
9. Engaging in or offering games of chance for money or other gain in violation of the laws of the State of Florida.
10. Unauthorized Use of Recordings
  - a. Making, using, publishing or distributing a recording of a person in a location or situation in which that person has a reasonable expectation of privacy and is unaware of the recording or does not Consent to it; and any other conduct that constitutes an invasion of the privacy of another person under applicable laws and regulations. Such conduct includes, without limitation, unauthorized recording of private conversations, images, meetings or activities.
  - b. Unauthorized recording in class, or of an organizational or University meeting where there exists a legal expectation of privacy, and any use, disclosure, or publishing of any such recording. Students may make a recording of class lectures for three lawful reasons:

- i. For their own personal educational use
- ii. In connection with a complaint to the University
- iii. As evidence in or preparation for a criminal or civil proceeding.

A recorded class lecture may not be published without the prior express written Consent of the faculty or guest lecturer.

## **V. Procedure for Non-Title IX Cases**

### **A. Determination of Charges**

1. Alleged violations of the Code may be reported to the Dean of Students Office by anyone, including but not limited to University Police or other University departments; faculty, Staff, or Students; or third parties.
2. The Dean of Students Office will review the information to determine if a Student will be charged with violating the Code.
3. The Dean of Students Office may not charge a Student with a violation of the Code more than one year after the date the conduct occurred or was discovered, whichever is later. University officials, 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. Circumstances that may warrant an extension include, but are not limited to, when a Student's continued presence on campus may adversely affect the health, safety or welfare of the University Community.
4. 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 Charged Respondent will be notified via email.
5. The University recognizes that there may be emergency situations related to hazing, sexual misconduct, alcohol consumption, or the use of other substances in which fear of student conduct or disciplinary action may deter Students from rendering aid or seeking help for themselves or others. The VP-DAESA has the sole discretion to grant immunity pursuant to SA-01, Medical Immunity, as it may be amended, which governs immunity to a Student who acts in accordance with this Code by rendering aid or seeking help. The VP-DAESA may choose to withdraw immunity once granted, at any time, and utilize the procedures outlined in this regulation if the requirements set forth

in SA-01, Medical Immunity, are not completed by the Students to the sole satisfaction of the University.

#### B. Notice of Charges

1. The Dean of Students Office will provide the Charged Respondent written notice via email or other software utilized by the Dean of Students Office to the Charged Respondent's UWF email address of the charge(s) of the Code, citing the specific provision(s) of the Code at issue and the allegations upon which the charge(s) are based at least 7 business days before the educational conference.
2. The notice will include scheduling information for the educational conference. If the time or date of the educational conference is not convenient to the Charged Respondent, the Charged Respondent must notify the Dean of Students Office within two business days of the issue date of the notice to reschedule.

#### C. Advisor Participation

A Charged Respondent has the right to be accompanied by an Advisor of their choice at the Charged Respondent's expense and initiative. A Student may bring an Advisor to an educational conference and/or hearing. The Advisor may be present to advise the Student and may participate in all aspects of the proceeding but shall not testify for the Student. University Officials will communicate directly with the Charged Respondent during the student conduct process (i.e., official correspondence, notice letters, educational conference, hearings, etc.). Advisor participation must take place in a manner that does not disrupt the educational conference or hearing. Advisors that do not maintain professional decorum may be asked to leave the educational conference or hearing. The name and role of the Advisor must be provided to the Dean of Students Office in writing at least three business days prior to the scheduled educational conference or hearing. If the Advisor is an attorney, disclosure must be made at the time the name and role are provided, as a University attorney must also be present. The process will not be delayed due to scheduling conflicts of the chosen Advisor. Advisors may not serve in any other role in the conduct process, including as an investigator, decider of fact, Hearing Administrator, or member of a Hearing Board convened to hear or decide the charge or any appeal.

#### D. Student Advocate

A student advocate is an individual appointed by the SGA President. The student advocate is available upon request to the OSRR by the Charged Respondent to assist Students with information regarding University policies, the student conduct process, and appeal procedures. The student advocate shall not serve as the Advisor during any hearing.

