

 **FITCHBURG STATE UNIVERSITY**
Student Conduct, Mediation and Education

**Code of Conduct
and Discipline Process
HANDBOOK**



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Code of Conduct and Discipline Process

Fitchburg State University expects its students to act in a mature and responsible manner. Respect for the rights of others, openness to new and challenging ideas, civility and courtesy are examples of this expectation. The student discipline process has been established to address alleged violations of the Code of Conduct.

Note: The EO/AA Plan supersedes the Code of Conduct. Incidents that fall under the EO/AA Plan are addressed through the complaint investigation and resolution procedures identified in the EO/AA Plan. Other violations of the Code of Conduct discovered during a complaint investigation will be addressed through the EO/AA Plan.

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Part I Student Conduct Authority

Under M.G.L. c. 15A § 22, Fitchburg State University has the legal authority to establish policies necessary for the general business of the institution. The president of the university and executive cabinet approved the *Code of Conduct and Disciplinary Process Handbook*. The disciplinary process is administered under the dean of students. The Dean has been charged with the day-to-day responsibilities for the administration of student conduct and the disciplinary process. The dean shall coordinate recommendations from members of the university community regarding suggested revisions to the Code of Conduct, policies, and shall present substantive changes to the Vice President for Student Affairs, and other appropriate parties.

Part II Definitions

The following selected terms are defined in an effort to facilitate a more thorough understanding of the Code of Conduct. This list is not intended to be a complete list of all terms referenced in the Code of Conduct that might require interpretation or clarification. The director of student conduct or designee shall make the final determination on the definition of any term found in the Code of Conduct.

Administrative Hearing—a formal meeting or hearing between a hearing officer and a student, which serves the purpose of determining a student’s responsibility for violating the Code of Conduct and to determine sanctions for responsibility.

Advisor— an individual who provides support and/or advice to a party in the conduct process. An advisor may be any individual, including an attorney. An advisor may observe, advise, or pass notes to the party, but in no way may ask questions, speak, or directly participate in the process.

Agreement— the final agreement regarding violations and/or sanctions agreed upon between the hearing officer and the student.

Appellate Body—any person or persons authorized by the dean of students, or designee to conduct a review of a decision reached by an administrative hearing officer or conduct board.

Bullying— the severe or repeated use by one or more students of a written, verbal, or electronic expression, or physical act or gesture, or any combination thereof, directed at another individual, that has the effect of: causing physical or emotional harm to the other student or damage to the other student's property; placing the other student in reasonable fear of harm to him/herself or damage to his/her property; creating a hostile environment at school for the other student; infringing on the rights of other students on campus; materially and substantially altering the education process or the orderly operation of the University. If the bullying is directed at those associated, or perceived to be associated with a protected class, it may be a violation of the University Policy Against Discrimination, Discriminatory Harassment, and Retaliation (included in the Equal Opportunity Diversity and Affirmative Action Plan) and/or a violation of the University's Sexual Violence Policy. Violations of those policies may be addressed under the EO Investigation and Resolution Procedures.

Business Day—any day, Monday through Friday, that the university is open.

Complainant—any person, office, or the university itself, who submits an allegation that a student violated the Code of Conduct.

Class Day— a day when classes are in session.

Day— a calendar day.

Designee— a staff or faculty member who is responsible for implementing the student conduct process or administering the student conduct system, in part or in whole, at the direction of the appropriate dean, director of student conduct, or other university official.

Dean of Students—the person in student affairs, designated by the president, to be responsible for the overall coordination of the university student conduct system, including the development of policies, procedures, and education training programs. The dean may serve as an administrative hearing officer and/or appellate officer.

Dean of Students Hold—an administrative hold placed on a student's account by the Dean of Students for purposes related to the functions of the conduct system, EO Plan, and/or other administrative policies/purposes.

Student Conduct Hold—an administrative hold placed on a student's record when he/she does not respond to the request of a university official to attend an administrative hearing, has not completed a disciplinary sanction, or has withdrawn or left the university while a conduct matter is pending.

Equal Opportunity, Diversity and Affirmative Action Plan ('EO/AA Plan')—The Massachusetts State Universities Plan that includes the policy against discrimination, discriminatory harassment and retaliation, and sexual violence policy. The document also includes the complaint investigation and resolution procedures.

Instructor—any faculty member, teaching assistant, graduate assistants or any other person authorized by the university to provide educational services (e.g., teaching, research, or academic advising).

Interim Restriction—immediate restrictions taken against a student prior to an administrative hearing on the student's alleged violation.

Guest— a non-student who is an associate of a student.

Harassment—means the severe or repeated use by one or more students of a written, verbal, or electronic expression, or a physical act or gesture, or any combination thereof, directed at another individual that has the effect of: causing physical or emotional harm to the other student or damage to the other student's property; placing the other student in reasonable fear of harm to him/herself or damage to his/her property; creating a hostile environment at school for the other student; infringing on the rights of other students on campus; materially and substantially altering the education process or orderly operations of the university.

