

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

DATE: August 12, 2020

REGULATION TITLE AND NUMBER: UWF REGULATION 3.010 - *Student Code of Conduct*

PURPOSE AND EFFECT: On May 6, 2020, the Department of Education released its long-awaited changes to the federal government’s 2020 interpretation of Title IX of the Education Amendments of 1972, commonly known as “Title IX,” found at 34 C.F.R. §106. The Department of Education’s implementation date for the new Title IX guidelines is August 14, 2020.

Substantive revisions and updates to UWF Regulation 3.010 *Student Code of Conduct* are proposed to comply with the recent amendments. Time is of the essence. Therefore, an Emergency Regulation must be utilized in order to ensure the University is in compliance with federal law by the amendment's effective date. This Emergency Regulation is effective for ninety (90) days from its approval date. The Board of Governors Regulation Development Procedure does not require a Notice period prior to approval of an Emergency Regulation.

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

- Numbering, lettering, spacing, sentence structure, and formatting changes were made throughout the document.
- Typographical and/or grammatical errors were corrected throughout the document
- Gender inclusive language was updated throughout the document

Table of Contents

- The phrase “for Non-Title IX Cases” was added to the Article V. Procedure title
- The phrase “for Non-Title IX Cases” was added to the Article VIII. Appeal title

Article I

- Introductory information regarding Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 et seq. (“Title IX”) was added to the General Policy and Philosophy
- Specifically, it was noted that “for sexual harassment and discrimination cases referred for adjudication to the Dean of Students Office by a Title IX investigation report, the Title IX procedures listed in Article VI will apply. For all other cases Article V in this document [Student Code of Conduct] will apply.”

Article II

- Multiple definitions were added or updated in this section due to recent mandated changes in the Federal Rules regarding Title IX
- Respondent was added to the definition of a Charged Student
- The term Consent was added and defined
- The term Dating Violence was added and defined
- The term Domestic Violence was added and defined
- The term Force was added and defined
- The term Sex-Based Discrimination was added and defined
- It was clarified in the Hearing Administrator definition that this individual will serve as the decision maker for applicable Title IX cases and sanctions
- The term Incapacitation was added and defined
- The terms Non-Consensual Contact or Non-Consensual Sexual Intercourse were added and defined and it was also noted that for Title IX cases to see the definition of sexual assault in the University's Title IX Policy
- The term Retaliation was added and defined
- The definition of Sexual Misconduct, Sexual Violence, and Gender Based Discrimination was removed
- The term Sexual Exploitation was added and defined
- The term Sexual Harassment was added and defined and it was noted that for Title IX cases to see the definition of sexual harassment in the University's Title IX Policy
- The term Stalking was added and defined
- The Student Conduct Committee definition was updated by removing the following phrase "to determine if the UWF Student Code of Conduct has been violated, and to recommend sanctions to the Dean of Students. The Committee assigned to hear a particular case must consist of at least 50% students"
- The Student Conduct Hearing Board definition was updated by clarifying that "the Student Conduct Hearing Board will determine whether the Student Code of Conduct or Title IX policy have been violated", clarified that "For non-Title IX cases, the Student Conduct Hearing Board will recommend applicable sanction to the Dean of Students. For title IX cases, the Student Conduct Hearing Board will determine the applicable sanctions", and it was added that "These individuals will serve as the decision makers for Title IX cases"
- The Victim definition was adapted by removing portions, adding "For all cases processed under Article VI of this regulation (Title IX cases), Complainants and Respondents have the right to participate fully in the investigation and proceedings", and by identifying "All" other victim rights articulated in this regulation apply to all victims.

Article III

- In section 5.a.iii., “Executive” was added
- In section 5.c. (Termination of Interim Measures), it is clarified that interim measures will be lifted

Article IV

- In section 2.d. information was removed regarding the Sexual Misconduct, Sexual Violence, and Gender-Based Discrimination Policy, Consent, and Incapacitation
- In section 2.e. the term “effective” was removed, as the definition of Consent was adapted in Article II of the Student Code of Conduct
- In section 2.i. the following phrase was added “Conduct that would meet the threshold for Title IX’s definition of sexual harassment will be addressed through the University’s Title IX policy”
- In section 2.k.a. the following phrase was removed “of West Florida (“UWF” or the “University”)
- In 2.m. “rescuer(s)” was changed to “responding student(s)”
- In 3.b. the term “authorities” was changed to “officials”

Article V

- The phrase “for Non-Title IX Cases” was added to the Article V heading
- In section 1.c. the term “administrators” was changed to “officials”
- In section 1.e. the Medical Immunity Policy number (SA-10.02-04/20) was added
- In section 4.a. and 4.b.i. Student Conduct Committee was changed to Student Conduct Hearing Board
- In section 4.c the following text was added: “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 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.”
- In section 5 “via the Student Conduct Hearing Board” was added
- In section 5.e. “complainant” was removed and “adviser” was changed to “advisor”
- In section 5.f. the term “Adviser” was changed to “Advisor”, the phrase “Non-Title IX Cases” was added to the term Advisor, and the term was clarified to better understand the role of the Advisor throughout the entire conduct process
- In section 5.g. “Adviser” was changed to “advisor”
- In section 5.h. the term “Student Conduct Hearing Committee” was changed to “Student Conduct Hearing Board” to improve clarity
- In section 5.k. the phrase “(i.e., Skype, etc.) was removed
- In section 5.l. “complainant” was removed and “Student Conduct Committee” was changed to “Student Conduct Hearing Board”

- In section 5.m. “complainant” was removed
- In section 5.o. “Student Conduct Committee” was replaced with “Student Conduct Hearing Board”
- In sections 5.r., 5.s., 5.t., 5.u., “Student Conduct Committee” was replaced with “Student Conduct Hearing Board”
- In section 5.w. Article II.21 was changed to Article II.34
- In section 9 “Student Conduct Committee” was replaced with “Student Conduct Hearing Board”

Article VI

- The introductory paragraphs for Article VI were adapted due to changes in Federal Rules related to Title IX
- Throughout this section the term “charged student” was changed to “Respondent” to be consistent with Title IX terminology
- Throughout this section the term “victim” was removed and/or changed to “Complainant” to be consistent with Title IX terminology
- In section 1 the phrase “of Charges” was removed
- In section 1.a. the phrase “Complainant and Respondent via email of an individual Educational Conference” was added
- In section 1.b. “charged” was removed
- In section 2.a. the phrase “For the Charged Student” was removed, “for the Conduct Officer” was removed, and “With the charged student” was removed
- In section 2.b. “Respondent” was added to the phrase “Educational Conference”
- In section 2.c. “charged student” was replaced with “Respondent”
- In section 2.c.i. “charged student” was replaced with “Respondent”
- In section 2.c.ii. “simultaneously” was added and “charged student” was replaced with “Respondent”
- In section 2.d., “charged student” was replaced with “Respondent”
- In section 2.d.i. “charged student” was replaced with “Respondent”
- In section 2.d.ii. “charged student” was replaced with “Respondent”
- In section 2.e. “charged student” was replaced with “Respondent”
- Section 2.f. (Complainant/Victim Educational Conference) was removed
- Section 3 was replaced with the following: “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.”