## E. Educational Conference

1. The educational conference is not a hearing. The purpose of the educational conference is for the Hearing Administrator to review with the Charged Respondent the allegations and charges, the Code, the hearing options, the conduct process, possible sanctions, and to answer questions.
2. During the educational conference, the Charged Respondent will be given the opportunity to accept responsibility, not accept responsibility for the charges, or request to postpone their decision for up to 2 business days.
3. If the Charged Respondent accepts responsibility for the charges:
  - a. The Charged Respondent will be asked to sign the educational conference form indicating that individual's acceptance of responsibility and that the individual is waiving that individual's right to a hearing.
  - b. A resolution agreement documenting the Charged Respondent's responsibility and the proposed sanctions will be sent to the Charged Respondent within ten business days from the Dean of Students Office. If the Charged Respondent agrees with the proposed sanctions, they will sign the resolution agreement and return it to the OSRR within 3 business days. If the Charged Respondent does not agree with the proposed sanctions, the Charged Respondent will indicate this on the resolution agreement and request either an Administrative Hearing or Student Conduct Hearing Board for the sole purpose of determining sanctions.
4. If the Charged Respondent does not accept responsibility for the charge(s):
  - a. The Charged Respondent will be asked to sign an educational conference form indicating that he or she does not accept responsibility for the charge(s) and will be asked to select a hearing option.
  - b. The Dean of Students Office will schedule the hearing and provide the Charged Respondent with a minimum of seven business days' notice.
5. If the Charged Respondent requests to postpone their decision, the Charged Respondent will be asked to sign and return an educational conference form to the OSRR within two business days following the educational conference.
6. If the Charged Respondent fails to attend the educational conference, fails to complete the educational conference form, or fails to complete and return the resolution

agreement, the matter will be referred for a hearing to the Student Conduct Hearing Board.

#### F. Hearing Options

1. The Charged Respondent has the right to a hearing before a Student Conduct Hearing Board. This Board must be composed of at least 50% Students, with a minimum of four board members.
2. In the alternative, the Charged Respondent may choose to have an administrative hearing before a Hearing Administrator if the following conditions are met:
  - a. The Charged Respondent signs a waiver of the right to a hearing before the Student Conduct Hearing Board, and
  - b. An administrative hearing is permitted by the Dean of Students.
3. Conduct violations under Article IV of this Regulation that are sexual in nature follow this procedure for hearings: At the University's discretion, the decision-maker(s) at the hearing will be either a University Official or designee; a Student Conduct Hearing Board comprised of only University Officials or designees; or a Student Conduct Hearing Board where Students comprise at least 50% of the membership of the Student Conduct Hearing Board.

#### G. Hearing Procedures

The Student Conduct Hearing Board hearing and the administrative hearing are educational processes and are not legal in nature. Formal rules of process, procedure, and technical rules of evidence such as are applied in criminal or civil court are not used in Code proceedings.

##### 1. Hearing Notification

The University will notify the Charged Respondent via email or other software utilized by the Dean of Students Office to their institutional email address of the date, time, and location of the hearing no less than seven days in advance of the hearing. This notification will also advise the Charged Respondent of their rights in the student conduct process. If the time or date of the hearing is not convenient to the Charged Respondent, the Charged Respondent must submit a written request to reschedule to the OSRR within two business days of the date of the notice.

## 2. Charged Respondent Evidence

The Charged Respondent 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 seven business days in advance of the hearing.

## 3. Victim Notification and Evidence

The University will notify the Victim via their UWF email account of the date, time, and location of the hearing no less than seven days in advance of the hearing. This notification will also advise the Victim of their 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 their own record; and the right to provide information in a separate room from the Charged Respondent. The Victim 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 seven business days in advance of the hearing.

## 4. Pre-Hearing Information

The University will provide pre-hearing information, including a copy of the hearing procedures, a list of all known witnesses that have provided or will provide information against the Charged Respondent, and all known information relating to the allegations, both inculpatory and exculpatory, to the Charged Respondent. The pre-hearing information will be available at least five business days in advance of the hearing.

## 5. Failure to Appear

If the Charged Respondent fails to appear, the hearing will proceed in the Charged Respondent's absence.

## 6. Closed Hearings

Hearings are closed to the public and only the Charged Respondent, Victim (where authorized), Advisors, and Staff from the Dean of Students Office may attend. Witnesses may not be present in the proceedings except to provide information when called upon.

