

hearing officer shall exercise control over the proceedings to avoid needless consumption of time and to achieve an orderly completion of the hearing. Any person, including the accused, who disrupts a hearing, may be excluded by the presiding officer, conduct hearing officer, or by the board adviser.

7. Conduct hearings will be tape recorded or transcribed. If, due to technical difficulties, a tape recording is not feasible, the chair of the board should write a summary of the testimony as soon after the hearing as is feasible in case of appeal. The decision of the board, administrative hearing officer or council should include a summary of the testimony and evidence in such cases as well. Deliberations in any case will not be recorded.
8. Any party may challenge the seating of a board member due to alleged personal bias.
9. Witnesses and others giving information in a hearing shall be asked to affirm that the information they are giving is truthful. Students who provide untruthful information are subject to Honor Code charges.
10. Persons giving information in a hearing, excluding the accused and the complainant and their advisors, if appropriate, will be excluded from the hearing during the testimony of other persons. All persons except board or council members or conduct officers, and their adviser if requested by the board, will be excluded during the deliberations of a board.
11. The University has sole authority to charge students. Individuals who bring complaints shall be considered to be witnesses and shall be excluded as noted above except as required by law. The burden of proof is on the University.
12. Board, council members or the conduct hearing officer shall ask all questions of all witnesses as necessary and appropriate. If the accused wishes to have a witness answer a question, he/she shall present the question to the board or administrative hearing officer.
13. The Dean of Students may appoint a special presiding officer for boards in particularly complex cases or under other special circumstances he/she feels appropriate. Such presiding officers shall be nonvoting.
14. Recommendations by the board or council shall be by majority vote of board members in attendance. All decisions shall be made based upon the preponderance of the evidence presented.
15. The student's previous disciplinary record shall not be considered during the consideration of a particular charge. If the student is found responsible for a violation, the Student Conduct Board will be informed of the student's previous disciplinary record so that it may be considered in determining the recommended sanction(s).
16. The accused shall be informed orally of the decision of the conduct board or conduct hearing officer when feasible. Such notification will be followed up by written notice from the Dean of Students or his/her designee.

Appeals

Students found responsible for violations of the Honor Code may file an appeal within the following guidelines. All appeals must be based on one or more of the following conditions:

1. There was a violation of due process which materially affected

the outcome of the hearing, decision, or case.

2. There is new evidence which was not available at the time of the earlier hearing or meeting or which could not have been discovered with due diligence on the part of the accused or his/her adviser.
3. The sanction assigned for the offense was grossly inappropriate based upon the seriousness of the offense.

Decisions of responsibility made by conduct officers during an administrative conduct meeting may be appealed to the Dean of Students or his or her designee, whose decision is final. Decisions of responsibility made by the University Conduct Board, or other hearing bodies used during exigent circumstances, may be appealed to the University Conduct Appeals Committee whose decision is final. Decisions of responsibility made by the Honor Council in cases involving academic cheating or plagiarism may be appealed to the President of the University, whose decision is final.

To be considered, appeals must meet the following criteria:

1. Clearly indicate the basis for appeal as indicated above.
2. Be submitted in a typewritten format.
3. Be submitted within three business days of the delivery of the written notice of the original decision.

The person or committee to whom the appeal is made will decide whether to hear arguments or base the decision upon the letter of appeal, any new evidence, and the case record. The person or committee reviewing the appeal may do one of the following:

1. Reject or amend the finding of the original decision maker as to responsibility of the student for the offense(s).
2. Reject or amend the sanction(s) as assigned by the original decision maker and assign any other sanction(s), with the exception that the sanction(s) may not be made harsher.
3. Return the case for rehearing by the original person or body. In such cases the person or body hearing the appeal should state the reasons for the assignment for rehearing (i.e. violations of due process). Cases reheard shall be heard completely as if never heard before.

Student Rights and Responsibilities

The following rights and responsibilities exist for students of Francis Marion University who are charged with violations of the student conduct:

Student Rights

1. The right to written notice of the charges placed against them.
2. The right to be informed of the witnesses and/or evidence which will be used against them.
3. The right to have the case determined in a fair and impartial manner through a hearing or other judicial proceeding.
4. The right to present evidence and witnesses on their own behalf and to dispute the evidence or witnesses used against them in the case.
5. The right to have only those charges about which the student has been notified in writing heard at the hearing on those charges.
6. The right not to implicate himself or herself in a violation.
7. The right to be assisted by any member of the Francis Marion University community in defending themselves against the charges placed against them. This assistance may include helping the accused student to prepare his/her defense against the charges, attendance with the student to any meetings and/

or hearings on the matter, or assisting the accused to prepare questions to ask at the hearing, etc. This person may not represent the accused at a hearing (e.g. ask questions, argue points, or even speak on his/ her behalf) or other meeting.