Hearing Officer—a university staff member who is authorized to determine the appropriate resolution of an alleged violation of the student Code of Conduct, and/or to impose sanctions or affect other remedies as appropriate. A hearing officer is also vested with the authority to, among other duties, investigate a complaint of an alleged violation of the Code of Conduct, decline to pursue a complaint, refer identified disputants to mediation or other appropriate resources.

Informal Resolution—A type of mediation under the student conduct process, which is offered on a discretionary basis. A meeting between a hearing officer and a student to discuss an incident that occurred or a complaint that was filed, which serves the purpose of determining if an agreement can be reached in lieu of an administrative hearing.

Intoxication— an allegation that a person is visibly drunk or under the influence of alcohol.

May— is used in the permissive sense.

Member of the University community—includes any person who is a student, instructor, or university staff member; any person working for the university, either directly or indirectly (e.g., private enterprise on campus); or any person who resides on university premises. The director of student conduct shall determine a person's status in a particular situation.

Policy— the written regulations, standards, and student conduct expectations adopted by the university. These may be amended, modified, or replaced from time to time.

Registered Student Organization— a group or associate of students which has complied with the other student organizations requirements prescribed by the Office of Student Development and by SGA.

Respondent—any student accused of violating the student Code of Conduct.

Sanction— a requirement a student must abide by or complete when found responsible for violating the student Code of Conduct.

Shall and Will—are used in the imperative sense.

Student— any person admitted, registered, enrolled, or attending any university course or university conducted program; any person admitted to the university who is on university premises or university-related premises for any purpose pertaining to his or her registration or enrollment.

Student Conduct File/Record—the printed/written/electronic file which may include but is not limited to incident report(s), correspondence, academic transcript, witness statements, and student conduct history.

Student Organization—an association or group of persons that has complied with the formal requirements for university recognition or is recognized by the university.

University—Fitchburg State University

University document— means any University record, written communication, or form.

University official—any person employed by the university to perform administrative, instructional, or other professional duties.

University premises—all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the university, either solely or in conjunction with another entity.

University Sponsored Activities— any activity, on or off the University premises, which is initiated, aided, authorized, or supervised by the University, including any student, and/or registered student organization.

Victim/Survivor— a person who is harmed, injured, or otherwise directly impacted as the result of a crime accident, violation of the code, or other event or action.

Witness—any person with knowledge of a student’s alleged violation of the student Code of Conduct.

Part III Academic Integrity Policy

Every member of the university community is expected to maintain the highest standards of academic integrity. A student shall not submit work that is falsified or is not the result of the student’s own effort. A student who is in doubt regarding standards of academic integrity in a course or assignment should consult the faculty member responsible for that course or assignment before submitting the work. A student’s lack of understanding of the academic integrity policy is not a valid defense to a charge of academic dishonesty.

A student's name on any written or creative exercise (e.g., examination, report, thesis, theme, laboratory report, computer program, artistic production, etc.), or in association with an oral presentation, declares that the work is the result of that student's own thought and study. Any work that the student declares as his or her own shall be stated in the student's own words and produced without the assistance of others. Students must make clear through accurate citations when they make use of other sources. Talking during an examination, or possession or use of unauthorized materials or equipment during an examination constitutes an infringement of the academic integrity policy. Aiding and abetting academic dishonesty also constitutes a violation of the academic integrity policy.

Unless permission is received in advance from the faculty member in charge of the course involved, a student may not submit, in identical or similar form, work for one course that has been used to fulfill any academic requirement in another course at Fitchburg State University or any other institution. A student who perceives the possibility of overlapping assignments in courses should consult with the appropriate faculty members before presuming that a single effort will fulfill requirements of both courses. Students should consult course syllabi for additional guidance on matters of academic integrity.

A. When an alleged offense of the Academic Integrity Policy has occurred, the following process will apply:

1. If the accuser is a faculty member, and s/he decides to make a formal accusation of a violation of the academic integrity policy, the faculty member will provide the student with a letter describing the case for academic dishonesty within fourteen days of discovering the alleged infringement. [A template letter and more information may be found at: fitchburgstate.edu/judicial] This letter may be presented to the student in person or delivered to the student's home, local or campus address or mailbox, or Fitchburg State University email account. The student will either a) agree with the accusation of academic dishonesty and the sanction as imposed by the faculty member or b) disagree with the accusation of academic dishonesty. (A student cannot agree with the accusation of academic dishonesty but disagree with the sanction. Disagreement with a sanction, in other words, is not grounds for an appeal.)

If the student has agreed with the accusation and signed the letter accordingly, the sanction identified by the faculty member will be imposed, and the matter will be considered closed. If the student disagrees with the accusation and signs the letter accordingly, the student may appeal the matter to the student conduct board. With all formal accusations of a violation of the academic integrity policy, the faculty member will forward a copy of the letter with the student's signature and other relevant information to the Office of Student Affairs. (Proceed to No. 3 below.)

2. If the accuser is not a faculty member, and s/he decides to initiate the formal process, the accuser must submit a report and/or relevant information to the Office of Student Affairs within fourteen days of discovering the alleged infringement of the academic integrity policy.

