

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

**DATE:**       **October 23, 2019**

**REGULATION TITLE AND NUMBER:** *UWF/REG – 3.010 Student Code of Conduct*

**PURPOSE AND EFFECT:** UWF Regulation 3.010 is amended to add new language to conform to recent changes in the Florida Statute and Florida Board of Governors regulation on hazing and various other amendments more specifically listed below.

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

- Numbering and lettering changes were made to the entire document to make formatting consistent
- Typographical and/or grammatical errors were corrected throughout the document
- Vice President for Enrollment and Student Affairs was changed to Vice President for Academic Engagement and Student Affairs
- Student Disability Resource Center was changed to Student Associability Resources
- Gender inclusive language was added throughout the document
- The term “group” was listed beside student organizations throughout the document to add clarity
- The term complainant was combined with victim throughout the document to add clarity

### Article I

- Language regarding “The Good Samaritan Policy” was removed
- Language was added regarding respecting the First Amendment rights of others

### Article II

- The term staff was defined
- The definition of a student was expanded to include the following: “students who have been suspended from UWF and do not require readmission to the University”
- The definition of Student Organizations/Groups was expanded by adding “athletic teams”

### Article IV

- Anti-Semitism was added to the list of protected classes in IV.2.i.
- The hazing definition in IV.2.k. was updated to be consistent with BOG regulation and legislative changes
- UWF Electronic Communications Policy was added to IV.7.j.
- IV.8.h was added to the document (Engages in or offers games of chance for money or other gain in violation of the laws of the State of Florida) to comply with legislative updates regarding gambling

## Article V

- Sexual assault as changed in sexual misconduct in V.1.e.
- The definition of Student Advocate was expanded to include that the Student Advocate shall not serve as the Adviser during any hearing
- The definition of the term witness was expanded to include that the witness could “participate via telephone or electronic means”
- The definition of “student status” was expanded to include “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”

## Article VI

- The definition of Student Advocate was expanded to include that the Student Advocate shall not serve as the Adviser during any hearing
- The definition of the term witness was expanded to include that the witness could “participate via telephone or electronic means”
- In VI.4.k, the “presentation of information” was edited and clarified to show that the investigative report would be shared and not the findings
- The definition of “student status” was expanded to include “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”

**AUTHORITY TO AMEND THE REGULATION:** Florida Board of Governors Regulations 1.001 & 6.0105, *Student Conduct and Discipline*.

### **NAME OF UNIVERSITY OFFICIAL INITIATING PROPOSED REGULATION**

**AMENDMENT:** Dr. Brandon Frye, Associate Vice President, Academic Engagement & Student Affairs and Pamela E. Langham, Esquire, General Counsel

### **COMMENTS CONCERNING THE PROPOSED REGULATION AMENDMENT**

**SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW.** In response, the University may solicit additional written comments, schedule a public hearing, withdraw or modify the proposed regulation amendment in whole or in part after notice, or proceed with adopting the regulation amendment. The comments must identify the regulation(s) on which you are commenting.

### **THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION:**

Gabby Rozier, Paralegal, Office of the General Counsel at [grozier@uwf.edu](mailto: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 regulation is attached below this Notice. The full text of the proposed and existing regulation is also posted on UWF's website at <https://uwf.edu/offices/board-of-trustees/regulations/> . In addition, the full text of the proposed 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](mailto: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. ~~This duty is an expectation at the University and will be commonly referred to as "The Good Samaritan Policy."~~ ~~As such, T~~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 the University of West Florida~~ 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 The University~~ affirms its desire to maintain a learning and living environment for all students that is free from all forms of unlawful discrimination, harassment and retaliation. All members of the University community are responsible for ensuring that their conduct does not discriminate, harass or retaliate against others, and are to cooperate in maintaining a climate where discrimination, harassment and retaliation are not tolerated, while respecting the First Amendment rights of others.

In keeping with the ~~UWF's University of West Florida's~~ values, any sanctions imposed are for the purposes of restoring the standards of the University community, educating students and student organizations/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 ~~Enrollment 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 ~~Enrollment~~ and Student Affairs or Dean of Students in this Conduct Code also refer to that individual's his or her designee(s).