- In section 4 (Hearing Procedures) the following was added as an introductory paragraph “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 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 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, 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”
- In the section 4 introduction the phrase “The Student Conduct Committee Hearing” was changed to “Student Conduct Hearing Board hearings”
- In the section 4 introduction the follow phrase was added “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 application of the privilege”
- In the section 4 introduction the following paragraph was added: “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 confidentiality of the proceedings is not compromised”
- In section 4.a. “charged student” was changed to “parties”
- Section 4.b. was removed
- In section 4.c. [Pre-Hearing Information] the phrase “upon request by” was removed, “parties” was added, “copies of records that will be presented by the University at the hearing, and a list of potential University witnesses” was removed, “and the opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source” was added
- In section 4.e. “where authorized” was removed
- In 4.f. the phrase “Title IX” was added to the term “Adviser”, “Adviser” was changed to “Advisor” and the term was edited to include “At any point during the processes, 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 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 reporting person but cannot speak for the individual, present the case, serve as a witness, or otherwise participate directly in any meeting or hearing, except at the hearing during cross-examination or questioning of witnesses”

- In section 4.g. [Student Advocate] the following phrase was removed “The Student Advocate shall not serve as the Advisor during any hearing”
- In 4.h. the term “Student Conduct Committee Chair” was changed to Student Conduct Hearing Board Chair” throughout this section
- In section 4.k. The following replaces the previous text: “Only relevant cross-examination and other questions may be asked of a party or witness. To ensure this, before a Complainant, 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.”
- In section 4.l. [Self-Incriminating Statements] “Complainant and” was added, “charged student” was changed to “Respondent”, and “victim” was removed
- In section 4.j. [Information] “charged student” was changed to “Respondent” and “victim” was removed
- “Questioning of the Parties and Witnesses” was added to section 4 (now 4.j.) and the following information was added: “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”
- The previous section 4.l. [Witnesses] was removed
- The previous section 4.m. [Questions] was removed
- Section 4.n. was changed to section 4.l. [Separation of Alleged Complainant/Victim, or Witness, and/or Charged Student” was changed to “Separation of Complainant, or Witness, and/or Respondent”, the following phrase was added “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”, and the following phrase was removed “The victim/complainant and any witnesses may request that they be permitted to participate in a separate room from the charged student at the hearing”
- The previous section 4.o. [Past Behavior] (now 4.m.) was adapted to: “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 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 Respondent and are offered to prove consent”
- In the previous section 4.q. [Standard of Proof] (now 4.o.) “charged student” was changed to “the Respondent”

- In the previous section 4.r. [Multiple Students Charged] (now 4.p.) “charged student” was changed to “Respondent” and “student’s” was changed to “Respondent’s”

- The previous section 4.s. [Deliberations] (now 4.q.) was adapted by Changing “Student Conduct Hearing Committee” to “Student Conduct Hearing Board”, and the following phrase was removed “and the Dean of Students as appropriate”
- In section 4.r. [Determination of Responsibility] “Student Conduct Committee” was changed to “Student Conduct Hearing Board”, and “charged student” was changed to “Respondent”
- In the previous section 4.u. [“Recommendation of Sanctions”] was changed to “Sanctions” (now 4.s.) and adapted to: “the Hearing Administrator or Student Conduct Hearing Board will determine sanctions in those cases where the Respondent is found responsible for violating the Student Code of Conduct/applicable”
- Section 4.i. was changed from “Victim Impact Statement” to “Impact Statement”, “Student Conduct Committee” was changed to “Student Conduct Hearing Board”, “charged student” was changed to “Respondent”, and the following information was added “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 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”
- The previous 4.w. section [Hearing Decision Notification] (now 4.u.) was adapted and the following was added “The determination of responsibility or whether allegations are substantiated shall be in writing, provided simultaneously to the parties, and include the following elements:
 - i. Identification of the allegations potentially constituting sexual harassment.
 - ii. 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.
 - iii. Findings of fact.
 - iv. Conclusions regarding the application of the relevant policy or regulation to the facts.
 - v. As to each allegation, a statement of, and rationale for, the determination of responsibility or substantiation.
 - vi. A description of any disciplinary sanctions imposed upon the respondent.
 - vii. A description of any remedies designed to restore or preserve equal access that will be provided to the complainant.
 - viii. A statement of procedures and bases for appeal of the decision.”
- Victim/Complainant Hearing Decision Notification was removed from this section
- In section 5 “student” was changed to “Respondent” and “will” was changed to “may”
- In section 6 “student’s” was changed to “Respondents” and the following information was added “Nothing in this section prevents the University from continuing to offer or implement supportive

measures, including no-contact orders or emergency removal”

- In section 7 “student” was changed to “Respondent” and the following phrase was removed “A University disciplinary notice or fulfill any”, and “previously” was removed
- In section 8 the term “Student Conduct Committee” is changed to “Student Conduct Hearing Board”

Article VII

- The introductory paragraph to this article was adapted to include “student”, “or admissions clearance restrictions, if applicable”, “In Non-Title IX Cases” it was clarified that the final determination of sanction is made by the Dean of Students”, and in Title IX cases the Hearing Administrator/Student Conduct Hearing Board will determine sanction when the Respondent is found responsible
- In the introductory paragraph to this article the term “Student Conduct Committee” was changed to Student Conduct Hearing Board”
- In section 6 the term “group” was added
- Drug Testing was removed as a potential sanction
- In section 12 the phrase “but not limited to” was added

Article VIII

- The phrase “for Non-Title IX Cases” was added to the article title
- Throughout this article the phrase Student Conduct Committee” was changed to “Student Conduct Hearing Board”
- In section 5 “Vice President for Enrollment and Student Affairs” was changed to “Vice President for Academic Engagement and Student Affairs” and Bldg. “10” was changed to “11”

