

# Judicial Affairs Handbook

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# I'm a Victim

Here are the answers to some of the questions you may have if you are considering filing a complaint against a student in violation of the Student Code of Conduct. The most important thing to remember about Student Judicial Affairs at FHSU is that the emphasis is on personal development and learning.

## ***How do I file a complaint?***

You may want to make an appointment with Assistant Vice President for Student Affairs (Administrative Officer of judicial programs) to discuss the situation and possible means for resolving the matter.

To file a complaint you may write a statement that describes what happened, being sure to include the time, place, who was involved, and as many details as you can remember.

## ***If I decide to file a complaint, what happens next?***

The Administrative Officer will review the incident report with the individual who has reported the violation. The administrative officer will decide: 1) if the report should be resolved informally or 2) if the student(s) alleged to be violation of the code should be required to attend a Student Conference.

If the decision is to move to the student conference, the accused student(s) will receive a letter from the Student Affairs Office, informing them that they've been accused of violating the Student Code of Conduct. The letter will specify what part(s) of the Code they are alleged to have violated. In addition, the letter will tell them that they need to make an appointment or will have an appointment date already scheduled for the Student Conference. At the Student Conference, the accused student(s) will find out in detail the specifics of the complaint.

## ***Will the Student Affairs staff member with whom the accused student(s) meet for the Student Conference make a decision about whether they are in violation of the Code?***

The purpose of the Student Conference is to see if an agreement can be reached about what happened and what might be an appropriate way to resolve the situation. Therefore, if the Student Affairs staff member and the accused student can agree on what happened (i.e., the student admits the violation) and on recommended sanction(s), the matter will be considered initially resolved. When the student completes the sanction(s), the matter is then finally resolved.

If the accused student does not admit the violation or if the Student Affairs staff member and the accused student cannot reach an agreement on a sanction, then the matter moves on to a hearing. The hearing will be scheduled as soon as the hearing panel can be convened.

## ***May I have an advisor with me at the hearing?***

Yes - you may have someone of your choosing accompany you to the hearing. It is important to note that this person will not be permitted to present your case for you, and will not be permitted to address the hearing panel. However, you may consult with them during the hearing.

## ***Will I have to be at the hearing?***

Yes, you will need to be present at the hearing and present the information you gave in the complaint form or statement. The accused student(s) have the right to ask you questions about what you say at the hearing.

## ***How can a student making a complaint prepare for the hearing?***

These suggestions are not made in any particular order.

- Compile a list of witnesses.
- Decide whether or not you want to have an advisor with you, and if you do, contact that person.

- Make notes about pertinent facts and information.
- Try to anticipate questions you will be asked.
- Outline the main points of what you want to tell the hearing panel.

***Who is in charge of the hearing?***

In the case of the Student Panel, the chair will conduct the hearing. The Administrative Officer (most often the Assistant Vice President for Student Affairs) will conduct the hearing in the case of an administrative hearing.

***How will the administrative or student panel make a decision?***

The purpose of the hearing is to bring forward any information that is available regarding the alleged violation. To that end, both the person making the complaint and the accused student may have witnesses and physical evidence at the hearing. The members of the hearing panel make a decision based on the information presented at the hearing. They use the "preponderance of evidence" rule - this means that in order for a student to be found in violation, the evidence must convince the hearing panel that it is more likely than not that the student violated the rule or policy. The weight and credibility of the evidence is considered.

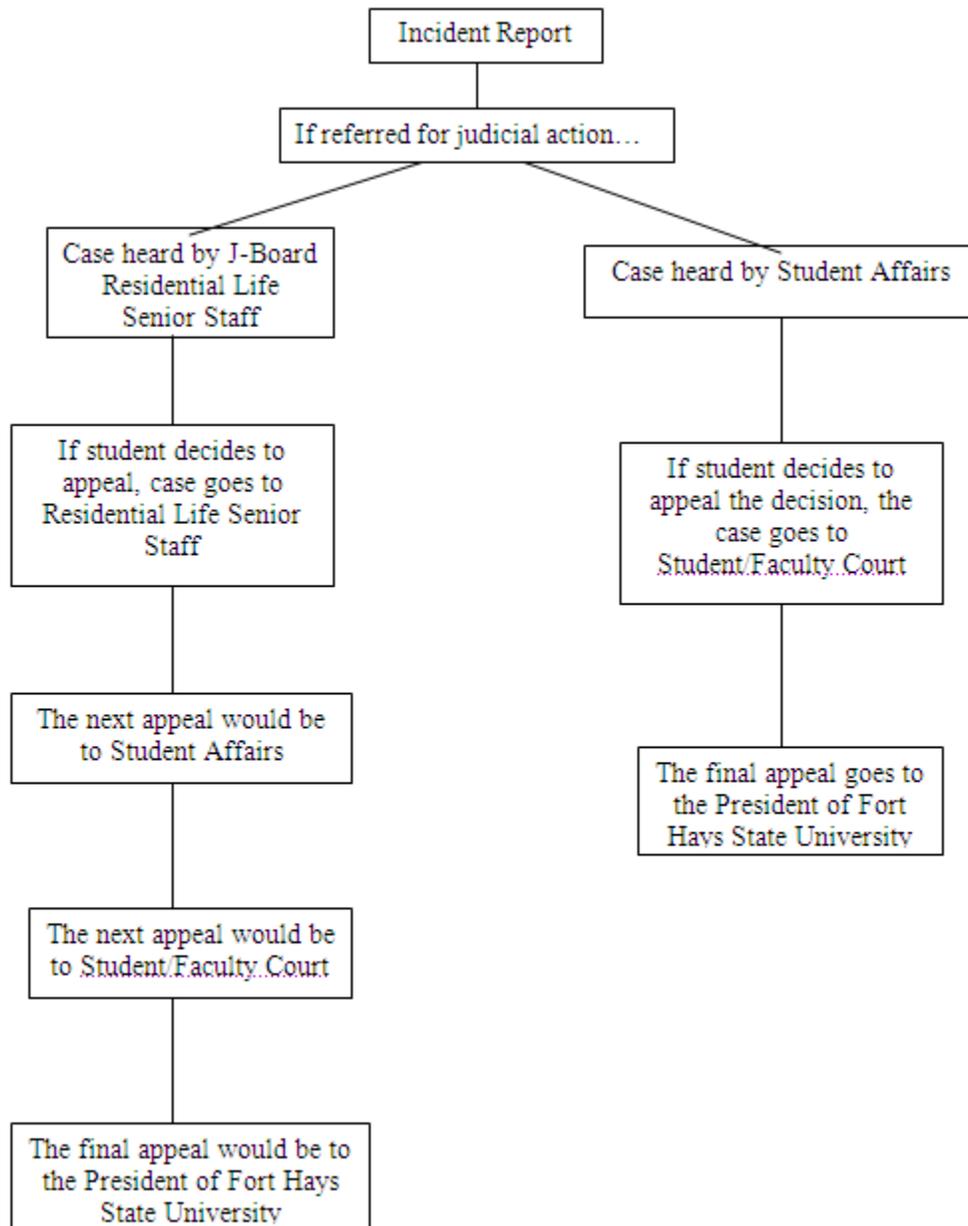
***What happens if the accused student is found in violation of the Code? Will they be automatically required to leave FHSU?***

The hearing panel will develop appropriate sanctions. There a number of sanctions possible and the accused student do not automatically have to leave the University. The accused student(s) have the right to appeal the decision (see the Judicial Appeals-at-a-Glance).

***If the accused student(s) are found in violation of the Code, will that be recorded on their transcript?***

No.

# Judicial Appeals at a Glance



# I'm Accused

Here are the answers to some of the questions you may have if you are accused of violating the Student Code of Conduct. The most important thing to remember about Student Judicial Affairs at FHSU is that the emphasis is on your personal development and learning.

## ***What happens after I am accused of violating the Student Code of Conduct?***

You'll receive a letter from the Student Affairs Office, informing you that you've been accused of violating the Student Code of Conduct. The letter will specify what part(s) of the Code you are alleged to have violated. In addition, the letter will tell you that you need to do to make an appointment or it will have a time and date already indicated for a Student Conference. At the Student Conference, you'll find out in detail the specifics of the complaint.

It is very important that you make the appointment for the Student Conference, and keep that appointment. Ignoring the situation will not make it go away, and ignoring the letter could result in holds on your registration, enrollment and transcripts.

## ***Will the Student Affairs staff member with whom I meet for the Student Conference make a decision about whether I am in violation of the Code?***

The purpose of the Student Conference is to see if an agreement can be reached about what happened and what might be an appropriate way to resolve the situation. Therefore, if the Student Affairs staff member and the accused student can agree on what happened (i.e., the student admits the violation) and on recommended sanction(s), the matter will be considered initially resolved. When the student completes the sanctions, the matter is then finally resolved.

If the accused student does not admit the violation, then the matter moves on to a hearing. The hearing will be scheduled as soon as the hearing panel can be convened.