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

## Article II. Definitions

1. **Charged Student:** 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 of~~ Academic Engagement Enrollment and Student Affairs to administer the Student Code of Conduct.
4. **Dean of Students:** the individual designated by the University with responsibility for administering the Student Code of Conduct.
5. **Dean of Students Office:** the department designated by the University with responsibility for administering the Student Code of Conduct. The Office of Student Rights and Responsibilities (OSRR) is included within the Dean of Students Office.
6. **Endangerment:** means engaging in conduct that 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.
7. **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.
8. **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 Enrollment and Student Affairs.
9. **Hearing Administrator:** a University Official authorized by the Vice President of Academic Enrollment and Engagement and Student Affairs to administer student conduct administrative hearings, to determine if the UWF Student Code of Conduct has been violated, and to recommend sanctions to the Dean of Students.
10. **May:** the term “may” is used in the permissive sense.
11. **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.
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.

**13. Shall:** the term "shall" is used in the imperative sense.

**13.14. 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.

**14.15. Student:** includes all persons enrolled at ~~UWF~~the University of West Florida, either full-time or part-time, degree seeking or non-degree seeking, and persons who are not officially registered for courses for a particular term but who are expected to have a continuing relationship with the University, including students 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.

**15.16. Student Conduct Committee:** consists of faculty and staff representatives appointed by the Vice President of Academic Engagement~~Enrollment~~ 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.

**16.17. Student Conduct Hearing Board:** members of the Student Conduct Committee are assigned on a case-by-case basis to administer student conduct hearings, to determine if the Student Code of Conduct has been violated, and to recommend 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.

**17.18. 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.

**18.19. University:** means all locations of the University of West Florida including the online campus.

**19.20. 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.

**20.21. University Official:** includes any person employed by the University performing assigned administrative or professional responsibilities.

**21.22. 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.

**22.23. 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.

23-24. **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 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 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 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 Enrollment and Student Affairs regarding the interim measures. If requested, the review will be conducted by the Vice President of Academic Engagement Enrollment 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 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 Enrollment and Student Affairs. Where an individual is both an employee and a student, his or her status in a given situation shall be determined by the Vice President of Academic Engagement Enrollment 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 lacks the ability to understand the nature of the act.
  - e. Taking sexual advantage of another person, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such other person; causing the prostitution of another person; recording, photographing or transmitting identifiable images of private sexual activity or intimate parts of another person without that person's effective consent; allowing third parties to observe private sexual acts without the other person's consent; engaging in voyeurism; and/or knowingly or recklessly exposing another person to a significant risk of a sexually transmitted infection, including HIV.
  - 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.).
- 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—any action or situation that recklessly or intentionally endangers the mental or physical health or safety of a student for purposes including, but not limited to, initiation or admission into or affiliation with 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. For the purposes of this regulation, hazing includes observation of hazing activities by individuals in a position to intervene but who fail to intervene.~~ Hazing - 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, initiation, or admission into or affiliation with any university student organization or group whether or not officially recognized by the University. , or the perpetuation or furtherance of a tradition or ritual of any university student organization or group operating

under the sanction of the university. 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 or 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.

- 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 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 Oofficials 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 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 vehicle.
  - ii. Failure to comply with establish 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 faculties 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 faculties 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

### 1. Determination of Charges

- a. Alleged violations of the Student Code of Conduct may be reported to the Dean of Students Office by anyone, including but not limited to: (a) University Police or other University departments, (b) faculty, staff, or students or (c) third parties.
- b. The Dean of Students Office will review the information to determine if a student will be charged with violating the Student Code of Conduct.
- c. The Dean of Students Office may not charge a student with a violation of the Student Code of Conduct more than one year after the date the conduct occurred or was discovered; whichever is later. University administrators; however, may exercise professional discretion when applying the time provision to account for circumstances that warrant an extension of the one-year time limit from the date of discovery.
- 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~~ sexual misconduct ~~assault~~, 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 ~~Enrollment~~ and Student Affairs or designee has the sole discretion to grant immunity pursuant to the University policy governing 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 ~~Enrollment~~ 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 his or her acceptance of responsibility and that he or she is waiving 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 the Student Conduct Committee. This committee must be composed of at least 50% students.
- b. In the alternative, the charged student may choose to have an Administrative Hearing 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 Committee, and,
  - ii. An Administrative Hearing is permitted by the Dean of Students.