Article IX

- Throughout this article the phrase Student Conduct Committee” was changed to “Student Conduct Hearing Board”
- In section 1 “victim” was removed and “charged student” was changed to “Respondent”
- In section 2 “victim” was removed and “charged student” was changed to “Respondent”
- Section 2.a. was edited to read “Procedural irregular that affected the outcome of the matter”
- Section 2.b. was edited to read “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”
- Section 2.c was updated to read “The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; or”

- Section 2.d. was removed
- Section 3 was adapted by changing “Student Conduct Committee” to “Student Conduct Hearing Board”
- Section 4 was adapted by changing “Student Conduct Committee” to “Student Conduct Hearing Board”, adding “simultaneously”, and changing “charged student” to “Respondent”
- In section 5 the term “charged student” was changed to “Respondent”, and “the student” was changed to “a party”

History Section

- Will be updated to reflect applicable changes

AUTHORITY TO AMEND THE REGULATION: Title IX of the Education Amendments of 1972, commonly known as "Title IX," found at 34 C.F.R. §106; Florida Board of Governors Regulation 6.0105, *Student Conduct and Discipline*; the UWF Board of Trustees has authority granted by the Board of Governors in BOG Reg 1.001 over student and personnel conduct.

NAME OF UNIVERSITY OFFICIAL INITIATING PROPOSED EMERGENCY REGULATION AMENDMENT: Dr. Kimberly LeDuff, Vice President and Pamela E. Langham, General Counsel

CHALLENGES: Within 7 days after receiving a petition from a substantially affected person challenging an emergency regulation, if the petition complies with the requirements of paragraph H.1.a. in the *Florida Board of Governors Regulation Development Procedure for State University Boards of Trustees*, the university board of trustees shall assign a hearing officer. The hearing officer shall conduct a hearing in compliance with paragraph H.1.c. within 20 days, unless the petition is withdrawn. Within 10 days of the hearing, the hearing officer shall issue a recommended order directed to the university board of trustees, which shall timely issue a final decision.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED EMERGENCY AMENDMENT TO THE REGULATION OR CHALLENGE: Pamela E. Langham, Esquire, General Counsel, Office of the General Counsel at plangham@uwf.edu or grozier@uwf.edu, or 850-474-3420 or Office of the General Counsel, Building 10, 11000 University Parkway, Pensacola, Florida 32514.

THE FULL TEXT OF THE REGULATION: The full text of the proposed emergency amendment to the regulation is attached below this Notice. The full text of the proposed emergency amendment and existing regulation is also posted on UWF’s website:

<https://uwf.edu/offices/board-of-trustees/regulations/> . In addition, the full text of the proposed emergency amendment to the regulation and current regulation are available upon request to the Office of the General Counsel, which can be contacted at 1.850.474.3420 or grozier@uwf.edu



Regulations

Number: UWF/REG – 3.010
Title: Student Code of Conduct

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Article I. General Policy and Philosophy

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 as well as 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 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, UWF has a Student Code of Conduct (“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, as well as how the Student Code of Conduct is administered.

University students and student organizations/groups 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/groups. All students and student organizations/groups 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. 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 Higher 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 Student Code of Conduct sets forth rights and procedures for Title IX cases and Non-Title IX cases. For sexual harassment and discrimination cases referred for adjudication to the Dean of Students Office by a Title IX investigation report, the Title IX procedures listed in Article VI will apply. For all other cases Article V in this document will apply.

In keeping with the UWF’s values, any sanctions imposed are for the purposes of restoring the standards of the University community, educating students and student organizations/groups 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.

The University of West Florida President delegates administration of the Student Code of Conduct to the Vice President of Academic Engagement and Student Affairs, who delegates portions of the administration of the Student Code of Conduct 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 Conduct Code also refer to that individual's designee(s).

The Student Code of Conduct shall be reviewed, at minimum, every three years under the direction of the Vice President of Academic Engagement and Student Affairs by a committee composed of at least 50% students appointed by the President of the UWF Student Government Association. ~~student president.~~

Article II. Definitions

1. **Charged Student/Respondent:** any student alleged to have violated this Student Code of Conduct. For the purposes of this regulation, “charged student” may also include a student organization/group alleged to have violated this Student Code of Conduct.
2. **Complainant:** any person who alleges that a student violated this Student Code of Conduct and may include any student who submits allegations of a violation under Title IX.
3. **Conduct Officer:** a University Official authorized by the Vice President of Academic Engagement and Student Affairs to administer the Student Code of Conduct.
- ~~3-4.~~ **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.
5. **Dating Violence:** violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors: length of relationship, type of relationship, and frequency of interaction between the persons involved in the relationship.
- ~~4-6.~~ **Dean of Students:** the individual designated by the University with responsibility for administering the Student Code of Conduct.
7. **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.
- ~~5-8.~~ **Domestic Violence:** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Florida or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence law of Florida.
- ~~6-9.~~ **Endangerment:** means engaging in conduct that ~~jeopardizes endangers~~ the health, safety or welfare of any person, or causes a reasonable person to fear for his/her safety or the safety of another. Endangerment also encompasses the failure to act if the health or safety of a person is in danger including, but not limited to, the duty to act if someone is in peril from sexual assault, hazing, alcohol consumption or the use of other substances.
10. **Faculty Member:** 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.