It is important to note that you should not falsely admit to a violation "just to get it over with." The most important thing to remember is to be honest.

## ***How can a student prepare for the hearing?***

These suggestions are not made in any particular order.

- Write a response to the complaint.
- Compile a list of witnesses.
- Decide whether or not you want to have an advisor with you, and if you do, contact that person.
- Make notes about pertinent facts and information.
- Try to anticipate questions you will be asked.
- Outline the main points of what you want to tell the hearing panel.

## ***Who is in charge of the hearing?***

In the case of the Student Panel, the chair will conduct the hearing. The Administrative Officer (most often the Assistant Vice President for Student Affairs) will conduct the hearing in the case of an administrative hearing.

## ***May I have an advisor with me at the hearing?***

Yes - you may have someone of your choosing accompany you to the hearing. It is important to note that this person will not be permitted to present your case for you, and will not be permitted to address the hearing panel. However, you may consult with them during the hearing.

## ***How will the administrative or student panel make a decision?***

The purpose of the hearing is to bring forward any information that is available regarding the alleged violation. To that end, both the person making the complaint and the accused student may have witnesses and physical evidence at the hearing. The members of the hearing panel make a decision based on the information presented at the hearing. They use the "preponderance of evidence" rule - this means that in order for a student to be found in violation, the evidence must convince the hearing panel that it is more likely than not that the student violated the rule or policy. The weight and credibility of the evidence is considered.

***What happens if I am found in violation of the Code?***

The hearing panel will develop appropriate sanctions. You have the right to appeal the decision (see the Judicial Appeals-at-a-Glance).

***If I am found in violation of the Code, will that be recorded on my transcript?***

No.

***Who is permitted to look at my discipline record?***

Disciplinary records are very confidential and are protected as education records under the Family Educational Rights and Privacy Act. In general, they cannot be released to anyone else without your written consent.

## **STUDENT DISCIPLINE**

### **Introduction**

The disciplinary process at FHSU strives to provide students with positive reinforcement for living within the guidelines for acceptable behavior. The standards of behavior are set forth in the Student Code of Conduct. The intent is to make discipline educational and not punitive.

The encouragement and development of self-discipline is a primary goal of the educational process. The judicial system established hereby is designed to further this process and, therefore, is not comparable to or a substitute for jurisprudence under the criminal code. Only under extreme circumstances will the process be viewed as a method of terminating the student's relationship with FHSU.

Students facing possible disciplinary action are assured that due process will be provided. This means they are told how the disciplinary process of the University functions, they will be made aware of the conduct alleged to have been in violation, they will have the opportunity to defend themselves by having witnesses appear on their behalf, they may have an advisor help them, and they may appeal the decision. Appealing a disciplinary action must be done within a defined span of time, but usually the disciplinary action will not go into effect until the appeal is heard. The exception to this practice occurs only when delaying action until after an appeal would significantly compromise the safety and well being of the University community.

Procedurally, discipline is handled as close to the level of the problem as is possible and reasonable. In other words, residence hall behavior concerns are normally handled by the Residence Hall staff and/or Residence Hall Judicial Boards; Greek conduct questions are handled by the house of which the accused is a member, Interfraternity Council, Panhellenic Council, Greek Standards Review Board, etc. Local law enforcement authorities generally handle off-campus law violations. The University reserves the right to make a case-by-case determination as to whether some conduct which occurs off of the premises of the University may be addressed under this policy.

Violations of the Student Code of Conduct that do not fall under the jurisdiction of the judicial bodies listed above are normally handled by the Office of Student Affairs. This office also serves as the appellate body for Residence Hall Boards and the Greek Standards Review Board. The Assistant Vice President for Student Affairs is responsible for the coordination of administrative judicial programs and proceedings as described on the next page.

In extraordinary circumstances having a detrimental impact on the University community, the Vice President for Student Affairs or his/her designee may determine that summary administrative suspension or dismissal is appropriate. If such a determination is made, the student will be so informed and provided with the opportunity to meet with the Vice President or his/her designee. After investigation and consideration of information presented by the student, if any, the Vice President or his/her designee will decide whether a sanction is warranted. This decision can be appealed to the President or his or her designee, whose decision will be final.

## **Reporting Violations**

Incident reports describing the alleged violation should be sent or delivered to the Assistant Vice President for Student Affairs, a designee of the Vice President for Student Affairs. The office is 208 Sheridan Hall.

The Administrative Officer will review the incident report. The Administrative Officer will review with the individual who has reported the incident and investigate the complaint in order to make a determination concerning whether the University will charge the student(s) with a violation of the Code of Conduct/University Policy. Students charged with a violation of the Code of Conduct/University policy are required to attend a Student Conference.

## **Student Conference**

If the student is charged with a Code of Conduct violation, he or she will be sent a notice (or called when necessary) to report to the Administrative Officer in order to discuss the charges and disciplinary procedures. If the Administrative Officer and the charged student can agree upon the facts and sanctions concerning the charges, the matter will be considered initially settled and the Administrative Officer will follow up the student conference with a letter to the student. The matter will be considered resolved once the terms of the sanctions have been completed. The terms of the sanctions may range from dropping all charges to suspension (see Sanctions).

In all cases where the facts and sanctions concerning the charges cannot be agreed upon, the Administrative Officer will determine whether the student(s) facing possible disciplinary action will have their case heard by a Student Hearing Panel or an Administrative Hearing.

## **Student Hearing Panel**

The Administrative Officer will assemble the Student Hearing Panel, which consists of five students and a Panel Chair. Members of the Hearing Panel and the Chair are selected at the beginning of the Fall semester by a committee comprised of representatives from the Office of Student Affairs and the Student Faculty Court. The Administrative Officer will serve as an advisor to the panel. The hearing will consist of the following procedures:

- The hearing will be closed, and all proceedings will be confidential. An exception will be allowed if both the charged student and the complainant agree to an open hearing.
- The student charged may bring an advisor or legal counsel for assistance but must speak for him or herself. The role of the advisor or legal counsel will be restricted solely to advising the student.

- The complainant and the charged student will have the opportunity to call and examine witnesses and to present and question other evidence. The student is responsible for having his or her witnesses at the hearing. The University can assist in obtaining the attendance of students and University personnel.
- The Panel Chair will exercise control over the hearing. Rules of evidence as used in courts will not be applied in this type of hearing. Any person who disrupts the hearing may be asked to leave the hearing. Repetitious or irrelevant evidence may be excluded. Witnesses (other than the accused) will be present only during the time they are testifying.
- The standard of proof that will be used is the preponderance of evidence standard. In other words, a student will be found in violation of the Code of Conduct only when the evidence demonstrates that it is more likely than not that the student committed the violation. The weight and credibility of the evidence is considered.
- The Student Hearing Panel will deliberate in closed session in order to render a decision.
- The Panel Chair will be responsible for delivering the decision in writing to the accused student. The decision shall include a summary of the findings and the sanctions imposed.
- The decision of the Student Hearing Panel shall be final unless the student files an appeal.

## **Administrative Hearing**

The Administrative Officer will be the hearing official and may invite student(s), faculty, staff or other experts whose knowledge may be beneficial to serve as the hearing panel, when appropriate. The hearing will consist of the following procedures:

- The hearing will be closed, and all proceedings will be confidential. An exception will be allowed if both the charged student and the complainant agree to an open hearing.
- The student charged may bring an advisor or legal counsel for assistance but must speak for him or herself. The role of the advisor or legal counsel will be restricted solely to advising the student.
- The University and the charged student will have the opportunity to call and examine witnesses and to present and question other evidence. The student is responsible for having his or her witnesses at the hearing. The University can assist in obtaining the attendance of students and University personnel.
- The hearing official will exercise control over the hearing. Rules of evidence as used in courts will not be applied in this type of hearing. Any person who disrupts the hearing may be asked to leave the hearing. Repetitious or irrelevant evidence may be excluded. Witnesses (other than the accused) will be present only during the time they are addressing the panel.
- The standard of proof that will be used is the preponderance of evidence standard. In other words, a student will be found in violation of the Code of Conduct only when the evidence demonstrates that it is more likely than not that the student committed the violation. The weight and credibility of the evidence is considered.
- The hearing panel will deliberate in closed session in order to render a decision.

- The Administrative Officer will be responsible for delivering the decision in writing to the accused student. The decision shall include a summary of the findings and if the student is found in violation, the sanctions imposed.
- The decision of the hearing official shall be final unless the student files an appeal.