## 7. Role of the Hearing Administrator or Student Conduct Hearing Board Chair

A Charged Respondent has a right to an impartial Hearing Administrator. The Hearing Administrator or Student Conduct Hearing Board 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 their discretion, the Hearing Administrator or Student Conduct Hearing Board chair may:

- a. Accept information for consideration.
- b. Make determinations regarding requests for postponements.
- c. Make determinations as to procedural questions.
- d. Make procedural modifications for purposes of expediting a process or in the interest of fairness or safety.
- e. Exclude repetitious or irrelevant information.
- f. Dismiss any person who is disorderly, disruptive, or non-compliant.
- g. Take any other appropriate actions deemed necessary.

## 8. Self-Incriminating Statements

The Charged Respondent will not be compelled to make self-incriminating statements. Any information shared by the Charged Respondent during an educational conference may be presented during a hearing. Failure of the Charged Respondent 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 Code.

## 9. Information

The Dean of Students Office and the Charged Respondent will be given an opportunity to present relevant information and question witnesses at the hearing. The Charged Respondent will also be given an opportunity to review all relevant information to be used in the student conduct hearing at least five business days prior to the hearing. Relevant information may include, but is not limited to, a list of all known witnesses that have provided or will provide information against the Charged Respondent and all known information relating to the allegation(s), including inculpatory and exculpatory information.

## 10. Witnesses

The Dean of Students Office and the Charged Respondent 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 Administrator or Student Conduct Hearing Board chair. If a witness cannot appear, that individual may submit a notarized written statement for consideration or participate via telephone or other electronic means. Witnesses will be permitted inside the hearing room (physically or virtually) only during their point of participation. Witnesses may be recalled by the Student Conduct Hearing Board or Hearing Administrator.

## 11. Questions

The Victim has the right to provide a list of questions that individual would like the Charged Respondent to be asked by the Hearing Administrator or chair of the Student Conduct Hearing Board at the disciplinary hearing.

## 12. Separation of Complainant, Victim, Witness, and/or Charged Respondent

The Victim or any witness may request that the individual be permitted to participate in a separate room from the Charged Respondent at the disciplinary hearing.

## 13. Past Behavior

A Victim's or Charged Respondent's past behavior shall be excluded from the disciplinary hearing. A Charged Respondent's misconduct history may only be presented after a finding of responsibility has been determined and only for the purpose of recommending sanctions.

## 14. Audio Recording of Hearing

Student Conduct Hearing Board 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, is the property of the University, and will be considered part of the Charged Respondent's disciplinary record. The Charged Respondent may submit a written request for a copy of the audio recording that will be provided after receipt of the hearing decision letter.

#### 15. Standard of Proof

The Charged Respondent has a right to a presumption that no violation occurred. The burden to prove disciplinary cases rests with the University and not with the Charged Respondent. The standard of proof shall be the preponderance of the evidence. This means that the information presented supports the finding that it was more likely than not that the violation occurred.

#### 16. 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 Respondent involved has the opportunity to review and respond to the information at his or her hearing.

#### 17. Deliberations

Deliberations are closed and the decision making shall include the Hearing Administrator or the Student Conduct Hearing Board members and the Dean of Students as appropriate.

#### 18. Determination of Responsibility

The Hearing Administrator or Student Conduct Hearing Board (by majority vote) shall determine whether the Charged Respondent has violated the Code. A finding of “responsible” or “not responsible” shall be made for each charge.

#### 19. Recommendation of Sanctions

The Hearing Administrator or Student Conduct Hearing Board will also, in consultation with OSRR, make recommendations for sanctions in those cases where the Charged Respondent is found responsible for violating the Code. The Dean of Students may take any of the following actions related to the sanctions recommended by the Student Conduct Hearing Board or Hearing Administrator:

- a. Adopt the recommended sanctions,
- b. Modify the recommended sanctions,
- c. Reject the recommended sanctions, or

- d. Remand the matter for a rehearing.

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

#### 20. Victim Impact Statement

If the Charged Respondent is found responsible, the Victim has a right to submit a Victim impact statement to the Hearing Administrator or chair of the Student Conduct Hearing Board 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 Administrator or Student Conduct Hearing Board is not bound by those recommendations.