11. **Force:** physical violence, threat, intimidation or coercion.
- 7-12. **Sex-Based Discrimination:** differential treatment taken because of an individual's sex/gender, sexual orientation, or gender identity, unless the conduct is based on an educational requirement. Some examples are: disparity of treatment in educational programs, activities and related services, and limitations on an individual's participation in University activities.
- 8-13. **Good Standing:** is a conduct status describing a student who is not on conduct related probation, and/or does not have pending, incomplete or overdue misconduct sanctions. Students adversely affected by their standing within the University (i.e. a student wishing to run for a Student Government Association Office) may submit a request for an expedited student conduct hearing to the Vice President of Academic Engagement and Student Affairs.
- 9-14. **Hearing Administrator:** a University Official authorized by the Vice President of Academic Engagement and Student Affairs to administer student conduct administrative hearings, to determine if the UWF Student Code of Conduct or Title IX policy ~~has~~ been violated, and to recommend applicable sanctions to the Dean of Students for non-Title IX cases. For Title IX cases, the Hearing Administrator ~~will~~ determine the applicable sanctions. This individual will serve as the decision maker for applicable Title IX cases.
15. **Incapacitation:** a temporary or permanent state in which a person cannot make informed, rational judgements because the person lacks the physical or mental capacity to understand the nature or consequences of their words and/or conduct, and/or the person is unable to physically or verbally communicate consent.
- 10-16. **May:** the term "may" is used in the permissive sense.
17. **More Likely than Not:** refers to the standard of proof used in student conduct hearings. 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 violated the Student Code of Conduct.
18. **Non-Consensual Contact or Non-Consensual Sexual Intercourse:** sexual contact or intercourse that occurs without consent (may be referred to as Rape, or Sexual Assault). Sexual assault is the deliberate touching (including anal or vaginal penetration with an object) of a person's intimate parts (including genitalia, groin, breast or buttocks or clothing covering any of those areas), or using Force to cause a person to touch his or her own or another person's intimate parts. For Title IX cases, see the definition of sexual assault in the University's Title IX Policy.
- 11-19. **Retaliation:** materially adverse actions, including intimidation, threats, and harassment, taken against a complainant, a witness or individual because an individual engaged in a protected activity.
12. ~~Sexual Misconduct, Sexual Violence and Gender-Based Discrimination: for the purposes of this 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, or other violations perpetrated against a victim because of the victim’s gender. It also specifically includes any sexual act performed when the reporting party is unable to give consent.~~

20. **Sexual Exploitation:** involves taking sexual advantage of another person without consent, which includes, but is not limited to, causing or attempting to cause the incapacitation of another person so as to gain or facilitate a sexual advantage over such other person; causing the prostitution of another person; recording, photographing or transmitting identifiable images of sexual activity or intimate parts of another person without that person’s consent; allowing third parties to observe sexual acts without the consent of all participants; engaging in voyeurism; exposing one’s genitals to another without consent; and/or knowingly or recklessly exposing other persons to a significant risk of a sexually transmitted infection, including HIV.
21. **Sexual Harassment:** unwelcome conduct, based on sex/gender, sexual orientation or gender identify, that is sufficiently severe or pervasive so that it alters the terms and conditions of the Complainant’s employment or educational environment. Sexual harassment may include, for example, unwanted sexual advances, requests for sexual favors or other physical or verbal conduct of sexual nature. Sexual Intercourse – oral, anal, or vaginal penetration by, or union with, the sexual organ of another. For Title IX cases, see the definition of sexual harassment in the University’s Title IX Policy.
- 13-22. **Shall:** the term “shall” is used in the imperative sense.
23. **Staff:** means any person hired by the University to conduct administrative/professional work or who is otherwise considered by the University to be a member of its staff.
- 14-24. **Stalking:** engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for that individual’s safety or the safety of others or suffer substantial emotional distress. Examples include, willfully, maliciously, and repeatedly following, harassing, or cyberstalking another person where the victim was targeted due to that individual’s sex/gender, sexual orientation or gender identity.
- 15-25. **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” may also include a student organization/group.
- 16-26. **Student Conduct Committee:** consists of faculty and staff representatives

appointed by the Vice President of Academic Engagement and 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 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. The Committee assigned to hear a particular case must consist of at least 50% students.~~

~~17-27.~~ **Student Conduct Hearing Board:** members of the Student Conduct Committee are assigned on a case-by-case basis to administer student conduct hearings. ~~The Student Conduct Hearing Board will, to determine if whether the Student Code of Conduct or Title IX policy have~~s 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.~~ 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. These individuals will serve as the decision makers for Title IX cases.

~~18-28.~~ **Student Organization/Group:** means any number of persons who make up a registered student organization/group, including sports clubs, athletic teams, and other student groups. The student organization's executive officer will serve as the representative for the organization/group during the conduct process unless the student organization/group designates in writing to the Dean of Students Office another student member to represent the organization/group during the conduct process.

~~19-29.~~ **University:** means all locations of the University of West Florida including the online campus.

~~20-30.~~ **University Community:** includes any person who is a student, faculty member, or employee of the University. A person's status in a particular situation shall be determined by the Dean of Students.

~~21-31.~~ **University Official:** includes any person employed by the University performing assigned administrative or professional responsibilities.

~~22-32.~~ **University 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.

~~23-33.~~ **University Rules, Regulations and Policies:** UWF 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 select regulations and policies applicable to students are also contained in the UWF Student Handbook.

~~34.~~ **Victim:** for the purposes of this policy, a victim is any individual who has alleged 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 to

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Privacy Act (See 34 C.F.R. § 99.31 and 99.39) a victim 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 misconduct~~For all cases processed under Article VI of this regulation (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.

Article III. University Authority

1. **Off-campus conduct:** the University may take disciplinary action against a student or student organization/group for violations committed off-campus where one of the following applies:
 - a. the off-campus conduct demonstrates that the continued presence of the student or organization/group on campus presents a danger to the health, safety, or welfare of the University community;
 - b. the off-campus conduct is disruptive to the orderly processes and functions of the University;
 - c. the off-campus conduct is intimidating or threatening to the University community or an individual within the University community;
 - d. 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 off-campus conduct is such that it could constitute a violation of the law.
2. **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 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 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 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.
3. **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.
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).
5. **Interim Measures:** Interim measures may be taken by the University at any time if it is determined that a student or student organization's/group'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/group in writing.

- a. **Interim measures may include, but are not limited to:**
- i. **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 without the written permission of the Dean of Students.
 - ii. **Restrictions on Activity:** the Dean of Students may restrict a student or student organization's/group'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/groups or student activities.
 - iii. **Interim Removal from Housing and/or Administrative Housing Reassignment:** The Dean of Students or the Executive 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 Measures:** The student or student organization/group has the opportunity to submit a written request for a review to the Vice President of Academic Engagement and Student Affairs regarding the interim measures. If requested, the review will be conducted by the Vice President of Academic Engagement and Student Affairs 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 his or her 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.
- c. **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 may be lifted when the University determines that a student or student organization's/group's presence or activities no longer adversely affect the health, safety or welfare of the University community.
- d. **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:

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

Article IV. Violations

The following conduct whether completed, or attempted, or the aiding, assisting, abetting, conspiring, soliciting, inciting, or encouraging of, these behaviors violates the 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 identification, documents, records, keys, or access codes.
 - 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.
 - f. Providing false information to a University Official or to a non-University law enforcement official, including student conduct hearing bodies.

