


# Grievance Procedure

	<p>Policy identification number: <i>To Come</i></p> <p>File: <i>Ethical &amp; Responsible Conduct Policies / Anti-Discrimination Policies</i></p> <p><b>Grievance Procedure</b></p> <p>Policy Summary  <b>This procedure resolves complaints brought under the Fort Lewis College Student Conduct Policy, Equal Opportunity and Affirmative Action Policy, Discriminatory Harassment Policy, and/or Disability Anti-Discrimination Policy. This policy may also resolve complaints brought under the Student Housing Guide, at the discretion of the Director of Housing and Conduct.</b>  <b>The Sexual Misconduct Policy is governed separately by the Sexual Misconduct Procedure. Cases that involve both a Sexual Misconduct Policy violation and another policy violation may be resolved under the Sexual Misconduct Policy alone, or under both the Sexual Misconduct Procedure and this procedure, at the Title IX Coordinator’s discretion, and as allowed by state and federal law.</b></p>
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Policy Owner	Approval Date	Effective Date
<b>Dean of Student Engagement</b>	<b>October 5, 2018</b>	<b>October 1, 2022</b>

Search Terms	Scheduled for Review
<b>vpsa, grievance, procedure, g</b>	<b>Fall 2023</b>

## I. Authority and Jurisdiction

The Dean of Student Engagement, acting on behalf of the President, will designate Coordinators to administer the Grievance Procedure

Employees (including staff and/or faculty) may be parties to cases governed by this procedure in some cases, at the discretion of the Coordinator. Employees who would not otherwise be entitled to this process may demand to be a party in a case.

Actions taken under these Procedures are separate and independent from any law enforcement or other court process or proceeding, such as a civil lawsuit or criminal prosecution that may relate to the same underlying factual incident. The applicability of these Procedures is not dependent upon whether criminal charges are filed. Investigations or inquiries conducted by the College are not postponed while criminal or civil proceedings are pending unless determined appropriate by the College. Dismissal of criminal charges or acquittal in a criminal case does not prevent the College from investigating and adjudicating an incident.

## II. Definitions

**Coordinator.** In cases involving Equal Opportunity and Affirmative Action Policy, Discriminatory Harassment Policy, and/or Disability Anti-Discrimination Policy the Coordinator is the Equal Opportunity Coordinator. In cases involving Fort Lewis College Student Conduct Policy, the Coordinator is the Dean of Student Engagement or their designee.

**Complainant.** A complainant is an individual or organization, including the College, filing a complaint. The College may also serve as a complainant where a concern was initially brought by an individual who no longer wishes to be the complainant, and where the College determines that the concern should be resolved under this procedure.

**Disciplinary Authority.** The disciplinary authority is the individual who has the authority or delegated authority to impose discipline upon a faculty, staff or student respondent.

**Employee.** Employee means any individual who receives payment from the College for work performed, including but not limited to faculty, exempt and classified staff, student employees, or temporary employees.

**Investigator.** An investigator means the individual designated by the Coordinator to investigate a complaint. The Coordinator may serve as the investigator.

**Parties.** Parties are the complainant and the respondent. The victim may be treated as a party for notice purposes, if the victim is not the complainant.

**Respondent.** Respondent is the individual against whom a complaint has been filed.

**Sanctioning Authority:** Sanctioning Authority means the individual who imposes and decides sanction. In cases involving complaints under Equal Opportunity and Affirmative Action Policy, Discriminatory Harassment Policy, and/or Disability Anti-Discrimination Policy, the Equal Opportunity Coordinator will make a sanction recommendation to the Sanctioning Authority.

- Student respondents are sanctioned through a designee of the Dean of Student Engagement.

- Faculty respondents are sanctioned by the Provost or a designee of the Provost.
- Classified staff respondents are sanctioned by the State of Colorado Appointing Authority of Fort Lewis College or their designee.
- Administrative professional respondents are sanctioned by the Dean of Student Engagement to whom they or their supervisors report, or their designee.

**Student.** Student means any individual who has confirmed admission to the College, is a new student at orientation, is currently enrolled in courses at the College, whether full-time or part-time, was enrolled in the previous semester, or is registered for a future semester.