3. Once a case is forwarded or as an appeal (in the form of a report, signed letter and/or other relevant information), designated student affairs administrator, will review all relevant information and either a) dismiss the incident due to lack of merit or timeliness or b) contact the accused student to schedule a conduct board hearing, or c) when a conduct board is not available and administrative hearing shall be utilized..
4. If the case goes to the conduct board, the board will determine whether the student is responsible or not responsible for violating the academic integrity policy. If the student is found responsible, the board will recommend sanctions to the appropriate academic dean. These sanctions will include those identified by the faculty member and, in the event a student has a prior disciplinary record, may also include the additional sanctions of:
 - a grade of zero on the assignment;
 - a failing grade in the course;
 - suspension from Fitchburg State University;
 - dismissal from Fitchburg State University;
 - or other sanctions.
5. In cases of undergraduate student violations of the academic integrity policy, the appropriate academic dean will either impose the sanction recommended by the conduct board or determine that the sanction is excessive or inadequate and alter it accordingly. In cases of graduate student violations of the academic integrity policy, the appropriate academic dean in consultation with dean of graduate studies (or designee) will take the above action.
6. The student may make a final appeal only for a sanction of suspension or dismissal.

Note: If the student agrees with the academic dishonesty finding by the faculty member, the case will not go before the conduct board; however, if s/he has a prior disciplinary record, the director of student conduct may pursue other charges and sanctions once the academic integrity issue has been resolved.

Part IV Student Code of Conduct

The following conduct shall constitute violations of the student Code of Conduct:

A. Academic Dishonesty

- 1.01 Failure to abide by the Academic Integrity Policy.

B. Personal Conduct

- 2.01 Obstruction or disruption (participating in or inciting others to participate in the disruption or obstruction) of teaching, administration, disciplinary system, the university or community or other university activities.
- 2.02 Conduct, regardless of where it occurs, that is in violation of federal, state and/or local law or university policies that brings into question one's suitability as a member of the university community, or has a detrimental effect on the reputation of the University..

- 2.03 Theft, attempted theft, damage, wrongful utilization of goods or services, possession of stolen and/or unauthorized possession of property, resources, or services.
- 2.04 This code item was removed effective March 15, 2015. It is now referenced in Part IV F. of the code and is in the EO/AA Plan.
- 2.05 This code item was removed effective March 15, 2015. It is now referenced in Part IV F. of the code and is in the EO/AA Plan.
- 2.06 Gambling as defined in the *Student Handbook* is not permitted.
- 2.07 Unauthorized solicitation.
- 2.08 Unauthorized posting and/or distribution of flyers, bulletins or posters.
- 2.09 Failure to abide by the university Raffle Policy.
- 2.10 Failure to abide by the Good Neighbor Policy.
- 2.11 Conduct that is lewd or indecent such as public urination, public defecation, streaking, stripping, or solicitation of a stripper.
- 2.12 Attempted use or actual use of electronic devices that invade a person's privacy.
- 2.12 Assisting another person in the commission, or attempted commission, of a violation of the Code of Conduct.
- 2.13 Violation of published University policies.

C. Physical Safety and Environmental Health

- 3.01 Physical assault, harassment, or bullying, of another person or threats of injury or harm to oneself or another person or any action, which may subject oneself, or another person to physical or mental injury.
Please Note: In determining whether an act constitutes bullying, the Office of Student and Academic Affairs will consider the full context of any given incident, giving due consideration to the protection of the members of the University community, and the individual rights, freedom of speech, academic freedom and advocacy required by law. Please note that not every act that might be offensive to an individual or a group necessarily will be considered a violation of the Code of Conduct. In addition, please note that any allegation of harassing behavior and/or bullying involving alleged discrimination and/or discriminatory harassment, which falls under the EO Plan, will be referred to and addressed through the University's EO Plan.
- 3.02 This code item was removed effective March 15, 2015. It is now referenced in Part IV F. of the code and is in the EO/AA Plan.
- 3.02A This code item was removed effective March 15, 2015. It is now referenced in Part IV F. of the code and is in the EO/AA Plan.
- 3.03 Possession or use of weapons or weapon replicas, including explosives, fireworks or other dangerous items or substances. Violation of the weapons policy as noted in the Student Handbook.
- 3.03A Possession or use of defensive sprays (including pepper spray) that has not been registered with University Police.

- 3.04 Creating a fire hazard, bomb or a dangerous situation which endangers others including false reports of fire or bombs, failing to evacuate, as well as tampering with, damaging, disabling, or removing fire safety equipment and warning devices. Failure to follow fire safety procedures or instructions; or interference with firefighting equipment or personnel.
- 3.05 Failure to abide by the university hazing policy.
Please Note, the express or implied consent of the victim will not be a defense. Apathy and/or acquiescence in the presence of hazing are not neutral acts; they are violations of this code item.
- 3.06 Trespassing, forcible entry, or unauthorized entry and/or presence in buildings or property where posted or restricted, or attempts to commit the same. Reasonable notice of authority, or lack thereof, shall be given.
- 3.07A Failure to abide by university policy governing service and/or assistance animals.
- 3.07B Animals, with the exception of approved service animals and/or assistance animals are not permitted on campus property or in campus buildings.
- 3.08 Failure to abide by university or state policy governing smoking in public buildings and/or University residence halls. Smoking within 25 feet of a University building entrance.
- 3.09 Failure to abide by established campus motor vehicle regulations.
- 3.10 Rollerblades, skateboards, bikes or motorized scooters are not permitted on campus or in campus buildings, except where authorized and/or permitted.
- 3.11 Playing sports where restricted.
- 3.12 Possession of prohibited items in the residence halls as outlined in the Housing Agreement/Policies and Procedures.
- 3.13 Failure to maintain community health and living standards as outlined in the Housing Agreement/Policies and Procedures.