2. **Harm to Individuals, 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 unpermitted touching or injury to another person 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). Consent under this provision must be active, not passive. There must be a clear and willing participation, through words or actions, for each sexual act. Consent must be knowing, intelligent, unambiguous, and voluntary. Individuals who are incapacitated by voluntary or involuntary alcohol or drug use (legal, illegal, or prescription); asleep; unconscious; mentally impaired by disease or illness; or under 18 years old cannot give consent to sex (no matter what they say or do). "Incapacitation" is a state where a person cannot make a rational, coherent decision because the person~~

- e. ~~lacks the ability to understand the nature of the act.~~ 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.
- f. Conduct which is lewd, lascivious, or voyeuristic.
- g. Stalking, following or otherwise contacting another person repeatedly, so as to put that person in fear for his or her safety.
- h. Endangering the health, safety or welfare of members or guests of the University which encompasses:
 - i. physical violence towards another person or group;
 - ii. actions that interfere with the freedom of another person to move about in a lawful manner;
 - iii. 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.
- i. Harassment based on any of the following protected classes: gender (including gender identity and sex), race, color religion, anti-Semitism, 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 (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 through the University's Title IX policy.
- j. Conduct that creates an intimidating, intolerable, or offensive campus, educational or working environment for another person, unrelated to the victim's protected class, if any.
- k. Hazing will not be tolerated at the University of West Florida.
 - a. The University ~~of West Florida ("UWF" or 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.

- b. 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.

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.

- c. Hazing also includes observation of hazing activities by

Bystanders, defined as individuals in a position to intervene, but who fail to intervene.

- l. 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.
 - m. Failure to Render Aid - This section imposes a duty of reasonable assistance on any student or student organization/group who knows that another individual faces grave physical danger, if assistance can be rendered without peril to the ~~responding student(s)-rescuer(s)~~. The following instances constitute a failure to render aid and violate(s) the Student Code of Conduct:
 - i. Voluntarily abstaining from giving assistance to a person in danger of or a victim of a sexual assault.
 - ii. Failing to call for emergency assistance for signs of alcohol or drug poisoning.
 - iii. Failing to call for emergency assistance when one knows that a person is in grave physical danger or exposed to bodily harm.
 - iv. Failing to call for emergency assistance during a hazing incident.
 - v. Failing to inform University Officials of an emergency incident.
 - vi. 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.
3. **Disorderly, Disruptive Conduct, including but not limited to:**
- a. Conduct which is disorderly and/or 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 includes acts that occur both inside and outside the classroom setting and may involve use of electronic or cellular equipment. This also includes behavior off campus during a University sanctioned event or activity or an event where the student serves as a representative of the University.
 - b. Conduct that substantially disrupts or materially interferes with University activities or that reasonably leads University ~~Officials authorities~~ to forecast such disruption or interference.
 - c. Failure to comply with a directive or lawful order of a University official or any non-University law enforcement official.
 - d. Commercial solicitation on campus without prior approval from University officials, this includes but is not limited to, accessing University email information and sharing University email information with a third party for the purposes of commercial solicitation.
 - e. Remote controlled aircraft or vehicles, including but not limited to:
 - i. Unauthorized on-campus use of any remote controlled aircraft or

- ii. vehicle.
- ii. Failure to comply with established guidelines for authorized use of remote controlled aircraft or vehicles.

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. 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 Student Conduct - Aiding, assisting, abetting, conspiring, soliciting, inciting, or encouraging others to engage in conduct which violates this Student Code of Conduct.**

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 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.

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, Student Communications Policy, UWF Electronic Communications Policy or other policies related to computer and data use on campus.

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 facilities or both.
- 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.
- 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. Being intoxicated to the point at which an individual has lost normal control of his or her body or mental facilities or both.
 - 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.
 - 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 UWF Housing and Residence Life residential standards of community living, contract, handbook, and/or policies and regulations.
- h. Engages in or offers games of chance for money or other gain in violation of the laws of the State of Florida.

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. Procedure for Non-Title IX Cases

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-~~Officials 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.
- 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.
- e. The University recognizes that there may be emergency situations related to hazing, a 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. Therefore, as part of Article V.1.b., the Vice President of Academic Engagement and Student Affairs or designee has the sole discretion to grant immunity pursuant to ~~the~~ University Policy SA-01.02-04/20 (Medical Immunity) which governs immunity to a student(s) who act(s) in accordance with this Student Code of Conduct by rendering aid or seeking help. The Vice President of Academic Engagement and Student Affairs or designee may choose to withdraw immunity once granted, at any time, and utilize the procedures outlined in this regulation, if the requirements set forth in the University policy governing immunity are not completed by the student(s), and to the sole satisfaction of the University.

2. Notice of Charges

- a. The Dean of Students Office will notify the charged student via email of the allegations and charges.
- b. 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 student, the charged student must notify the Dean of Students Office within two business days of the date of the notice to reschedule.

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 options, the conduct process, possible sanctions, and to answer 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 the Educational Conference Form indicating ~~that individual's his or her~~ acceptance of responsibility and that ~~the individual he or she~~ is waiving ~~that individual's his or her~~ 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 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 an Educational Conference Form indicating that he or she does not accept responsibility for the charges and will be asked to select a hearing 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 Options

- a. The charged student has the right to a hearing before ~~at~~ the Student Conduct ~~Hearing Board~~ Hearing Board ~~Committee~~. This ~~Board~~ committee must be composed of at least 50% students.
- b. In the alternative, the charged student may choose to have an Administrative Hearing before a Hearing Administrator if the following conditions are met:
 - i. The charged student signs a waiver of the right to a hearing before the Student Conduct ~~Hearing Board~~ Hearing Board ~~Committee~~, and,
 - ii. An Administrative Hearing is permitted by the Dean of Students.
- c. 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 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.

5. Hearing Procedures

The Student Conduct Committee Hearing (via the Student Conduct Hearing Board) 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 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 that individual's 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. **Victim Hearing Notification:** the University will notify the 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 victim of that individual's 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 that individual's his or her record, and the right to provide information in a separate room from the charged student.
- c. **Pre-Hearing Information:** the University will make available, upon request by the charged student, pre-hearing information including a copy of the hearing procedures, 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.
- d. **Failure to appear:** if 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.