## Sanctions

When a student admits to being or is found to have been in violation of the Fort Hays State University Student Code of Conduct Regulations, the following responses and sanctions are possible:

- Reprimand - Official censure
- Restitution - Repayment of any monetary damages
- Specifically Defined Sanction - Specific conditions or assignments given to the student; examples include but are not limited to:
  - Community service
  - Research papers/personal essays
  - Workshop attendance
  - Loss of privileges and exclusion from activities
  - Exclusion from specified areas of campus
  - Special projects or assignments
- Disciplinary Probation - Period of review and observation during which the student is warned that the misconduct was very serious and that further violations of the code of conduct may result in more serious sanctions
- Deferred Suspension or Dismissal - Denial of enrollment, attendance and/or privileges for a specified period of time
- Permanent Suspension - Dismissal from the University
- Expulsion - Immediate and permanent removal from the institution (used only when it is believed that the presence of the student will have a detrimental impact on the University Community)

All sanctions may be imposed singularly or in combination. Sanctions are designed to promote the educational mission of Fort Hays State University. The severity of the sanction(s) imposed is intended to correspond with the severity or frequency of violations, as well as the student's willingness to recommit him or herself to good citizenship through behaviors that fall within the conduct regulations of the institution.

## Appeals

An Administrative Action of a decision of an Administrative/Student Panel Hearing may be appealed to the Student/Faculty Court by delivering a letter of appeal to the designated representative of the Court within the time period specified in the decision (no less than five class days). The procedures of the Student/Faculty Court are listed in the Student Government Association constitution and on this webpage. [http://www.fhsu.edu/sga/forms\\_pubs/2009-2010%20SGA%20Constitution.pdf](http://www.fhsu.edu/sga/forms_pubs/2009-2010%20SGA%20Constitution.pdf)

The decision of the Student/Faculty court is final unless the student files an appeal to the President of FHSU. The procedures for filing an appeal with the President are available upon request.

## SELECTED POLICIES

### Student Code of Conduct

As stated in Article VI of the FHSU Bill of Student Rights and Responsibilities, the University has a duty to establish the rules and policies that all students are required to follow. Students have a right to expect enforcement of these rules and policies. The University also has a right to expect students to abide by them as befits responsible students as members of the learning community. For the purposes of this code of conduct, a "student" is any person who is enrolled at FHSU for any academic period. A person shall be considered a student subject to this code of conduct when attending any University activity prior to or after an academic term, such as residence hall check-in, new student orientation and fraternity or sorority rush.

The following statements constitute the official record of all general conduct policies at FHSU. Students shall abide by these policies and administrators, faculty and staff are expected to enforce them. These policies should be read broadly and are not designed to limit the definitions of prohibited conduct to the examples described. Note that if any infractions of the Student Code of Conduct are found to have an element of malice, the resulting sanctions may be more severe. The University reserves the right to make a case-by-case determination as to whether conduct of a serious nature which occurs off of the premises of the University but has an impact on the University community may be addressed under this policy. For more information about procedures regarding the enforcement of this code of conduct, consult the section of this Student Handbook entitled "Individual Student Discipline Procedures."

1. **Compliance with General Laws**  
Students, upon registration at FHSU, shall abide by all regulations, federal and state laws and city of Hays ordinances. Enrollment as a student in no way exempts any person from penalty in case of violation of local, state or federal laws. Any disciplinary action taken by the university may be taken independently of any action taken by an off-campus authority.
2. **Vandalism/Damage of Property**  
Willful, intentional or negligent vandalism or damage to and/or destruction of property is strictly prohibited.
3. **Firearms and Other Deadly Weapons**  
The unauthorized possession or use of firearms or other deadly weapons of any kind is prohibited. The use or display of any object or instrument in a dangerous or threatening manner is prohibited.
4. **Flammable Materials and Fireworks**  
The ignition or detonation of an incendiary device which could cause damage by fire, explosion or similar means to persons or property, or possession of anything in the nature of fireworks or explosives is prohibited on any property owned or operated by FHSU unless the student receives express permission to participate in a display or event sanctioned by the University.
5. **Arson**

No person shall start a fire that causes or may cause damages or injury on University property without University authorization and willful damage to property (as described in conduct regulation 2 above) will be prosecuted as arson when appropriate.

6. **Fire Alarms and Fire Equipment**  
Making or causing a false fire alarm or emergency report of any kind is prohibited. No person shall tamper with, damage, disable or misuse fire safety equipment.
7. **Theft or Misappropriation**  
Theft of any kind, including seizing, receiving or concealing property with knowledge that it has been stolen or reasonably should have known that is stolen, is forbidden. Sale, possession or misappropriation of any property, including FHSU property, without the owner's permission, is also prohibited. This includes sale of a textbook by any student who does not own the book unless express prior written authorization has been given by the owner.
8. **Disorderly Conduct**  
Individual or group behavior which disturbs individuals or groups is prohibited. Such conduct includes (but is not limited to) assault, threats to the personal safety of one's self or others, throwing objects to create a danger, making excessive noise, unwelcome physical contact, hazing and any other type of interference with the normal operations of the University or its activities or any type of conduct that interferes with the ability of those who attend, visit or work at the University to enjoy the benefits of the purposes for which the University exists.
9. **Misuse of University Documents**  
Forgery, alteration or misuse of any University document or record is forbidden, including furnishing false information or withholding material information from the University.
10. **Fraud or Lying**  
Lying or fraudulent misrepresentation in or with regard to any transaction with the University, whether oral, written or by other means, is prohibited, including misrepresenting the truth before a hearing of the University or making a false report or statement to any University official.
11. **Student Identification**  
Using fake identification or falsely identifying oneself is prohibited. This includes furnishing false identification to the University or to any University employee or agent, including campus law enforcement or security officers, acting in good faith and in the performance of their duties.
12. **Official Requests**  
Students must comply with the reasonable and lawful requests of University officials acting in the performance of their duties. Students shall appear at disciplinary hearings to respond to allegations or testify as a witness when reasonably notified to do so. Failure to appear at a scheduled hearing is a violation of this student code of conduct and will not necessarily prevent the hearing from taking place, nor will it preclude a determination. A failure to properly comply with or complete a sanction or obligation resulting from a disciplinary hearing or adjudication may be considered a violation of an official request and may be treated as an independent violation.
13. **Presence In and Use of University Facilities**  
Unauthorized entry into, presence in or use of University facilities, equipment or property which have not been reserved or accessed through appropriate University procedures is prohibited.

14. Misuse of Keys

No person may use or possess any University keys or access codes without proper authorization. No student is allowed under any condition to have a University key duplicated.

15. Misuse of Telephones

Making or assisting in making annoying or harassing telephone calls, unauthorized use of long distance phone privileges or otherwise misusing or abusing FHSU telephone equipment is prohibited.

16. Alcoholic Beverages

Students must comply with the published regulation concerning the transport, provision and consumption of beer, wine and other alcoholic beverages on campus or University property.

17. Drugs

The unauthorized possession, use, manufacture, sale or distribution of any counterfeit, illegal, dangerous, "designer" or other controlled drug or other substance is prohibited.

18. Misuse of Computer Equipment

The use of computer equipment and resources, including account numbers, interactive terminals, data storage media, other peripherals, local, state, national and international computer networks, mainframe and microcomputer systems and software for computing activities other than those authorized by the law and the University constitutes misuse and is strictly prohibited.

**Note:** For further information concerning regulations in effect for University computer equipment, consult the publications available from the Computing and Telecommunications Center.

**Note:** For further information concerning regulations in effect for students living in University Residence Halls, contact the Department of Student Residential Life, Agnew Hall, Room 114, or the Residence Hall Director.

**Note:** Attempting, abetting or being an accessory to any act prohibited by these Student Code of Conduct Regulations will be considered a violation.

**Note:** For further information concerning University policies and procedures in effect for sexual harassment, consult the policy.

## **Statement on Student Rights & Responsibilities**

### ***Preamble***

Fort Hays State University exists for the transmission of knowledge, the pursuit of truth, the development of students and the general well being of society. Free inquiry and free expression are indispensable to the attainment of these goals. As members of the Fort Hays State University academic community, students shall be encouraged to develop the search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus and in the larger community. Students should exercise their freedom with responsibility. The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the Fort Hays State University academic community. FHSU has a duty to develop policies and procedures which provide and safeguard this freedom. Such policies and procedures should be developed within the framework of general standards and with the broadest possible participation of the members of the academic community. The purpose of this statement is to enumerate the essential provisions for students' freedom to learn.

### ***I. Freedom of Access to Higher Education***

The admission policy of FHSU is a matter of institutional choice provided that requirements for admission are clearly stated and upheld. Under no circumstances will a student be barred from admission on the basis of race, creed, color, ancestry, national origin or political philosophy. Thus, within the limits of its facilities, FHSU is open to all students who are qualified according to admission standards, and its facilities and services are open to all of its enrolled students.

### ***II. In the Classroom***

The professor in the classroom and in conference will encourage free discussion, inquiry and expression. Student performance will be evaluated solely on an academic basis, not on opinions or conduct in matters not related to academic standards.

The professor in the classroom and in conference will encourage free discussion, inquiry and expression. Student performance will be evaluated solely on an academic basis, not on opinions or conduct in matters not related to academic standards.

