Florida Gulf Coast University Board of Trustees
April 20, 2004

SUBJECT: Student Code of Conduct

PROPOSED BOARD ACTION

Approve revisions to FGCU Student Code of Conduct

BACKGROUND INFORMATION

In February of 2003, the University Board of Trustees approved the current FGCU Student Code of Conduct, which has been in use for the 2003-2004 academic year. In February of 2004, a committee of administrative staff members met to evaluate and revise the current Student Code of Conduct. These staff members included the University Judicial Officer as well as key University Housing administrators. These individuals utilize and work with the Student Code of Conduct on a regular basis. Once the revisions were agreed upon, the changes were submitted to the Student Code of Conduct Review Committee, which was composed of at least fifty percent (50%) students as required by Section 1001.74(10)(f), Florida Statutes. The University President and President of the Student Government Association jointly appointed the members of this Committee. The committee members were as follows:

Keri Grothe, Chair (University Judicial Officer), ex officio (non-voting)
Dr. Charles Mesloh (faculty)
Ellen Williamson (faculty)
Jamie Homen (student)
Ryan Turner (graduate student)

All members of the committee are trained members of the University Judicial Board and have utilized the document several times throughout the past academic year. The committee met and reviewed the changes proposed by the staff committee. After making additional revisions, the review committee approved the final proposed draft and submitted it to the Office of the Dean of Student Affairs. All entities concur with the revisions being presented to the Board of Trustees.
Supporting Documentation Included: Copy of FGCU Student Code of Conduct with proposed amendments incorporated

Prepared by: Dr. Vincent G. June, Dean of Student Affairs
             Keri Grothe, University Judicial Officer

Legal Review by: Wendy S. Morris, General Counsel

Submitted by: Provost Brad Bartel
Revised by:
The Student Code of Conduct Committee, comprised of one-half student representation, established in March 2004.

Committee Members:

Keri Grothe (Chair, University Judicial Officer)
Dr. Charles Mesloh (faculty, University Judicial Board Chair)
Ellen Williamson (faculty, University Judicial Board Chair)
Jamie Homen (student, University Judicial Board member)
Ryan Turner (graduate student, University Judicial Board member)
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Introduction</td>
</tr>
<tr>
<td>II</td>
<td>Scope</td>
</tr>
<tr>
<td>III</td>
<td>Authority</td>
</tr>
<tr>
<td>IV</td>
<td>Definitions</td>
</tr>
<tr>
<td>V</td>
<td>Offenses</td>
</tr>
<tr>
<td></td>
<td>Academic Dishonesty/Cheating</td>
</tr>
<tr>
<td></td>
<td>Falsification/Fraud</td>
</tr>
<tr>
<td></td>
<td>Identification</td>
</tr>
<tr>
<td></td>
<td>Disruptive Conduct</td>
</tr>
<tr>
<td></td>
<td>Personal Abuse</td>
</tr>
<tr>
<td></td>
<td>Sexual Misconduct</td>
</tr>
<tr>
<td></td>
<td>Larceny/Property Damage</td>
</tr>
<tr>
<td></td>
<td>Hazing</td>
</tr>
<tr>
<td></td>
<td>Unauthorized Use of Keys and/or Entry</td>
</tr>
<tr>
<td></td>
<td>Misconduct at University Sponsored Activities</td>
</tr>
<tr>
<td></td>
<td>Controlled Substances</td>
</tr>
<tr>
<td></td>
<td>Alcohol</td>
</tr>
<tr>
<td></td>
<td>Weapons/Firearms</td>
</tr>
<tr>
<td></td>
<td>Instigation or Participation in Group Disturbances</td>
</tr>
<tr>
<td></td>
<td>Computer Misuse and Telecommunication</td>
</tr>
<tr>
<td></td>
<td>Gambling</td>
</tr>
<tr>
<td></td>
<td>University Designated Student Residences</td>
</tr>
<tr>
<td></td>
<td>Responsibility for Guests</td>
</tr>
<tr>
<td></td>
<td>Noncompliance with an Official Request</td>
</tr>
<tr>
<td></td>
<td>University Wordmark</td>
</tr>
<tr>
<td></td>
<td>Disregard for Student Code of Conduct Process</td>
</tr>
<tr>
<td></td>
<td>Other Violations</td>
</tr>
<tr>
<td>VI</td>
<td>Immediate Administrative Action</td>
</tr>
<tr>
<td>VII</td>
<td>Student Rights</td>
</tr>
</tbody>
</table>
VIII  Victim Rights
IX   Procedures
     Charges
     Notice
     Pre-hearing
     Hearing
     Types of Hearings
     Choice of Hearing Type
X    Sanctions
XI   Appeals
     Appeal Requests
     Appeal Hearings
     Appeal Decisions
XII  Records
XIII Student Waiver Forms
     Waiver Form: Students’ Right to a Judicial Board Hearing..
     Waiver Form: 24-Hour Consideration Period
     Waiver Form: Tape Recorded Hearings
XIV  Judicial Process Flowchart
I. INTRODUCTION

The Student Code of Conduct exists to define the behavioral rights and responsibilities of FGCU students; to foster and enhance the academic mission of the university; to protect the rights of all university students, faculty, and staff; and to protect University property.

II. SCOPE

These rules shall apply to all undergraduate students, graduate students, and student organizations of the University and shall be deemed a part of the terms and conditions of admission and enrollment of all students.

The University’s jurisdiction regarding discipline is generally limited to the conduct of any student or registered student organization that occurs on university premises, including University Housing. However, the University reserves the right to impose discipline based on any student conduct, regardless of location, that may adversely affect the University community.

The right of all students to seek knowledge, form opinions, and freely express their ideas is fully recognized by the University. The Student Code of Conduct applies to student conduct and will not be used to discipline the lawful expression of ideas.

The processes for adjudicating violations of State and Federal law violations and of the Student Conduct Code are separate and may be pursued independently of one another.

III. AUTHORITY

A. The University President shall have the final responsibility and authority for the discipline of students of the university. The President delegates this responsibility to the Dean of Student Affairs or his/her designee. The Dean of Student Affairs has the authority to enforce regulations and may take direct jurisdiction of any case.

B. Student organizations charged with violating the Student Code of Conduct fall under the authority of the University conduct system.

C. Hearing bodies have the authority to make decisions regarding a finding of responsible or not responsible for violating the Student Code of Conduct and to sanction accordingly.

D. Failure to comply with duly established laws or University rules and regulations may subject violator(s) to appropriate action by University authorities and/or appropriate civil
authorities. Serious violations of established laws or University rules and regulations may be recorded in the individual(s) and/or organization(s) permanent record in the Dean of Students’ Office.

E. The Dean of Student Affairs (or designee) has the authority to notify the person listed as the student’s emergency contact (or other appropriate person) in case of an emergency involving that student.

IV. DEFINITIONS

A. **Advisor** – Any one person A member of the FGCU community (student, faculty, or staff) chosen by the charged student or the alleged victim to assist him/her throughout the disciplinary process. Students are required to address the hearing body in person, on their own behalf, although they may consult with their advisor during the hearing. This consultation must take place in a manner that does not disrupt the proceedings. The advisor shall not speak on behalf of the student unless expressly authorized to do so by the hearing body. If an attorney is to be the advisor, the judicial officer assigned to the case must be notified in writing at least two class days prior to the hearing.

B. **Administrative Hearing** – An official hearing conducted before a designated judicial officer. The judicial officer reviews information; determines if a charged student is responsible or not responsible; and, if found responsible, determines sanctions accordingly.

C. **Charged Student** – Any student who has been formally charged with an alleged violation of the Student Conduct Code.

D. **Class day**– Any day (Monday through Saturday) that either classes or final exams are scheduled.

E. **Judicial (Hearing) Officer** – A University official appointed by Dean of Student Affairs to make the appropriate inquiries into the circumstances of a case and to determine appropriate proceedings of (1) case dismissal, (2) immediate administrative action, or (3) formal charge. The judicial officer conducts administrative hearings and may also serve as a facilitator in a judicial board hearing.

F. **Judicial Board Hearing** – An official hearing conducted before a judicial board. The judicial board has the authority to review student conduct violations and make decisions related to the case. At the hearing, the judicial board determines if a charged student is responsible or not responsible, and, if found responsible, determines sanctions accordingly. The judicial board must be comprised of at least 50% student representation.
G. **Judicial Appeal Board** - A board consisting of at least 50% student representation convened to hear the appeals of immediate administrative action. (Please refer Section 6: Immediate Administrative Action of the Student Code of Conduct.)

H. **Hearing Body**- Any person or persons authorized by the Dean of Student Affairs to conduct hearings to determine whether a student has violated the Student Conduct Code and to impose sanctions. This includes the judicial officer and individuals serving on the judicial board.

I. **Notice of Student Code of Conduct Charge**- The written notice given to a student of the Student Conduct Code charge and the allegations of misconduct.

J. **Preponderance of Evidence** – The term “preponderance of evidence” means that evidence, considered as a whole, indicates the fact sought to be proved is more probable than not. The standard used in hearing all disciplinary cases within this Student Conduct Code is “preponderance of evidence.”

K. **Reasonable Person Standard** – The degree of interpretation that a “reasonable” person would provide without bias when presented with similar information.

L. **Student** – Any person matriculated to the University, any person who participates in any course or program in any school, division or unit of Florida Gulf Coast University, or any person who has participated in any course or program at the University and continues to be associated with the University because he/she has not completed the course or program in which he/she was enrolled. The term ‘student’ will also refer to student clubs, groups and organizations.

M. **Judicial Boards** – The Judicial Board is a body of students, faculty and staff to review student conduct violations. Only current students who are actively enrolled at the University, in good academic and disciplinary standing and subject to this Student Code of Conduct are eligible to serve on this Board. The judicial board must be comprised of at least 50% student representation.

N. **University** – The term “University” means Florida Gulf Coast University, including the main campus, all of its branch locations, sites and international programs. The Student Code of Conduct applies to the University as defined herein.

O. **University Community** – Any person who is a student, faculty member, University official, or any other person employed by the University or a guest of the University.
P. **University Official** – Any person employed by the University to perform assigned teaching, research, and administrative, professional or other responsibilities. University Police also falls under this definition.

Q. **University Policy** – The official written policies and regulations of the University as including those found in the Student Conduct Code of Conduct, the Undergraduate/Graduate Catalogs, The Student Guidebook, and the University Housing Rules and Regulations Handbook.

R. **Premises** – All land, buildings, facilities, and properties owned, used, leased, or operated by the University or one of its direct support organizations.

S. **Notice** – The written notice given to a student of the Student Conduct Code charge and the allegations of misconduct.

S. **University Rules** – University statements of general applicability that implement, interpret or prescribe law or policy and are promulgated in accordance with the Administrative Procedure Act, Chapter 120, Florida Statutes.

**All code of conduct definitions not included in this list are in accordance with definitions found in a current law dictionary recognized by the American Bar Association. Blacks Law Dictionary, 7th Edition (1999), or the most recently issued edition in effect at the time of the violation.**

**V. Offenses**

As defined by a reasonable person standard, the following offenses, including the aiding or inciting of, or attempt to commit these offenses, represent violations of the Student Code of Conduct. These rules apply to conduct, which occurs on University premises, while attending University sponsored/related activities, and conduct that takes place off University premises when that conduct is determined as adversely affecting the interests of the University community.

A. Academic Dishonesty/Cheating
B. Falsification/Fraud
C. Disruptive Conduct
D. Personal Abuse
E. Sexual Misconduct
F. Larceny/Property Damage
G. Hazing
H. Unauthorized Use of Keys and/or Entry
I. Misconduct at University Sponsored/Related Activities
J. Controlled Substances
K. Alcohol
L. Weapons/Firearms
M. Instigation or Participation in Group Disturbances During Demonstrations
N. Computer Misuse and Telecommunications Resources
O. Gambling
P. University Designated Student Residence Violations
Q. Responsibility for Guests
R. Noncompliance with an Official Request
S. University Wordmark
T. Disregard for the Student Code of Conduct process
U. Other Violations

A. Academic Dishonesty/Cheating

1. Cheating is a violation of student academic behavior standards. The common forms of cheating are:

   a. Unauthorized assistance- communication to another through written, visual, or oral means for purposes of enhancing the other’s academic performance. The presentation of material that has not been studied or learned, but obtained through someone else’s efforts and used as part of an examination, course assignment, or project constitutes a violation. The unauthorized possession or use of examination or course related material may also constitute cheating.

   b. Plagiarism whereby another’s work is deliberately used or appropriated without any indication of the source, thereby attempting to convey the impression that such work is the student’s own. Any student failing to properly credit ideas or material taken from another is plagiarizing.

2. Any student who knowingly helps another violate academic behavior standards is also in violation of the standards.

 NOTE: For further information see “Student Academic Behavior” “Academic Behavior Standards” in the Student Guidebook.

B. Falsification/Fraud

1. The furnishing of false or misleading information to a University official or others, or withholding required information from University officials or others.
2. Misuse, alteration or forgery of any documents, records, keys or property.

3. Impersonation or misrepresentation. Acting on behalf of another person, group or the University without authorization or prior consent.

4. Permitting another person to use his/her identification.

5. Inappropriate use of another person’s identification.

6. Failure to show proper identification to a University official.

7. Forgery, alteration, or misuse of identification.

C. Disruptive Conduct

1. Intentionally acting to impair, interfere with, or obstruct the orderly conduct, processes and functions of the university.

2. Violence against any member or guest of the university community.

3. An act on university premises that deliberately impedes or interferes with the normal flow of pedestrian and vehicular traffic.

4. Action that tampers with the election(s) of any university student organization or group.

5. Willful destruction of university property or property of members of the university.

6. Misuses of any university safety equipment, fire fighting equipment, or alarm.

7. An act that deliberately interferes with academic freedom or the freedom of speech of any member or guest of the university.