D. Personal Identification and Representation

- 4.01 Falsification of one's identity or that of another (including production, possession or distribution of fake IDs and/or OneCards) or failure to show student identification upon request to a properly identified official or member of the Fitchburg State University staff (including resident assistants, university police officers, food service and bookstore staff).
- 4.02 Misrepresentation of a university official or campus organization or representing oneself as another.
- 4.03 Unauthorized possession, duplication, tampering, or misuse of University property or other personal or public property, including but not limited to records, electronic files, telecommunications systems, forms of identification, and keys. Knowingly submitting false information for incorporation into any University record or document.

- 4.04 Failure to comply with a reasonable request of a university official.
- 4.05 This code item has been moved to section G.
- 4.06 Failure to abide by university computer policies, information technology policies, or network policies.
- 4.07 Failure to register an event.
- 4.08 Failure to adhere to university guest policies.
- 4.09 Unauthorized use of the University name, logo, mascot, or other symbol.

E. Alcohol and Drugs

- 5.01 Failure to adhere to university policies governing alcohol.
- 5.02 Failure to adhere to university policies governing drugs.

F. EO/AA Plan (Discrimination Policy and Sexual Violence Policy)

Note: The EO/AA Plan supersedes the Code of Conduct. Incidents that fall under the EO/AA Plan and/or the code items listed below are addressed through the complaint investigation and resolution procedures identified in the EO/AA Plan. Other violations of the Code of Conduct discovered during a complaint investigation will be addressed through the EO/AA Plan.

- 6.01 Discrimination as defined in the EO/AA Plan, Policy Against Discrimination
- 6.02 Discriminatory Harassment as defined in the EO/AA Plan, Policy Against Discrimination
- 6.03 Retaliation as defined in the EO/AA Plan, Policy Against Discrimination
- 6.04 Sexual Violence as defined in the EO/AA Plan, Sexual Violence Policy
- 6.04A Rape as defined in the EO/AA Plan, Sexual Violence Policy
- 6.04B Sexual Assault as defined in the EO/AA Plan, Sexual Violence Policy
- 6.04C Sexual Exploitation as defined in the EO/AA Plan, Sexual Violence Policy
- 6.04D Incest as defined in the EO/AA Plan, Sexual Violence Policy
- 6.04E Statutory Rape as defined in the EO/AA Plan, Sexual Violence Policy
- 6.04F Aiding in the Commission of Sexual Violence as defined in the EO/AA Plan, Sexual Violence Policy
- 6.05 Sexual Harassment as defined in the EO/AA Plan, Sexual Violence Policy
- 6.06 Gender-Based Harassment as defined in the EO/AA Plan, Sexual Violence Policy
- 6.07 Domestic and Dating Violence as defined in the EO/AA Plan, Sexual Violence Policy
- 6.08 Stalking as defined in the EO/AA Plan, Sexual Violence Policy
- 6.09 Retaliation as defined in the EO/AA Plan, Sexual Violence Policy

G. Abuse of the Student Conduct System

- 7.01 Disruption or interference with the orderly conduct of a student conduct proceeding.
- 7.02 Falsification, distortion, or misrepresentation of information to an administrative hearing officer, student conduct staff member, the conduct board, or within the student conduct process.
- 7.03 Influencing or attempting to influence another person to commit an abuse of the student conduct system.
- 7.04 Attempting to discourage an individual's proper participation in, or use of, the student conduct system.
- 7.05 Attempting to intimidate a member of the conduct board prior to, during, and/or after a student conduct proceeding.
- 7.06 Intimidation and/or retaliation of any person submitting a report, listed as a witness, and/or participating in a student conduct proceeding.
- 7.07 Institution of a student conduct proceeding in bad faith.
- 7.08 Failure to comply with interim restrictions imposed by a University official.
- 7.09 Failure to comply with the sanction(s) imposed under the Code of Conduct.

Part V Student Conduct Process

Fitchburg State University expects its students to act in a mature and responsible manner. Respect for the rights of others, openness to new and challenging ideas, civility and courtesy are examples of this expectation. The student conduct process has been established to address alleged violations of the student Code of Conduct. The goal of the student conduct system is to support the educational mission of the university by insuring that an atmosphere of acceptance, curiosity and integrity is maintained on the campus.

Note: The EO/AA Plan supersedes the Code of Conduct. Incidents that fall under the EO/AA Plan are addressed through the complaint investigation and resolution procedures identified in the EO/AA Plan. Other violations of the Code of Conduct discovered during a complaint investigation will be addressed through the EO/AA Plan.