**Working Days.** Working days are those days when the administrative offices of the College are open.

### **III. Procedures and Responsibilities**

Grievance Procedures are an extension of the teaching mission of the institution and thus educational in intent whenever possible, particularly when students are parties. As such, the procedures used by the College are not subject to rules of civil or criminal proceedings. Some violations of policy may also be violations of Federal, State, or local laws and ordinances, and respondents may be accountable to both criminal or civil courts and the College for their misconduct.

The standard of proof required by Fort Lewis College for a finding of responsibility is a preponderance of the evidence (i.e., the information gathered demonstrates that it is “more likely than not” that the misconduct occurred).

### **IV. Reporting**

1. Any member of the Fort Lewis College community may report an individual who is a student or employee for policy violations. The description of the behavior should be in writing and provided as soon as possible after the incident has occurred. A report of any misconduct may be filed [online](https://www.fortlewis.edu/tellsomeone) at [fortlewis.edu/tellsomeone](https://www.fortlewis.edu/tellsomeone). In addition, discriminatory harassment may be reported to the Equal Opportunity Coordinator whose contact information is at [www.fortlewis.edu/EO](https://www.fortlewis.edu/EO). Sexual Misconduct is governed by the Sexual Misconduct Grievance Procedure and may be reported to the Title IX Coordinator, whose contact info is at [www.fortlewis.edu/CARE](https://www.fortlewis.edu/CARE).

### **V. Interim Measures**

Students may be suspended from the College on an interim basis per Fort Lewis College’s [“Interim Suspension Policy.”](#)

### **VI. Method of Resolution**

The Coordinator has the discretion to determine the appropriate means for addressing the report or complaint. Options include but are not limited to:

- a. Early Resolution Process
- b. Investigative Resolution Process
- c. Determination that the facts of the complaint or report, even if true, would not constitute a violation of the Relevant Policies listed above and closing the matter following a preliminary inquiry.
- d. Determining that there is no ongoing risk of recurrence, and then closing the matter. Such a determination may be made (but is not required) in circumstances such as, but not limited to, the following: where the accused is not a member of the campus of the community, or will shortly cease to be one, or where the alleged misconduct occurred beyond the College's jurisdiction.
- e. Referring the matter to an employee's disciplinary authority or supervisor, depending upon the employee's employment classification. In such event, the employee's disciplinary authority will meet with the employee prior to taking any disciplinary action, and the College will work to redress any harm resulting from the alleged misconduct.

### **a. Early Resolution Process**

Early Resolution applies in the following cases:

- 1. No housing removal, college suspension, expulsion and/or employment termination is contemplated; OR
- 2. The facts of the cases are not disputed (even in serious cases such as housing removal, college suspension/expulsion and/or employment termination cases); OR
- 3. The respondent does not admit to the alleged facts, but agrees to suspension/expulsion and/or employment termination, or both parties agree to different sanction or outcomes.

Early resolution takes place as follows:

#### **NOTICE**

Notice of a concern may be provided verbally.

#### **INVESTIGATION**

Investigation, when it occurs due to disputed facts, may be summary and informal, consisting only of an incident report, and an interview with Respondent, for example.

#### **INTERVIEW**

Interview(s) may be conducted informally, with or without written follow-up. In potential separation cases, Parties may use the Interview to give input regarding sanction, including mitigating or aggravating circumstances. This can also be done in writing.

#### **SANCTION**

In cases where separation from the college is not contemplated, OR when there is a mutually acceptable resolution, sanction may be imposed forthwith by the applicable sanctioning authority.

## **APPEAL**

There is no appeal option.

### **b. Investigative Resolution Process**

In cases where housing removal or separation from the college is a possible sanction AND the facts are disputed, an investigation will take place.

An investigation may convert to an “Early Resolution Process” at any time if the case become undisputed and/or if there is an agreement by the parties as to sanction or outcomes, at the discretion of the Coordinator.