8. Though appeals are not a right, students are encouraged to exercise their option to appeal a decision.
9. The right to ask questions of witnesses and others presenting information in this case. In cases in which such evidence is in the form of a statement, the student will have the right to dispute the information in the statement.
10. For a student to be found responsible for the acts alleged, the person or body hearing the case must believe him/her to be responsible for the violation by a preponderance of the evidence (the greater weight of the evidence must indicate responsibility for the violation).
11. The student is presumed to be innocent until proved responsible by the University. The burden of proof is on the University.
12. The right to notice of the maximum allowable penalty (i.e., permanent dismissal).
13. The right to a written decision specifying the rule(s) violated, sanctions assigned if found responsible, and right to appeal the decision.
14. The right to challenge the seating of any board member or other hearing officer for good cause. The dismissal of a challenged hearing board member shall be at the discretion of the hearing board chairperson. If the chairperson is challenged, he/ she may be excused by a majority vote of the board. Dismissal of a hearing officer may be determined by the supervisor of the person in question. This does not apply to the faculty member who charges a student with academic dishonesty.
15. The right to be treated with respect within the student conduct process.
16. The right to request an open hearing of the charges placed against the student. Such a request may be granted if agreed to by all parties directly involved in the case; if the hearing would not, in the opinion of the dean of students, be disruptive to the campus environment; and attendance can be limited as a result of the facility in which the hearing is being held.

Student Responsibilities

1. The responsibility to attend all hearings or meetings when scheduled.
2. The responsibility to take receipt of any notices or other written documents related to the charges against the student.
3. The responsibility to avoid any acts by him/herself or others at his/her direction which threaten, or may appear to threaten, witnesses or others who might give information in the case.
4. Any appeals must be submitted within stated deadlines and must address one or more of the bases of appeal noted above in order to be valid. Failure to submit an appeal in a timely manner voids the option to appeal.
5. The responsibility to treat those persons involved in the judicial process with respect.
6. The responsibility to comply with the requests of University officials who are part of the student conduct process.
7. The responsibility to comply with any sanctions placed against the student as a result of the charges for which he/she is found

responsible, and to understand that failure to comply is a separate offense for which the student may be charged.

General Sanctions for the Student Misconduct

If a student is found responsible for violating the code, one or more of the following sanctions may be determined as appropriate. Normally there will be a presumptive sanction for each offense; however, sanctions may be altered due to mitigating or aggravating circumstances for each violation. Multiple offenses, previous offenses, violations of probation and other factors may alter the appropriate sanction for a particular offense. Students should be aware that expulsion from the University may be appropriate for any offense if aggravating circumstances apply.

1. **Expulsion** - Permanent, forced withdrawal from the University. The student will forfeit all fees paid for the semester in question.
2. **Indefinite Suspension** - Forced withdrawal from the University for an indefinite period of time. The student will be required to complete specified tasks prior to consideration for reinstatement. The student will forfeit all fees paid for the semester in question. Students may not have transcripts, grades or other University records of attendance sent to other persons during the period of the suspension. The student may not have credit for courses taken at other institutions during the period of suspension transferred back to Francis Marion University for credit without the permission of the vice president for Student Affairs.
3. **Suspension** - Forced withdrawal from the University for a specified period of time, generally no less than one semester. The student will forfeit all fees paid for the semester in question. Suspension may be deferred pending appropriate completion of tasks assigned by the University. Students may not have transcripts, grades or other University records of attendance sent to other persons during the period of the suspension. The student may not have credit for courses taken at other institutions during the period of suspension transferred back to Francis Marion University for credit.
4. **Conduct Probation** - A student placed on conduct probation is not in good standing with the University. Disciplinary probation is assigned for a specified period of time and may include conditions, restrictions or expectations of the student. Any violation of the terms of probation during the specified period will be deemed as a separate offense for which suspension is the appropriate sanction. Restrictions to be included within conduct probation will be determined based upon the particular offense and the disciplinary record of the offender. Sanctions for policy violations that occur while a student is on conduct probation are enhanced.
5. **Fines** - The student will be charged a specified fine as deemed appropriate for the particular offense. Fines may be adjusted due to mitigating or aggravating factors with each offense. Fines will be used only in limited circumstances in which the conduct officer or board feels that they will be educational in nature. Failure to pay fines by a specified date will be deemed a separate offense and may result in increased fines and/or more severe sanctions.
6. **Restitution** - Upon direction from the University, the student

must pay restitution to the aggrieved party or complete a specified task or number of hours of work on a project designed to ensure some form of restitution to the University. Failure to complete the assignment by a specified date will be deemed a separate offense and may result in more severe sanctions.