#### 21. Hearing Decision Notification

A written decision letter from the Dean of Students Office will be provided to the Charged Respondent within ten business days following the close of the hearing. This time may be extended for deliberations when necessary and the Charged Respondent shall be notified of any such extensions. The decision letter shall contain a decision on each charge, any findings of fact, and any sanctions.

#### 22. Victim Hearing Decision Notification

Victims of certain offenses defined by FERPA 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 Charged Respondent, 2) the violation with which the Charged Respondent was charged, 3) whether the Charged Respondent was found "responsible" or "not responsible," and 4) any sanctions imposed. (See 34 C.F.R. §§ 99.31 and 99.39)

#### H. Student Withdrawal

If a Student withdraws from the University with misconduct charges pending against the individual, the conduct process will continue with or without that individual's participation.

## I. Student Status

The Student's permanent status on campus will remain unchanged pending the final decision of the hearing process and/or any appeal. However, in cases where the sanctions(s) determined by the University in the disciplinary decision include either suspension or expulsion, the Student's privileges at the University, including the ability to attend classes and engage in University activities, may be revoked and the Student's permanent status on campus will change.

## J. 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.

## K. Accommodations for Students with Disabilities

Any Student with a disability may request reasonable accommodations during the disciplinary process. If accommodations are desired, the request must be made to Student Accessibility Resources at least three business days in advance of the hearing. If necessary, the Hearing Administrator or Student Conduct Hearing Board may postpone the hearing to provide reasonable accommodations.

## **VI. Procedure for Title IX Cases**

The University has established an alternative hearing procedure to address and adjudicate alleged Sexual Harassment violations under Title IX where the Charged Respondent is a University Student and the Complainant is an individual who is participating in, or attempting to participate in, a UWF program or activity at the time of filing a complaint. Not all Sexual Harassment allegations will meet Title IX's definition of Sexual Harassment. Those cases that do not meet Title IX's threshold will follow the procedures in Article V, Procedure for Non-Title IX Cases. The University may not charge a Student with a Title IX violation more than one year after a formal complaint is filed. University Officials may, however, exercise professional discretion when applying the time provision to account for circumstances that warrant an extension of the one-year time limit. Circumstances that may warrant an extension include, but are not limited to, when a Student's continued presence on campus may adversely affect the health, safety or welfare of the University Community.

#### A. Notice

1. The Dean of Students Office will notify the Complainant and Charged Respondent via email of an individual educational conference at least seven days prior to the conference.
2. The notice will include scheduling information for the educational conference. If the time or date of the educational conference is not convenient, the Student must notify the Dean of Students Office within two business days of the date of the notice to reschedule. The Charged Respondent's notice will include the charge(s) and the allegation(s) upon which the charge(s) is(are) based, citing the specific provision(s) of the Code at issue.

#### B. Title IX Advisor

At any point during the process, the parties may use an Advisor of their choice, who may be, but is not required to be, an attorney. The University will not limit the choice or presence of Advisor for either the Complainant or Charged Respondent in any meeting or hearing. Any Advisor serves at the requestor's own expense and initiative, except that if a party does not have an Advisor at a hearing, the University will provide one without fee or charge to the party for purposes of cross-examination and questioning of a party or witness. All Advisors must follow appropriate rules of decorum. The Advisor may be present to advise the individual or the Complainant and may participate in the presentation of relevant information and questioning of witnesses. The Advisor may not serve in any other role in the process, including as an investigator, decider of fact, Hearing Administrator, member of a Student Conduct Hearing Board convened to hear or decide the charge, or any appeal. The name and role of the Advisor must be provided to the Dean of Students Office in writing at least three business days prior to the scheduled meeting or 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.

#### C. Student Advocate

A student advocate is an individual appointed by the SGA President. The student advocate is available upon request to assist Students with information regarding University policies, the student conduct process and appeal procedures.

#### D. Educational Conference

1. The educational conference is not a hearing. The purpose of the educational conference is to review the allegations and charges, the Code, the hearing forum options, the conduct process, and possible sanctions, and to answer questions.