#### ***A. Protection of Freedom of Expression***

Students are free to take reasoned exception to the data or view offered in any course of study and to reserve judgment about matter of opinion, but they are responsible for learning the content of any course of study for which they are enrolled.

#### ***B. Protection Against Improper Academic Evaluation***

Students have protection through orderly procedures against prejudice or capricious academic evaluation. At the same time, they are responsible for maintaining standards of academic performance established for each course in which they are enrolled.

### ***III. Student Affairs***

#### ***A. Freedom of Association***

Students are free to organize and join associations to promote their common interests (with the stipulation that all campus organizations must be lawful). Such organizations must be registered by the Student Organizations Committee to be eligible for the allocation of student fee resources from the Student Government Association.

#### ***B. Freedom of Inquiry and Expression***

1. Students and student organizations are free to examine and discuss all questions of interest to them and to express opinions publicly and privately. They are always free to support causes by orderly means that do not disrupt the regular and essential operation of FHSU. At the same time, it is the responsibility of the students and student organization to make clear to the academic and larger community that in their public expressions or demonstrations; they speak only for themselves.
2. Students may invite and hear any person of their own choosing. Those routine procedures required by FHSU before a guest speaker is invited to appear on campus are designed only to insure that there is orderly scheduling of facilities and will not be used as a device of censorship. It is the responsibility of those sponsoring student organizations to make clear to the academic and larger community that sponsorship of guest speakers does not necessarily imply approval or endorsement of the view expressed, either by the sponsoring group or FHSU.

#### ***C. Student Participation in Institutional Government***

As constituents of the academic community, students are to be free, individually and collectively, to express their views on issues of institutional policy and on matters of general interest to the student body. The student body has clearly defined means to participate in the formulation and application of institutional policy affecting academic and student affairs. The role of the Student Government Association (SGA) and both its

general and specific responsibilities are explicit, and the actions of the SGA within the areas of its jurisdiction are reviewed only through orderly and prescribed procedures.

**D. Student Publications**

Student publications and the student press are a valuable aid in establishing and maintaining an atmosphere of free and responsible discussion and of intellectual exploration of the campus. They are a means of bringing student concerns to the attention of the faculty and administration and of formulating student opinion on various issues on the campus and the world at large.

In the delegation of editorial responsibility to students, FHSU must provide sufficient editorial freedom and financial autonomy for the student publications to maintain their integrity of purpose as vehicles for free inquiry and expression in the academic community.

Institutional authorities, in consultation with students and faculty, have a responsibility to provide written clarification of the role of student publications, the standards to be used in their evaluation and the limitations on external control of their operation. At the same time, the editorial freedom of student editors and managers entails corollary responsibilities to be governed by the canons of responsible journalism, such as the avoidance of libel, attacks on personal integrity and the techniques of harassment and innuendo.

**IV. Off-Campus Freedom of Students**

**Exercise of Rights of Citizenship**

College students are both citizens and members of the academic community. As citizens, students shall enjoy the same freedom of speech, peaceful assembly and right of petition that other citizens enjoy, and as members of the academic community, they are subject to the obligations that accrue to them by virtue of this membership. Faculty members and administrative officials will insure that institutional powers are not employed to inhibit such intellectual and personal development of students as is often promoted by their exercise of the rights of citizenship both on and off campus.

## **Ethical Use of Computing Resources Policy**

**Introduction**

Fort Hays State University (FHSU) provides computing resources and worldwide network access to its faculty, staff, and students for legitimate administrative, educational, and research efforts. As a member of the FHSU electronic community it is your responsibility to use computing resources ethically and responsibly. Members of the FHSU electronic community are expected to exercise reasonable care in the utilization of FHSU information systems or their components.

**Privacy**

There are limitations on the amount of privacy that can be expected for individuals utilizing computer resources. Complaints or exceptional circumstances may result in investigation. The Electronic Communications Act of 1986 provides no protection for employees using company online systems.

Users should exercise extreme caution in using e-mail to communicate confidential or sensitive matters, and should not assume that e-mail is private and confidential. It is especially important that users are careful to send messages only to the intended recipient(s). Particular care should be taken when using the "reply" command during e-mail correspondence.

Because the contents of such e-mail are subject to laws governing public records, Users will need to exercise judgment in sending content that may be deemed confidential. Furthermore, e-mail transmissions may not be secure, and contents that are expected to remain confidential should not be communicated via e-mail. Common examples of confidential contents include: student grades, personnel records, individual donor gift records, and data subject to the Health Insurance Portability

and Accountability Act of 1996 (HIPAA), Family Educational Rights and Privacy Act (FERPA) regulations, and the Gramm Leach Bliley Act (GLBA).

### ***Responsibilities***

In making appropriate use of the FHSU computing resources, users must accept the responsibility for their behavior and:

- Protect their user IDs and passwords from unauthorized use, recognizing that individuals are responsible for all activities on his/her user IDs.
- Access only files and data that they own, they have been given authorization for, or that are publicly available.
- Use only legal versions of copyrighted software in compliance with vendor license requirements.
- Be considerate in their use of shared resources. Refrain from monopolizing systems, overloading networks with excessive data (spamming), and wasting computer time, connect time, disk space, printer paper and toner, and other computing resources.
- Be cautious about e-mail messages because the information is public and may be retrieved and used in a court of law.
- Comply in all respects with any request by the University to retain certain information, recognizing that information stored on the University's network is ultimately the responsibility of the University.

### ***Individuals Will Not...***

In making appropriate use of computing resources, individuals should avoid:

- Accessing another person's files or data without permission.
- Using computer programs to decode passwords or access control information.
- Engaging in any activity that might be harmful to systems or to any information stored thereon, such as creating or propagating viruses, worms, Trojan horses, or disrupting services, spamming, or damaging files.
- Making or using illegal copies of copyrighted software or other copyrighted materials (such as digitized artistic productions and music or video files), store such copies on FHSU systems, or transmit them over FHSU networks.
- Using e-mail or message services to harass, intimidate, threaten, or otherwise annoy another person by use of sexual or bigoted content or content which poses an imminent threat to the life or safety of the person or persons receiving the communication.
- Disclosing their passwords or using another person's user IDs or passwords.
- Using FHSU systems for commercial use, such as performing work for profit or advertising in a manner not authorized by FHSU.
- Posting web pages that contain material that is illegal or promotes illegal activity (e.g., gambling or child pornography).
- Masking the identity of an account or machine. This includes sending mail that appears to come from someone else.
- Using computer and telecommunications systems for personal use (as regulated by Kansas law and regulations on misuse of state property; see KSA 75-2949 F(d) and the State Department of Administration policy on Internet use).

### ***Use of E-mail for FHSU Business***

The official Fort Hays State University E-mail Account is the only electronic mail platform for communicating University business. Official e-mail communications are intended only to meet the academic and administrative needs of the campus community. All electronic notifications from the University are transmitted through this e-mail account and are not forwarded to other non-FHSU e-mail accounts. Users are expected to read, and shall be presumed to have received and read, all Fort Hays State University e-mail messages sent to their Official Fort Hays State

University e-mail accounts. The University expects that such communications will be received and read in a timely fashion.

### ***Assignment of Student E-mail***

Official University e-mail accounts are available for all enrolled students. The addresses are all of the form [Name]@e-mail.fhsu.edu. These accounts must be activated before the University can correspond with its students using the official e-mail accounts. An Account website available through the Tiger Tracks Portal has been designed for this purpose. Students' official e-mail addresses will be included in directory information. As with other directory information, any student may request that access to his or her official e-mail address be restricted.

### ***Expectations about Student use of E-mail***

Students are expected to check their e-mail on a frequent and consistent basis in order to stay current with University-related communications. Students have the responsibility to recognize that certain communications may be time critical. Failure to check e-mail, error in forwarding mail, or e-mail returned to the University with "Mailbox Full" or "User Unknown" are not acceptable excuses for missing official University communications via e-mail.

### ***Educational uses of E-mail***

Faculty will determine how electronic forms of communication such as electronic mail will be used in their classes, and will specify their requirements in the course syllabus. This will ensure that all students will be able to comply with e-mail-based course requirements specified by faculty. Faculty can therefore make the assumption that students' official FHSU accounts are being accessed.

### ***Redirecting of E-mail***

If a student wishes to have e-mail redirected from their official FHSU address to another e-mail address such as @aol.com, @hotmail.com, or an address on a departmental server, they may do so, but at their own risk. The University will not be responsible for the handling of e-mail by outside vendors or by departmental servers. Having e-mail redirected does not absolve a student from the responsibilities associated with official communication sent to his or her FHSU account.

### ***Authentication for Confidential Information***

It is a violation of University policies for any user of official e-mail addresses to impersonate a University office, faculty/staff member, or student. To minimize this risk, some confidential information may be made available only through the password-protected Tiger Tracks Portal. In these cases, students will receive e-mail correspondence directing them to the appropriate Tiger Tracks Portal link, where they can access the confidential information only by supplying their student ID and personal identification number (PIN). The confidential information will not be available in the e-mail message.