#### **1. NOTICE OF INVESTIGATION**

- a. When the Coordinator completes the preliminary inquiry and finds enough information to proceed, the Coordinator will send a written notification electronically to the Parties’ Fort Lewis College email address(es). Other reasonable means of notifying the parties may also be used, including mail or personal delivery.
- b. If allegations are made against a Respondent Organization such as a Registered Student Organization (RSO), a written notification will be emailed to the head of the Respondent Organization.

#### **The notification will include:**

- i. A link or links to this Procedure and the applicable Relevant Policy or Policies;
- ii. The specific section of the known Relevant Policy allegedly violated. If new information comes out during the investigation indicates violations not included in the initial Notice, Respondent may be notified verbally.
- iii. The date and location of the alleged incident. To the best of the Coordinator’s knowledge;
- iv. Applicable interim measures, such as no-contact directive. Supplemental interim measures may be applied after Notice;
- v. Notice of possible separation from the College, if applicable.
- vi. Respondent’s option, if they do not wish to dispute the facts, to resolve through “Early Resolution.” And or to refrain from participating and resulting in resolution based on available information.

#### **2. INVESTIGATION**

- a. The College follows an investigative model whereby investigator(s) interview the parties separately and provide each party the opportunity to be heard and to respond. There are no formal hearings.
- b. Investigations are designed to be administrative proceedings conducted in an

educational and fair manner. Federal or State rules of evidence do not apply. Investigations will be closed and confidentiality will be maintained as allowed by law.

- c. Parties may have an advisor of their choice during interviews. Advisors may not speak on behalf of a party. FLC does not provide advisors to parties.
- d. Audio or video recordings may be made of all proceedings.
- e. The Coordinator makes the final determination as to relevance of any evidence.
- f. Parties may request that relevant witnesses be interviewed. Witnesses may be interviewed alone or with their advisor, without parties, other advisors, or other witnesses in attendance.
- g. The investigator is responsible for conducting interviews, with reasonably timely notice to Parties.
- h. Parties and the Investigator may offer or gather other forms of evidence, including documents, text messages, photos, videos, screen shots, etc. prior to conclusion of the investigation.
- i. The Investigator will review, if available, any prior complaints of misconduct regarding the Respondent if they are relevant or probative to the alleged conduct at issue, or if they demonstrate a pattern of behavior. Such prior complaints, if relevant or probative, may be used in the imposition of interim protective measures, the investigative finding, and/or sanctioning.
- j. At the conclusion of the investigation, the Investigator shall consider the information presented in order to determine responsibility for the charges. At the Investigator's discretion, a draft of the report may be shared with the parties for their feedback.
- k. In student cases, the Investigator will also determine sanction, with input from the Coordinator as necessary. The Investigator will advise the parties of this determination within a reasonable time. A written resolution letter is sent out electronically within five days after the decision has been reached. This resolution letter shall consist of the determination of responsibility and complete description of any sanction imposed. At the investigator's discretion, the letter may contain a summary and an analysis of the facts. Complainant's notice of resolution may be restricted in whole or part by superceding FLC policy and law.
- l. In employee cases, the Investigator's determination of responsibility is provided to the parties and the Sanctioning Authority.

### **3. FAILURE TO PARTICIPATE**

If the Parties do not participate in the investigation, the Coordinator will determine the responsibility for the alleged violation based on available information, and the College will decide a disciplinary sanction, if responsible, based upon the available information. Such a resolution and/or sanction is not appealable by Parties that do not participate.

## **VII. Disciplinary Sanctions**

A finding of responsibility and sanction under this Procedure may serve as grounds for restricting participation by Fort Lewis College offices, departments and organizations, apart from sanctions imposed through this process.

## A. DISCIPLINARY SANCTIONS- STUDENTS

In student respondent cases, the investigator is the Sanctioning Authority and imposes sanctions.

The purposes of imposing sanctions is to assist respondents in identifying alternative modes of conduct that are more suitable to their successful attainment of their academic goals, to protect the College community from behaviors that are detrimental to the educational process, and to give restitution to complainants for loss or destruction of property. One or more of the following disciplinary sanctions may be imposed upon respondents. The severity of the sanctions imposed is intended to correspond with the severity and/or frequency of the violation, as well as the respondent's willingness to re-commit to good citizenship by choosing behaviors consistent with their educational goals and/or the College's mission. Subsequent policy violations may result in a more severe sanction.