7. **Written Reprimand** - The student will receive a written notice that he/she has committed an offense. A copy of the notice will become an official part of the student's disciplinary record.
8. **Admonition** - The student will be provided an admonition. A notice of the admonition will be entered in the student's disciplinary record.
9. **Educational Sanction** - The student will be assigned a project which is deemed appropriate to the offense for which he/she is found responsible. This may include but not be limited to mediation or other alternative dispute resolution, writing projects such as papers on a topic related to the offense, public speaking assignments, educational workshops such as alcohol or drug education programs, and other projects.
10. **Removal from Residential Facilities** - If a student is currently living in campus housing he/she may be removed for a specified or indeterminate period of time depending upon the offense. In such cases, the student will forfeit all housing fees paid for that semester.
11. **Loss of Participation Privileges** - The student will lose his/her privilege of participating in one or more activities such as visitation, loss of vehicle use, intramural participation, co-curricular involvement such as student organization membership/leadership, varsity athletics, or access to nonessential facilities, etc.

Interim Suspension

The University may suspend a student for an interim period pending disciplinary proceedings or medical evaluation. This interim suspension will become effective immediately without prior notice whenever there is evidence that the continued presence of the student on the University campus poses a substantial threat to him or herself or to others or to the stability and continuance of normal University functions. A student suspended on an interim basis shall be given an opportunity to appear personally before a designated student affairs official within five business days from the effective date of the interim suspension in order to discuss the following issues only:

1. The reliability of the information regarding the student's conduct, including the matter of his or her identity;
2. Whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the student on the University campus poses a substantial threat to him or herself or to others or to the stability and continuance of normal University functions. Should it be determined that the student no longer poses a threat, his/her interim suspension may be lifted. If a threat is determined to exist, the student will be required to remain off campus until such time as a hearing on the charges placed against him or her are held. If a student is suspended on an interim basis, and is later found not responsible for charges, or if he/she receives a sanction of less than suspension from the University, every effort will be made to allow the student to make up any work missed during his/her suspension.

Conduct Regarding Student Organizations

Student groups and organizations may be charged with violations of this code. A student group or organization and its officers may be held collectively or individually responsible for violations of the Code. While student organizations and their governing bodies (e.g. IFC, NPHC, NPC organizations) may have internal disciplinary processes, the University reserves the right to take disciplinary action as needed. Activities which result in violations will be deemed to have involved a student group or organization when one or more of the following conditions are shown to exist, or to have existed:

1. A casual observer would associate the activity with the organization.
2. The activity involved an expenditure of organizational funds.
3. A significant portion of the members of the organization was present.
4. The activity received tacit or overt consent or encouragement by the organization or its leaders, officers, and/or spokespersons.
5. Any officer or the adviser was aware of the event before it took place.
6. Individual members of the organization were responsible for the activity and the officers and/ or adviser fail to identify them to appropriate University officials.
7. The event was publicized either in written form or by word of mouth as an organizational event.
8. The organization's adviser and/or executive officers were aware of the event before it took place and failed to prohibit it or take steps to ensure that the event was in compliance with the University Code of Conduct.
9. The activity took place on organization property, in space leased by the organization, or in a private residence known by the casual observer to be a location used for organizational activities.

The investigation of the alleged violations will be conducted by appropriate members of the Student Affairs staff. The Dean of Students or his/her designee based upon that investigation and information presented by the organization, will determine whether a violation of policy occurred or not. If it is determined a violation did occur, the Dean of Students will assign an appropriate sanction. The organization may appeal the decision of the Dean of Students or his/her designee within three business days of the written notification of the original decision.

Exigent Circumstances

The Dean of Students or his/her designee may implement other procedures relating to the administration of the Student Conduct Section under the following conditions:

During vacation periods, between semesters, immediately preceding, during, and immediately after examination periods, and during periods which a hearing may not be feasible, and/or

Instances in which the gravity of the matter could present risk to the student's well-being and/or confidentiality.

Parent/Guardian Notification of Alcohol or Drug Policy Violations Section 444 of the General Education Provisions Act (20 U.S.C. 1232g) was amended by Congress in 1998 to authorize University officials to notify parents or guardians when students

have violated alcohol or drug policies. Effective August 1, 2000, Francis Marion University will implement the following criteria for parent/guardian notification. A student's parent or guardian may be notified about a student's involvement in an incident involving alcohol or a controlled substance when the following criteria are met:

1. The student has either accepted responsibility or has been found responsible for violation of University alcohol and drug policy.
2. The student was under 21 years of age at the time he or she was found responsible for violating University alcohol or drug policy. Once the above criteria have been met, the Dean of Students Office may notify the official parent or guardian of record for the student of the violation and resulting sanctions. Notification will be in the form of a letter, a copy of which will be placed in the student's disciplinary file.

If the incident in question placed the student at risk, the University may contact the parent or guardian of record prior to any finding of responsibility. Additionally, if the University becomes aware of exigent circumstances that indicates notification is not in the best interest of both the University and the student, notification may be waived by the Dean of Students.

Portions of the materials in the FMU Code of Student Conduct are adapted from similar documents at The University of Maryland, The University of Tennessee, Knoxville, University of Delaware, Spelman College, Texas Tech University and other materials from sources provided by the Association for Student Conduct Administration and its members. Definitions of cheating and plagiarism are adopted from "Student Rights and Responsibilities" (1970) the Student Handbook of the University of Kentucky, Lexington, Ky.