### ***Consequences of Misuse***

Individuals who misuse FHSU computing resources will be held accountable for their conduct, which may include discipline under the Student Code of Conduct or Faculty Handbook.

### ***Academic Freedom***

No provision of this policy shall be construed so as to impose any limit to the academic freedom of faculty in their instructional, research, or service activities.

## **Illegal Downloading**

Some people seem to believe that if you can get something for free, it must be all right. However, this is not the case with Internet piracy. Downloading copyrighted materials, such as music, videos, games, graphics, and information has become one of the most controversial issues on the Internet.

Fort Hays State University does not permit such types of illegal downloads. Approximately 100 violations occurred at FHSU during the Fall 2007 semester. Most violations were due to illegal downloads of music, and some were movies. When notified of these copyright infringements, the University must take action in order to comply with federal law. First, the source's Internet access is revoked. Second, the student is required to meet with the Assistant Vice President of Student Affairs to learn about the actions that must be taken to resolve the situation and have his or her Internet access restored.

Here is a list of actions YOU can take to avoid violating copyright law and FHSU acceptable use policies:

- Access only files and data that you own, have been given authorization for, or that are publicly available.
- Use only legal versions of copyrighted software in compliance with vendor license requirements.
- Do NOT make or use illegal copies of copyrighted software or other copyrighted materials (such as digitized artistic productions and music or video files), store such copies on FHSU systems, or transmit them over FHSU networks.
- Take advantage of sites that offer **free** music, clip art, photos, and graphics, etc... If you are not sure whether an image is free, request permission from the source **before** downloading or copying it.
- Whenever using a program to download music or movies, **read the fine print**. Some programs have fees for faster uploads--however, the user is not paying for the music itself, which usually results in illegal downloads. If a deal seems too good to be true--it probably is.
- If you have any doubt about whether your intended media use is legal, **DON'T DOWNLOAD**.

## **Academic Honesty**

### ***Policy***

Membership in the FHSU learning community imposes upon the student a variety of commitments, obligations and responsibilities. It is the policy of FHSU to impose sanctions on students who misrepresent their academic work. These sanctions will be selected by appropriate classroom instructors or other designated persons consistent with the seriousness of the violation and related considerations.

Examples of academic dishonesty include but are not limited to: (1) Plagiarism, taking someone else's intellectual work and presenting it as one's own (which covers published and unpublished sources). Using another's term paper as one's own, handing in a paper purchased from an individual or agency, submitting papers from living group, club or organization files, or using another's computer program or document are all examples of plagiarism. Standards of attribution and acknowledgment of literary indebtedness are set by each discipline. Faculty are encouraged to include disciplinary or class-specific definitions in course syllabi. Students should consult with their department or with recognized handbooks in their field if in doubt. (2) Cheating is unacceptable in any form. Examples include consultation of books, library materials or notes during tests without the instructor's permission; use of crib sheets or hidden notes; intentional observation of another student's test; receipt of a copy of an exam or questions or answers from an exam to be given or in progress; substitution of another person for the student on an exam or

another graded activity; deliberate falsification of lab results; submission of falsified data alteration of exams or other academic exercises; and collaboration on projects where collaboration is forbidden. (3) Falsification, forgery or alteration of any documents pertaining to assignments and examinations. (4) Students who (cooperate or in other ways promote) participate in promoting cheating or plagiarism by others (or who take credit for the work of others) will also be in violation of this policy.

Students participating in any violation of this policy must accept the consequences of their actions. Classroom instructors and/or university review/appeals committees and administrators will assess the sanctions for violation of this policy. The seriousness of the violation will dictate the severity of the sanction imposed. Academic sanctions may include but not be limited to any of the following:

- Verbal or written warning
- Lowering of grade for assignment/activity
- Lowering of term grade
- Failure of class assignment

Administrative sanctions may include but not be limited to either of the following:

- Suspension from the University
- Dismissal from the University

### ***Procedures***

The University guarantees students the provision of due process. Students are first expected, however, to avail themselves of the university's established tradition of informal appeal. Steps 1-4 describe the informal process. Steps 5-7 describe the procedures designed to implement a formal appeal at the graduate/undergraduate levels.

- Step 1: The faculty member decides whether or not a violation of the Academic Honesty Policy has occurred.
- Step 2: The faculty member informs the student and the department chair that an alleged violation of the Academic Honesty Policy has occurred. It is the faculty member's obligation to select or devise an academic sanction consistent with the severity of the violation.
- Step 3: The faculty member informs the student of the academic sanction and the process of appeal. If the sanction involves a lowering of a term grade, the faculty member informs the registrar of the change.
- Step 4: If the student disagrees with the faculty member's allegation and/or recommended sanction the student pursues the university's longstanding tradition of informal appeal by consulting with the faculty member, and, if the student still disagrees, by appealing to the department chair.
- Step 5: If after the informal appeal, the student still disagrees with the faculty member's allegation or recommended sanction, the student may appeal in writing to the academic department no later than the end of the first week of the following semester. The department chair will provide the student with formal (a) departmental appeal procedures for undergraduates and special students or (b) departmental graduate appeal procedures for graduate students. (See specific written departmental appeal process.)
- Step 6: a) Graduate students:  
If a graduate student disagrees with the allegation(s) or recommended sanction in the informal procedure, the graduate student may formally appeal through the

Graduate School's graduate student appeals procedures. The formal graduate student appeal procedure begins with a written appeal to the department chair no later than the first week of the following semester. The written appeal should state the specific reasons for the formal appeal to the department.

b) Undergraduate/special students:

If the student is an undergraduate or special student and disagrees with the allegation or recommended sanction, the student may appeal in writing to the Provost no later than 15 working days following the decision.

Step 7: For undergraduate and special students, an administrative hearing panel will be formed by the Provost to hear the undergraduate or special student appeal. The administrative hearing panel will consist of an academic administrator, assistant vice president for student affairs (assigned to work with student judicial affairs), four faculty members, and a student. The administrative hearing panel procedures for undergraduate and special students are available in the Office of the Provost.

## **Sexual Assault**

Sexual assaults violate the legal rights of individuals and undermine the University as a civil and caring environment within which to learn and work. To address the myriad issues presented by sexual assaults, the University will: (1) provide educational information about the nature of sexual assaults and how they can be prevented; (2) offer support and assistance for those who have been sexually assaulted; and (3) administer appropriate consequences to those who have been judged responsible for sexually assaultive acts.

### ***Definition***

A sexual assault is an act of rape, forcible sodomy, and forcible sexual penetration, however slight, of another person's anal or genital opening with an object. Touching an unwilling person's private intimate parts (defined as genitalia, groin, breast, buttocks or clothing covering them) or forcing an unwilling person to touch another's intimate parts is also assaultive behavior. When committed either by force, threat, intimidation or through the use of the victim's mental or physical helplessness of which the perpetrator was aware or should have been aware, these acts constitute sexual assaults.

### ***Policy***

No form of sexual assault will be tolerated at FHSU. This policy prohibits acts defined as sexual assaults as well as attempts to coerce an unwilling person to engage in sexual activity.

In order to implement this policy, the University will engage in timely educational activities to inform members of the community about the types of sexual actions deemed unacceptable and how assaultive situations can be prevented and/or avoided. The University will also take action against those who violate this policy.

**\*\*Upon written request by the alleged victim of a crime of violence or a nonforcible sex offense (or to the alleged victim's next of kin, if the victim dies as a result of the crime of offense), Fort Hays State University will disclose the final results of any institutional disciplinary proceeding dealing with that crime or offense.**

### ***Procedures***

Any individual can report an incident that he/she perceives to be a sexual assault. However, university staff, including residence hall assistants, are required to report incidents of which they become aware to the Assistant Vice President for Student Affairs/Director of Student Support Services in the Kelly Center. Victims of sexual assaults will be encouraged and assisted to report

assaults to civil authorities. The University has established procedures for investigating and administering sanctions in instances of sexual assaults.

A. Reporting Procedures

1. University police should be notified immediately after an incident. The purposes of this initial contact are to render immediate assistance to the victim, to protect evidence associated with the assault, and to protect others who may be assaulted.
2. The person who has been sexually assaulted should seek immediate medical attention from the Student Health Service, a hospital, or a personal physician. The medical examination is important. The physician will collect specimens and make detailed notes about the physical evidence such as bruises, cuts, and traces of semen. The victim of sexual assault can decide later whether or not to pursue legal action against the attacker. However, evidence can only be collected immediately after the assault. It cannot be retrieved later. The healthcare professional can test later for sexually transmitted diseases and pregnancy.
3. As soon as possible, University police should contact the Kelly Center on-call psychologist to provide psychological support to the victim. The goals of this intervention are to stabilize the victim's condition, to present to the victim alternatives for continued support and to present options for redressing the assault through administrative and/or civil procedures.
4. The Kelly Center on-call psychologist will notify the Assistant Vice President for Student Affairs/Director of Student Support Services (campus sexual assault coordinator) that a sexual assault has occurred. A report of the incident will be filed in the Kelly Center and a copy of all documents associated with it forwarded to the Assistant Vice President for Student Affairs in charge of campus judicial procedures in the Office of the Vice President for Student Affairs.