#### 5. Hearing Procedures

The Student Conduct Committee Hearing 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 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 his or her rights in the student conduct process, including but not limited to, the right to submit a list of questions, the right to submit a victim impact statement, the right to request a copy of his or her record, and the right to provide information in a separate room from the charged student.
- 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 advisers may attend. Witnesses may not be present in the proceedings except to provide information when called upon.
- f. **Adviser:** a charged student is entitled to have any one person at the hearing to serve as that individual's his or her adviser. The charged student may consult with the charged student's his or her 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 charged student, question witnesses, present information or argument before the panel. 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 Sstudent 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 Chair:** the Hearing Administrator or Student Conduct Committee Chair will preside over the hearing, be responsible for the order and decorum of the hearing, and will ensure that the hearing procedures are followed. At their his or her discretion, the Hearing Administrator or Student Conduct Committee 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 Committee Chair. If a witness cannot appear, that individual ~~he or she~~ 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/or Hearing Administrator.
- l. **Questions:** The victim/complainant has the right to provide a list of questions that ~~he or she would~~individual would like the charged student to be asked by the Hearing Administrator or Chair of the Student Conduct Committee at the disciplinary hearing.
- m. **Separation of Complainant/Victim, Witness, and/or Charged Student:** The complainant/victim/complainant and/or any witness may request that 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 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 Committee members and the Dean of Students as appropriate.
- s. **Determination of Responsibility:** the Hearing Administrator or Student Conduct 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 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:

- i. Adopt the recommended sanctions,
- ii. Modify the recommended sanctions,
- iii. Reject the recommended sanctions, or
- iv. Remand the matter for a rehearing.

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

- 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 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 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. 21), 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~~ against the individual ~~him or her~~, the conduct process will continue with or without 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 ~~the Student~~ Accessibility Resources Disability Resource Center at least three business days in advance of the hearing. If necessary, the Hearing Administrator or Student Conduct Committee may postpone the hearing to provide reasonable accommodations.

## **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, the University has established an alternative hearing procedure under this policy to address and adjudicate alleged sexual misconduct, sexual violence and gender-based discrimination violations where the charged student is a University student and the complainant is a University student or employee.

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 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.

### **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 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 the individual’s his or her acceptance of responsibility and that the individual he or she is waiving the his or her right individual’s right to a hearing.
  - ii. An email documenting the charged student’s responsibility and the sanctions will be sent concurrently to the charged student as well as the complainant/victim/complainant within ten business days of the Educational Conference by the Dean of Students Office.
- d. If the charged student does not accept responsibility for the charges:

- i. The charged student will be asked to sign 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 and the victim/complainant with a minimum notice of five business days.
- e. If the charged student fails to attend the Educational Conference or complete the Educational Conference Form, the matter will be referred for hearing to the Student Conduct Committee.
- f. Complainant/Victim Educational Conference: The victim/complainant/victim will be given the opportunity to participate in a separate Educational Conference, the purpose of which is for the Conduct Officer to explain the conduct process and hearing procedures, possible sanctions for the charged student, and to answer questions.

### 3. Hearing Options

- a. The charged student has the right to a hearing before the Student Conduct Committee. This committee must be composed of at least 50% students.
- b. In the alternative, the charged student may choose to have an Administrative Hearing 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 Committee, and
  - ii. An Administrative Hearing is permitted by the Dean of Students, and
  - iii. No objection is raised by the complainant/victim/complainant.

### 4. Hearing Procedures

The Student Conduct Committee Hearing and the Administrative Hearing are educational processes and are not a 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 their his or her rights in the student conduct process. If the time or date of the Hearing is not convenient to the charged student, the charged student must submit a written request to reschedule the hearing to the Dean of Students Office within two business days of the date of the notice.
- b. **Complainant/Victim Hearing Notification:** the University will notify the victim/complainant/victim via email of the date, time and location of the hearing no less than five days in advance of the hearing. This notification will also advise the victim/complainant/victim of their 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 the 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 and or the complainant/victim/complainant, 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~~individual will present at the hearing at least three business days in advance of the hearing.