- f. **Adviser (Non-Title IX Cases):** a charged student is entitled to have any one person to serve as a guide during the student conduct process and at the hearing, if applicable to serve as that individual's adviser. University officials will communicate directly with ~~t~~The charged student during the student conduct process (i.e., official correspondence, notice letters, Educational Conferences, etc.) and hearing processes. ~~may consult with the charged student's adviser during the hearing process.~~ However, during the process this consultation must take place in a manner that does not disrupt the meetings, and/or hearing proceedings. Advisors that do not maintain professional decorum may be asked to leave the applicable meeting and/or hearing. The adviser shall not speak on behalf of the charged student, question witnesses, present information or argument before the Student Conduct Hearing Board~~panel~~ or Hearing Administrator. The adviser shall not serve as a witness. The name and role of the adviser must be provided to the Dean of Students Office in writing at least three business days prior to the scheduled meeting/hearing. If the adviser is an attorney, this must be disclosed at that time, as ~~the~~University attorney must also be present at the meeting/hearing.
- g. **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. The Student Advocate shall not serve as the Adviser during any hearing.
- h. **Role of the Hearing Administrator or Student Conduct Committee**
Hearing Board Chair: the Hearing Administrator or Student Conduct Hearing Board ~~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 their discretion, the Hearing Administrator or Student Conduct ~~Committee~~ Hearing Board Chair may:
 - i. Accept information for consideration.
 - ii. Make determinations regarding requests for postponements.
 - 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.
 - v. Dismiss any person who is disorderly, disruptive, or non-compliant.
 - vi. Take any other appropriate action deemed necessary.
- i. **Self-Incriminating statements:** the charged student will not be compelled to make self-incriminating statements. Any information

shared by the 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.

- 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.
- 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 Administrator or Student Conduct ~~Hearing Board Committee~~ Chair. If a witness cannot appear, that individual may submit a written statement for consideration as long as the witness' signature is notarized or participate via telephone or electronic means ~~(i.e., Skype, etc.)~~. Witnesses will be permitted inside the hearing room (physically and/or virtually via electronic method) only during their point of participation. Witnesses may be recalled by the Hearing ~~Committee and Board and~~ or Hearing Administrator.
- l. **Questions:** The victim/~~complainant~~ has the right to provide a list of questions that individual would like the charged student to be asked by the Hearing Administrator or Chair of the Student Conduct Hearing Board Committee at the disciplinary hearing.
- m. **Separation of Complainant/Victim, Witness, and/or Charged Student:** The victim/~~complainant~~ and/or any witness may request that ~~that individual he or she~~ be permitted to participate in a separate room from the charged student at the disciplinary hearing.
- n. **Past Behavior:** A victim's or charged student's past behavior shall be excluded from the disciplinary hearing. A charged student's misconduct history may only be presented after a finding of responsibility has been determined and only for the purpose of recommending sanctions.
- o. **Audio Recording of Hearing:** Student Conduct Hearing Board 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.

- p. **Standard of 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.
- 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.
- r. **Deliberations:** are closed and the decision making shall include only the Hearing Administrator or the Student Conduct ~~Hearing Committee members~~Board members and the Dean of Students as appropriate.
- s. **Determination of Responsibility:** the Hearing Administrator or Student Conduct ~~Hearing Board Committee~~ (by majority vote) shall determine whether the charged student 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 Hearing Administrator or Student Conduct ~~Hearing Board Committee~~ will also, in consultation with the Dean of Students, make recommendations for sanctions in those cases where the charged student is found responsible for violating the Student Code of Conduct. The Dean of Students may take any of the following actions related to the sanctions recommended by the Student Conduct ~~Hearing Board 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 ~~Hearing Board 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.

- 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 Administrator or Chair of the Student Conduct ~~Hearing Board-~~

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 Administrator or Student Conduct **Hearing Board Committee** is not bound by those recommendations.

- 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. **Victim Hearing Decision Notification:** Victims of certain offenses defined by FERPA (see Article II. [3424](#)), 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 sanctions 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 the individual, the conduct process will continue with or without [that individual's his or 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. However, in cases where the sanction(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.
 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 Student Accessibility Resources at least three business days in advance of the hearing. If necessary, the Hearing Administrator or Student Conduct Hearing Board Committee may postpone the hearing to provide reasonable accommodations.

Article VI. Procedure for 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, T~~he University has established an alternative hearing procedure ~~under this policy~~ to address and adjudicate alleged sexual ~~harassment misconduct, sexual violence and gender-based discrimination~~ violations under Title IX where the ~~charged student~~Respondent is a University student and the ~~C~~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 of this document.

~~When the University has received a Title IX complaint, the University’s Title IX Coordinator or designee will review the complaint to determine whether, assuming the allegations to be true, the 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 victim and/or complainant, the charged 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 Students Office.~~

1. Notice of Charges

- a. The Dean of Students Office will notify the Complainant and Respondent ~~charged student~~ via email of the allegations and charges an individual Educational Conference
- b. The notice will include scheduling information for the Educational Conference. If the time or date of the Educational Conference is not convenient, the student ~~charged student~~ must notify the Dean of Students Office within two business days of the date of the notice 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 Respondent’s Educational Conference, the Respondent ~~charged student~~ will be given the opportunity to accept responsibility or not accept responsibility for the charges.
- c. If the Respondent ~~charged student~~ accepts responsibility for the charges:

- i. The ~~Respondent charged student~~ 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.
 - ii. An email documenting the ~~Respondent's charged student's~~ responsibility and the sanctions will be sent ~~concurrently_~~ ~~simultaneously~~ ~~simultaneously~~ to the ~~charged student~~ ~~Respondent~~ as well as the ~~victim/~~Complainant within ten business days of the Educational Conference by the Dean of Students Office.
- d. If the ~~Respondent charged student~~ does not accept responsibility for the charges:
- i. The ~~Respondent charged student~~ will be asked to sign an Educational Conference Form indicating that ~~the Respondent~~ ~~he or she~~ does not accept responsibility for the charges
 - ii. The Dean of Students Office will schedule the hearing providing ~~the -Respondent charged student~~ and ~~the victim/~~Complainant with a minimum notice of five business days.
- e. If the ~~Respondent 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 Conference: The victim/Complainant 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 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.

~~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.~~

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~~b. In the alternative, the charged student may choose to have an Administrative Hearing before a Hearing Administrator if the following conditions are met:~~

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- ~~i. The charged student signs a waiver of the right to a hearing before the Student Conduct Committee, and~~
- ~~ii. An Administrative Hearing is permitted by the Dean of Students, and~~
- ~~iii. No objection is raised by the victim/complainant.~~

4. 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 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 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, 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.

~~The Student Conduct Committee~~ 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 Student Code of Conduct 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 application 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.