1. **DISCIPLINARY WARNING:** Notice in writing that the respondent has violated the *Relevant policy* and that continuation or repetition of similar misconduct may be cause for further disciplinary action and more severe sanctions.
2. **DISCIPLINARY PROBATION:** A period of review and observation during which a respondent has been officially notified that the misconduct was inappropriate.
3. Restrictions or conditions of conduct for a specified period of time, including, but are not limited to, the following:
  - a. Ineligibility to run for or hold office in any Fort Lewis College Student Organization
  - b. Ineligibility to represent the College, including participation in intercollegiate athletics.
  - c. Ineligibility to have certain jobs on campus such as housing staff and orientation leader.
  - d. Ineligibility to participate in or sponsor campus activities or events.
  - e. Ineligibility to recruit new members.
  - f. Ineligibility to receive College financial assistance.
  - g. Periodic contact with a designated member of the campus community.
  - h. Completion of an assessment at the campus Counseling Center.
  - i. Campus/community service.
  - j. Restitution.
  - k. Educational activities.
  - l. Restrictions on accessibility to College facilities, housing areas, and/or change of housing assignment.
4. **HOUSING SUSPENSION/ REMOVAL:** Involves removal from the campus residential housing community for conduct that clearly demonstrates an inability to function appropriately in the residential living situation. Such removal may be permanent or for a specified number of terms, and it prohibits accessibility to all or designated residence halls.
5. **DISCIPLINARY SUSPENSION:** Defined as the involuntary separation of a

respondent from Fort Lewis College for a period of time. For a Respondent Organization, this means temporary cancellation of recognition. Suspension shall be effective on the date of notice of the suspension or later as stated in said notice. The respondent will be notified of the date and conditions, if any, upon which they may petition for re-admission or re-recognition. Respondents separated from the College due to disciplinary suspension are prohibited from the College campus or College-related premises and activities without written authorization in advance from the Dean of Student Engagement or the Coordinator. Any violation of this restriction shall subject the respondent to citation and/or arrest for trespassing.

**6. DISCIPLINARY EXPULSION:** Expulsion is permanent disciplinary separation from the College involving denial of all respondent privileges. For a Respondent Organization, this means permanent cancellation of recognition. An expelled respondent is prohibited from the College campus or College-related premises and activities without securing written authorization in advance from the Dean of Student Engagement or the Coordinator. Any violation of this restriction shall subject the respondent to arrest for trespassing. Expulsion will be effective on the date of notice of the expulsion or later as stated in said notice.

## **B. DISCIPLINARY SANCTIONS- EMPLOYEES**

The Coordinator will notify the employee's disciplinary authority if a respondent was found to have violated a policy or acted inappropriately or unprofessionally.

Prior to the imposition of sanctions, employees whose terms of employment are also governed by other policies or procedures such as the Faculty Handbook or the State Personnel Board rules may be subject to those additional policies or procedures. The disciplinary authority will impose sanctions at the conclusion of such additional disciplinary policies and procedures.

If after the conclusion of other governing employee policies or procedures a sanction has not already been imposed, sanctioning occurs under this policy as permitted by controlling FLC policy, and local, state and federal law.

The disciplinary authority may have access to the investigative records. The investigator and the employee's disciplinary authority will, together, determine appropriate sanctions. The investigator and the employee's disciplinary authority may consult, as needed, with any other administrative staff, to determine appropriate sanctions.

Disagreements between the investigator and the employee's disciplinary authority will be resolved by submitting the complaint and investigation information to the President or designee for review and final decision. The President or designee may have access to the investigative records and may consult with the investigator in order to take appropriate action.

## **VIII. Appeals**



Appeals are available only for student respondents in student disciplinary suspension or expulsion cases.

Appeals must be in writing and be received within five *Working Days* of the day the resolution letter is sent by the investigator. Failure to submit a request for appeal in writing in time will render the decision final and conclusive.

An appeal may be sought only on the grounds listed below and reasons for the appeal must be stated in the written request. Appeals will be denied in cases not having sufficient or appropriate reasons for appeal.