B. Administrative Review Procedures

The Assistant Vice President for Student Affairs will follow the procedures described under the section "Student Discipline," found in this handbook.

## **Harassment on the Basis of Race, Religion, Color, National Origin, Gender, Age, Sexual Orientation, Veteran Status or Physical or Mental Disability**

Fort Hays State University is committed to an environment in which students, faculty, administrators and academic staff (both classified and unclassified) can work together in an atmosphere free from all forms of harassment, exploitation or intimidation.

It is the policy of Fort Hays State University to prohibit harassment of individuals on the basis of their status as a member of a protected class which includes race, color, religion, gender, national origin, sexual orientation or a physical or mental disability. The protection afforded by this policy apply equally to all segments of the University community (i.e., students, unclassified personnel, classified personnel, and employees of associated corporations).

### ***Definition of Harassment***

Harassment includes, but is not limited to, verbal, physical, or written behavior directed toward or relating to an individual or group on the basis of their protected class status and has the purpose or effect of:

1. Creating an intimidating, hostile or offensive work or educational environment;
2. Interfering with an individual's work, academic performance, living environment, personal security or participation in any University-sponsored activities;

3. Threatening an individual's employment or academic opportunities.  
This definition also applies to harassment of persons because of their association or support of members of a protected class.

Harassment on the basis of gender is further defined as any behavior which through inappropriate sexual content or disparagement of members of one gender has the same purpose or effect as items 1, 2 or 3 above. Any behavior, whether verbal or physical, constitutes sexual harassment if:

1. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature (e.g. uninvited touching) are made a term or condition of an individual's employment or education;
2. Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature are used as a basis for employment or academic decisions affecting that individual (e.g. grades, evaluations, promotions, letters of recommendation);
3. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature have the purpose or effect of unreasonably interfering with an individual's academic work or performance or creating an intimidating, hostile or offensive working or learning environment (e.g. sexual innuendo in the classroom).

Any reprisals taken against an individual reporting, objecting to or serving as a witness about harassment will be considered a separate and distinct act of harassment.

While some examples of harassment, such as physical and verbal assaults, are easily identified, more frequent and generalized instances, such as blatant and subtle graffiti and insensitive use of language, including epithets and "humor," often go unacknowledged. All of the above instances are demeaning and violate the spirit of this policy.

Under Title VII of the Civil Rights Act of 1964, employers are responsible for the actions of their agents. Supervisors and employers are accountable for actions of employees if those supervisors and employers are aware or should have been aware of any harassment.

### ***Resolving Harassment and Affirmative Action Complaints***

Students who believe they have been the object of sexual harassment (whether from a faculty or staff member or from another student) should meet with the University Equal Employment Officer who will assist the student in understanding and initiating the appropriate process for dealing with the complaint. Both informal and formal resolutions are available. Other campus offices where the student might seek assistance include the Office of Student Affairs and the Kelly Center.

Fort Hays State University reserves the right to investigate and take appropriate action in those situations where the complainant chooses not to file a formal grievance but the institution, in its discretion, believes the matter cannot be ignored.

Students found to have committed acts of sexual harassment will be subject to the disciplinary process described earlier in this handbook under the heading "I'm Accused."

### ***Protected Class and Sexual Harassment Procedure***

The purpose of these procedures is to provide an internal means of resolving grievances involving an alleged violation of University equal opportunity, affirmative action, Sec. 504 of Rehabilitation Act of 1973, Americans with Disabilities Act (ADA), and sexual harassment policies. Other University grievance procedures are available to resolve grievances that cannot be pursued appropriately through the Equal Opportunity/Affirmative Action (EO/AA) grievance procedures.

- I. Protection of Individuals: No person shall be subjected to discharge, suspension, disciplinary action, harassment, or any form of adverse discrimination for having utilized or having

assisted in the utilization of the EO/AA grievance process. See also the section on Confidentiality below.

- II. Parties Eligible to Use the EO/AA Grievance Procedures: Any person claiming to be aggrieved by a prohibited employment practice or any other alleged discriminatory practice at the University may contact the Equal Employment Office.
- III. Process: The process for resolving equal opportunity, affirmative action and sexual harassment grievances may include some of or all of the following steps: Inquiry and Discussion, Investigation, Informal Resolution, Formal Complaint, Hearing and Findings, Action on Findings, Appeal, and Issuance of Directives.

The Equal Employment Officer has the responsibility for facilitating the first three steps. A Hearing Board drawn from the Grievance Hearing Board Pool is responsible for conducting a formal hearing and arriving at findings. Finally, the President is responsible for taking action on the findings and recommendations of the Hearing Board and for issuing any final directives.

- IV. Grievance Hearing Board Pool  
Appointment and Membership: At the beginning of each academic year (within two weeks of the commencement of classes), the Student Body President shall appoint six students, the Classified Senate President shall appoint six classified employees and the Faculty Senate President shall appoint six faculty members to a Grievance Hearing Board Pool. Each group should include members of protected classes at Fort Hays State University. All individuals appointed to the Pool will receive training related to the rules and regulations and policies of Fort Hays State University with respect to equal opportunity, discrimination, sexual harassment, and sexual assault. The members of the Pool will elect a selection monitor and alternate selection monitor from among the members (see Section VI E for further information).
- V. Confidentiality: The Equal Employment Office will treat with strict confidentiality information related to grievances. A complainant may request anonymity at all stages preceding the formal complaint stage.

The Grievance Hearing Board will adhere to strict confidentiality as well. Complaints will not be revealed to anyone except the parties involved, the appropriate persons in the Office of Affirmative Action and, eventually, the President. Because the satisfactory resolution of a grievance is most likely to occur when the complaint is addressed quickly and discreetly, both the complainant and the respondent will be asked not to discuss the complaint with anyone except those persons who may be involved directly. The foregoing does not preclude either party from seeking the advice or counsel of a supervisor, counselor, attorney, or other person in a similar role.

#### VI. The Procedures

##### A. Initial Discussion

A person alleging that discrimination has occurred (the complainant) will contact the Equal Employment Office to discuss the charges. During this preliminary discussion, the Equal Employment Office will obtain all relevant information about the complainant and the complaint, will describe to the complainant the parameters of the University EO/AA grievance procedures, and will provide information about other available means of pursuing complaints related to equal opportunity or affirmative action.

In the event that the Equal Employment Officer is the person accused of discrimination or the Equal Employment Officer has a conflict of interest or an appearance of conflict of interest, the ad hoc Equal Employment Officer shall act as the Equal Employment Officer in the procedure.

## B. Investigation

The goal of investigation is to define the issue(s) of the complaint in order to seek resolution through mutual accommodation. The Equal Employment Officer is not an advocate for either party and the investigation will be impartial. During the investigation, the Equal Employment Officer will seek to define the issues and the positions of the complainant and respondent in order to identify the source of the conflict, to gather relevant information, and to identify possible means of resolution. If the Equal Employment Officer determines through investigation that the issue does not involve matters related to protected class status or sexual harassment, the complainant will be notified that the issue is not appropriate for resolution through this policy.

During investigation, the Equal Employment Officer will treat the materials received as confidential. However, the Equal Employment Officer may discuss relevant information included in such materials with either party and with other appropriate parties as necessary in order to seek a resolution. If the complainant is satisfied by answers gained through the investigation, the complaint may be treated as settled.

## C. Informal Resolution

An informal resolution often is preferable to one arrived at through formal procedures. However, informal resolution can succeed only if both parties are willing to participate and are open to compromise.

1. If informal resolution is undertaken, the Equal Employment Officer will seek areas of flexibility from both parties and will attempt to reach a mutually acceptable resolution. The Equal Employment Officer will maintain impartiality in a continuing effort to find an agreement that can be implemented to the satisfaction of both parties.
2. If a mutually agreeable resolution is reached, the case is closed and all parties will be so notified.
3. If mutual agreement cannot be reached, the Equal Employment Officer will so inform the parties and the complainant may file a formal complaint, and seek a formal hearing or pursue other remedies.

## D. Formal Complaint

1. Filing
  - a. The complainant may sign a formal complaint form in the Equal Employment Office. The completed form will stipulate the circumstances and the charges of discrimination or harassment and the remedy requested.
  - b. Should a mutual agreement not be reached and should the complainant wish to continue to pursue the matter a request for a hearing may be made.
2. The Equal Employment Officer will provide the respondent a copy of the complaint, will ask the respondent to send copies of a written reply to the Equal Employment Officer, and will inform the respondent that the reply must be provided within ten working days (hereinafter defined as "calendar days not including weekends, holidays, interim sessions, and cancellations due to exigent circumstances") of the receipt of the complaint by the respondent unless other provisions are made. Upon receipt the Equal Employment Officer will review the response and after consultation with the appropriate authorities provide a copy of the response to the complainant. During this period there will be continued efforts to resolve the complaint by a mutual agreement and prior to a formal hearing.