8. A false report of an explosive or incendiary device which constitutes threat or bomb scare.

9. Conduct which is intentionally lewd or indecent.

10. Failure to comply with reasonable oral or written instruction from duly authorized university officials acting in the performances of their duties and/or failure to identify oneself to these individuals when requested.
D. Personal Abuse

1. Verbal abuse from any person including lewd, indecent, racist, prejudice, obscene, or expressions deemed inappropriate.

2. Physical abuse or threat of abuse to self or any other person.

3. Harassment is defined as: engaging in a course of conduct, including but not limited to stalking, directed at an member of the university community individual or a group which would cause a the victim severe emotional distress, intimidation, coercion or which would place a the victim in fear of bodily injury or death, provided that this provision shall not be interpreted to abridge the right of any member of the university community to freedom of expression.

4. The failure to respect the privacy of other individuals.

5. Retaliation against or harassment of complainant(s) or other person(s) alleging misconduct.

E. Sexual Misconduct

1. Sexual Assault - acquaintance rape (date, friend, someone the victim knows casually or through mutual friends) or any other form of rape. Rape may be determined as unconsenting sexual penetration, coercion, or penetration against the victim’s will.

Sexual contact without consent and includes intentional touching, either of the victim or when the victim is forced to touch, directly or through clothing, another person's genitals, breasts, thighs or buttocks; rape (sexual intercourse without consent whether by an acquaintance or a stranger); attempted rape; sodomy (oral sex or anal intercourse) without consent; or sexual penetration with an object without consent. To constitute lack of consent, acts must be committed by force, intimidation or through use of the victim's mental incapacity or physical helplessness. Intoxication may indicate an inability to give consent. Verbal misconduct, without accompanying physical contact as described above, is not defined as sexual assault. Verbal misconduct may constitute harassment, which is also prohibited under University regulations and is specifically addressed as personal abuse in the Student Code of Conduct.

Any sexual conduct shall be consensual, meaning that willing and verbal agreement shall be clearly given in advance by all persons involved at each new level of such conduct. Further, one person shall not physically or verbally coerce another person to
engage in sexual conduct, to the end that consent as defined above is not given. A person shall not knowingly take sexual advantage of another person who is:

a. Under 18 years of age, or
b. A person with a mental disability that would prevent that person from making a reasonable sexual decision, or
c. Under the influence of prescribed medication, or
d. Under the influence of alcohol or other chemical drugs, or
e. Who is not conscious or awake, and thus is not able to give consent as defined above.

2. Public Indecency - exposure of one’s body in such a manner that another party reasonably could be offended or to display sexual behavior which another person reasonably finds offensive.

3. Voyeurism - sexual stimulation sought through trespass, spy, or eavesdrop activities.

NOTE: FGCU will use discretion in accommodating the victim as well as protecting the rights of the charged student. As a result of these special circumstances, a case of student sexual misconduct may be resolved before a judicial officer. FGCU will not attempt to shelter students from federal, state, and/or local laws pertaining to sexual misconduct. For further information see “Victim’s Rights” found in the Student Guidebook Code of Conduct, page 19 below.

F. Larceny/Property Damage

1. Unauthorized use, possession, or theft of property. Such property may be personal or public.

2. To damage or deface University property or the property of another person.

G. Hazing

1. Any action or situation which recklessly or intentionally endangers the mental or physical health and/or safety of a student for the purpose of initiation or admission into, or affiliation with any organization operating under the sanction of the university.

2. Brutality of a physical nature such as whipping, beating, branding, forced calisthenics, exposure to the elements, forced consumption of any food, liquor, drug,
or other substances, or other forced activities which could adversely affect the physical health or safety of the individual.

3. Any activity which could subject the individual to mental stress such as sleep deprivation, forced exclusion from social contact, forced contact, which could result in embarrassment, or any other activity which could adversely affect the mental health or dignity of the individual.

H. Unauthorized Use of Keys and/or Entry

1. Unauthorized possession, duplication, or use of keys to any University premises.

2. Unauthorized entry or attempted entry to University premises.

I. Misconduct at University Sponsored Activities

Violation of University policies at any University sponsored/related activity, which may be held on or off campus.

J. Controlled Substances

1. Possession or use of any narcotic or other controlled substances.

2. Distribution, delivery, sale or attempted sale of any narcotic or controlled substances.

3. Possession or use of drug paraphernalia.

K. Alcohol

1. Possession, use or consumption of alcohol when under the legal drinking age as defined by law.

2. Dispensing, selling or supplying alcoholic beverages to an individual who is under the legal drinking age as defined by law.

3. Public intoxication as observed through disruptive behavior resulting from excessive consumption of alcoholic beverages (to be determined by physical observation or BAC test, if available).

4. Violating other University or Housing policies while under the influence of alcohol. Students who choose to drink alcohol will be held fully responsible for their behavior while under the influence of alcohol.
Note: For further information see “Drug Free Workplace/Drug Free Schools Policy” which can be found either in the Student Guidebook or the Catalog.

L. Weapons/Firearms

1. Unauthorized possession or use of firearms or any weapon on university premises or at University sponsored/related activities.

2. Unauthorized possession or use of fireworks of any description, explosives, or chemicals which are disruptive, explosive, or corrosive on university premises or at University sponsored/related activities.

M. Instigation or Participation in Group Disturbances During Demonstrations, Parades, or Picketing

1. The participation in a demonstration(s), parade(s), or picketing that interferes with the educational function of the university, or jeopardizes public order and safety.

2. Leading or inciting others to disrupt scheduled and/or normal activities on university premises.

N. Computer Misuse and Telecommunications Resources

1. The University supports open access to electronic communication and information. Nevertheless, the preservation of an open computing and communications environment requires adherence by users to a set of standards and policies for the responsible use of computing systems, software, and telecommunication networks. University computing and telecommunications resources shall not be used as follows:

   a. To impersonate another individual or to misrepresent an authorization to act on behalf of other individuals or the University.
   b. To modify the original attribution of electronic mail messages or postings.
   c. To send anonymous messages without clearly and correctly identifying the sender.
   d. To make unauthorized or illegal use of the intellectual property of others without the prior written permission of the owner or the copyright holder of the information.
   e. To transmit to others or to display images, sounds, or messages that reasonably could be perceived as being harassing, invasive, or otherwise unwanted.
   f. To carry out commercial or other for-profit purposes.
   g. To conduct programs which do not directly relate to, or are not in support of, the academic, research, administrative, or student activities of the University.
h. To attempt to undermine, as defined by a reasonable person standard, the security or the integrity of the university’s computing systems or telecommunications networks, to attempt to gain unauthorized access, or to intercept or decode passwords or similar access control information.

i. To intentionally, as defined by a reasonable person standard, damage, disable, or impair computing or telecommunications equipment or software.

j. To acquire or utilize software that does not adhere to applicable software licenses and copyright laws or is not consistent with University software policies.

k. To introduce viruses or other destructive software in University computer facilities.

l. To engage in activities which are not consistent with the provisions of Chapter 815, Florida Statutes, Computer Crimes Act, Title 18 United States Code, Electronic Communication Privacy Act of 1986, or the Telecommunications Act of 1996.

m. “Chain letters” or similar materials are prohibited.

2. All members of the University community are expected to adhere to University policies regarding the security and use of individual user identifications and passwords. Members of the University community are held responsible for any violation of University policies that occurs either on or off campus that involve the use of their computer account. Unauthorized use of a University computer account is expressly prohibited.

Computer users shall comply with all applicable federal, state, and local laws and regulations governing the use of computer and telecommunication technology, as well as all applicable policies of the University and the Florida Board of Governors Education, and the FGCU Board of Trustees. These policies are referenced in the “FGCU Acceptable Computer and Network Policy”, the student guidebook and are posted on the University website. Violations of the computer and network rules and policies shall result in disciplinary action. Serious violations of University policies shall generally result in immediate loss of network and computer access and privileges.

Suspected criminal violations of federal, state, or local laws shall be reported to the University Police Department, appropriate law enforcement agencies or any other applicable authorities or agencies. However, unauthorized or fraudulent use of University computing and telecommunication resources can result in felony prosecution as provided for in Florida Statutes, Chapter 775, Florida Criminal Code.

O. Gambling
1. To play in an unlawful game of chance for money or for anything of value on University premises or at any affair sponsored by a student organization.
2. To sell, barter, or dispose of a ticket, order, or any interest in a scheme of chance by whatever name on University premises or at any affair sponsored by a student organization.
3. To wager on a University team or organization in a competition with a direct interest in the success of the competition.

NOTE: Charitable, nonprofit organizations may operate “drawings by chance”. The law requires specific disclosures and procedure; Section 849.0935, FS. Permission for student organizations to organize “drawings by chance” on university premises or at any sponsored affair must be secured from the Dean of Student Affairs Services prior to an announcement of the event.

P. University Designated Student Residence Violations

Repeated or flagrant violations of regulations governing University Student Housing (which are found in Housing Rules and Regulations Handbook).

Q. Responsibility for Guests

Students will be held accountable for any damage or violation of University rules and regulations by their guests on-campus or in University Housing.

R. Noncompliance with an Official Request

1. No student shall fail to comply with reasonable and/or lawful requests or directions by members of the faculty, administrative staff, residence hall staff, or other employees acting in the performance of their official duties. A request for proper identification from a student is a reasonable expectation.
2. No student shall fail to promptly answer lawful requests by faculty members, administrative staff, residence hall staff, or other employees acting in the performance of their official duties.
3. No student shall intentionally provide false information, verbally or in writing, to faculty members, administrative staff, residence hall staff, or other employees acting in the performance of their official duties.
S. University Wordmark

Unauthorized use of the official University Eagle, mono-seal, or other graphic identity symbol.

T. Disregard for the Student Code of Conduct Process

1. Failure to obey a Hearing Body directive(s) or order(s).
2. Improper actions during a conduct hearing.
3. Failure to respond to a request to appear before a Hearing Body when notified to do so.
4. Knowingly withhold, falsify, or misrepresent information before a Hearing Body.
5. Violation of the terms of the Hearing Decision.
6. Attempting to influence, intimidate, or threaten any witness, board member, or other participant involved in the preparation of a case or the procedures constitution a judicial or academic behavior standards proceeding.
7. Distributing, announcing, or publishing confidential judicial information, letters, or decisions.

U. Other Violations

1. Violation of Federal or State law or local ordinance.
2. Aiding or assisting in any other violation of Federal or State law or local ordinance.

VI. Immediate Administrative Action

In certain circumstances involving a student’s actions that may affect the safety, health, or general welfare of the student or University community, the Dean of Student Affairs may impose an immediate University suspension prior to the student’s hearing with a hearing body. An immediate suspension means a student cannot be on University property, cannot attend classes, and cannot use University facilities. The Director of Housing and Residence Life has the authority to cancel a student’s University Housing contract under a separate process.

A. An immediate suspension requires that the student be notified in writing.
B. The student has the opportunity for a speedy appeal hearing before a judicial board regarding whether the immediate suspension should continue until a hearing is held on the alleged violations of the Student Code of Conduct. This appeal hearing will be held within three (3) class days of receipt of the written notice of immediate suspension unless both parties agree upon a later time in writing. The appeal must be based on one of the following:

1. An egregious error pertaining to the student’s involvement.

2. Contention that the offense, even if proven, does not pose a threat to the safety, health or general welfare of the University community and, thus, does not warrant a suspension.

C. The judicial appeal board may consist of any number of individuals as long as it maintains at least 50% of its representation from students. The decision resulting from the appeal hearing is final.

D. Formal disciplinary charges will normally be filed at the completion of all investigations or as soon thereafter as possible.

E. Student organizations may be immediately suspended by the Dean of Student Affairs in circumstances involving actions related to that group that may affect the safety, health or general welfare of its members, the University community, or others. The affected student organization has the right to a speedy appeal hearing before a judicial board as described above in (B). An immediate suspension of a student organization means all activities, programs, social events, funding requests and budget expenditures are suspended. One exception is that Greek organizations may be allowed to conduct business meetings provided that 1) they notify and receive permission from the Assistant Director of Greek Life, Director of Student Life in advance and 2) an advisor recognized by the University attends the meeting.

VII. STUDENT RIGHTS

A. Notice. Students will be given written notice of the Student Code of Conduct violation and the allegations upon which the charge is based.

B. Pre-hearing. At the pre-hearing information session, the student has the right to review all materials to be used in his/her case and to select a type of hearing, either before a judicial board or a university administrator.

C. Hearing. At the selected hearing, students will be given an opportunity to present information in a fair and impartial setting.
D. Appeal. Students have the right to appeal a decision by a hearing body based on established appeal guidelines.

(A more detailed description of the procedures utilized to implement these rights is found in Section IX, Procedures. A complete description of Appeal rights can be found in Section XI, Appeals.)

Students will be presented with a written copy of the below rights at the pre-hearing information session.