2. During the Charged Respondent's educational conference, the Charged Respondent will be given the opportunity to accept responsibility or not accept responsibility for the charges, or request to postpone their decision for up to two business days.
3. If the Respondent accepts responsibility for the charges:
  - a. The Charged Respondent will be asked to sign the educational conference form indicating the individual's acceptance of responsibility and that the individual is waiving the individual's right to a hearing.
  - b. An email documenting the Charged Respondent's responsibility and the sanctions will be sent simultaneously to the Charged Respondent as well as the Complainant within ten business days of the educational conference by the Dean of Students Office. If the Charged Respondent agrees with the proposed sanctions, they will sign the resolution agreement and return it to the OSRR within three business days. If the Charged Respondent does not agree with the proposed sanctions, the Charged Respondent will indicate this on the resolution agreement and request either an administrative hearing or Student Conduct Hearing Board for the sole purpose of determining sanctions.
4. If the Charged Respondent does not accept responsibility for the charges:
  - a. The Charged Respondent will be asked to sign an educational conference form indicating that the Charged Respondent does not accept responsibility for the charges.
  - b. The Dean of Students Office will schedule the hearing providing the Charged Respondent and the Complainant with a minimum notice of seven business days.
5. If the Charged Respondent requests to postpone their decision: The Charged Respondent will be asked to sign and return an educational conference form to the OSRR within two business days following their educational conference.
6. If the Charged Respondent fails to attend the educational conference or complete the educational conference form, the matter will be referred to the Student Conduct Hearing Board for hearing.

#### E. Hearing Options

At the University's discretion, the decision-maker(s) at the hearing will be either a University Official or designee; a committee or panel comprised of only University Officials or designees; or a committee or panel where Students comprise at least 50% of the membership of such committee or panel.

## F. Hearing Procedures

The hearing process shall be used to resolve Title IX matters that are not dismissed or resolved via the informal resolution process or via the educational conference as detailed above. Throughout the hearing process, Complainants and Charged Respondents shall be treated equitably. Hearings are conducted to consider the totality of all evidence available, from all relevant sources. All information presented by the Complainant and Charged Respondent must be objectively evaluated and the Student Conduct Hearing Board or administrative hearing administrator must avoid credibility determinations based on an individual's status as a Complainant, Charged Respondent, or witness. The parties will have an equal opportunity to present facts and evidence, including fact and expert witnesses and other inculpatory and exculpatory evidence. The University will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

Student Conduct Hearing Board hearings and the administrative hearing are educational processes and are not legal in nature. Formal rules of process, procedure and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in these proceedings. However, information protected under a privilege recognized by state or federal law cannot be disclosed, used, or relied upon unless the person who holds the right to exercise the privilege waives the applications of the privilege.

At the discretion of the University, virtual participation via videoconference or other technology of parties, witnesses, Advisors, or others is permitted, provided participants can simultaneously see and hear each other and the confidentiality of the proceedings is not compromised.

### 1. Hearing Notification

The University will notify the parties via their institutional email address of the date, time and location of the hearing no less than seven days in advance of the hearing. This notification will also advise the parties of their rights in the student conduct process. If the time or date of the hearing is not convenient to the parties, the parties 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.

### 2. Pre-Hearing Information

The University will provide parties pre-hearing information including a copy of the hearing procedures, a list of all known witnesses that have provided or will provide information against the Charged Respondent, and all known information relating to the allegations, including inculpatory and exculpatory information. The pre-hearing information will be available at least five business days in advance of the hearing at the Dean of Students Office. The parties must provide the Dean of Students Office with a

list of potential witnesses and copies of any records that individual will present at the hearing at least seven business days in advance of the hearing.

### 3. Failure to Appear

If either the Charged Respondent or the Complainant fail to appear, the hearing will proceed in the absence of those persons.

### 4. Closed Hearings

Hearings are closed to the public and only the Charged Respondent, Complainant, and Advisors may attend. Witnesses may not be present in the proceedings except to provide information when called upon.

### 5. Role of the Hearing Administrator or Student Conduct Hearing Board Chair

A Charged Respondent has a right to an impartial Hearing Administrator. The Hearing Administrator or Student Conduct Hearing Board 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 that individual's discretion, the Hearing Administrator or Student Conduct Hearing Board chair may:

- a. Accept information for consideration.
- b. Make determinations regarding requests for postponements.
- c. Make determinations as to procedural questions.
- d. Make procedural modifications for purposes of expediting a process or in the interest of fairness or safety.
- e. Exclude repetitious or irrelevant information.
- f. Dismiss any person who is disorderly, disruptive, or non-compliant.
- g. Take any other appropriate action deemed necessary.