## E. Selection of the Grievance Board

1. If progress toward a solution has stopped and it is clear no informal resolution will be reached, within ten working days of the filing of the request for a hearing, the Equal Employment Officer will meet with the selection monitor. (see Section IV for selection procedure) The names of the Pool members will be placed on individual slips of paper. The names will be divided into three groups according to classification (i.e.: all student names in one group, all classified staff names in one group, all faculty names in one group). In the presence of the selection monitor, the Equal Employment Officer will draw two names from each group. The first name drawn from each group will serve on the Grievance Hearing Board (hereinafter "Hearing Board") to hear the particular case. The second name drawn from each group will serve as an alternate for the case.
2. The Equal Employment Officer will notify Hearing Board members and alternates of their selection to the Hearing Board. The Equal Employment Officer will notify each member and alternate of the names of the parties involved and the general nature of the grievance (e.g.: age discrimination).
  - a. If a member or alternate has had any significant prior connection in the case or has any actual conflict of interest, that member or alternate is obligated to notify the Equal Employment Officer of the possible need to remove him/her from the case. The Equal Employment Officer shall determine whether there is an "actual" conflict of interest requiring removal.
  - b. If a member removes him/herself, the alternate will serve as a member and the Equal Employment Officer, in the presence of the selection monitor, will draw the name of another alternate from the names remaining in that group.
  - c. If an alternate removes him/herself, the Equal Employment Officer in the presence of the selection monitor, will draw the name of another alternate from the names remaining in that group.
  - d. If both the member and alternate remove themselves from the Hearing Board, the Equal Employment Officer in the presence of the selection monitor, will draw the names of two additional members from the remaining names in that group. The first name will serve as the member and the second name drawn will serve as the alternate.
  - e. The Equal Employment Officer will notify each new member/alternate of the names of the parties and the nature of the complaint and provide the additional member/alternate with an opportunity to remove him/herself in the event of conflict of interest as described above.
3. The Equal Employment Officer will notify the complainant and respondent of the names of the members and alternates on the Hearing Board. The complainant and respondent will each have the opportunity to strike members/alternates from that Board. Strikes must be for cause. Cause shall only include a conflict of interest known to the party exercising the right to strike. Any member/alternate so stricken will be replaced in the manner described in Section 2 above.
4. Within ten days of the final selection of Hearing Board members and alternates, the Equal Employment Officer will convene the Hearing Board. Members and alternates shall attend the meeting. During this initial meeting of the Hearing Board, the members shall elect a member to serve as chair of the Hearing Board. The Equal Employment Officer will then provide the chair with relevant materials concerning the complaint. These will include the complaint form, respondent's reply, a summary of the complaint, and other relevant and appropriate materials.
5. The Equal Employment Officer will notify the parties of the names of the Hearing Board members and alternates and the name, office address and work telephone number of the Hearing Board Chair (as provided to the Equal Employment Officer by the Hearing Board Chair).
6. If, during any component of the hearing or determination, a member or alternate is unable to serve on the Hearing Board, the Equal Employment Officer, in the

presence of the selection monitor, will draw a name from the applicable group as described in Section 2 above.

7. Every effort will be made to complete the process within the academic semester or year. However, should a particular hearing last beyond the expiration of the appointment time for Pool members, (i.e. beyond the academic year), those persons serving on the Board will continue to serve as Board members/alternates until the conclusion of the case. If an individual Board member/alternate is unable to continue service (e.g.: ceases to be a student/employee at the university), he/she must notify the Board chair and Equal Employment Officer of his/her need to resign. If the Board chair resigns from the Board, replacements for resigning members/alternates may be selected from the names of new Pool members in a given group.

#### F. Representation

Parties may represent themselves at the hearing or may choose a representative from the Fort Hays State University community. Because this grievance procedure is an internal method for resolving grievances, parties may not have legal counsel present during the proceedings.

#### G. Hearings

The Hearing Board will conduct a closed and confidential formal hearing of the complaint unless both complainant and respondent consent to an open hearing. The Hearing Board will have the authority to request attendance of witnesses whose testimony may be pertinent to the hearing and to request production of evidence pertinent to the hearing. The hearing must be audiotape recorded. The Affirmative Action Officer will serve as procedural advisor to the Hearing Board.

1. The Chair of the Hearing Board shall preside over the hearing.
2. The Chair shall open the hearing with a review of the rules of procedure as herein outlined.
3. The grievant or a representative shall present a short opening statement and present any witnesses or documentation relevant to the grievant's position.
4. When the grievant concludes questioning a witness, the respondent may then question the witness. Redirect and recross examination is permissible.
5. The Chair and the members of the Hearing Board may question the witness.
6. The Hearing Board shall expect each party to present any evidence required to prove its grievance or support its defense.
7. The parties or their representatives shall personally conduct the questioning and cross-examination of witnesses.
8. All witnesses shall testify in person.
9. Hearsay evidence shall not be allowed.
10. Copies of any documentation referred to or requested by the Hearing Board shall be provided by the party in possession of said documentation.
11. THIS HEARING IS INFORMAL AND THE STRICT RULES OF EVIDENCE SHALL NOT APPLY, BUT THE RULES OF COURTESY SHALL.
12. When the grievant has completed introducing the testimony and evidence as desired, the respondent(s) shall be given an opportunity to defend their actions, one respondent at a time, using the same procedure as outlined above.
13. When all of the parties have completed the presentation of witnesses and evidence, then the Hearing Board shall allow each party the opportunity to make a brief (10 minutes or less) summation.
14. The appeals hearing shall then be adjourned.
15. A mechanical/electronic record of the hearing shall be made and a transcript will be made if it is ordered by the Chair of the Hearing Board. Any party may request that the transcript be ordered, however the party(s) requesting the transcription will pay the costs of the transcription.

#### H. Determination

The Hearing Board deliberations shall be closed and confidential. Alternates shall observe deliberations but shall not actively participate. The Equal Employment Officer may advise the Committee of applicable laws and Federal regulations. The Hearing Board shall make a determination by a majority vote of the Board members. Alternates shall not vote. The determination shall be made within ten working days of the conclusion of the hearing. The Hearing Board chair will forward the written determination and recommendation of the hearing board to the parties involved, the Equal Employment Officer, and the president of the university within ten working days of the decision.

#### I. Appeal

Either party has the right to appeal the decision of the Grievance Hearing Board to the President. Notification of this intent should be made to the Equal Employment Officer within three workdays of the Board's decision. The President shall receive the appealed case and will make the final ruling on campus. This decision will be communicated to all interested parties within ten workdays of receipt by the President.

#### **Written Records**

- A. All written records and/or tapings of the case must be forwarded to the Equal Employment Officer and will become part of the Grievance Procedure system. Files will then be disposed of pursuant to the General Records Retention and Disposition schedule for state agencies as established by the Department of Archives of the Kansas State Historical Society.
- B. In sexual harassment cases, corrective action taken by the University, when a faculty member is judged to be at fault, shall depend upon the seriousness of the offense, along with past patterns of related activity. Sanctions shall range from informal oral agreements, to written reprimand, to dismissal in accord with the policies and procedures of the Board of Regents. A copy of the University Appeals Report and the president's decision will be placed in the offender's permanent master file. If the accused is exonerated, however, a chronology of the proceedings and copies of the report and president's decision will be maintained in the exonerated individual's permanent master file for no more than two years (see statute of limitations for filing complaints (180 days) specified by the Equal Employment Opportunity Commission (EEOC) under sexual harassment guidelines, Title VII of the Civil Rights Act of 1964). Access to the proceedings, report, and decision will be governed by University guidelines pertaining to permanent master files. At the end of two years, the exonerated individual will be permitted to remove the sexual harassment case documentation from his/her permanent master file.

## **CAMPUS JUDICIAL BOARDS**

### **Residential Life Judicial Board**

The Residential Life Judicial Board (JBoard) exists to promote a positive group living environment by providing a means to assure compliance with the established policies of the Department of Residential Life and FHSU in all of our communities. The JBoard operates within the boundaries of the communities which provide its power and is committed to provide fair treatment of each person who appears before the board.

Members of the JBoard are drawn from each Residential Life community. Residents interested in serving as a member of the JBoard apply in the fall to the JBoard Adviser. Specific application

information is provided at the beginning of each academic year. Those individuals who are selected to serve on the JBoard receive specialized training and remain seated throughout the academic year if their performance is satisfactory and their conduct history remains clear. JBoard members will receive a 10% room reduction (meal plan not included) at the end of each semester.