An accused student has the following rights:

1. The right to a fair and impartial hearing.
2. The right to a presumption of not being responsible for a violation until proven responsible as determined by a preponderance of the evidence presented at the hearing.
3. The right to be notified in writing of the charges against him or her and the specific rule or policy violated. The University will make every attempt to notify the student using the contact information provided by the student to the University. FGCU has only to make a reasonable attempt to notify him or her at the last contact information provided.
4. The right to an advisor of his or her choice, provided that the advisor is a member of the FGCU community (student, faculty, or staff member). A student may have an attorney present if the Office of Judicial Affairs is notified, in writing, within two (2) class days of the hearing. An attorney attending a hearing may not actively represent the accused student, but may give advice to the student regarding how to present his or her defense.
5. The right to question all witnesses who testify at the hearing and/or to challenge all written statements presented at the hearing.
6. The right to present witnesses to testify in his or her defense. The judicial body shall have the authority to limit the number of witnesses in order to avoid unreasonable delays where the testimony would be repetitious or unnecessary.
7. The right to be present during the entire hearing (except for closed judicial deliberation) and to know all evidence used in the proceeding. The student may, however, elect not to appear and failure to appear shall not be construed as an admission of responsibility.
8. The student has the right to remain silent and such silence shall not be construed as an admission of responsibility.
9. The right to be notified in writing of the decision of the judicial body or hearing officer within ten (10) days of the date of the hearing. The student has the right to submit an appeal of the decision of the hearing body within five (5) class days of receiving the judicial decision. An appeal may only be based on one or more of the following causes:
   a. Violation of due process and student rights
   b. New Evidence
   c. Harshness of sanction(s)

VIII. VICTIM RIGHTS

Victims of Student Code of Conduct violations have the following rights in accordance with all federal and state laws:

A. To have an advisor of the alleged victim’s choice accompany her/him when presenting information to the hearing body and to any other relevant meetings held throughout the disciplinary process.

B. To submit a victim impact statement to the hearing body. This information may be used only in the sanctioning phase of deliberations, if the charged student is found responsible for the charge(s). If the charged student appeals the decision on the basis of severity of the sanction imposed, he/she will have the right to view the victim’s impact statement upon request.

C. To have unrelated past behavior excluded from the hearing. The judicial officer will decide if such information is unrelated. For example, the past sexual history of the alleged victim is not usually considered relevant.

D. To submit questions to the judicial officer forty-eight (48) hours prior to the hearing. The judicial officer will then consider posing these questions to the charged student.

E. At the request of a victim in cases involving sexual misconduct, physical violence or stalking charges, the alleged victim may request to present his/her side of the story in a separate room from the charged student so long as the process does not unduly compromise the charged student’s right to question the witness.

F. To be present throughout the hearing, or portions thereof. This option will be offered only by the judicial officer.

G. To have any personal property returned to them if in current possession of the
University. The determination of when this property is to be returned is left to the discretion of the judicial officer and/or University police.

H. To be notified of the outcome, including both the decision and the sanctions of the disciplinary process.

IX. PROCEDURES

The Dean of Student Affairs is charged with implementing the Student Code of Conduct. All procedures implemented by the Office of the Dean of Student Affairs will be consistent with all appropriate rights accorded to students in university disciplinary decisions.

A. Charges.

Reports should be submitted to either law enforcement or the designated judicial officer within one calendar year of discovery of the alleged violation, except in extraordinary cases. A review of possible charges may be initiated in the following ways:

1. Receipt of a police report, either initiated by the police or filed by any person or entity (including University departments, offices, officials, staff, faculty, students, community members, etc.). Also included are reports requested of (or received by) another law enforcement agency.

2. Any individual may provide a signed written statement to the Office of the Dean of Student Affairs or the designated judicial officer. All information will then be reviewed by an appropriate staff member to determine whether Student Code of Conduct charges will be filed or if alternative action is appropriate.

3. Any information that comes to the attention of the University that is a violation of the Student Code of Conduct and has the potential to impact the safety and well-being of the University community may result in a student being charged with a violation of the Student Code of Conduct.

4. The University may proceed with judicial charges regardless of a student’s enrollment status.

5. Upon the conclusion of the investigation process, the judicial officer may either

   1. Dismiss the charge(s),
   2. Take immediate administrative action, or
   3. File formal charge(s)
6. No sanctions may be imposed by the judicial officer, or any other party, through an informal settlement process.

7. The University is not required to postpone disciplinary proceedings pending the outcome of any criminal prosecution. The Hearing Body may proceed with a hearing and base its decision on all available information.

B. Notice.

Any charged student will be given written notice of the alleged violation(s) of the Student Code of Conduct no later than the conclusion of the pre-hearing information session. The local address on file with the University will be used for all disciplinary notices. The judicial officer may place a disciplinary hold on the records and registration of any student who fails to respond to a charge letter. Any pending disciplinary matters must be resolved prior to the awarding of any degree or certificate. A student does not have to be presented with the written notice prior to the pre-hearing information session, which will be at the discretion of the University Judicial Officer.

The written notice will include the following:

1. The student’s name, social security number, and address;
2. Description of the alleged violation including date(s), time(s), and place(s);
3. Source(s) of information;
4. Names of potential witnesses known at the time formal charges are prepared;
5. Description of any written or physical evidence known at the time charges are prepared;
4. The student’s right to select a type of hearing, either before a judicial board or an administrator.
5. An opportunity to attend a pre-hearing informational session to clarify rights and procedures.

In addition, the following documents will accompany the written notice as attachments:

1. A brochure that outlines students’ rights under the Student Code of Conduct and contains the contact information of impartial advisors, such as the Student Government Association and the University Ombudsman.
2. The Waiver of Student Rights Form, which must be signed by a student to proceed with an administrative hearing over a judicial board hearing.
C. Hearings.

Hearings will follow these guidelines:

1. All hearings will be fair and impartial.

2. A student charged with offense(s) will have the opportunity to present information on his/her behalf, including presenting witnesses and/or signed, written statements.

3. The charged student may be accompanied during the hearing by an advisor of his/her choice. The advisor may not represent the student before the hearing body; the student must speak for himself or herself. In addition, the advisor may not participate in the hearing other than providing consultation to the student. This consultation must take place in a manner that does not disrupt the proceedings. The advisor may be removed from the hearing if it is determined that his/her presence is disruptive. The charged student should notify the Office of the Dean of Student Affairs of the advisor’s name at least two (2) class days prior to the hearing.

4. A student may choose not to answer any questions posed by a hearing body. However, the University is not required to postpone disciplinary proceedings pending the outcome of any criminal prosecution. The Hearing Body may proceed with a hearing and base its decision on all available information. This protection from self-incrimination does not extend to student clubs or organizations.

5. The burden of proof rests with the plaintiff. The standard of proof at a hearing will be the preponderance of the evidence; this means that the evidence, as a whole, shows that the fact sought to be proved is more probable than not.

1. In cases involving multiple students charged, information provided at one hearing may be used as evidence in the related cases(s). When two or more individual cases stem from the same incident, those cases may be heard jointly if the students waive the right to individual hearings at the discretion of the hearing officer. In these situations, sanctions (if any) will be communicated separately.

2. Information obtained in a hearing may result in the adjustment of the original charges and sanctions may be imposed accordingly.

3. Open Hearings. If either party requests the hearing be open, a petition must be received by the Office of the Dean of Student Affairs at least three (3) class days prior to the scheduled hearing. Both the charged student(s) and the alleged victim(s) must agree for the hearing to be open. An open hearing is completely open to the public, and may include family members, members of the University community or the community at large (including the media both on and off campus). The Conduct Hearing Officer will attempt to notify (by telephone) the other party(ies) involved of
the request immediately upon receipt of the petition. If after four attempts the other party(ies) cannot be directly reached, the petition will be denied and the hearing will remain closed. The decision to have an open hearing will be finalized by the Conduct Hearing Officer one class day prior to the hearing and will not be reversed on the day of the hearing. It is the responsibility of each party to contact the Conduct Hearing Officer prior to the day of the hearing to confirm whether the hearing is open or closed.

3. All hearing decisions will be communicated in writing to the charged student and will include the rationale, the hearing decision, and sanctions imposed (if applicable).

10. Appropriate witnesses will be called by the University when necessary to support charges. Witnesses who appear may be questioned by the charged student. Appropriate witnesses may also be called by the charged student to all formal hearings.

5. If the charged student fails to appear at the scheduled hearing after proper notice (see Section IX: Procedures), the hearing may be held in the charged student’s absence.

4. Prior records of disciplinary action and victim impact statements are considered by the hearing body only in the sanctioning phase of deliberations. Past criminal convictions also may be considered if relevant to the proceedings.

5. The hearing body’s determination of “responsible” or “not responsible” will be based solely on the information presented at the hearing.

6. Student clubs or organizations must answer all questions posed by a hearing body.

D. Pre-Hearing. At the pre-hearing information session, the student has the right to review all materials to be used in his/her case and to select a hearing type.

1. It is the student’s responsibility to schedule an appointment for a pre-hearing prior to the formal hearing. The pre-hearing must be scheduled within ten (10) five (5) class days from the date of the notice or at the discretion of the Conduct Hearing Officer.

2. The student will be informed of the charge(s) against him or her and be allowed to hear the information gathered by the hearing officer regarding the case.

3. Following the pre-hearing information session, the charged student will have a 24-hour consideration period to select either a Judicial Board Hearing or waive this right to select an Administrative Hearing. The 24-hour consideration period may be waived by the student in writing through the Waiver of 24-Hour Consideration Period Form.
4. The selected hearing shall be no sooner than three (3) class days from the date of the pre-hearing, unless waived by the student in writing, nor later than fourteen class days from the pre-hearing.

5. If a student fails to schedule or attend a scheduled pre-hearing information session, and ten (10) five (5) class days have expired since the date of the notice, the student waives his/her right to a pre-hearing. At that time, a formal hearing before an administrator or a judicial board, to be determined by the judicial officer, will be scheduled in the student’s absence. The date of the formal hearing will be no sooner than three (3) class days nor later than twenty-eight (28) class days from the day it is scheduled. The student shall be notified in writing of the hearing type and its date, time, and location.

6. If the student fails to appear at the scheduled formal hearing and failed to provide notice to this effect, the hearing will be held in the student’s absence and he/she may be charged with additional violations of the Student Code of Conduct.

E. Administrative Hearings:

   a. The judicial officer does not automatically call witnesses to support the charges, although he/she may gather any additional information needed, including calling witnesses. The student will be informed of any additional information gathered by the Conduct Hearing Officer and have an opportunity to respond at the hearing. The charged student may call witnesses and present evidence.

   b. Are scheduled no sooner than three (3) class days from the pre-hearing (unless waived by the student), no later than twenty-eight (28) class days.

   c. The hearing officer determines responsibility through preponderance of evidence and information presented by the accused student. Sanctions will be applied (if applicable).

   d. The student will be asked to sign a Statement of Understanding to indicate acceptance of the decision made by the hearing officer.

   e. Will be tape recorded, unless waived by the charged student in writing. This recording will serve as the official record of the proceedings.

   e. A decision letter will be sent to the student within ten (10) class days from the conclusion of the hearing process.
f. If a student fails to attend his or her administrative hearing, the student will be charged with “Disregard for the Student Code of Conduct Process” and a new administrative hearing will be scheduled. If the student fails to attend the second scheduled administrative hearing, the case will be heard in the student’s absence and he/she will be informed in writing of the decision.

F. Types of Hearings. Judicial Board Hearings.

Charged students may select between two distinct types of hearings. The two hearings provided for by the Student Code of Conduct are 1) the judicial board hearing and 2) the administrative hearing. Administrative hearings typically can be scheduled more quickly than judicial board hearings.

a. Appropriate witnesses may be called to provide information to support the charges. Charged students who wish to question adverse witnesses will be given the opportunity to do so.

b. Are scheduled no sooner than three (3) class days and no later than twenty-eight (28) class days from the pre-hearing (unless waived by the student)

c. Will be tape recorded, unless waived by the charged student in writing. This recording will serve as the official record of the proceedings.

d. All hearings are closed and all judicial information and decisions shall remain confidential.

e. The accused student shall be granted all rights guaranteed him or her by the Student Code of Conduct.

f. Closed Hearings. A closed hearing Judicial Board hearings will only include the person(s) bringing charges against a student, the charged student, advisors, Conduct Hearing Officers, Residence Life staff (including RAs), alleged victim(s) and any witness(es) who can give a first hand account of the incident. Witnesses may only be present during the time they are testifying, even if the hearing is open. Character witnesses may only provide testimony in the form of a written statement. All hearings are closed unless the Conduct Hearing Officer receives a request for the hearing to be open.
The following order of presentation is recommended for use in judicial board hearings. The judicial board may change the order if necessary:

i. Introduction of the Judicial Board and accused student for the tape recording.

ii. Presentation of charges.

iii. Opening statements (if any) by the University, followed by the opening statement of the charged student.

iv. Presentation of evidence and witnesses by the University, followed by questioning of those witnesses. Each witness is dismissed after questioning.

v. Presentation of evidence and witnesses by the charged student, followed by questioning of those witnesses. Each witness is dismissed after questioning.

vi. Questions directed to the charged student by the hearing body.

vii. Closing statements (if any) by the University, followed by the closing statement of the charged student.

viii. All persons are excused from the hearing room for deliberations except Judicial Board members and the Judicial Officer.

ix. The Judicial Board considers only information introduced in the hearing and deliberates in executive session until a decision is made as to responsibility. The decision is based on the preponderance of evidence and is decided by a simple majority vote. In cases of a tie, the decision will always be made in favor of the accused student. Previous violations are to be considered only in the sanctioning phase of deliberations.

x. The decision is announced in the presence of the accused student and the advisor. The accused student will receive a written copy of the decision rendered by the Judicial Board at the conclusion of the hearing.
xi. The student is informed of the right of appeal and the appropriate procedure for initiating an appeal. The student will have five (5) class days from the hearing date to submit an appeal.

g. If any member of the Judicial Board feels that he or she has had previous contact with the case or with the students involved so that a fair judgment cannot be rendered, the member must request that he or she cannot serve for that hearing. The accused student may request that any member of the Judicial Board be excused whenever the student can show a bias on the part of the member. The chair of the Judicial Board will decide on such challenges and, if appropriate, ask the member to excuse him or herself. If the chair is challenged by the student, the Judicial Board will decide by a majority vote whether or not he or she should be requested to excuse him or herself.

h. The chair of the Judicial Board shall have the right to limit the length of testimony of any witness or participant in the hearing if it appears to be repetitious or does not contribute positively to the fair and efficient adjudication of the case currently being considered.

i. If an accused student fails to appear at the hearing after being properly notified, the judicial body shall hear the case on the basis of the evidence accumulated as a result of the testimony of witnesses and shall notify the accused student of the decision.

j. An accused student may request one postponement of a judicial hearing by contacting the Office of Judicial Affairs at least two class days prior to the scheduled hearing. Postponement will only be allowed at the discretion of the Judicial Officer.

k. Witnesses may not also serve as the advisor/support person.

l. Any participant determined by the chair to be unruly or disruptive to the hearing process will be removed from the hearing.

m. A decision letter will be sent to the student within ten (10) class days from the conclusion of the hearing process. This time limit may be extended if necessary where additional consideration of evidence and deliberation is required by the judicial board.