A. Preface

1. Fitchburg State University recognizes that students, as members of society and citizens of the United States of America, are entitled to respect, consideration and guaranteed freedoms of speech, assembly and association under the constitution. Fitchburg State University further recognizes students' rights within the institution to freedom of inquiry and the responsible use of university services and facilities.

2. Students at Fitchburg State University have a responsibility to act in a manner that promotes the wellbeing, respect, safety and security of all members of the university community.
3. It is the responsibility of students to know and understand individual department policies as well as campus policies published in the *Student Handbook* and other University literature.. These policies include, but are not limited to, policies stated in the Housing Agreement, Academic Integrity Policy, Acceptable Use of Technology Policy, EO/AA Plan, Smoking Policy, Parking Policy, Hazing Policy, Alcohol Policy and Substance Abuse Policy.
4. The student Code of Conduct is applicable to any student enrolled in or accepted for an academic program, regardless of credits carried, any individual attending classes at Fitchburg State, or any individual residing in campus housing at Fitchburg State University , or any recognized student organization. Generally, a student may not withdraw from the university with a pending conduct matter. If a student does withdraw with a pending conduct matter, either the case may proceed and be heard regardless of student participation, or the case may be held until such time the student seeks to readmit. Such decisions shall be made by the Dean of Students.
5. The student Code of Conduct applies to student conduct, which occurs at Fitchburg State University or any of its grounds or at any university related activity regardless of location. In addition, the student Code of Conduct applies when student conduct, wherever it occurs, calls into question a student's suitability as a member of the Fitchburg State University community, and/or has a detrimental effect on the reputation of the University.
6. Students who allegedly violate the student Code of Conduct, EO/AA Plan, good neighbor policy, or other university policies may become subject to disciplinary action.
7. Students may be accountable to both civil authorities and to Fitchburg State University for conduct, which constitutes violations of local, state, federal laws, the student Code of Conduct, and/or other university policies. On-campus student conduct procedures may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the dean of students. On campus student conduct proceedings will not be subject to challenge on the ground that civil or criminal charges involving the same incident have been dismissed or reduced. When a student has been charged with a civil or criminal violation(s) of law, Fitchburg State University will neither request nor agree to special consideration for the student solely because of his or her status as a student.
8. The student Code of Conduct and student conduct process are published in order to give students general notice of prohibited conduct. The student Code of Conduct should be read broadly and is not designed to define misconduct in exhaustive terms.

9. The student Code of Conduct and the student conduct process are not to be regarded as contracts between students and Fitchburg State University. The university reserves the right to amend any provision of the student Code of Conduct and student conduct process at any time. Fitchburg State University will publish amendments in relevant campus publications.
10. Any conduct which may have been influenced by a student's mental state (irrespective of the ultimate evaluation), or the use of alcohol or other drugs shall not in any way limit the responsibility of the student for the consequences of his or her actions.
11. A student conduct and/or Dean of Students hold may be placed on a student's academic record (or further action may be taken) when a student does not comply with a sanction or withdraws from the university prior to a hearing. Students with a hold may not be permitted to register, receive transcripts, receive a diploma, add or drop courses, register for university housing, or participate in other university activities.

Part VI Disciplinary Procedure

Note: The EO/AA Plan supersedes the Code of Conduct. Incidents that fall under the EO/AA Plan are addressed through the complaint investigation and resolution procedures identified in the EO/AA Plan. Other violations of the Code of Conduct discovered during a complaint investigation will be addressed through the EO/AA Plan.

A. Incident Report

Any member of the Fitchburg State University community may submit a written incident report documenting a student for an alleged violation of policy. When possible, this report should be submitted within 60 calendar days of discovery of the alleged violation. The Dean of Students conduct has the authority to extend this time-frame on a case-by-case basis. In cases involving allegations of sexual assault, as defined in the EO/AA Plan, any member of the Fitchburg State University community may submit a written complaint at any point during the time the respondent is enrolled or matriculated at Fitchburg State University.

All incident reports will be referred to the dean of students or designee who may take one or more of the following actions within 10 business days:

1. Dismiss the incident report if it lacks merit, or is not submitted in a timely manner
2. Continue the matter pending further information and/or remand the matter for further administrative investigation.
3. Schedule a mediation session and/or informal resolution meeting
4. Refer the matter for an administrative or conduct board hearing, and/or

5. Impose interim restrictions when there are sufficient facts to show that the student's continued presence on the campus endangers the physical safety or well being of others or themselves, or disrupts the educational process of the university.