- d. **Failure to appear:** if either the charged student or the ~~complainant/victim/complainant~~ fail to appear, the hearing will proceed in the absence of those persons.
- e. **Closed Hearings:** hearings are closed to the public and only the charged student, victim/complainant where authorized, and advisers may attend. Witnesses may not be present in the proceedings except to provide information when called upon.
- f. **Adviser:** a charged student and ~~complainant/victim/complainant~~ are each entitled to have any one person at the hearing to serve as ~~that individual's his or her~~ adviser. The Charged Student and ~~complainant/victim/complainant~~ may each consult with ~~their his or her~~ 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. 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 Student advocate 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 Chair:** the Hearing Administrator or Student Conduct Committee Chair will preside over the hearing, be responsible for the order and decorum of the hearing, and will ensure that the hearing procedures are followed. At ~~that individual's his or her~~ discretion, the Hearing Administrator or Student Conduct Committee 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 Sstatements:** the charged student will not be compelled to make self-incriminating statements. Any information shared by the charged student or ~~complainant/victim/complainant~~ during an educational conference may be presented during a hearing. Failure of the charged student or complainant/victim to make a statement or to answer questions shall not be considered in the determination of whether or not a student is responsible for violating the Student Code of Conduct.

- j. **Information:** the Dean of Students Office and the charged student, and the complainant/victim will be given an opportunity to provide information at the hearing. This may include, but is not limited to, witnesses, pertinent records, documents, written or oral statements, and investigative reports. The charged student and the ~~complainant~~/victim/complainant will also be given an opportunity to inspect records provided by the Dean of Students Office.
- k. **Presentation of Information:** the primary information presented at the hearing will be the report of the Title IX Investigator. After the Investigator has shared ~~the investigative report~~this or her findings, both the charged student and the ~~complainant~~/victim/complainant will have the opportunity to challenge or question the contents of the report. In challenging or questioning the ~~report~~findings, 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 ~~complainant~~/victim/complainant, and the charged student may call witnesses. Witnesses may be questioned by all parties, including the charged student, the ~~complainant~~/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 he or she~~ 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. **Separation of Alleged Complainant/Victim, or Witness, and/or Charged Student:** The ~~complainant~~/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. **Past Behavior:** A ~~Complainant~~/victim's/complainant's past behavior shall be excluded from the disciplinary hearing. The charged student has a right to have ~~their his or her~~ past unrelated behavior excluded from the disciplinary hearing. The issue of relevance of the charged student's past behavior shall be determined by the Hearing 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. **Audio Recording of Hearing:** Student Conduct Committee Hearings and Administrative Hearings will be audio recorded. There shall be a single audio record of all hearings. This audio record is the official record and is the property of the University and will be considered part of the charged student's disciplinary record. The charged student may submit a written request for a copy of the audio recording which will be provided after receipt of the hearing decision letter.
- q. **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.

- r. **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 ~~that student’s his or her~~ hearing.
- s. **Deliberations:** are closed and the decision making shall include only the Hearing Administrator or the Student Conduct Committee members and the Dean of Students as appropriate.
- t. **Determination of Responsibility:** the Hearing Administrator or Student Conduct 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.
- 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:
  - i. Adopt the recommended sanctions
  - ii. Modify the recommended sanctions
  - iii. Reject the recommended sanctions, or
  - iv. Remand the matter for a rehearing

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

- v. **Victim Impact Statement:** If the charged student is found responsible, the ~~complainant~~/victim/complainant has a right to submit a victim impact statement to the Hearing Administrator or Chair of the Student Conduct Committee for consideration at the sanctioning phase only. The statement may include a description of how the complainant was impacted by the conduct violation and may include recommendations for sanctions, penalties or restitution. However, the Hearing Administrator or Student Conduct Committee is not bound by those recommendations.
- w. **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.
- x. **Complainant/Victim/Complainant Hearing Decision Notification:** ~~Complainants/V~~ictims/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 student withdraws from the University with misconduct charges pending ~~against~~against that individual ~~him or her~~, the conduct process will continue with or without that individual’s his/her participation.
  6. **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.
  7. **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.
  8. **Accommodations for Students with Disabilities:** any student with a disability may request reasonable accommodations during the disciplinary process. If accommodations are desired, this request must be made to ~~the~~ Student Accessibility Disability Resources Center at least three business days in advance of the hearing. If necessary, the Hearing Officer or Student Conduct Committee Chair may postpone the hearing to provide reasonable accommodations.