### **Grounds for Appeal**

Respondent may appeal where there was significant prejudice to the Respondent AND any of the following grounds is present:

The sanction was not appropriate.

There was serious procedural error.

There is significant and relevant new information to the case that was not available at the time of the investigation.

Investigator or coordinator was biased.

The decision was not supported by the facts of the case.

### **Appeal Authority**

The Appeal Authority for this procedure is the Dean of Student Engagement or their designee.

The Appeal Authority will review the appeal and the entire record of the case if there are sufficient grounds for the appeal. The Appeal Authority may also meet with the appellant to discuss the case. After review, the Appeal Authority shall take one of the following actions:

1. Affirm or alter the original decision; however, the alteration may not result in a more severe sanction.
2. Return the case to the appropriate individual, per the basis of the appeal.

The written decision of the Appeal Authority will be e-mailed to the appellant's Fort Lewis College e-mail address. The Appeal Authority's decision is final for the Fort Lewis College disciplinary proceedings.

## **IX. Record Retention and Confidentiality**

In all cases, the Coordinator shall retain the investigator's report and the disciplinary authority's final sanction decision for a minimum of three years or for as long as any administrative or legal action arising out of the complaint is pending. All records, reports and investigations shall be considered confidential and shall not be disclosed publicly except to the extent required by law. Student disciplinary files are kept for seven years from the final decision date except for expulsion cases, which are kept indefinitely.

**Student Disciplinary Hold:** While the Grievance Procedure is underway, the College may place a disciplinary hold on the student's records. The disciplinary hold prohibits the student from registering for classes until the Procedure has been completed. A disciplinary hold may also be placed if a student fails to complete assigned sanctions, which has the same impact on a student's records and registration as described above. The disciplinary hold will not be removed until all sanctions are completed. A disciplinary hold shall be placed on a student's record if they are suspended from the College after being found in violation of any of the Relevant Policies.

**Release of Student Information:** Provisions of the Family Educational Rights and Privacy Act of 1974 (FERPA), as amended by the Higher Education Amendments of 1998, govern access to a student's disciplinary file. Students have the right to inspect and review their educational records. To do so, students must submit a written request to the Coordinator. The Coordinator will comply with a request for access within a reasonable time, not to exceed 45 days.

**Employee Disciplinary Record:** An individual employee's disciplinary proceeding records will be added to the employee's existing personnel file.

**Re-Release of Information:** Individuals who receive confidential information due to their participation in the Grievance Procedure, or due to the signed consent of the student whose records are in question, are prohibited from further disclosing/releasing the confidential information, unless expressly permitted by law as in cases involving a crime of violence or non-forcible sexual offense. Violation of this prohibition could result in additional charges or other appropriate action.

## **X. Review Process**

A review of the *Grievance Procedure* will take place annually. This review will be initiated by the Equal Opportunity Coordinator and will include the following: the Dean of Student Engagement, the Equal Opportunity Coordinator, and the Human Resources Director or their designees.

## **XI. Responsibilities**

**For following the policy:** All students and employees regardless of their employment classification

**For enforcement of the policy:** Dean of Student Engagement, Title IX Coordinator, Deputy Title IX Coordinators, Equal Opportunity Coordinator

**For oversight of the policy:** Dean of Student Engagement

**For notification of policy:** Policy Librarian

**For procedures implementing the policy:** Dean of Student Engagement, Student Affairs, Title IX Coordinator, Deputy Title IX Coordinators, Equal Opportunity Coordinator

## **Cross Referenced Policies**

[Discriminatory Harassment](#)

[Disability Anti-Discrimination](#)

[Student Conduct](#)

[Equal Opportunity and Affirmative Action](#)

[Sexual Misconduct Policy](#)

## **Revision History**

Approved by Fort Lewis College Board of Trustees: February 11, 2009. Revised by Fort Lewis College Board of Trustees: December 6, 2013. Revised by Fort Lewis College Board of Trustees: February 13, 2015. This revised policy was approved by the President's Cabinet on August 24, 2016 and the Board of Trustees on October 7, 2016. This revised policy was approved by the Board of Trustees on October 5, 2018. Updated position titles April 24, 2023