B. Mediations and Hearings

1. The objective of the mediation is for the accused student and the individual submitting the incident report to agree upon a mediated solution. The objective of an informal resolution meeting is for the charged student and a University official to agree upon a resolution, come to an agreement. If an agreement is reached, the case will end with no opportunity for appeal. All parties must agree to the outcome. If no agreement can be reached, the case will be referred to the dean of students, or designee, for an administrative or conduct board hearing, or dismissal of the case.
2. Administrative and conduct board hearings are formal hearings and/or meetings to determine a student's responsibility for violating the student Code of Conduct and to determine sanctions for responsibility.
3. Charges involving physical assault, weapons , or at the discretion of the dean of students will be heard through an administrative hearing.
4. Mediations, informal resolution meetings, administrative and/or conduct board hearings will be conducted as soon as possible, but no sooner than two (2) business days nor more than fifteen (15) business days after the accused student has been officially notified (barring extenuating circumstances and/ or in the event of an emergency, at the discretion of the dean of students). Accused students may request postponement of a meeting to be granted at the discretion of the hearing body.
5. Notice to appear for mediation, informal resolution meeting, or an administrative or conduct board hearing will be delivered in writing to the student's (respondent's) email account. Notice shall be considered delivered when delivered to the student's email account, whether or not the student has retrieved the notification letter by logging in, and/or read the email. At the discretion of the hearing officer, notice may also be sent via hard copy through housing, campus mail, text message, or the US Postal Service. The notice will include the specific alleged violations of the student Code of Conduct, the name or office of the person(s) submitting the incident report, the time and place of the mediation or administrative or conduct board hearing (or a request for the student to schedule same), the names of all witnesses who will testify, the fact that failure to appear for the hearing will result in the hearing being conducted in the accused student's absence, the fact that the participants should provide the names and what they will testify too, of witnesses who will appear on their behalf to the hearing officer at least 2 business days prior to the hearing (the hearing body shall determine the relevancy of the witness), and the fact that participants may request additional information about the student conduct process.

- 6.** When multiple parties are involved in the same incident the hearing body will decide whether cases will be heard together or separately.
- 7.** Mediations, informal resolution meetings, investigations, administrative or conduct board hearings, and etc. are not open to the public and are confidential in nature.
 - a.** Recording of any kind is strictly prohibited. Any person found in violation of this rule may be immediately removed from the meeting/hearing. Violation of this rule may result in disciplinary action for code item 7.01.
 - b.** If the University chooses to record a hearing, when all present parties agree, a copy of the recording, and/or transcription shall be saved to the student's file and made available to the student/respondent upon request.
- 8.** Only evidence and/or information introduced at the administrative or conduct board hearings will be considered in determining a accused student's responsibility. Formal rules of process, procedure and/or technical rules of evidence, such as are applied to criminal or civil court, are not used in Fitchburg State conduct proceedings.
- 9.** Administrative hearing officers and conduct board members must be impartial. Hearing officers and/or board members may recuse themselves at any time if they feel they cannot be impartial or remain unbiased. Questions of impartiality or bias should be directed to the Dean of Student or Vice President for Student Affairs.
- 10.** The decision of the administrative hearing officer or conduct board will be made on the basis of whether it is more likely than not (the preponderance standard) that the respondent violated the student Code of Conduct.
- 11.** Any person, including the accused student, who disrupts an administrative or conduct board hearing or who fails to adhere to the rulings of the hearing officer, may be excluded from the administrative or conduct board hearing.
- 12.** Mediations and administrative or conduct board hearings may be recessed at any time provided they are reconvened within ten (10) business days (barring extenuating circumstances).
- 13.** There may be written and/or recorded summation or other type of record as determined by the student conduct administrator and/or hearing officer, of all meetings and/or hearings. The record shall be the property of Fitchburg State University and maintained in the student's file.
- 14.** A student may not be found to have violated the Code of Conduct solely because the student failed to appear for a hearing and/or meeting. In all cases, the materials and information in support of the alleged violations shall be presented and considered, as the hearing will be held in the absence of the student, should he/she fail to attend.
- 15.** A case may be reopened after the final decision is made if both of the following conditions are met:

- a. There is newly available evidence and/or information which could not reasonably have been discovered at the time of the original hearing.
 - b. The request to reopen is made within the one academic semester following the date of the original final decision. The dean of students has the authority to extend the time-frame on a case-by-case basis.
- 16. When a student has also been criminally charged, the respondent has the right to refuse to incriminate him/herself. All statements made in the hearings or any information submitted is subject to subpoena.
- 17. All procedural questions are subject to the final decision of the dean of students, or designee.

Part VII Administrative Hearing Officer(s)

The dean of students, or designee(s) will conduct administrative hearings.

Administrative board hearings shall consist of appointed administrative hearing officers and follow the same procedures for an administrative hearing.

Part VIII Student Conduct Board

1. The student conduct board will be comprised of at least five students, and at least one faculty member and one administrator. The dean of students, or designee, will serve as chairperson of the student conduct board with no voting power.
2. Student members must be in good academic and disciplinary standing, and have been enrolled at Fitchburg State University for at least one semester. Student members will be selected and appointed by the dean of students.
3. The faculty member(s) will be appointed by the president of the university upon a recommendation from the president of the local Fitchburg State University chapter of the Massachusetts Teachers Association. Faculty members may also be selected by the director of student conduct.
4. Administrators will be selected and appointed by the director of student conduct.
5. The term of office for each conduct board member will be one academic year.
6. A quorum of five conduct board members is required to hold a conduct board hearing.
7. All decisions by the conduct board will be arrived at by a simple majority vote.
8. Any conduct board member may be removed from the conduct board by a vote of three-fourths of the total membership of the conduct board.