F. Choice of Hearing Type.

1. Students may select between judicial board hearing or administrative hearing. To select an administrative hearing, the charged student must sign the Waiver of Student Rights Form.
X. SANCTIONS

A. In light of the facts and circumstances of each case, the following sanctions, or combination of sanctions (with or without appropriate modifications) may be imposed upon any student found to have violated the Student Conduct Code:

1. Reprimand. An oral warning or written statement placed in a student’s disciplinary file.

2. Community Service Hours. Assignment to perform tasks or services under the supervision of a University department or community service agency.

3. Educational Activities. Attendance at educational programs, interviews with appropriate officials, planning and implementing educational programs, writing research papers or other educational activities.

4. Counseling Assessment and Compliance. Referral for assessment (at the student’s expense) to a licensed mental health professional or counseling center for general mental health or other counseling issues. Students found responsible for alcohol/drug violations may be referred to the FGCU Counseling and Student Health office or to an outside agency or counselor based on the seriousness of the offense. Students must comply with all recommendations established as a result of any assessment.

5. Restitution. Payment of actual damages or loss of services to the University or victim.

6. Disciplinary Probation. A period of time during which any further violation of the Student Conduct Code puts the student’s status with the University in jeopardy. If the student is found “responsible” for another violation of the Code during the period of Disciplinary Probation, serious consideration will be given to imposing a sanction of Suspension or Expulsion from the University.

7. Restrictions. Some of the restrictions that may be placed on a student include, but are not limited to:

   a. Participation in student clubs, groups, activities or events.

   b. Representation of the University on athletic teams.

   c. Holding leadership positions.

   d. Entrance to University Housing areas or any other areas on campus.

   e. Contact with another specified person(s).

8. Change in University Housing assignment.
9. Exclusion (either temporary or permanent) from University Housing.

10. Removal from the classroom.

11. Suspension. Separation from the University for a specified period of time.

12. Expulsion. Separation from the University without the possibility of re-admission.

13. Withholding of registration, diplomas, transcripts or other records.

14. Transcript Notations. A written notation indicating that disciplinary action was taken.

(Note: Students will normally forfeit tuition and Housing Fees if found responsible for a Student Conduct Code violation resulting in removal from the classroom, suspension or expulsion. A student may also forfeit academic credit accordingly and must see his/her professor to determine the impact on grades based on the withdrawal. Students who are excluded from living in University Housing must contact the Director of Housing and Residence Life to determine the financial impact of the canceled contract).

B. The following sanctions may be imposed upon groups or organizations found to have violated the Student Conduct Code:

1. Those sanctions listed in Section A above. Suspension or Expulsion of student organizations includes temporary or permanent loss of recognized status with the University.

2. Additional sanctions specific to student organizations are found in organizational constitutions, the Office of Greek Life, and the Office of Student Life policies, which are hereby incorporated by reference.

C. Any sanction that separates a student from the University will be noted on that student’s academic transcript. A lesser sanction may not be noted on the transcript.

D. Decisions regarding falsification of admission or re-admission information may be forwarded to the appropriate office for review of the application and appropriate action regarding admission.

E. Students who fail to complete sanctions will have a disciplinary hold placed on their records and may receive additional charges.

XI. Appeals

A. Appeal Requests
A student may appeal the outcome of a Student Conduct Hearing in writing to the Dean of Student Affairs within five (5) class days of the date of the decision letter by filing a written petition for appeal with the Office of Judicial Affairs. Supporting documentation should accompany all appeals. An appeal must be based on one or more of the following grounds:

1. Due process errors involving violations of the charged student’s rights that substantially affected the outcome of the hearing.

2. The sanction(s) is (are) extraordinarily disproportionate to the offense committed.

3. New information that was not available at the time of the original hearing.

B. Appeal Hearings

1. Appeals will be heard by the Dean of Student Affairs (or designee).

2. The appeal will be scheduled within ten (10) class days of receiving the written request for appeal.

3. The necessity for an Appeal Hearing will be at the discretion of the Dean of Student Affairs (or designee).

4. The student may bring an advisor to the appeal hearing.

5. On appeal, the burden of proof rests with the student to clearly show that an error has occurred during the original hearing.

6. A student found responsible for a violation may not be given a more severe sanction as a result of his or her decision to appeal.

C. Appeal Decisions

1. The Dean of Student Affairs (or designee) may uphold, modify, or reverse the original hearing decision, or order that a new hearing be held.

2. Are communicated within twenty class (20) ten (10) class days of the appeal hearing unless notification is given that additional time is necessary for consideration of the record on appeal.

3. Except in the case of an immediate suspension, the student’s status will remain unchanged during the appeal process.
4. May be appealed to the University President or designee within five (5) class days of receiving the decision of the Dean of Student Affairs. The decision of the University President or designee is final.

XII. Judicial Procedures for Violations Occurring During the Last Two Weeks of a Semester or During the Summer Sessions.

When a student has a hearing scheduled during the last two weeks of any semester or during the summer sessions and the case cannot be scheduled before a Judicial Board, the student may choose one of the following options:

1. The case may be heard immediately by the Dean of Student Affairs (or designee) provided that witnesses are available (this is the only option available to graduating seniors).
2. The case may be heard when the next semester begins, provided that witnesses are available (this is not applicable to graduating seniors).

If the student wishes to have his or her case heard when witnesses are not available, he or she may waive, in writing, the right to question the witnesses and the written statements of all witnesses will then be accepted as evidence and testimony by the Judicial Board or hearing officer. The accused student may, however, challenge the testimony given in these statements by presenting witnesses on his or her behalf.

XIII. Records

A. Records of all disciplinary cases will be maintained in the Division of Student Affairs.

B. Records containing a sanction of expulsion will be maintained in a permanent file and not be removed under any circumstances.

C. Records (with the exception noted in B above) will be kept on file for five years past the date of final action taken on the record. These records will be destroyed after five years in accordance with the State regulations of Florida’s document retention schedule.

D. Records indicating a finding of “not responsible” will be considered Administrative Files and will be destroyed three years after the date of final action taken on the record.

E. A student’s prior disciplinary record will be considered only during the sanctioning phase of deliberations, not to determine whether or not to find a student “responsible” or “not responsible” for the alleged violation.

E. The release of student disciplinary records will be governed by applicable federal
and state laws regarding the privacy of educational records.

(Revised Fall 2002 Spring 2004 by the Student Code of Conduct Revision Committee, Approved by Florida Gulf Coast University Board of Trustees on April 20, 2004)
Waiver Form: Students’ Right to Judicial Board Hearing

Name of Student: ___________________________  Name of Presiding Judicial Officer: ___________________________

I, the undersigned student, hereby request that charges related to my alleged violation of the FGCU Student Conduct Code be adjudicated through an Administrative Hearing.

I understand that I have the right to have my hearing held before a judicial board comprised of a minimum of 50% student representation and that by signing this waiver form, I waive this right.

As a result of selecting an Administrative Hearing, I understand and accept the following conditions:

1. I willingly choose an administrative hearing.
2. I must give at least two (2) class days notice if I will be assisted by an advisor attorney in the course of the hearing.
3. I waive my right to cross-examine witnesses who have provided written statements or been quoted in reports referenced in the pre-hearing.

_______________________________________________________
Student Signature        Date

Comments:
________________________________________________________________
________________________________________________________________
________________________________________________________________
# Waiver Form: 24-Hour Consideration Period

<table>
<thead>
<tr>
<th>Name of Student:</th>
<th>Name of Presiding Judicial Officer:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

I, the undersigned student, hereby waive my right to a 24-hour consideration period following the pre-hearing.

I understand that this 24-hour consideration period is a right granted to all students by the Student Code of Conduct and that during the 24-hour consideration period, I have the opportunity to select a hearing type.

I understand that by waiving this right, I willingly select a hearing type at the pre-hearing without the 24-hour consideration period.

_______________________________________________________
Student Signature                                      Date

Comments:

___________________________________________________________
___________________________________________________________
___________________________________________________________
Waiver Form: Tape Recorded Hearings

Name of Student: ____________________________  Name of Presiding Judicial Officer: ____________________________

I, the undersigned student, hereby waive my right to tape record the hearing in which my case will be adjudicated.

I understand that the right to tape record hearings is granted to all students by the Student Code of Conduct. I understand that the tape recordings serve as the official record of the proceedings and that by waiving this right, the official records of my hearing will be subject to the interpretation of the judicial officer or another party.

I understand that by waiving this right, my case will not be tape-recorded.

________________________________________
Student Signature                                      Date

Comments:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
XIII. **STUDENT CODE OF CONDUCT: JUDICIAL PROCESS FLOWCHART**

- Alleged Violation Reported to the Dean of Student Affairs, Office of Judicial Affairs, Housing, or FGCU Police Department

  **Investigation Process**

  - Alleged Violation Reported to the Dean of Student Affairs, Office of Judicial Affairs, Housing, or FGCU Police Department

  - Student Notified of Charge through Letter

    **Pre-hearing Information Session**

    - 24-hour period
    - Waiver of 24-hour period

    **Student Selects Type of Hearing**

    - Judicial Board Hearing
    - Administrative Hearing with Judicial Officer

      - Not in Violation
      - In Violation - Sanctions imposed
      - In Violation - Sanctions imposed

      **Student**

      - Accepts
      - Appeals

      **Student Code of Conduct Committee**

      - Dean of Student Affairs
      - University President or Designee
Chapter 6C10-4, Florida Administrative Code, Students (Student Affairs Rules)

PROPOSED BOARD ACTION

Approve amendments to Chapter 6C10-4, F.A.C., Students

BACKGROUND INFORMATION

The proposed amendments to Chapter 6C10-4, Florida Administrative Code, Students, comprehensively update the University’s rules related to students in light of changes in governance structure and operations since the rules were originally promulgated in January 1999. The amendments officially recognize the Florida Gulf Coast University Student Government as the representative and governing organization of the student body and the Florida Gulf Coast University Student Government Constitution as its seminal internal governance document. The proposed changes to the rules also incorporate and adopt by reference the Florida Gulf Coast University Student Code of Conduct. An executive summary of the substantive changes is included with this agenda item.

Technical rule changes also are proposed to update matters such as statutory citations and position titles.

Supporting Documentation Included: (1) Proposed amended rule text, and (2) an executive summary of proposed substantive changes

Prepared by: Dr. Vincent G. June, Dean of Student Affairs
Wendy S. Morris, General Counsel

Legal Review by: N/A

Submitted by: Provost Brad Bartel
Executive Summary
Proposed Substantive Amendments to Student Rules

Rule 6C10-4.001, Student Rights and Responsibilities. (Page 1 or rule text)

- Deletes all provisions dealing with the role of victims/survivors of acts of violence in the student judicial process because such matters are now addressed in the Florida Gulf Coast University Student Code of Conduct document (see Rule 6C10-4.002 below).

- Deletes all provisions dealing with students’ rights in the student judicial process because such matters are now addressed in the FGCU Student Code of Conduct document (see Rule 6C10-4.002 below).


- Provides that the FGCU Student Code of Conduct document, a previous agenda item for this board meeting, is incorporated by reference in the rule. Using the “incorporation by reference” method in a rule for such a document conserves valuable rule text by eliminating the need to restate all of a document’s terms in a rule. Because this document is incorporated by reference in the rule, however, it cannot be changed without the rule being updated.

- Adds “and Judicial Process” to the rule title because the FGCU Student Code of Conduct addresses both the code and the judicial process.

- Designates that copies of the FGCU Student Code of Conduct may be obtained from the Dean of Student Affairs or on the University’s website.

Rule 610-4.003, Judicial Process. (Page 12 of rule text)

- Repeals this rule since the FGCU Student Code of Conduct deals with the subject matter formerly contained in this rule, i.e., the student judicial process (see Rule 6C10-4.002 above).

Rule 6C10-4.004, Student Grievance Procedure. (Page 18 of rule text)

- Clarifies that when a time period contained in the rules expires on a non-business day the period shall extend until the end of the next business day.
✓ Defines a “student grievance” as a dispute over the interpretation or application of any law, University rule or policy, where the student’s substantial interest has been adversely impacted.

✓ Requires that a formal grievance include a statement of the facts and circumstances giving rise to the grievance, specify the law rule or policy alleged to have been violated and describe how the student’s substantial interests have been adversely impacted.

✓ Streamlines the student grievance procedure to provide that the University Ombudsperson will review all formal grievances, that s/he will inquire as necessary into the surrounding facts and circumstances of the matter and that s/he will forward a recommended course of action to the appropriate Vice President. The changes further provide that the appropriate Vice President or designee after consideration of the related facts and circumstances shall make the final decision with respect to a grievance.

✓ Deletes all provisions dealing with the former grievance procedure such as the Student Grievance Panel and Student Grievance Board because such procedures have been superseded.

Rule 6C10-4.005, Student Activities (Page 23 of rule text)

✓ Creates a Student Organization Standards Board (SOSB) to oversee the registration and activities of student organizations. The Board will be comprised of fifty percent (50%) students appointed by the Student Government President with the remaining members appointed by the University President. The decisions of the Board are considered recommendations to the Dean of Student Affairs or designee.

✓ Eliminates the Student Organization Appeals Board because its duties have been merged into the SOSB.