### 6. Self-Incriminating Statements

The Complainant and Charged Respondent will not be compelled to make self-incriminating statements. Any information shared by the Charged Respondent or Complainant during an educational conference may be presented during a hearing. Failure of the Charged Respondent or Complainant to make a statement or answer

questions shall not be considered in the determination of whether or not a Charged Respondent is responsible for violating the Code.

#### 7. Information

The Dean of Students Office, the Charged Respondent, and the Complainant will be given an opportunity to provide relevant information and question witnesses at the hearing. The Charged Respondent and the Complainant will also be given an opportunity to review all relevant information to be used in the student conduct hearing at least five business days prior to the hearing. Relevant information may include, but is not limited to, a list of all known witnesses that have provided or will provide information against the Charged Respondent and all known information relating to the allegation(s), including inculpatory and exculpatory information.

#### 8. Questioning of the Parties and Witnesses

All cross-examination of the parties and witnesses must be conducted directly and orally by a party's Title IX Advisor. If a party or witness does not submit to cross-examination at the hearing, the Student Conduct Hearing Board or Hearing Administrator will not rely on any statement of that party or witness in reaching a determination regarding responsibility. The Student Conduct Hearing Board or Hearing Administrator will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

#### 9. Presentation of Information

Only relevant cross-examination and other questions may be asked of a party or witness. To ensure this, before a Complainant, Charged Respondent, or witness answers a cross-examination or other question, the Student Conduct Hearing Board chair or Hearing Administrator will first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party does not have an Advisor present at the hearing, the University will provide one, without fee or charge. Each party's Advisor will be allowed to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.

#### 10. Separation of Complainant, Witness, and Respondent

At the request of either party, the University will provide for the entire hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the parties and Student Conduct Hearing Board or Hearing Administrator to see and hear the party or witness answering questions.

## 11. Past Behavior

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Charged Respondent committed the conduct alleged by the Complainant or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Charged Respondent and are offered to prove Consent.

## 12. Recording of Hearing

Student Conduct Hearing Board hearings and administrative hearings will be recorded. There shall be a single recording of all hearings. This recording is the official record, is the property of the University, and will be considered part of the Charged Respondent's disciplinary record. The Charged Respondent may submit a written request for a copy of the recording which will be provided after receipt of the hearing decision letter.

## 13. Standard of Proof

The Charged Respondent has a right to a presumption that no violation occurred. The burden to prove disciplinary cases rests with the University and not with the Charged Respondent. The standard of proof shall be the preponderance of the evidence. This means that the information presented supports the finding that it was more likely than not that the violation occurred.

## 14. Multiple Students Charged

In cases involving multiple Charged Respondents from the same incident, information obtained at one hearing may be used at another hearing provided that each Charged Respondent involved has the opportunity to review and respond to the information at that Charged Respondent's hearing.

## 15. Deliberations

Deliberations are closed and the decision making shall include only the Hearing Administrator or the Student Conduct Hearing Board members.

## 16. Determination of Responsibility

The Hearing Administrator or Student Conduct Hearing Board (by majority vote) shall determine whether the Respondent has violated the Code. A finding of "responsible" or "not responsible" shall be made for each charge.

## 17. Sanctions

The Hearing Administrator or Student Conduct Hearing Board will determine sanctions in those cases where the Charged Respondent is found responsible for violating the Code.

## 18. Impact Statement

If the Charged Respondent is found responsible, the Complainant has a right to submit an impact statement to the Hearing Administrator or chair of the Student Conduct Hearing Board 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 Administrator or Student Conduct Hearing Board is not bound by those recommendations. The relevant portions of any impact statement provided by the Complainant, or the relevant portions of character statements or other evidence regarding mitigating circumstances provided by the Charged Respondent, will be considered by the Student Conduct Hearing Board or Hearing Administrator in issuing sanctions, so long as such information has been subject to questioning and cross-examination during the hearing. While these statements are not binding, they, together with the totality of the circumstances, should be considered by the Student Conduct Hearing Board or Hearing Administrator involved in determining the appropriate sanctions.