- a. **Hearing Notification:** the University will notify the parties 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 parties charged-student of their rights in the student conduct process. If the time or date of the ~~H~~hearing is not convenient to ~~the~~ the parties charged-student, the parties 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 victim/complainant 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 victim/complainant 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 the individual's record, and the right to provide information in a separate room from the charged student.
- e.b. **Pre-Hearing Information:** the University will make available, ~~upon request by~~ to the parties pre-hearing information including a copy of the hearing procedures, ~~copies of records that will be presented by the University at the hearing, and a list of potential University~~

witnesses and the opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source. The pre-hearing information will be available at least three business days in advance of the hearing at the Dean of Students Office. ~~The parties~~ **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 three business days in advance of the hearing.

- d.c. **Failure to appear:** if either the Respondent charged student or the victim/Complainant fail to appear, the hearing will proceed in the absence of those persons.
- e.d. **Closed Hearings:** hearings are closed to the public and only ~~the~~ the Respondent 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.
- f.e. **Title IX Advisor:** ~~a charged student and victim/complainant are each entitled to have any one person at the hearing to serve as that individual's adviser. The Charged Student and victim/complainant may each consult with their adviser during the hearing process. However, this consultation must take place in a manner that does not disrupt the proceedings. The adviser shall not speak on behalf of the student, question witnesses or present information. The adviser shall not serve as a witness. At any point during the processes, 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 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 reporting person but cannot speak for the individual, present the case, serve as a witness, or otherwise participate directly in any meeting or hearing, except at the hearing during cross-examination or questioning of witnesses.~~ 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/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.
- g.f. **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. ~~The Student Advocate shall not serve as the Advisor during any hearing.~~

~~h.g.~~ **Role of the Hearing Administrator or Student Conduct Hearing Board Committee Chair:**

the Hearing Administrator or Student Conduct ~~Hearing Board 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 that individual's discretion, the Hearing Administrator or Student Conduct ~~Hearing Committee Chair~~ Board Chair may:

- i. Accept information for consideration.
- ii. Make determinations regarding requests for postponements.
- iii. Make determinations as to procedural questions.
- ~~iii~~iv. Make procedural modifications for purposes of expediting a process or in the interest of fairness or safety.
- ~~iv~~v. Exclude repetitious or irrelevant information.
- ~~v~~vi. Dismiss any person who is disorderly, disruptive, or non-compliant.
- ~~vi~~vii. Take any other appropriate action deemed necessary.

~~h~~h. **Self-Incriminating Statements:** the ~~Complainant and Respondent - charged student~~ will not be compelled to make self-incriminating statements. Any information shared by the ~~Respondent charged student~~ or ~~victim/Complainant~~ during an educational conference may be presented during a hearing. Failure of the ~~Respondent 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 ~~Respondent student~~ is responsible for violating the Student Code of Conduct.

~~j~~i. **Information:** The Dean of Students Office and the ~~Respondent 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 ~~Respondent charged student~~ and the ~~victim/Complainant~~ will also be given an opportunity to inspect records provided by the Dean of Students Office.

~~j~~i. **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.
- k. **Presentation of Information:** Only relevant cross-examination and other questions may be asked of a party or witness. To ensure this, before a Complainant, 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. ~~the primary information presented at the hearing will be the report of the Title IX Investigator. After the Investigator has shared the investigative report, both the charged student and the victim/complainant will have the opportunity to challenge or question the contents of the report. In challenging or questioning the report, the victim/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.~~
- ~~l. **Witnesses:** the Dean of Students Office, the victim/complainant, and the charged student may call witnesses. Witnesses may be questioned by all parties, including the charged student, the victim/complainant, 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 Administrator or Student Conduct Committee Chair. If a witness cannot appear, that individual may submit a written statement for consideration as long as the witness' signature is notarized or participate via telephone or electronic means (i.e. Skype, etc.). Witnesses will be permitted inside (physically and/or virtually via electronic method) the hearing room only during their point of participation. Witnesses may be recalled by the Hearing Committee and/or Hearing Administrator.~~
- ~~m. **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.~~
- ~~n.l. **Separation of Alleged Complainant/Victim, or Witness, and/or or Respondent Charged Student:** 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. The victim/complainant and any witnesses may request that they be permitted to participate in a separate room from the charged student at the hearing.~~

- ~~o.m. **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 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 Respondent and are offered to prove consent. A victim's/complainant's past behavior shall be excluded from the disciplinary hearing. The charged student has a right to have their 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 Administrator or Chair of the Student Conduct Committee. A 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.~~
- ~~p.n. **Audio-Recording of Hearing:** Student Conduct Board Committee Hearings and Administrative Hearings will be audio recorded. There shall be a single audio recording of all hearings. This audio recording is the official record and is the property of the University and will be considered part of the charged student's disciplinary record. The Respondent 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.~~
- ~~q.o. **Standard of Proof:** the burden to prove disciplinary cases rests with the University and not with the the Respondent 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.~~
- ~~r.p. **Multiple Students Charged:** in cases involving multiple Respondents students charged from the same incident, information obtained at one hearing may be used at another hearing provided that each Respondent charged student involved has the opportunity to review and respond to the information at that Respondent's student's hearing.~~
- ~~s.q. **Deliberations:** are closed and the decision making shall include only the Hearing Administrator or the Student Conduct Hearing Board Committee members, and the Dean of Students as appropriate.~~
- ~~r. **Determination of Responsibility:** the Hearing Administrator or Student Conduct Hearing Board Committee (by majority vote) shall determine whether the Respondent charged student has violated the Student Code of Conduct. A finding of "responsible" or "not responsible" shall be made for each charge.~~
- ~~t. **Sanctions:** the Hearing Administrator or Student Conduct Hearing Board will determine sanctions in those cases where the Respondent is found responsible for violating the Student Code of Conduct/applicable~~
- ~~u. **Recommendation of Sanctions:** the Hearing Administrator or Student Conduct Committee will also, in consultation with the Dean of Students, make~~

recommendations for sanctions in those cases where the charged student is found responsible for violating the Student Code of Conduct. The Dean of Students may take any of the following actions related to the sanctions recommended by the Student Conduct Committee or Hearing Administrator:

- v. ~~Adopt the recommended sanctions~~
- w. ~~Modify the recommended sanctions~~
- x. ~~Reject the recommended sanctions, or~~
- y. ~~Remand the matter for a rehearing~~

~~z.s.~~

~~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.~~

~~aa.f.~~ **Victim Impact Statement:** If the ~~Respondent~~ charged student is found responsible, ~~the victim/complainant~~ the Complainant has a right to submit an ~~victim~~ impact statement to the Hearing Administrator or Chair of the Student Conduct ~~Hearing Board Committee~~ for consideration at the sanctioning phase only. The statement may include a description of how the ~~C~~ 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 Committee~~ 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 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.