✓ Provides that faculty, staff and alumni may have associate, non-voting membership in a student organization.

✓ Clarifies the student organization registration and application processes.

✓ Specifies that Student Government funds will be disbursed and expended through the Student Government Treasurer.

✓ Prohibits students and student organizations from entering into contracts or agreements in the name of the University.
Rule 6C10-4.006, Student Government. (Page 27 of rule text)

- Creates a new rule acknowledging the Florida Gulf Coast University Student Government as the official representative and governing organization of the student body.

- Recognizes that the Florida Gulf Coast University Student Government Constitution, a previous agenda item for this board meeting, is the seminal internal governance document of Student Government and that any amendments thereto shall be brought to the FGCU Board of Trustees for approval.

- Requires that, to maintain proper governance practices, Student Government shall continue to establish and maintain implementing statutes, rules and policies in accordance with the Constitution.

- Requires that Student Government in its budget process allocate Activity and Service (A&S) fees for lawful purposes, subject to the President’s veto powers in Section 1009.24(9), F.S.

- Requires that Student Government expend A&S fees in accordance with its final budget and its statutes, rules and policies.
THE FULL TEXT OF THE PROPOSED RULES IS:

6C10-4.001. Student Rights and Responsibilities.

(1) General. Upon enrollment, students are entitled to the following freedoms and/or rights provided the exercise thereof is accomplished in accordance with these University rules and does not result in disruption or disturbance as elsewhere described in the Rules.

(a) Participation in the Student Government Association and its elective process.

(b) Membership in student organizations.

(c) Freedom of expression. The basic freedom of students to hear, write, distribute, and act upon a variety of thoughts and beliefs is guaranteed. Freedom of expression carries with it the responsibility for seeing that the essential order of the University is preserved.

(d) Freedom to hold public forums. The University desires to create a spirit of free inquiry and to promote the timely discussion of a wide variety of issues, provided the views expressed are stated openly and subject to critical evaluation. Restraints on free inquiry will be held to a minimum and will be consistent with preserving an organized society in which peaceful democratic means for change are available. Guest lecturers, or off campus speakers, sponsored by the student groups may appear on the FGCU campus after notification has been given to the Office of the Dean of Student Affairs, and the Division has scheduled the guest speaker so as to avoid potential disruptive conflicts.

(e) Freedom to hear, write, distribute and act upon a variety of thoughts and beliefs. This freedom is subject to the following regulations:

1. Written materials identified by authorship and sponsorship may be distributed on campus within the guidelines of propriety and responsible journalism so long as they do not violate the provisions of obscene or objectionable literature as set forth in Chapter 847, F.S. The distribution of such material is permitted of student organizations provided steps have been taken to preserve the orderliness of the campus.

2. Non-University or off-campus printed materials shall not be distributed or circulated by students or student organizations without first being date stamped by the Dean of Student Affairs or designee.

3. The distribution of materials or circulation of petitions to captive audiences such as those in classrooms, at registration, in study areas or in residential units will not be allowed without prior permission. Such permission may be requested from the pertinent University vice president, dean or director. Permission may be granted for the purposes of scholarly research, or for conducting business of an approved on-campus organization such as student government, clubs, and social and professional organizations.
(f) Peaceful assembly. Existing procedures set forth in 870.02, F.S., shall be observed. Student gatherings must not disrupt or interfere with the orderly educational operation of the institution. Students found in violation will be subject to penalties as outlined in s. 1006.61, 240.132, F.S.

(g) Fair and impartial hearing. These matters shall include, but not be limited to:

1. Disciplinary proceedings involving alleged violation of academic and nonacademic rules and regulations.

2. Refunds and charges. The status of a student charged with a violation of University regulations shall not be affected pending final disposition of the charges except in the case of administrative action. For specific procedures and rights of students during the judicial process see Rule 6C10-4.002, F.A.C., Code of Conduct and Judicial Process, later section entitled "The Judicial Process".

(h) Confidentiality of student records. Each University office and agency, which generates, collects, and disseminates information on students, must follow the guidelines for confidentiality of those records in their possession as outlined by the Federal-Family Educational Rights and Privacy Act of 1974 (20 U.S.C. § 1232g; 34 CFR Part 99), and Section 1006.52240.237, F.S. For further information see "Student Academic Records" in each published schedule of classes.

(i) Student grievances. Students have the right to bring complaints to the attention of the University. For further information, see Rule 6C10-4.004, F.A.C., Student Grievance Procedure."Student Grievance Procedures".

(j) Provisions for Victims/Survivors of Acts of Violence. To ensure fairness to victims/survivors of acts of violence throughout the disciplinary process, the University has established the following policy for victims/survivors:

1. A provision for a victim/survivor to have a person of her/his choice accompany her/him throughout the judicial process. This person will act as a support person or counsel but will not represent the victim/survivor.

2. A provision for the victim/survivor to submit a list of questions relating to the alleged incident, prior to the hearing, that she/he feels the accused should be asked during the hearing process.

3. A provision not to have her/his irrelevant past conduct, including sexual history, discussed during the hearing. The hearing board or judicial officer shall determine the issue of irrelevancy.

4. The opportunity to make a "victim/survivor impact statement" and to suggest an appropriate penalty (to include appropriate compensations) if the accused is found in violation of the Student Code of Conduct.
5. A provision to know the outcome of the judicial process after making a commitment to protect the confidentiality for all persons involved.

(k) Student Rights During the Judicial Process. The following rights shall be explained to the accused prior to the commencement of any formal judicial hearing:

1. All parties shall be afforded reasonable written notice, at least 7 days prior to the hearing. A letter sent to the address listed in the registrar's records shall constitute full and adequate notice. Written notice shall include:
   
   a. A statement of the time, place and nature of the proceeding.
   
   b. A statement of the nature of the case and of the jurisdiction under which it is to be adjudicated.
   
   c. A brief statement of matters asserted. Thereafter, upon request by the accused, a more detailed and definitive statement will be furnished prior to the commencement of any formal hearing. An advisor of the accused's choice may be present at the hearing.

2. An accused student may choose to have an advisor present at the hearings.

3. All hearings will be conducted on the basis that the accused is not in violation until the preponderance of evidence proves otherwise.

4. All hearings shall be private and closed only to persons directly involved in the matters being adjudicated. The accused may request that a hearing be open to others. The University shall consider such a request in light of the best interests of all persons involved and of the University.

5. The accused may inspect any evidence presented in support of the charges. Evidence may be presented in defense of the accused.

6. The accused may hear and question adverse witnesses.

7. The accused shall not be forced to present self-incriminating evidence; however, the University is not required to postpone disciplinary proceedings pending the outcome of any criminal prosecution.

8. The determination of "in violation" or "not in violation" as charged, shall be based solely on the evidence presented at the hearing.

9. The determination from a formal hearing and any sanctions assigned and the Student's Appeal Rights shall be furnished in writing to the accused within five working days time following the hearing.

10. The enrollment status of the accused shall remain unchanged pending the
University's final decision in the matter except in cases where the president or president's
designee determines that the safety, health, or general welfare of a student or the
University is involved.

11. A student/organization against whom a judicial determination is rendered may
exercise appellate procedures.

(2) Student Responsibilities. The most basic responsibility of a student is to study and
move forward in intellectual development while taking advantage of the many
opportunities provided in a University environment for all around personal growth,
development and maturation.

(a) Students and student organizations are responsible for the observation of all
University rules and policies, rules and regulations set forth in the 1998-99 Student
Guidebook of Florida Gulf Coast University. Compliance should follow awareness and
understanding which helps to fulfill the objectives of better University government as
well as the identification and acceptance of personal and social responsibilities.

(b) Rights and freedoms in any environment are protected through exercised
responsibilities and maintained through an established system for justice. The ideal
balance of control for liberties is strongly weighted toward understanding and observing
rules as acts of individual responsibility not always because of agreement, but because
compliance also serves the best interests of all and helps in the completion of identified
missions.

(c) The University has compiled student-governing information in this guidebook and
distributed it to help provide direction and awareness for the academic community. It is
each student's responsibility to become aware of, and learn its regulatory content and
procedures for dealing with problems that may arise in the course of educational
events.

(d) When University rules are judged as not serving the best interests of all, the
consideration for change should be introduced through appropriate channels. In the case
of students, this will most often be the Student Government Association or another
student-governing group.

(e) Within the University, emphasis is placed on the development of each individual's
recognition and acceptance of personal and social responsibilities. High ethical and moral
standards of conduct are a part of the University's mission and its contribution to the well
being of society.

(3) Personal Health Responsibilities.

(a) Each student must assume a certain level of responsibility for his or her education
and for the maintenance of health. Learning and education take place within a body. A
drugged or mistreated body can neither absorb nor retain meaningful information.
(b) The University has published rules against the misuse of drugs and alcohol in Rules 6C10-4.002 and 6C10-9.002, F.A.C., the 1998-99 Student Guidebook, and has designated penalties for violations. These efforts are in the interest of a minimum effort to serve students; the maximum effort is to encourage students to develop a lifestyle free of drug abuses and to understand the connections between life, learning, and proper functioning of the integrated body and mind.

(c) A broad range of student services provided through the Division of Student Affairs Services is available to assist students in solving problems, which negatively affect their performances. The Wellness Center which houses Student Health and Counseling and Psychological Services is designed to help students target health related problems and find solutions. Wellness encourages self-direction for a lifestyle, which addresses meaningful living, care enough to recognize problems, initiate action, and use available services.

(4) AIDS Policy.

(a) It is the policy of the State University System (SUS) to balance the rights of Acquired Immune Deficiency Syndrome (AIDS) victims to an education and employment against the rights of students and University employees to an environment in which they are protected from contracting the disease. In the belief that education can exercise some control over the spread of the disease, and help the public to respond in a reasoned manner, the University SUS is committed to providing the University and its communities and the public at large with education on the nature and transmission of the disease and the legal rights of AIDS victims.

(b) The policy of the University is to treat cases of AIDS on a case by case basis. When the AIDS case comes to the attention of the University, whether student, faculty or staff member, the University AIDS Committee will assume responsibility for conducting a thorough review based upon the best medical and legal information available. Any actions taken will respect the rights of the individual to confidentiality as well as the individual's welfare and that of the University community. For additional information contact Student Health Services (in the Wellness Center), or Personal, Academic and Career Counseling (second floor of the Student Services Building). The University will maintain an acquired immune deficiency syndrome counselor. (Section 240.2097(3), F.S.)

Specific Authority 1001.74(4) 240.227(4), 240.261 FS. Law implemented 1001.74(10), 1006.60, 1006.61, 1006.62, 1006.68, 240.133, 240.1325, 240.2097, 240.2098, 240.261, 240.262 FS. History—New 1-17-99, Amended, ________.

Student conduct and the University’s judicial process shall be regulated in accordance with the "Florida Gulf Coast University Student Code of Conduct" as approved by the FGCU Board of Trustees on April 20, 2004, which is adopted herein by reference. A copy of this Code may be obtained from the Dean of Student Affairs or designee and the University’s web page at http://studentservices.fgcu.edu/JudicialAffairs/.

General. These rules shall apply to all undergraduate students, graduate students, and student organizations of the University and its area campuses and shall be deemed a part of the terms and conditions of admission and enrollment of all students. Failure to comply with duly established laws or University rules may subject violator(s) to appropriate action by University authorities and/or appropriate civil authorities. Violations of University rules shall be recorded in the record to the individual(s) and/or organization(s) concerned. Generally, authority necessary to enforce regulations is vested in the Dean of Student Services. Selected functions of this authority are shared with faculty, staff and students. Some functions of disciplinary administration are assisted through system review boards. Students and student organizations are also subject to University judicial sanctions for the violation of a Board of Regents rule or a federal, state, county, or city law, which has an adverse impact on the University. The following defined and/or described actions include conduct for which judicial action including suspension or expulsion may be taken. These rules apply to conduct, which occurs on University premises, while attending University sponsored/related activities, and conduct, which takes place off-campus when that conduct is determined as adversely affecting the interests of the University community.

(1) Academic Dishonesty/Cheating.

(a) Cheating is a violation of student academic behavior standards. The common forms of cheating:

1. Unauthorized assistance; communication to another through written, visual or oral means. The presentation of material, which has not been studied/learned, but obtained through someone else's efforts and used as part of an examination, course assignment or project constitutes a violation. The unauthorized possession or use of examination or course related material may also constitute cheating.

2. Plagiarism whereby another's work is deliberately used or appropriated without any indication of the source, thereby attempting to convey the impression that such work is the student's own. Any student failing to properly credit ideas or material taken from another is plagiarizing.

(b) Any student who knowingly helps another violate academic behavior standards is also in violation of the standards.

(2) Providing False and Misleading Information and/or Falsification of University
Records.

(a) Withholding related information, or furnishing false or misleading information (oral or written) to University officials, faculty or staff.

(b) Forgery, alteration, or misuse of any University document, material, record or instrument of identification.

(3) Disruptive Conduct.

(a) Intentionally acting to impair, interfere with, or obstruct the orderly conduct, processes and functions of the University.

(b) Violence against any member or guest of the University community.

(c) An act which deliberately impedes or interferes with the normal flow of pedestrian and vehicular traffic.

(d) Action which tampers with the election(s) or any University student organization or group.

(e) Willful destruction of University property or property of members of the University.

(f) Misuses of any University safety equipment, fire fighting equipment, or alarm.

(g) An act which deliberately interferes with academic freedom or the freedom of speech of any member or guest of the University.

(h) A false report of an explosive or incendiary device, which constitutes threat or bomb scare.

(i) Conduct which is lewd or indecent.

(j) Breach of peace; an act, which aids, abets or procures another person to breach the peace on the University premises or at University sponsored/related functions.