Part IX Rights of All Parties

A. Respondent will be entitled to:

1. Written notice of charges, the name of the person(s)/office submitting the incident report (complaint), the right to review the incident report upon written request, the time and place of the mediation, informal resolution meeting, or administrative or conduct board hearing, the names of all witnesses who will testify, the fact that failure to appear for the hearing will result in the hearing being conducted in the accused student's absence, the fact that the accused student may provide the names and what they will testify too, of witnesses who will appear on their behalf (must be provided to the hearing officer 2 business days in advance) (relevancy shall be determined by the hearing officer) and the fact that the respondent may request additional information about the conduct process and consideration on appeal;
2. Opportunity to present their case, pose and/or raise any questions for consideration, and present witnesses on their behalf;
3. Not answer any questions or make any statements during an administrative or conduct board hearing. Such silence will not be used against the respondent; however, the outcome of the hearing will be based upon the information (or lack thereof) presented during the hearing;
4. Be advised by an advisor. Only one advisor per party is allowed in the hearing. Advisors are not permitted to address the administrative hearing officer or conduct board and may not participate directly in any hearing. The administrative hearing officer or conduct board, at their discretion, will also be permitted to have legal counsel present;
5. Be informed in writing within five (5) business days of the decision (barring extenuating circumstances);
6. Opportunity to appeal the decision based on the appellate criteria outlined in the appeals section.

B. Alleged victims will be entitled to:

1. Submit a 'victim impact' statement to explain the emotional, physical, financial, educational and/or other impact(s) the incident has had on the alleged victim's life. This statement may be read into the hearing record;
2. Be advised by an advisor. Only one advisor per party is allowed in the hearing. Advisors are not permitted to address the administrative hearing officer or conduct board and may not participate directly in any hearing;
3. Notice of the decision consistent with applicable law.

Part X Sanctions

Fitchburg State University adheres to and upholds a philosophy of progressive discipline whenever appropriate. The conduct system and imposition of sanctions contribute to the teaching of appropriate individual and group behavior and foster the ethical development and personal integrity of students.

1. In determining a sanction, the responsible student's present demeanor, past disciplinary history, the nature of the offense, the resulting severity of any damage, injury or harm and other factors may be considered.
2. Any one or more of the following sanctions may be imposed, deferred, or held in abeyance by the administrative hearing officer or conduct board. A student shall not be considered in good conduct standing while they are on any type of conduct probationary status.
 - a. **Warning.** Verbal or written notice that the behavior has been inappropriate. May be considered part of student conduct record in future disciplinary action.
 - b. **Fine.** A fine is a fee, financial sanction, imposed for alcohol, drug, and/or other violations which will be used toward alcohol and/or other drug education and alternative programming.
 - c. **Restitution.** Financial compensation for damages or costs may not exceed the actual value.
 - d. **University/educational service.** Assignment of an appropriate project or attendance at an educational workshop that will benefit the university community, responsible student or others.
 - e. **Referral.** A student may be referred to the counseling services, substance awareness, health services or other appropriate offices or local agencies when deemed appropriate by the director of student conduct, or designee.
 - f. **Restriction.** Denial of access to any campus facility, activity, class or program, or denial of student privileges.
 - g. **Disciplinary Probation.** A period of time during which a student's behavior is subject to close examination. Restrictions may be imposed by the administrative hearing officer or conduct board as a condition disciplinary probation. Such restrictions may include, but are not limited to, prohibiting a student from serving on the All University Committee or its subcommittees, holding elected or appointed office in SGA or campus organizations, or participating in intercollegiate athletics, or for graduate students prohibiting the student from serving on graduate council and its subcommittees and/or graduate program curriculum committees.
 - h. **Relocation of Residence.** Required assignment to another residence area.

- i. **Deferred Loss of Residence.** A delayed removal from university operated residence halls for a period of up to two semesters. Any proven offense during this period may result in immediate loss of residence.
- j. **Loss of Residence.** Removal from the residence halls. The expiration of the loss of residence period is no guarantee of readmittance to housing.
- k. **Deferred Suspension.** A delayed removal from class/the university for a period up to two semesters. Any proven violation during this period may result in immediate suspension for a specific period of time.
- l. **Suspension.** Removal from class/the university for a specified period of time ranging up to a maximum of two years. Suspended students must remove themselves from the campus totally. Students suspended from the university may not attend evening or online classes during their suspensions. The expiration of the suspension period is no guarantee of readmittance.
- m. **Deferred Loss of Recognition.** A delayed removal of recognition as a recognized student organization. Any proven violation during this period may result in immediate loss of recognition for a specified period of time.
- n. **Loss of Recognition.** During this time, a recognized student organization may not associate itself with the university by using the university name, facilities, and/or other rights and privileges of recognized student organizations. The expiration of the loss of recognition period is no guarantee of re-recognition.
- o. **Dismissal.** Permanent removal from the university.
- p. **Notification.** Parents, faculty/staff and others may be notified or contacted regarding a student's behavior consistent with applicable law.
- q. **Other Sanctions.** Other sanctions may be imposed instead of or in addition to those specified above.