## 19. Hearing Decision Notification

The determination of responsibility or whether allegations are substantiated shall be in writing, provided simultaneously to the parties, and include the following elements:

- a. Identification of the allegations potentially constituting Sexual Harassment.
- b. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including notifications to parties, interviews, gathering of evidence, and hearings held.
- c. Findings of fact.
- d. Conclusions regarding the application of the relevant policy or regulation to the facts.
- e. As to each allegation, a statement of, and rationale for, the determination of responsibility or substantiation.
- f. A description of any disciplinary sanctions imposed upon the Charged Respondent.

- g. A description of any remedies designed to restore or preserve equal access that will be provided to the Complainant.
- h. A statement of procedures and bases for appeal of the decision.

#### G. Student Withdrawal

If a Charged Respondent withdraws from the University with misconduct charges pending against that individual, the conduct process may continue with or without that individual's participation.

#### H. Student Status

The Charged Respondent's permanent status on campus will remain unchanged pending the final decision of the hearing process or any appeal. However, in cases where the sanction(s) determined by the University in the disciplinary decision include either suspension or expulsion, the Charged Respondent's privileges at the University, including the ability to attend classes and engage in University activities, may be revoked and the Charged Respondent's permanent status on campus will change. Nothing in this section prevents the University from continuing to offer or implement supportive measures, including no-contact orders or emergency removal.

#### I. Hold on Student's Records

The University may place a hold on the records or registration of any Charged Respondent who fails to respond to sanctions issued by the University. The University may take other action necessary for resolution of a case prior to the Charged Respondent'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.

#### J. 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 Student Accessibility Resources at least three business days in advance of the hearing. If necessary, the Hearing Administrator or Student Conduct Hearing Board chair may postpone the hearing to provide reasonable accommodations.

### **VII. Sanctions**

A Charged Respondent found responsible for violations shall be subject to sanctions commensurate with the offense. Consideration may be given to aggravating and mitigating circumstances, prior student conduct record, or admissions clearance restrictions, if applicable. In

Non-Title IX Cases, the Hearing Administrator or Student Conduct Hearing Board will recommend sanctions to the Dean of Students, who will make a final determination of sanctions. Recommended sanctions may be adopted, modified, or rejected. Where the Student Conduct Hearing Board's or Hearing Administrator's recommended sanctions are not adopted by the Dean of Students, the Dean of Students shall provide the Charged Respondent and Victim with the reasons for not adopting the recommendations in writing. In Title IX cases, the Hearing Administrator or Student Conduct Hearing Board will determine sanctions when the Charged Respondent is found responsible. One or more of the following sanctions may be imposed for any single violation.

A. Expulsion

A Student who is expelled is permanently deprived of that individual's 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 VP-DAESA. Expelled Students are not in Good Standing.

B. 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 VP-DAESA. While serving a suspension a Student is not in Good Standing.

C. Disciplinary Probation

A written disciplinary sanction will notify a Student 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 activities. Restrictions that may be imposed during a probationary period may include, but are not limited to, restriction of the privilege to:

1. Participate in student activities or in student organizations
2. Represent the University on athletic teams or in other leadership positions
3. Have access to University housing facilities or other areas on campus
4. Have use of University resources or equipment
5. Have contact with specified person(s)

When on disciplinary probation a Student is not in Good Standing.

#### D. Disciplinary Reprimand

A written disciplinary sanction notifying a Student that the behavior did not meet University standards. All disciplinary reprimands will be taken into consideration if further violations occur.

#### E. 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, or residence hall or other visitation.

#### F. Deactivation of Recognized Student Organization Status

Temporary or permanent loss of all privileges, including University recognition.

#### G. Restitution

The Student is required to pay for damages and/or loss of the property belonging to an individual or the University. Payment is limited to the actual cost of repair or replacement of such property.

#### H. Community/University Service

A Student is required to complete a specified number of hours of service to the campus or general community.

#### I. 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, or counseling.

#### J. Fines

Monetary fines established by the Dean of Students Office, subject to the approval of the Board of Trustees, will be published on the OSRR website at [uwf.edu/osrrfines](http://uwf.edu/osrrfines).

#### K. 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.

L. No Contact Order

A directive informing the Charged Respondent that he or she is not to have any contact, direct or indirect, with one or more designated person(s) or group(s) through any means, including but not limited to personal contact, e-mail, telephone, text messaging, social media, or via third parties.