## Article VII. Sanctions

A charged student found responsible for violations shall be subject to sanctions commensurate with the offense. Consideration may be given to aggravating and mitigating circumstances, and prior conduct record. The Hearing Administrator/Student Conduct Committee will recommend sanctions to 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 Committee or Hearing Administrator's recommended sanctions are not adopted by the Dean of Students, the Dean of Students shall provide the charged student and ~~complainant~~/victim/~~complainant~~ with the reasons for not adopting the recommendations in writing. 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 his-  
or her~~ privilege to continue at the University in any capacity. The student may not visit or come onto any UWF campus without specific written permission of the Vice President 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 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.

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.
10. **Fines:** Monetary fines established by the Dean of Students, subject to the approval of the Board of Trustees, will be published on the Office of Student Rights and Responsibility website (<https://uwf.edu/academic-engagement-and-student-affairs/departments/dean-of-students/>)([www.uwf.edu/osrr](http://www.uwf.edu/osrr)).
11. **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.
12. **University Housing assignment change or removal:** a student is required to (a) relocate to a new University housing assignment; (b) leave University housing for a specified period of time; or (c) leave University housing permanently.
13. **No contact order:** a directive informing the student that he or she is not to have any contact, direct or indirect, with one or more designated persons or group(s) through any means, including personal contact, e-mail, telephone, text messaging, social media or via third parties.
14. **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 in his or her~~ application for admission, residency affidavit, or accompanying documents or statements in connection with, or supplemental to, the application for admission to or graduation from the University.
15. **Denial or revocation of academic credit:** degrees and credit awarded by the University may be invalidated or revoked, credits may be denied and grades may be reduced for conduct involving violations of academic honesty rules, regulations, or policies.
16. **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

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 ~~Enrollment~~ Academic Engagement and Student Affairs within 10 business days of the date of the decision letter.
2. The Vice President of Academic Engagement ~~Enrollment~~ 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 ~~Enrollment~~ and Student Affairs may uphold the decision and/or sanctions, modify the decision and/or sanctions, remand the case to the same Hearing Administrator/Committee for reconsideration of the decision and/or sanctions, or remand the case to a new Hearing Administrator/Committee for a new hearing. Unless the appeal decision is to remand the case, the appeal decision is considered the final decision of the University.
4. A copy of the decision of the Vice President of Academic Engagement ~~Enrollment~~ 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 ~~he or she~~ must also provide a copy of the petition for certiorari review to the Office of the Vice President of Enrollment and Student Affairs, University of West Florida, Bldg. 10, 11000 University Parkway, Pensacola, FL 32514.

## Article IX. Appeal for Title IX Cases

1. Both the complainant/victim and the charged student may appeal the decision and or sanction(s) in writing to the Vice President of Academic Engagement Enrollment and Student Affairs. The appeal must be received in the Vice President of Academic Engagement Enrollment and Student Affairs Office within 10 business days of the date of the decision letter.
2. If either the ~~complainant~~/victim/complainant or charged student submits an appeal, the other individual will be notified and provided with a copy of the appeal and will be given 10 business days to respond to the appeal in writing. The Title IX Coordinator will also be provided with a copy of the appeal. The Vice President of Academic Engagement Enrollment 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;
  - 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 were not appropriate for the violation.
3. The Vice President of Academic Engagement Enrollment and Student Affairs may uphold the decision and/or sanctions modify the decision and/or sanctions, remand the case to the same Hearing Administrator/Committee for reconsideration of the decision and/or sanctions, or remand the case to a new Hearing Administrator/Committee for a new hearing. Unless the appeal decision is to remand the case for a new hearing, the appeal decision is considered the final decision of the University.
4. A copy of the decision of the Vice President of Academic Engagement Enrollment and Student Affairs shall be forwarded to both complainant and charged student, to the Title IX Coordinator and to the Dean of Students Office for filing and for distribution to the appropriate parties.
5. If the final decision of the University is a sanction of suspension or expulsion, a charged student may seek judicial review of the final decision pursuant to Florida Rule of Appellate Procedure 9.190(b)(3), (which is applicable to review of quasi-judicial decisions of an administrative body not subject to the Administrative Procedure Act), by filing a petition for certiorari review with the circuit court for Escambia County within thirty (30) days of the final decision of the University. If the student seeks review with the court, he or she must also provide a copy of the petition certiorari review to the Office of the Vice President of Academic Engagement Enrollment and Student Affairs, University of West Florida, Bldg. 110, 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, 12/05/19.*