Part XI Appeals

1. Students may appeal the results of an administrative hearing or conduct board hearing. Requests for an appeal must be submitted in writing to the Office of Student Affairs electronically on the Student Conduct website, or emailed to judicial@fitchburgstate.edu. The appeal request must be submitted by the student. Appeal requests not received in the established timeframe or that do not meet the established criteria will be rejected.
2. Appeal requests will be considered based on the following criteria:
 - a. procedural error within the conduct process that would substantially change the outcome of the hearing;

3. The director of housing and residential services, or designee, may impose upon a student pending disciplinary action immediate residential restrictions without prior notice whenever there are sufficient facts to show that the accused student's continued presence in the residence halls disrupts or potentially disrupts the residential community.
4. Students wishing to appeal an interim restriction must first do so in writing, by submitting a written appeal to the Office of Student Affairs. Upon receipt of the written appeal, the student shall have the opportunity to meet with the dean of students, or designee, to present their own version of the facts and to indicate why interim restrictions should not be imposed. Following this meeting, the decision of the dean or designee will be final.
5. Violations of interim restrictions may result in suspension or dismissal from Fitchburg State University.

Part XIII Protective Measures and No-Contact Orders

The dean of students, or designee may take administrative action, irrespective of the student conduct process, to provide protective measures and/or issue no-contact orders. A student wishing to contest any such measures, shall submit a letter in writing to the Office of Student and Affairs. Such measures may include but are not limited to:

1. "No contact/communication" orders;
2. escorts to ensure safety while moving between locations on campus;
3. changes in academic or work schedules;
4. alternative housing, dining, and/or office accommodations;
5. restrictions from areas of campus;
6. assistance in identifying an advocate to help secure additional assistance, such as off-campus and community advocacy, support and services; and/or
7. appropriate academic accommodations.

Part XIV Hearings When Classes are Not in Session

In the absence of a functioning conduct or appeals board, during exams, when classes are not in session or during the summer, or in the case of off-campus academic programs, hearings will be the responsibility of the appropriate dean, or designee. Administrative hearings may be utilized for academic integrity cases and/or other cases when a board cannot be convened.

Part XV Accommodations for Students with Disabilities

- 1.** A student with a disability who desires an accommodation in reference to a mediation, informal resolution meeting, administrative hearing, or conduct board hearing, appeal, or any other student conduct meeting must request an accommodation by following the procedure for requesting an accommodation through the Disability Services Office. The Disability Services Office will make a determination regarding the request and notify the appropriate parties. A student will not be considered to have a disability unless and until the student registers with the Disability Services Office. Please contact the Disability Services Office for further information.
- 2.** Reasonable accommodations depend upon the nature and severity of the individual's documented disability and the setting for which the accommodations are requested. The University is not required to grant a requested accommodation that is unreasonable, ineffective, an undue burden or substantially alters a University program, service or practice. Reasonable accommodations will be provided as required by law.
- 3.** All students, irrespective of a disability, substance use issue, mental health condition, and/or any other condition are expected to adhere to the Code of Conduct and University policies. The American with Disabilities Act does not protect behaviors alleged to be a consequence of a disabling condition.

Part XVI Maintenance and Review of Student Conduct Files

- 1.** Student Conduct files are deemed educational records and are maintained separately from any other academic or official file at the University by the director of student conduct or designee. Generally, information from the files is not released without the written consent of the student. However, certain information may be provided without a student's prior consent to individuals within the University who have a legitimate legal or educational interest in obtaining it, and to individuals outside the University under certain circumstances. (Please refer to the federal Family Educational Rights and Privacy Act of 1974, as amended.
 - a.** A student conduct file is any record where the student has been found responsible for a violation of the Code of Conduct.
 - b.** Other records are maintained, but not considered student conduct files/disciplinary records for reporting purposes.
- 2.** The sanctions of "Suspension" and "Dismissal" may be noted on the student's official transcript. A suspension may be noted during the period of the suspension. A dismissal may be noted permanently.
- 3.** A Student Conduct file is maintained chronologically by incident date and then by the respondent. A student may have more than one file. Generally, a Student Conduct file, including related documents, will be kept for seven (7) years from the final disposition of an incident. In cases of suspension or other

special circumstances, at the discretion of the director of student conduct, files may be maintained longer. The Student Conduct file of a suspended and/or dismissed student is maintained permanently. All files and records are maintained in an electronic database.

4. In situations involving both a respondent and a student who believes he/she was victim of a student's misconduct, the records of the process, if any, will be considered to be the educational records of both the accused student and the student who believes himself/herself to be the victim because the educational career and chances of success in the academic community of each may be impacted.
5. The dean of students or designee has final authority regarding the inspection, review, or release of any student conduct file.

Part XVII Interpretation and Revision

1. Any questions of interpretation regarding the Code of Conduct shall be referred to the dean of students or designee for determination. The dean of students or designee's determination is final.
2. The Code of Conduct shall be reviewed at least every three (3) years under the direction of the dean of students. Substantive revisions shall be approved by the president and/or executive cabinet.

For further information regarding university policies and procedures, please visit fitchburgstate.edu/sal to view the *Student Handbook*.