The Hall Director makes the decision as to whether a policy violation is major or minor and as to whether it is to be reviewed by the JBoard, the Hall Director, the Director of Residential Life or the Office of Student Affairs. Any time a resident is notified to appear before the JBoard, (s)he must do so. All communication with the involved student(s) will be via the student's scatcat email account. If the resident fails to appear, his/her case will be reviewed by the JBoard based on the evidence in hand.

All JBoard decisions may be appealed to the Hall Director if the student involved feels that the assigned sanction(s) is inordinately severe for the violation or if (s)he feels that the finding of responsibility was made in error and (s)he can produce new information. Failure to appear at the original JBoard hearing renders the right of appeal null and void.

Failure to complete sanctions as assigned will result in an escalation of disciplinary status, a finding of non-compliance and may result in additional sanctions being assigned. Non-compliance represents a violation of any probationary status invoked by the JBoard or through an administrative hearing.

## **Student Hearing Panel**

### ***Guidelines***

1. The student hearing panel will be composed of five (5) panel members and one Chair, with two (2) alternates. The panel Chair will serve as the hearing officer, and will be without voting privileges, except in case of a tie.
2. The members will be selected through an application process. Students must be full time (enrolled in at least 12 undergraduate or 9 graduate hours). The applications will be reviewed by a selection committee consisting of the Assistant Vice President for Student Affairs, and selected members of the Student Faculty court. This committee will select the Panel Chair from the same application pool.
3. The Assistant Vice President for Student Affairs or his/her designee will serve as an advisor for this panel.
4. No member of the Student Hearing Panel can serve on any other FHSU Judicial Board (i.e., Residence Halls, Greeks, etc.) at the same time they are serving as a student hearing panel member.
5. Students will be required to attend a training session, prior to hearing any cases.
6. In the case that a panel member is accused of a violation of the Student Code of Conduct, their case will be heard in either an administrative conference or an administrative hearing. If found in violation of the code, the Hearing Panel Member will be removed from the Panel.
7. Each panel member will be expected to maintain proper confidentiality. Any breach of confidentiality could result in removal from the hearing panel.
8. Each member of the panel must excuse him/herself if there may exist a conflict of interest or mitigating circumstances.
9. If a member resigns, or a conflict of interest prevents a panel member from serving, an alternate will serve in his/her place.
10. If a panel member must step down during a hearing, the hearing will proceed without that member.

## **Student/Faculty Court**

The judicial branch of the Student Government Association is the Student/Faculty Court.

### ***Purpose***

1. The Student/Faculty Court shall have jurisdiction over all cases where a student is in jeopardy of university imposed sanctions and shall guarantee and establish the right of a student to petition for relief from student discipline sanctions. Students shall have the right of appeal ensuring due process under the law.
2. Attorneys may appear in accordance with the procedures established in the Student Bill of Rights.

### ***Membership***

1. The Student/Faculty Court shall consist of one student chief justice, three student justices, and three faculty justices.
2. Any full time Fort Hays State University student with a 2.00 or higher cumulative grade point average or higher (on a 4.00 scale) is eligible for appointment to the Student/Faculty Court. Justices must have at least 45 credit hours to be appointed to the Student/Faculty Court.
3. All justices of the Student/Faculty Court shall be required to meet with the office of Student Affairs within one month of appointment to discuss responsibilities, expectations, and specific scenarios which may occur during their terms.

### ***Organization***

1. The Student/Faculty Court shall consist of the following positions:
  - a. The Chief Justice of the Student/Faculty Court
    - i. The chief justice of the Student/Faculty Court shall have the following duties, rights and responsibilities:
      1. To serve as the chair of the Student/Faculty Court;
      2. To call the Student/Faculty Court into session;
      3. To write the majority opinion in a case;
      4. To recess the Student/Faculty Court, when necessary, and reconvene within a reasonable time; and
      5. To vote only in the case of a tie.
    - ii. The chief justice of the Student/Faculty Court shall remove himself or herself should he or she come into conflict with a case. In this case, he or she shall appoint a student justice from the three appointed to serve in his or her capacity for the duration of the case.
  - b. Three Student Justices of the Student/Faculty Court
    - i. The three student justices of the Student/Faculty Court shall have the following duties, rights, and responsibilities:
      1. To offer objective input;
      2. To listen to all evidence presented with no bias or partiality; and
      3. To render fair and impartial judgment.
  - c. Student justices on Student/Faculty Court finding themselves in conflict with parties of a case shall remove themselves from that case.

### ***Proceedings***

1. A quorum shall consist of any four voting members present at one meeting. In the case of removal of one justice, quorum shall be adjusted to three voting members of Student/Faculty Court.
2. Petitions shall be presented to the chief justice of the Student/Faculty Court, at which time the petitioner shall be presented with necessary information pertaining to

- the proceedings of Student/Faculty Court. Further information will be presented to the chief justice who will, in turn, then present the material to the Student/Faculty Court.
3. The Student/Faculty Court has the power to review any and all petitions in a closed session prior to any court case to determine the validity of said case.
  4. The Student/Faculty Court shall follow an informal format.
  5. The format for the questioning session in Student/Faculty Court shall be as follows:
    - a. Justices shall hear the facts and opinions of those persons involved in the controversy
    - b. Justices may ask questions they deem necessary to assume a clear understanding of the issues.
    - c. When opposing views have been heard, each party involved shall have the opportunity to make final comments.
    - d. This session shall be open only to those individuals involved in the case, witnesses and lawyers.
    - e. Meetings shall be recorded by a justice so designated by the chief justice of the Student/Faculty Court.
  6. The format for the decision-making session in Student/ Faculty Court shall be as follows:
    - a. Justices shall discuss the pertinent facts and render a timely decision.
    - b. No decision shall be rendered until a majority decision is reached.
    - c. Once a decision has been reached, the decision shall then be announced to all parties concerned. Within one week, written copies of the majority decision and the rationale involved in the decision and/or dissenting opinion must be made available to the Student Government Association office. A dissenting opinion may be written at the discretion of each justice.
    - d. If the Student/Faculty Court need declare an indecision, the petitioning parties may then appeal to the president of the university, except in the case of Student Government Association elections. If so requested, the Student/Faculty Court shall be the final authority on all formal election procedure protests. If the Student/Faculty Court is unable to come to a decision in regards to election procedure protests, a new election will be held.
    - e. Any requests for appeal of the Student/Faculty Court shall be directed to the president of the university.
    - f. This session shall be open only to the chief justice, three student justices and three faculty justices. Meetings shall be recorded by a justice designated by the chief justice of the Student/Faculty Court.

## **FREQUENTLY ASKED QUESTIONS**

- What kinds of issues/problems/complaints fall under Student Judicial Affairs?  
The Student Affairs Office processes issues/problems/complaints that involve students who are accused of violating constitute the Student Code of Conduct. The Code addresses a wide variety of behaviors, including assault, computer and telephone misuse, and vandalism.
- Who can file a complaint against a student?  
Any member of the FHSU community may file a complaint against a student - that means that a faculty member, staff person, or student may file a complaint.
- Does filing a complaint automatically mean that there will be a formal hearing?

No, filing a complaint does not automatically result in a formal hearing. The student that is accused will first participate in a "Student Conference" with a staff member from the Student Affairs Office. If the accused student admits to violating the Code of Conduct in that conference, sanctions are developed and the matter is considered resolved once those sanctions are completed. If the student does not admit to violating the code as accused, the process advances to a hearing (either a Student Panel Hearing or Administrative Hearing).

- Who decides if the hearing will be administrative or with the Student Hearing Panel? How is that decision made?  
That decision is made by the Administrative Officer (Assistant Vice President for Student Affairs). In most cases, the matter will be heard by the Student Hearing Panel. Examples of when an administrative hearing is used are when the matter must be resolved in a timely way, or during finals week or the week immediately prior to finals.
- If the violation involves an alleged crime, can a student be prosecuted criminally as well as referred to Student Judicial Affairs?  
Yes. Students are held responsible for the behavior as members of the University community. Judicial Affairs does not process violations of the law (as courts do), but violations of the Student Code of Conduct. Students have a separate relationship with FHSU that is different from their responsibilities as citizens of Hays, the state of Kansas, and the USA.
- How can someone get involved in serving on a University discipline board?  
Students can become involved in serving on a number of different hearing boards. Students living in a University Residence Hall should contact their Hall Director to get more information about being part of Hall Council and Judicial Board. Students that belong to a Greek letter organization may serve on the Greek Standards Review Board - interested students should contact the Panhellenic or IFC advisor in the Student Affairs Office. Applications for the Student Panel become available at the beginning of the fall semester, and the panel is selected at that time. Contact the Student Affairs Office to find out if there are openings on the Student Panel.

Faculty involvement is also important in FHSU Judicial Affairs. Three members of the FHSU faculty serve on the Student/Faculty Court. In addition, faculty may be invited to participate in administrative hearings. Please contact the Assistant Vice President for Student Affairs for more information.