(k) Failure to comply with oral or written instruction from duly authorized University officials or law enforcement officers acting in the performance of their duties and/or failure to identify oneself to these persons when requested to do so.

(4) Personal Abuse.

(a) Verbal abuse of any person including lewd, indecent, or obscene expressions of conduct.

(b) Physical abuse or threat of abuse to any person.
(c) Harassment is defined as: engaging in a course of conduct, including but not limited to stalking, directed at a member of the University community which would cause a reasonable person in the victim's position severe emotional distress, intimidation, coercion or which would place a reasonable person in the victim's position in fear of bodily injury or death, provided that this provision shall not be interpreted to abridge the right of any member of the University community to freedom of expression.

(d) Failure to respect the privacy of other individuals.

(e) Retaliation against or harassment of complainant(s) or other person(s) alleging misconduct.

(5) Sexual Misconduct.

(a) Sexual Assault—acquaintance rape (date, friend, someone the victim knows casually or through mutual friends) or any other form of rape. Rape may be determined as unconsenting sexual penetration, coercion, or penetration against the victim's will.

Any sexual conduct which occurs between members of the University community on or off the FGCU campus shall be consensual, meaning that willing and verbal agreement shall be clearly given in advance by all persons involved at each new level of such conduct. One person shall not knowingly take sexual advantage of another person who is under 18 years of age, mentally defective, under the influence of prescribed medication, alcohol or other chemical drugs, or who is not conscious or awake, and thus is not able to give consent as defined above. Further, one person shall not physically or verbally coerce another person to engage in sexual conduct, to the end that consent as defined above is not given.

(b) Sexual Harassment—unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature which prevents or impairs another person's full enjoyment of the educational benefits, atmosphere, or opportunities provided as part of the University.

(c) Public Indecency—exposure of one's body in such a manner that another party reasonably could be offended or to display sexual behavior which another person reasonably finds offensive.

(d) Voyeurism—sexual stimulation sought through trespass, spy or eavesdrop activities.

(6) Larceny/Property Damage.

(a) Unauthorized use, possession, or theft of property. Such property may be personal or public.

(b) To damage or deface University property or the property of another person while it is
on University premises.

(7) Hazing.

(a) Any action or situation which recklessly or intentionally endangers the mental or physical health and/or safety of a student for the purpose of initiation or admission into, or affiliation with any organization operating under the sanction of the University.

(b) Brutality of a physical nature such as whipping, beating, branding, forced calisthenics, exposure to the elements, forced consumption of any food, liquor, drug, or other substances, or other forced activity which could adversely affect the physical health or safety of the individual.

(c) Any activity which could subject the individual to mental stress such as sleep deprivation, forced exclusion from social contact, forced contact which could result in embarrassment, or any other activity which could adversely affect the mental health or dignity of the individual.

(d) Any activity, as described above, upon which the initiation or admission into or affiliation with a Florida Gulf Coast University organization is directly or indirectly conditioned shall be presumed to be a "forced" activity, the willingness of an individual to participate in such an activity notwithstanding.

(8) Unauthorized Use of Keys and/or Entry.

(a) Unauthorized possession, duplication or use of keys to any University premises.

(b) Unauthorized entry or attempted entry to University premises.

(9) Misconduct at University Sponsored/Related Activities. Violation of University policies, rules, or regulations of a host institution at a University sponsored/related activity.

(10) Unlawful Possession Use or Sale of any Controlled Substance. Use, possession, sale, distribution or attempt to obtain any narcotic or other controlled substances except as expressly permitted by law.

(11) Alcoholic Beverages Violation. The use, possession, sale and/or distribution of alcoholic beverages except as expressly permitted by the law and the University rules published in the 1998-99 Student Guidebook, and behavior under influence of alcoholic beverages.

(12) Possession and/or Use of a Firearm and/or Dangerous Material.

(a) Possession or use of firearms or any weapon on University premises or at University sponsored/related activities.
(b) Possession or use of fireworks of any description, explosives, or chemicals which are disruptive, explosive, or corrosive on University premises or at University sponsored/related activities.

(13) Instigation or Participation in Group Disturbances During Demonstrations, Parades, or Picketing.

(a) Participation in a demonstration(s), parade(s), or picketing which invades the rights of others, interferes with the educational function of the University or jeopardized public order and safety.

(b) Leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area.

(14) Misuse of Computing and Telecommunications Resources.

(a) The University supports open access to electronic communication and information. Nevertheless, the preservation of an open computing and communications environment requires adherence by users to a set of standards and policies for the responsible use of computing systems, software and telecommunication networks. University computing and telecommunications resources shall not be used as follows:

1. To impersonate another individual or to misrepresent an authorization to act on behalf of other individuals or the University.

2. To modify the original attribution of electronic mail messages or postings.

3. To send anonymous messages without clearly and correctly identifying the sender.

4. To make unauthorized or illegal use of the intellectual property of others without the prior written permission of the owner or the copyright holder of the information.

5. To transmit to others or to display images, sounds, or messages that reasonably could be perceived as being harassing, invasive, or otherwise unwanted.

6. To carry out commercial or other for-profit purposes.

7. To conduct programs which do not directly relate to, or are in support of, the academic, research, or administrative activities of the University.

8. To attempt to undermine the security or the integrity of the University's computing systems or telecommunications networks, to attempt to gain unauthorized access, or to intercept or decode passwords or similar access control information.

9. To intentionally damage, disable, or impair computing or telecommunications
equipment or software.

10. To acquire or utilize software that does not adhere to applicable software licenses and copyright laws.

11. To introduce viruses or other destructive software in University computer facilities.

12. To engage in activities which are not consistent with the provisions of Chapter 815, Florida Statutes, Computer Crimes Act, Title 18 United States Code, Electronic Communication Privacy Act of 1986, the Telecommunications Act of 1996, or the "FGCU Acceptable Computer and Network Policy"

13. "Chain letters" or similar materials are prohibited.

(b) All members of the University community are expected to adhere to University policies regarding the security and use of individual user ids and passwords. Members of the University community are held responsible for any violation of University policies, which involve the use of their computer account. Unauthorized use of a University computer account is expressly prohibited.

1. Computer users shall comply with all applicable federal and state laws governing the use of computer and telecommunication technology, as well as all applicable rules and policies of the University. These laws, rules, and policies are referenced in the "FGCU Acceptable Computer and Network Policy", incorporated into the 1998-99 Student Guidebook and posted on the University web site. Violations of the computer and network rules and policies shall result in disciplinary action. Serious violations of University policies shall generally result in immediate loss of network and computer access and privileges.

2. Suspected criminal violations of federal, state or local laws shall be reported to the University Police Department, appropriate law enforcement agencies or any other applicable authorities or agencies. However, unauthorized or fraudulent use of University computing and telecommunication resources can result in felony prosecution as provided for in Florida Statutes, Chapter 775, Florida Criminal Code.

15. Gambling.

(a) To play in an unlawful game of chance for money or for anything of value on University premises or at any affair sponsored by a student organization.

(b) To sell, barter, or dispose of a ticket, order, or any interest in a scheme of chance by whatever name on University premises or at any affair sponsored by a student organization.

(c) To wager on a University team or organization in a competition with a direct interest in the success of the competition.
(d) Charitable, nonprofit organizations may operate "drawings by chance". The law requires specific disclosures and procedures, 849.0935, F.S. Permission for such student organizations who qualify under Florida law to organize "drawings by chance" on University premises or at any sponsored affair must be secured in writing from the Dean of Student Services prior to an announcement of the event.

(16) University Designated Student Residence Violations. Repeated or flagrant violations of regulations governing University student residences.

(17) University Wordmark. Unauthorized use of the official University Eagle, monogram, or other graphic identity symbol.

(18) Commission of a Felony or Misdemeanor. Commission of an act, which is a felony or misdemeanor as provided by local, state, or federal law.

Specific Authority 1001.74(4) 240.227(1), 240.261 FS. Law implemented 1001.74(10), 1006.60, 1006.61, 1006.62, 1006.63, 240.133, 240.1325, 240.2097, 240.2098, 240.261, 240.262 FS. History—New 1-17-99, Amended, ________.


(1) General. Authority for student discipline ultimately rests with the President of the University. The President delegates this authority to the Dean of Student Services. The Dean of Student Services may further delegate disciplinary authority to other administrators or faculty who shall serve as the judicial officer.

(2) Violation Reports. Alleged violations of the FGCU Student Code of Conduct shall be reported in writing to a University judicial officer appointed by the Dean of Students. The judicial officer shall make appropriate inquiries into the circumstances of the case to determine one of the following:

(a) Case dismissal

(b) Administrative action

(c) Informal disposition

(d) Formal disposition

(3) Administrative Action. In cases that dictate an immediate decision to protect the welfare of the individual, the student body, or the University, the judicial officer may take action without delay to resolve the situation. This action may include any of the
formal disciplinary penalties or any lesser sanction that the judicial officer determines necessary to protect the interests of all concerned. Sanctions taken through administrative action shall remain in effect until the final disposition of formal charges resulting from the circumstances of the case have been resolved through either informal or formal disposition proceedings.

(4) Informal Disposition. At the discretion of the student charged, infractions may be referred to the appropriate forum for proper disposition and/or settled by one or more of the following outcomes: oral or written reprimand; restitution; community service; counseling.

(5) Formal Disposition. Formal charges shall be filed within thirty (30) days of the University's receipt of written notice of alleged violations of the FGCU Student Code of Conduct. (Rule 6C-6.0105(2)(g), FAC.) If an alleged violation of the Student Code of Conduct is not handled through other appropriate channels, is not dismissed, or is not settled informally, then the Dean of Students or designee shall present in writing formal charges of violations to the student. This written notification shall include:

(a) The student's name, social security number, and address;

(b) A brief description of the alleged violation including dates, times, and places;

(c) Names of potential witnesses known at the time formal charges are prepared;

(d) A description of any written or physical evidence known at the time charges are prepared. The student may elect to have an administrative hearing or to have the case referred to an appropriate student judicial board.

(6) Student Rights During the Judicial Process. The following rights shall be explained to the student prior to the commencement of any formal judicial hearing:

(a) All parties shall be afforded reasonable written notice, at least five (5) days prior to the hearing. A letter sent to the address listed in the registrar's records shall constitute full and adequate notice. The University may elect to proceed with a hearing without the presence of the accused student, provided, however, the required notice stated above has been given to the student and the student has not provided to the hearing officer/council in advance a satisfactory reason for the absence. Written notice shall include:

1. A statement of the time, place and nature of the proceeding;

2. A statement of the nature of the case and of the jurisdiction under which it is to be adjudicated;

3. A brief statement of matters asserted;

(b) An advisor of the student's choice may be present at the hearing.
(c) The student may choose to have an advisor present at the hearing. Such advisor (including legal counsel) however, only may discuss matters directly with the student and may not actively participate in the conduct of the hearing.

(d) All hearings will be conducted on the basis that the student is not in violation until the preponderance of evidence proves otherwise.

(e) The student may inspect any information presented in support of the charges. Information may be presented in defense of the accused.

(f) The student may hear and question adverse witnesses.

(g) The student shall not be forced to present self-incriminating information; however, the University is not required to postpone disciplinary proceedings pending the outcome of any criminal prosecution.

(h) The determination of "in violation" or "not in violation" as charged shall be based solely on the information presented at the hearing.

(i) The determination from a formal hearing and any sanctions assigned and Appeal Rights shall be furnished in writing to the accused within five working days following the hearing.

(j) The enrollment status of the student shall remain unchanged pending the University's final decision in the matter, except in cases where the president or president's designee determines that the safety, health, or general welfare of a student or the University is involved.

(k) A student/organization against whom a judicial determination is rendered may exercise appellate procedures.

(7) Administrative Hearing. Administrative hearings will be conducted before a designated judicial officer who will hear the case and take appropriate action.

(8) Judicial Board Hearing. Cases can be referred to the appropriate student review board by the judicial officer. The judicial officer acts as overall advisor to the boards. The following is a guide to the sequence of events in a hearing:

(a) Reading of charges

(b) Presentation of information against the student/questions

(c) Presentation of information in defense of the student/questions

(d) Summary remarks by student
(e) Summary remarks against the student

(f) Deliberation (executive session)

(g) Decision

1. After consideration of the case, the student judicial board will make a determination of "in violation" or "not in violation". When the board judges a student "in violation", it shall recommend an appropriate sanction. The judicial officer shall inform the student of the decision and the appeal procedures.

2. The record of any proceeding resulting from formal charges shall include:

   a. A copy of the formal charges.

   b. A tape recording of the open sessions of the hearing.

   c. All staff memoranda and/or data submitted.

   d. All items of physical evidence submitted, provided such items are not returned to a rightful owner. In that case, photographs or other facsimiles shall be made before being returned.

   e. The determination of "in violation", or "not in violation" by the hearing board as well as recommended sanctions.

   f. The judicial officer's decision.

(9) Student Judicial Boards. Student Association Judicial Council. The Student Association Judicial Council shall be composed of students and two student-alternates appointed by the president of the Student Association and confirmed by the Student Senate. A hearing will be conducted with a minimum of five members.

(10) Judicial Sanctions. Review boards may recommend any disciplinary action listed below, with any appropriate modifications as well as any of the penalties listed under informal disposition.

(11) Disciplinary Warning. Disciplinary warning is an official warning that the student's behavior is in violation of the FGCU Student Code of Conduct. If the student is found to be in violation of a second charge, action will be taken beyond the disciplinary warning.