M. 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 their 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.

N. 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.

O. 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 Code, including the completion of all imposed sanctions.

**VIII. Appeal for Non-Title IX Cases**

- A. A Student found responsible for violating the Code may appeal the decision and or sanctions by submitting an appeal in writing to the VP-DAESA within ten business days of the date of the decision letter. The VP-DAESA's designee must serve at the level of "director" or above. The VP-DAESA may not have directly participated in any other proceeding related to the charged violation.
- B. The VP-DAESA will review the appeal. Grounds for appeal are limited to the following:
1. The Charged Respondent's rights, as outlined in this regulation, were violated in the hearing process;
  2. New information is discovered that was not available at the time of the hearing;
  3. The information presented does not support the decision; or
  4. The sanctions imposed were not appropriate for the violation.

- C. The VP-DAESA may uphold the decision or sanctions, modify the decision or sanctions, remand the case to the same Hearing Administrator or Student Conduct Hearing Board for reconsideration of the decision or sanctions, or remand the case to a new Hearing Administrator or Student Conduct Hearing Board for a new hearing. Unless the appeal decision is to remand the case, the appeal decision is considered the final decision of the University.
- D. A copy of the decision of the VP-DAESA shall be forwarded to the Charged Respondent, the Victim (where permitted by law), and to the Dean of Students Office for filing and for distribution to the appropriate parties.
- E. If the final decision of the University is a sanction of suspension or expulsion, a Charged Respondent 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 Charged Respondent seeks review with the court, that individual must also provide a copy of the petition for certiorari review to the VP-DAESA, University of West Florida, Bldg. 11, 11000 University Parkway, Pensacola, FL 32514.

## **IX. Appeal for Title IX Cases**

- A. Both the Complainant and the Charged Respondent may appeal the decision and or sanctions(s) in writing to the VP-DAESA. The appeal must be received within ten business days of the date of the decision letter. The VP-DAESA designee must serve at the level of “director” or above. The VP-DAESA may not have directly participated in any other proceeding related to the charged violation.
- B. If either the Complainant or Charged Respondent submits an appeal, the other individual will be notified and provided with a copy of the appeal and will be given ten business days to respond to the appeal in writing. The Title IX Coordinator will also be provided with a copy of the appeal. VP-DAESA will review the appeal, including all information provided by all parties. Grounds for appeal are limited to the following:
  - 1. Procedural irregularity that affected the outcome of the matter;
  - 2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
  - 3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Charged Respondents generally or the individual Complainant or Charged Respondent that affected the outcome of the matter.

- C. The VP-DAESA may uphold the decision or sanctions, modify the decision or sanctions, remand the case to the same Hearing Administrator or Student Conduct Hearing Board for reconsideration of the decision or sanctions, or remand the case to a new Hearing Administrator or Student Conduct Hearing Board 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.
- D. A copy of the decision of the VP-DAESA shall be simultaneously forwarded to both Complainant and Charged Respondent, to the Title IX Coordinator, and to the Dean of Students Office for filing and for distribution to the appropriate parties.
- E. If the final decision of the University is a sanction of suspension or expulsion, the Charged Respondent 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 30 days of the final decision of the University. If a party seeks review with the court, that individual must also provide a copy of the petition certiorari review to the VP-DAESA, University of West Florida, Bldg. 11, 11000 University Parkway, Pensacola, FL 32514.

## **X. Records**

- A. Records of disciplinary actions shall be maintained by the Dean of Students Office.
- B. 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.
- C. Students found “not responsible” for a charge or charges or against whom charges 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, Florida Statutes and with applicable record retention laws.
- D. The Charged Respondent has a right to an accurate and complete record of every disciplinary proceeding relating to the charged violation of this Code, including record of any appeal.

## **XI. Transcript Notations**

- A. A permanent notation will be placed on the Charged Respondent’s transcript indicating any period of disciplinary suspension.
- B. A permanent notation will be placed on the Charged Respondent’s transcript indicating an expulsion.

**Effective Date:** March 7, 2024

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

**History:** Formerly FAC Rule 6C6-3.010 adopted October 1975; amended October 1979, December 1980, August 1981, August 1983, October 1986, April 1991; converted to UWF/REG 3.010 June 2006; amended June 2007, March 2008, June 2010, March 2013, September 2013, September 2014, June 2016, June 2018, September 2018, December 2019, April 2020, December 2020, December 2021, and March 2024.

**Last review:** March 2024