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

- i. Identification of the allegations potentially constituting sexual harassment.
- ii. 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

- iii. hearings held.
- iv. Findings of fact.
- v. Conclusions regarding the application of the relevant policy or regulation to the facts.
- vi. As to each allegation, a statement of, and rationale for, the determination of responsibility or substantiation.
- vii. A description of any disciplinary sanctions imposed upon the respondent.
- viii. A description of any remedies designed to restore or preserve equal access that will be provided to the complainant.
- ix. A statement of procedures and bases for appeal of the decision.

w. ~~Victim/Complainant Hearing Decision Notification:~~

~~Victims/complainants 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/complainant shall be notified of any such extensions. The hearing decision notification provided to the victim/complainant 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 sanctions imposed.~~

5. ~~Student Withdrawal:~~

If a Respondent student withdraws from the University with misconduct charges pending against that ~~individual; individual~~, the conduct process ~~will~~ may continue with or without that individual’s participation.

6. ~~Student Status:~~

The Respondent’s 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 sanction(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. Nothing in this section prevents the University from continuing to offer or implement supportive measures, including no-contact orders or emergency removal.

7. ~~Hold on Student’s Records:~~

The University may place a hold on the records or registration of any Respondent 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 with Disabilities:**

~~A~~ny 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 Officer or Student Conduct Hearing Board Committee Chair may postpone the hearing to provide reasonable accommodations.

Article VII. Sanctions

A charged student/Respondent found responsible for violations shall be subject to sanctions commensurate with the offense. Consideration may be given to aggravating and mitigating circumstances, and prior student conduct record or admissions clearance restrictions, if applicable. In Non-Title IX Cases, the Hearing Administrator/Student Conduct-Hearing Board Committee will recommend sanctions to the Dean of Students, who will make a final determination of sanctions. in Non-Title IX Cases, and the final determination of sanctions is made by the Dean of Students. ~~Final determination of sanctions is made by the Dean of Students.~~ Recommended sanctions may be adopted, modified or rejected. Where the Student Conduct Hearing Board's 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 victim/complainant with the reasons for not adopting the recommendations in writing. In Title IX cases, the Hearing Administrator/Student Conduct Hearing Board will determine sanctions ,if applicable, when the Respondent is found in violation responsible. 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 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 Vice President of Enrollment and 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 of Enrollment and Student Affairs. While serving a suspension a student is not in good standing.
3. **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.
4. **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.
5. **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.
6. **Deactivation of recognized student organization/group status:** temporary or permanent loss of all privileges, including University recognition.
 7. **Restitution:** the student is required to pay for damages and/or loss of an individual's or University property. Payment is limited to the actual cost of repair or replacement of such property.
 8. **Community/University service:** a student is required to complete a specified number of hours of service to the campus or general community.
 - 8.9. **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.
 - 9.10. **Fines:** Monetary fines established by the Dean of Students **Office**, subject to the approval of the Board of Trustees, will be published on the Office of Student Rights and Responsibility website (<https://uwf.edu/academic-engagement-and-student-affairs/departments/dean-of-students/>)
 - ~~10. **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 may constitute a violation of this policy and may trigger further disciplinary charges.~~
 11. **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.
 12. **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 **but not limited to** personal contact, e-mail, telephone, text messaging, social media or via third parties.
 13. **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.
 14. **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.
 15. **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 for Non-Title IX Cases

1. A student found responsible for violating the Student Code of Conduct may appeal the decision and or sanctions by submitting an appeal in writing to the Vice President of Academic Engagement and Student Affairs within 10 business days of the date of the decision letter.
2. The Vice President of Academic Engagement and Student Affairs 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 sanctions imposed was/were not appropriate for the violation.
3. The Vice President of Academic Engagement and Student Affairs may uphold the decision and/or sanctions, modify the decision and/or sanctions, remand the case to the same Hearing Administrator/Student Conduct Hearing Board Committee for reconsideration of the decision and/or sanctions, or remand the case to a new Hearing Administrator/Student Conduct Hearing Board 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 Academic Engagement and Student Affairs shall be forwarded to the charged student, the victim (where permitted by 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, that individual must also provide a copy of the petition for certiorari review to the Office of the Vice President of Academic Engagement Enrollment and Student Affairs, University of West Florida, Bldg. 110, 11000 University Parkway, Pensacola, FL 32514.

Article IX. Appeal for Title IX Cases

1. Both the ~~Ceomplainant/victim~~ and the ~~Respondent charged student~~ may appeal the decision and or sanction(s) in writing to the Vice President of Academic Engagement and Student Affairs. The appeal must be received in the Vice President of Academic Engagement and Student Affairs Office within 10 business days of the date of the decision letter.
2. If either the ~~victim/Ceomplainant~~ or ~~Respondent 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 of Academic Engagement and Student Affairs 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~~Procedural irregularity that affected the outcome of the matter; or
 - b. ~~new information is discovered that was not available at the time of the hearing~~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
~~the information presented does not support the decision;~~
 - c. ~~or~~The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Ceomplainants or Rrespondents generally or the individual Complainant or Respondent that affected the outcome of the matter.
 - d. ~~the sanctions imposed were not appropriate for the violation.~~
3. The Vice President of Academic Engagement and Student Affairs may uphold the decision ~~and~~ or sanctions, modify the decision ~~and~~ or sanctions, remand the case to the same Hearing Administrator/Student Conduct Hearing Board Committee for reconsideration of the decision ~~and~~ or sanctions, or remand the case to a new Hearing Administrator/Student Conduct Hearing Board 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 Academic Engagement and Student Affairs shall be simultaneously forwarded to both ~~Ceomplainant~~ and ~~charged student~~Respondent, 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, ~~the Respondent 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 ~~a party the student~~ seeks

review with the court, that individual ~~he or she~~ must also provide a copy of the petition certiorari review to the Office of the Vice President of Academic Engagement and Student Affairs, University of West Florida, Bldg. 11, 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 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 permanent notation will be placed on the student's transcript indicating any period of disciplinary suspension.
2. A permanent notation will be placed on the student's transcript indicating an expulsion.

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, 6/4/10, 3/19/13, 9/9/14, 6/16/16, 10/12/18, 04/23/20, ///.