(12) Disciplinary Probation. Disciplinary probation status is designed for a specific length of time extending from a month to a number of semesters. When disciplinary warnings have failed to correct a student's conduct or an offense is deemed to be severe enough to warrant a more severe penalty, restrictive conditions may be imposed and vary
according to the severity of the offense. Restrictive conditions include the following: loss of good standing, which may become a matter of record; the loss of eligibility to receive any University award, scholarship, loan, honorary recognition, or initiation into any local or national organizations; denial of the privilege to occupy a position of leadership or responsibility in a University student organization, publication, or activity, and loss of privilege to represent the University in a public capacity. A student under disciplinary probation will be provided in writing the restrictions of the probation and the consequences for further violations of University rules while on probation. While under disciplinary probation, the student is given a chance to show the capability and willingness to live in accordance with the University rules. However, if the student is found to be in violation through another action while on disciplinary probation, more serious disciplinary action will be imposed including consideration of suspension or expulsion from the University provided the student had been notified of such a possibility.

(13) Suspension. A student involved in any offense paragraph (1)(a) through (1)(r) warranting consideration of action more serious than disciplinary probation or one involved in repeated misconduct may face suspension. The length of the suspension period shall be definite and may extend from days to a number of semesters. During suspension, a student may not attend class. Suspension may not be imposed without formal disposition proceedings unless the student agrees in writing to waive the right to a formal hearing.

(14) Expulsion. When an offense listed in paragraph (1)(a) through (1)(r) is of such severity that the University will not allow the student to re-enroll, the student will be expelled. When a student has been expelled from the University for disciplinary reasons, a full report will be placed in the permanent record of the individual concerned. Expulsion may not be imposed without formal disposition proceedings unless the student agrees in writing to waive the right to a formal hearing.

(15) Appeals Within the Judicial Process. A student/organization found "in violation" as the result of a hearing may request a review of the decision by the judicial officer. Reviews shall be held within seven (7) calendar days following notification of the sanction. Any appeal of the sanction must be received in writing by the Chair of the Student Code of Conduct Committee within seven (7) calendar days following a review by the judicial officer. Appeal considerations shall be limited to:

(a) Irregularities in due process that affected the outcome of the initial hearing;

(b) Discovery of new and significant evidence which could not have been presented at the time of the initial hearing;

(c) Inconsistency of the sanction with precedent or with the nature of the violation.

1. Upon reviewing the appeal, the Student Code of Conduct Committee may uphold or modify the sanction. This appeal shall be based on the considerations listed above.
2. Further administrative appeal may be made by the student in writing to the Dean of Student Services. Again, these appeals are based on the considerations listed above. The appeal must be made within seven (7) calendar days following notification to the student of the results of the appeal by the Chair of the Student Code of Conduct Committee. The Dean of Students may uphold or modify the decision.

3. In circumstances where the Dean of Student Services was involved as a principle against the accused or at the request of legal counsel, an appeal based on the considerations listed above may be made to the President of the University by the student within seven (7) calendar days following notification to the student of the decision by the Dean of Student Services. A review by the President of the University, or designee shall be final.

4. Decisions of the President of the University may be appealed to the Second District Court of Appeal. Any other decision made by the University, to which the student has not further appeal rights, may be appealed to the Second District Court of Appeal, and accompanying any such decision shall be language notifying the student of his/her appellate rights under Florida Statutes.

(16) Student Code of Conduct Committee. The composition of the Student Code of Conduct Committee shall be two faculty members, two students, and one administrator. The Judicial Officer will be present during the hearing. Faculty members are appointed by the Faculty Senate to serve on the Student Code of Conduct Committee for a period of three consecutive years. A pool of six faculty members will be appointed, one-third of whom will be replaced each year to preserve continuity of experience. A pool of six students shall be appointed annually by the president of the Student Government Association. Administrative members are appointed by the President. A pool of three will be appointed, one of whom will be replaced each year. No administrative member shall be selected from the Division of the Dean of Student Services.

(a) The President shall appoint an additional member from the faculty to serve as permanent chair of the committee. The President shall also appoint an alternate permanent chair. The chair shall participate fully in the hearing process, but shall only vote in case of a tie. All members shall have voting privileges.

(b) For a given case, two faculty members, two students and one administrative staff member will be chosen based on availability from the roster of the current committee. The other member is the faculty chair appointed by the President.

(c) The Student Code of Conduct Committee has the authority to summon witnesses. Refusal to obey the summons may subject the student to disciplinary action upon the recommendation of the Committee.

(d) The Student Code of Conduct Committee has the authority to review disciplinary matters, which have been properly brought before the Committee in accordance with the
procedures stated above. Upon completion of its hearing, the Student Code of Conduct Committee has the authority to issue, modify or uphold the disciplinary penalties, if appropriate.

(e) All members of the Student Code of Conduct are cautioned of the confidentiality of the Committee's entire function and are admonished not to discuss any case with other than authorized persons.


6C10-4.004. Student Grievance Procedure.

(1) General. The intent of this rule is to provide a procedure whereby student grievances are processed promptly and resolved fairly. Students shall be given adequate opportunity to bring complaints to the attention of the University with the assurance that the proper University officials will promptly investigate the facts of the case and evaluate these facts in an objective manner.

(a) Student problems should be resolved, whenever possible, before the filing of a formal written grievance and open communication is encouraged so that resort to formal grievance procedures will not be necessary. Informal resolution of grievances may be continued throughout the process.

(b) Time limits contained in this rule may be extended by mutual agreement of the parties. Upon failure by the University or its representatives to provide a decision within the time limits provided in this rule or any extension thereof, the grievant may appeal to the next appropriate step. Upon failure of the grievant or counsel to file an appeal, or take prescribed action, within the time limits provided in this rule, the grievance shall be deemed to have been resolved at the prior step.

(2) Exclusions. Grievances pertaining to the following matters shall not be processed under this rule:

(a) Disciplinary actions taken under FGCU Student Code of Conduct

(b) Traffic and Parking Violations

(c) The professional judgment exercised by an instructor in assigning a grade.

(d) Professional judgment of licensed practitioners in the health related professions.
(3) Definitions.

(a) "Day" means a calendar day, unless expressly stated otherwise. If a time limit expires on a non-business day, the limit shall be extended to 5 p.m. of the next business day.

(b) "Grievance" means a dispute or request for redress of the interpretation or application of any law, University rule or policy or regulation of the University that adversely impacts the Grievant’s substantial interest or the Board of Regents provided to the students in the University catalog, 1998-99 Student Guidebook, or University web site.

(c) "Grievant" means any enrolled or admitted student who presents a grievance under this rule.

(d) "Respondent" means the FGCU faculty or staff member who is alleged to have caused the grievance by identifiable acts of omission or commission.

(e) "Party" means either the grievant or the respondent.

(f) "Counsel" means an attorney or lay advisor.

(g) "Resolution" means an action by or on the behalf of the University that is satisfactory to the student.

(h) "Student Grievance Panel" means a panel of (9) nine persons appointed by the President of the University based on recommendations from the President's Executive Council and from the Student Association President. Those eligible for appointment are Full-time faculty; A&P and employees who hold administrative positions; Students currently enrolled and in good standing;

1. The Student Grievance Panel from which individual boards will be selected shall consist of:

a. Three (3) faculty representatives.

b. Three (3) administrative staff, representing the various administrative divisions of the University.

c. Three (3) students whose names are to be submitted to the president of the University by the president of the Student Government Association. Panel members shall serve annual terms beginning and ending in August of each academic year. When a vacancy occurs, the President shall make new appointments to fill unexpired terms. Whenever the exercise of challenge reduces the number of panel members eligible to serve in a particular grievance, the president may appoint additional members on an ad hoc basis.

2. "Challenge" shall mean a formal objection, by either the grievant or the respondent, to
having a member of the Student Grievance Panel appointed as either an investigator or Student Grievance Board member.

a. A "peremptory challenge" shall mean a challenge for which no explanation need to be given by the party making the challenge.

b. A "Challenge for cause" shall mean a challenge based on alleged bias, prejudice, interest or other causes which indicate that the challenged panel member should not serve because of involvement, predisposition or other related causes. While either party may challenge for cause, such challenges shall be reviewed by the University Ombudsman whose decision as to the fitness to serve of the challenged panel member shall be final.

(i) "Student Grievance Board" shall mean an ad hoc board appointed pursuant to Formal Resolution of Grievance:

(4) Informal Resolution of Student Grievances.

(a) It is the University policy to encourage the informal resolution of grievances directly between the student and the respondent. If this cannot be accomplished, the student is encouraged to continue informal resolution presenting the problem orally through appropriate administrative channels up to, but not including, the Office of the Vice President in whose area the respondent is employed.

(b) Upon request, the University Ombudsperson will inform the student as to the administrative channels to be followed in an attempt to secure informal resolution.

(5) Formal Resolution of Grievances — Step 1.

(a) If informal resolution attempts do not succeed, the student may present the grievance in writing in the form indicated in (b) below. The grievance shall contain a statement of the facts and circumstances giving rise to the grievance that identifies relevant dates and witnesses, specifies the law, rule or policy alleged to have been violated and describes how the grievant’s substantial interests are adversely impacted. This written grievance shall be mailed or delivered to the University Ombudsperson no later than thirty (30) days following the date on which the alleged act or omission causing the grievance occurred; or not later than thirty (30) days from the date the student acquired knowledge, or could be reasonably expected to have acquired knowledge, of the alleged act or omission unless the time limit has been extended by mutual agreement.

(b) Formal Grievances shall be presented following the procedure outlined in the 1998-99 Student Guidebook.

(b) Upon receipt of a formal student grievance, the University Ombudsperson will review the grievance to determine whether or not action under this rule is appropriate or is excluded under the provisions of paragraph (2) above. If action under this rule is
appropriate, the University Ombudsperson will notify the student of receipt of the grievance and of the name of the respondent's Vice President/Dean who will handle the step (1) procedures outlined herein; simultaneously the Ombudsperson will notify the respondent and deliver the written grievance to the Vice President/Dean in whose area the respondent is employed. The Ombudsperson will inform the student that proceedings under this rule are not appropriate if such is the case. Regardless of the disposition, such notice will be mailed to the student within fifteen (15) three (153) days after the Ombudsperson's receipt of the written grievance.

(c) Within 15 days of receipt of notification of the grievance, the respondent (or in case of absence of the respondent's supervisor) shall prepare a written response to the allegation(s) made by the student and shall furnish copies of this response to the grievant, to the appropriate Vice President/Dean, and the clerk of the University.

(de) Upon receipt of the grievance and the respondent's reply thereto, the Ombudsperson shall review the matter and conduct an inquiry, if necessary. The Ombudsperson shall forward a recommendation to the respondent's Vice President/Dean shall take action as follows:

1. If the grievant selects Option A (as noted on the format): After review of the grievance, the Ombudsperson's recommendation, associated documents and any discussions necessary to determine the facts, the respondent's Vice President/Dean or designee shall render a decision within thirty (30) days. This decision shall be forwarded in writing to the grievant and the respondent. The decision of the Vice President is final. establish the University position and notify the grievant and the respondent. This notification shall be made in writing within 25 days after the Vice President/Dean's receipt of the grievance and respondent's reply thereto, and shall be forwarded to the grievant by the University ombudsman.

2. If the grievant selects Option B:

   a. Within five (5) days after receipt of the grievance and respondent's reply, the Vice President/Dean shall appoint an investigator from among the members of the Student Grievance Panel. This appointment shall be subject to challenge for cause and to no more than two (2) peremptory challenges by either party (see also paragraph (3)(i) above);

   b. The investigator shall file his report and recommendations with the respondent's Vice President/Dean within 25 days after receipt of the grievance and the respondent's reply thereto. This report shall be in writing and shall include, but need not be limited to; statements by the grievant and the respondent; statements by any witnesses testifying on behalf of either party; documents in support of either position; the investigator's summary and recommendation to the Vice President/Dean;

   c. The Vice-President/Dean shall review the investigator's report and render a decision, in writing within ten (10) days to the respondent and grievant. Notification to the grievant shall be made through the Ombudsman.
3. If the grievant selects Option C:

a. Within five (5) days after receipt of the formal grievance, the respondent's Vice President/Dean will appoint a Student Grievance Board to review the case. This board shall consist of five (5) members who are disinterested parties selected from among the members of the Student Grievance Panel. Two shall be faculty members, two shall be administrators and one shall be a student. Either party may challenge for cause any panel member selected to serve on the board and may also peremptorily challenge no more than two (2) of the selectees. After the exercise of all challenges, the Vice President/Dean shall name one member of the board to act as chair.

b. Proceedings of the Student Grievance Board shall be carried out under the following general principles:

(i) The board's record of proceedings and recommendation shall be delivered, in writing, to the Vice President no later than 30 days after the date the board is appointed.

(ii) Where applicable, the Florida Rules of Civil Procedure shall apply for purposes of discovery. The Chair may issue appropriate orders to effect discovery and to prevent unnecessary delay. This shall not be construed to prevent continuances upon the showing of good cause.

(iii) All parties to the grievance may make opening and closing statements, offer testimony and evidence and cross-examine witnesses.

(iv) The rules of evidence need not be strictly followed, but may be liberally construed in the interest of a fair and prompt adjudication of the grievance.

(v) The fact-finding portion of the grievance shall be open.

(vi) No provision in the student grievance procedure shall preclude an informal settlement of the grievance at any stage of the process.

Deliberation — Immediately upon conclusion of the fact-finding portion of the hearing, or as soon thereafter as is practical, the grievant, the respondent, and all witnesses shall be dismissed and the board shall go into closed session to deliberate. The deliberation and recommendation of the Grievance Board shall be presented in the open hearing. Within fourteen (14) days, a written recommendation shall include the finding of fact and conclusions. The recommendation must be agreed upon by at least three (3) of the board's members.

c. The respondent's Vice President/Dean shall review the board's recommendation and render a decision within 10 days. This decision shall be forwarded in writing to the grievant and the respondent.
(6) Formal Resolution of Student Grievances—Step 2. If the grievance is not resolved under the procedures heretofore mentioned, the grievant may seek relief under the provisions of 120.57, F.S. Within 15 days after receipt of a request for hearing pursuant to 120.57, F.S., a hearing officer will be requested and an appropriate hearing procedure will be initiated.

Specific Authority 1001.74(4) 240.227(4), 240.261 FS. Law implemented 1001.74(10), 1002.21(6) 240.133, 240.1325, 240.2097, 240.2098, 240.261, 240.262 FS. History—New 1-17-99; Amended, 

6C10-4.005. Student Activities.

(1) General. The University supports a variety of student activities and organizations as a belief in their co-curricular value, their role in the general education of students, and their being an asset to the University community. Opportunities for student involvement in student organizations include Student Government Association, academic/pre-professional and honorary, religious, club sports, social, special interests, minority, international and service groups. Student organizations play an important role in the total university life and must, therefore, exercise judgment and responsibility in the planning and implementation of their activities. This judgment and responsibility extends to individual members and officers of organizations. Organizations and individuals must also observe the University’s rules and policies relating to student activities that are published in the 1998-99 Student Guidebook for rational and effective operation in the University community.

(2) Student organizations shall be governed by the Student Organization Standards Board. The Board shall be comprised of at least fifty percent (50%) students appointed by the Student Government President with the remaining members being faculty and staff appointed by the University President. Board members shall serve annual terms beginning and ending in May of each academic year. Unless otherwise noted, the Board shall be responsible for the supervision and implementation of this rule, except that the decisions of the Board are considered recommendations to the Dean of Student Affairs or designee.

(32) Registration of Student Organizations. Any student, group or organization whose objectives are consistent with the organizational goals and mission of Florida Gulf Coast University is eligible for registration. Registration will be made for review and concurrence to the Office of Student Life. Final registration approval must be granted by the Dean of Student Affairs. Services will be given when the organization’s objective statement has been determined to be consistent with the goals and mission of the University. Student organizations are designated as either recognized or registered. Recognized organizations are those organizations that are open for membership to any registered student. Registered organizations are those organizations that limit
membership based on established criteria such as fraternities, sororities, and honor and professional societies.

(43) Membership. Membership in any student organization is limited to any student who is currently paying fees and is enrolled with Florida Gulf Coast University. Organizational membership requirements must also be satisfied. FGCU faculty, staff and alumni may be non-voting associate members. In order to comply with the Florida Gulf Coast University's commitment to non-discrimination, no discrimination shall be made on the basis of gender, race, color, creed, age, religion, disability, national origin, marital status, sexual orientation, parental status or veteran's status.

(54) Eligibility for Leadership Positions/Officer Qualifications. The University has established minimum requirements for participation or leadership, but shall may waive the minimum requirements for students who have been members of the organization in good standing for at least one semester where such waiver will support and enhance the mission of the University.

(a) A student must:

1. be currently enrolled as a fee paying student in at least one class at Florida Gulf Coast University;

2. have an overall GPA of at least 2.0;

3. have an grade point average of at least 2.0 for all work attempted while in attendance at FGCU;

4. be in good academic and disciplinary standing (not on academic or disciplinary probation); and

5. be free of any holds on university records.

(b) Students who are currently members of a student organization who do not meet these minimum requirements to hold an officer position and seek to remain or become an officer may submit a written appeal to remain in the organization to the Student Organization Standards Board/Appellate Board through the Office of Student Life within two (2) weeks from the first day of class each semester. This board is composed of six (6) students currently serving as officers of approved student organizations recommended by the President of the Student Government Association and selected by the Student Government Association Advisor. The appeal should address the causes for ineligibility and reasons for believing that the problems have been resolved. The Student Organization Appeals Board is the deciding body that, upon hearing the appeal may waive the eligibility requirements for one semester.

(c) The Student Organization Appeals Board may selectively review the academic record of students in positions of leadership or responsibility. If the Board believes that a student
If an officer is not making satisfactory progress towards graduation, the Board may recommend to the student, the advisor, and the organization that the student resign from the position of leadership or responsibility. The recommendation will be made for the best interest of the student, but the Board does not have the authority to remove an officer from a leadership position.

(b4) The Student Government Association has established eligibility requirements for selected positions in that organization. These requirements and governing procedures are presented in their election codes, which are made available to any student upon request as well as to all candidates filing for office.

(65) Faculty/Staff Advisor. All organizations shall have an FGCU faculty or staff advisor in order to be considered for registration. Additionally, a faculty or staff advisor is required in order to receive Student Government Association funding.

(76) Registration Process. To be considered for registration, a student organization must submit an application in writing to the Student Organization Standards Board, providing a list of its officers, the name of the organization’s faculty/staff advisor(s), FGCU student members and their social security numbers, the signature and contact information of all officers and the faculty/staff advisor(s), and the organization's constitution. The GPA of all officers is also required. In seeking, securing and maintaining the privilege to be registered, each student organization must agree in writing to abide by all University policies, procedures and rules, regulations published in the University catalog, the 1998-99 Student Guidebook, and the FGCU Student Government Association Constitution and Student Government Statutes, and posted on the University website, and to hold harmless the University for any actions or activities of the organization.

(7) Update Reports. At the beginning of each semester, and following organization elections, all registered student organizations must file an update status report with the Office of Student Life. The report must include a current listing of the organization's membership and officers, the signature of at least two current officers and the faculty/staff advisor(s), the purpose, the organization's address and a statement of understanding of the hazing laws. Organizations that do not turn in an update form or do not meet any of the other informational requirements listed above will be considered inactive after the second week of each Fall and Spring semester. Complete membership and officers lists and financial statements should be made available to the Office of Student Life upon request. Any change in the information indicated above during the academic year should be reported to the Office of Student Life within one month.

(8) Funds and Expenditures. Registered recognized student organizations may receive operating and programming funds from Student Government Association Activity and Service (A&S) funds through the process established by Student Government in the Florida Gulf Coast University Student Government Constitution and its implementing statutes, rules and policies in accordance with s. 1009.24, F.S. an application process. Funds are allocated by the Student Senate following the guidelines of 240.235(1), F.S.
All approved Student Government Association funding will be disbursed and expended through the Student Government Treasurer's Activities and Service Fee Committee.

(9) Privileges of Registered Student Organizations. Student organizations registered by the University shall be granted the following privileges:

(a) The privilege to use University facilities depending on availability, program and guidelines;

(b) The privilege to request Student Government Association funds;

(c) The privilege to use the University's name as part of the organization's name;

(d) The privilege to grant awards and honors to organization members.

(10) Organizations that violate any law, University rule or policy regulations, or Student Government policy pertaining to the organization and management of student organizations will be subject to disciplinary action as described elsewhere in The 1998-99 Student Guidebook. Such action includes:

(a) The limitation of any or all privileges listed above;

(b) Social probation for the organization;

(c) The temporary suspension of the organization's activities;

(d) The withdrawal of the organization's registration.

(11) Registration of student organizations by the University shall not imply support for any student organization's purpose, philosophy or activities. Student organizations and clubs are entities independent of The Florida Gulf Coast University, and the University will not assume any legal liability for any student organization's activities.

(12) Students or student organizations shall not enter into contracts or agreements which purport to bind the University for any purpose.

Specific Authority 1001.74(4) 240.227(4) FS. Law Implemented 1001.74(10), 1004.26 240.2097 FS. History—New 1-17-99, Amended.

(1) The Florida Gulf Coast University Student Government is recognized as the official representative and governing organization of the student body.

(2) The Florida Gulf Coast University Student Government Constitution has been promulgated by the students and is accepted by the University as expressing their will. The Constitution is subject to amendment from time to time in accordance with the procedures established in the instrument, and all proposed changes to the Constitution shall be submitted through the University President to the Board of Trustees for approval. To facilitate organizational integrity and cohesive administration, Student Government shall establish and maintain implementing statutes, rules and policies in accordance with the Constitution.

(3) Student Government shall allocate Activity and Service (A&S) Fees for lawful purposes to benefit the student body in general, subject to the veto power of the University President or designee in accordance with Section 1009.24(9), F.S. Student Government shall expend A&S fees in accordance with the final Student Government budget and Student Government statutes, rules and policies.

Specific Authority 1001.74(4) FS. Law Implemented 1001.74(10), 1004.26, 1009.24(9) FS. History—New ________________.
Florida Gulf Coast University Board of Trustees

SUBJECT: Student-Athlete Out-Of-State Waivers

PROPOSED BOARD ACTION

Approve FGCU policy on student-athlete out-of-state tuition waivers.

BACKGROUND INFORMATION

Intercollegiate athletics provides a number of benefits to an institution of higher education – including the opportunity to significantly contribute to greater student diversity on campus, and the opportunity to bring national and international recognition to the institution. Gifted student-athletes from throughout the United States and around the world bring an important dimension to not only an intercollegiate athletics program, but also to an entire university. At Florida Gulf Coast University, student-athletes represent 15 countries and 19 states – which makes a positive contribution to FGCU’s profile of diversity in students.

Currently, FGCU Athletics is limited to awarding only 12 out-of-state waivers that are provided by Enrollment Services. These out-of-state waivers have enabled us to bring to FGCU student-athletes like Brian Crislip, Ryan Hopkins and Roman Brown for the men’s basketball team; Trish Flemming, Robyn Swain and Candi Myers for the women’s basketball team; Adam Gary for the men’s golf team; Franco Mata and Brian Gill for the men’s tennis team, and Juliana Garcia, Diana Murillo and Izabela Ciesinska for the women’s tennis team. They are among our best and brightest student-athletes at FGCU, and their successes in the classroom and in the competitive arena are bringing FGCU national and international recognition.

Through state budget proviso language, the state universities’ boards of trustees – including the FGCU Board of Trustees – are authorized to waive tuition and matriculation fees for purposes that support and enhance the mission of the university. In June 2002, the FGCU Board of Trustees approved a policy on student tuition waivers, and is in the position of being able to approve a similar policy on out-of-state tuition waivers for student-athletes at FGCU with no impact on the University’s financial bottom line.
If the proposal is approved it would currently amount to 32 undergraduate out-of-state tuition waivers. With these out-of-state waivers, FGCU Athletics or the student-athlete would still pay for the in-state portion of the student-athlete’s tuition, plus housing, food and books. A full scholarship, for example, would cost slightly over $10,000, vs. $20,000. Currently all out-of-state student-athletes who are receiving any scholarship money also receive one of the 12 athletic waivers from the Office of Enrollment Management, a Latin Caribbean Waiver, an academic waiver from the OEM. These students would not be at FGCU if it were not for these waivers and would probably be replaced by less talented in-state students.

To summarize, providing the FGCU Athletics Department with these out-of-state tuition waivers would enable our coaches to recruit the best student-athletes worldwide who would contribute significantly to student diversity at FGCU and raise FGCU’s visibility around the nation and world – while not affecting the University’s bottom line when it comes to tuition revenues.

**Supporting Documentation Included:** Policy on Student-Athlete Out-Of-State Waivers

**Prepared by:** Carl McAloose, Director of Athletics

**Legal Review by:** Wendy Morris, General Counsel (March 23, 2004)

**Submitted by:** Provost Brad Bartel
POLICY ON STUDENT-ATHLETE TUITION WAIVERS

**Purpose:** Florida Gulf Coast University uses state-granted budget authority for the purpose of waiving the out-of-state portion of tuition for certain types of students to enhance campus diversity and academic quality in an ever-increasing competitive student market.

**Policy:** Waivers are awarded based on the University’s established key selection criteria of recruitment, retention, diversity and service to students who meet certain initial requirements.

**Application:** The Office of Enrollment Management (OEM) is the central receiving and processing location for all undergraduate and graduate student waiver applications. With the assistance of a student-athlete waiver committee (consisting of the NCAA Compliance Director and Faculty Athletics Representative) the Director of Athletics may authorize out-of-state undergraduate tuition waivers that amount to half of the NCAA maximum award limits. These waivers may be awarded or renewed each year to selective undergraduate students meeting the below criteria.

Undergraduate waivers are awarded in conjunction with the admission process. At the discretion of the Director of Athletics, and with assistance of a waiver committee, up to five annual out-of-state graduate waivers may be awarded or renewed each year to selective graduate students. Graduate students may receive in-state or out-of-state graduate assistant waivers or in-state or out-of-state graduate assistant matriculation fee waivers. Graduate waivers accompany graduate assistantships and may include a stipend and work requirement.

**Procedure:** Parameters for award and renewal eligibility differ from undergraduate and graduate students.

**Undergraduate Student Waivers**

*Initial eligibility requirements:*
- Approval for admission to Florida Gulf Coast University as a full-time degree-seeking first time in college (12 or fewer semester hours completed at a time of entry) or transfer (more than 12 semester hours completed at time of entry) student; out-of-state residency status; and a minimum 3.0 grade point average, or a 1050 on the SAT, or a 22 on the ACT, or an outstanding record of athletic and leadership achievements determined by a student-athlete waiver committee.

*Renewal requirements:*
Waiver awards are guaranteed for one year only and are contingent upon continued legislative authorization. To renew, undergraduate students must continue to meet the established NCAA II eligibility criteria.

**Graduate Student Waivers**

*Initial eligibility requirements:*
- Be approved for admission to Florida Gulf Coast University as a degree-seeking student; submit supplemental application forms; and meet any additional criteria required by the awarding College or Department.

*Renewal requirements:*
Waiver awards are guaranteed for one year only and are contingent upon continued legislative authorization. To renew, graduate students must meet the conditions for renewal stipulated by the Department of Athletics and graduate program requirements.

**ANNUAL REPORT:** Each unit making awards is responsible for submitting an annual report to the OEM verifying compliance with all requirements by August 1 of each year. OEM will ensure that all awards are disbursed to the students and to ensure compliance with federal, state and institutions regulations and will forward all reports to the Dean of Enrollment Management. Budgetary issues and NCAA regulations will be ensured by the Director of Athletics in collaboration with the Dean of Enrollment Management.