

NOTICE OF NEW REGULATION

Date: September 16, 2009

REGULATION TITLE:

Organization Conduct Review Process; Sanctions;
Appeals

REGULATION NO.:

UCF-5.013

SUMMARY OF REGULATION: The purpose of this new regulation is to outline the review process for student organization conduct violations and the sanctions that accompany them. The regulation also describes the appeals available within the student organization review process.

AUTHORITY: BOG Resolution dated January 7, 2003

NAME OF PERSON WHO INITIATED REGULATION:

Nicholas Oleksy, Coordinator, Office of Student Conduct

COMMENTS CONCERNING THE PROPOSED REGULATION SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation you are commenting on.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION IS:

Regulations Administrator
4000 Central Florida Blvd.
Millican Hall, Suite 360
Orlando, FL 32816-0015
Phone: (407) 823-2482
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FULL TEXT OF THE PROPOSED REGULATION:

UCF-5.013 Organization Conduct Review Process; Sanctions; Appeals

(1) Violation Reports

(a) Alleged violations of the UCF Organizational Rules of Conduct shall be reported

in writing to the Director of the OSRR or designee. Incident reports can be submitted for

information purposes only, for information purposes with the requirement that the student

organization attend an academic integrity seminar, or to initiate the student conduct review process. Upon receiving an incident report, the Director of the OSRR or designee may review relevant information and consult with relevant parties regarding the incident in question. In unusual cases, which dictate a decision for the health and safety of any individual, the student body, or any part of the University or its community, the Director of the OSRR or designee, upon notifying the VP of SDES, may take immediate action to resolve the situation by placing the student organization on interim suspension. Such action is subject to review at a hearing within ten (10) business days by the VP of SDES or designee to determine the status of the interim suspension. The outcome of an interim suspension hearing shall remain in effect until the final disposition of formal charges resulting from the circumstances of the case, unless the VP of SDES or designee shall decide otherwise.

(b) The Director of the OSRR will refer all information warranting disciplinary action to the Office of Student Conduct. The Office of Student Conduct will send written notification to the chief officer of the student organization at their UCF mailing address indicating the nature of the activity in question and what Organizational Rules of Conduct were allegedly violated. The chief officer of the student organization shall serve as the organization's representative in the organization conduct review process. The student organization may not designate an advisor as their representative in the conduct review process.

(c) Upon receipt of an incident report the Office of Student Conduct has six months to charge a student organization with a violation of the Organizational Rules of Conduct. The Office of Student Conduct may exercise discretion when applying the time provision to account for circumstances that warrant a waiver of the six month time limit from the date the violation report was filed.

(d) A student organization charged with alleged violations of the Organizational Rules of Conduct (see UCF-5.012) will receive notice to attend a mandatory preliminary conference with the Office of Student Conduct. If the student organization fails to attend the mandatory preliminary conference without providing a satisfactory reason for the absence, the student organization may be placed on immediate social probation until such time as the student organization completes the mandatory preliminary conference. During the mandatory preliminary conference the student organization will receive information regarding the Student Organization Conduct Review Process, including the student organization's rights during the process; an opportunity to inspect and/or review the information known at the time charges were prepared and how to contact the Student Government Association Judicial Advisor. At the conclusion of the mandatory preliminary conference, one of the following will occur: case dismissal, mediation, informal hearing, or formal hearing.

(e) Social probation includes but is not limited to the prohibition of the following: any on or off campus fundraisers, socials, intramural competitions, receptions, service projects, conferences, retreats, etc. The organization may also not be able to update its registration until such time that it appears before a hearing. Groups under social probation may gather at regularly scheduled business meetings.

(2) Options for Resolution of Disciplinary Charges

(a) Case Dismissal: The Director of OSRR or designee may dismiss a case if it is found to not have sufficient facts or evidence to substantiate the claim of misconduct or the misconduct is not a violation of the organizational rules of conduct.

(b) Mediation: Depending on the nature and severity of the alleged violation, the Office of Student Conduct may recommend formal mediation through the Office of Student

Rights and Responsibilities as an alternative to disciplinary action. The involved parties must each agree to mediation. Mediation is a confidential process where the parties voluntarily meet with an impartial mediator to communicate their concerns and needs to each other and to reach their own agreement on the resolution of the case. The participants in mediation are responsible for keeping their agreement or renegotiating it, if necessary. In the event that the participants do not agree to mediate or mediate but do not reach a full and final resolution, the case will be referred back to the Office of Student Conduct for disciplinary action through an informal or a formal hearing. Breach of a mediated agreement may result in a follow up mediation session or the matter may be referred back through the conduct process at the discretion of the Office of Student Conduct.

(c) Informal Hearing: At the discretion of the Office of Student Conduct, violations found not to warrant a formal hearing may be referred to an informal hearing. At the informal hearing the charged student organization has the opportunity to meet with an Office of Student Conduct staff member and accept responsibility for the charges of violation of the Organizational Rules of Conduct. At the informal level the matter will be settled by the following outcomes: punitive sanction (warning, probation, or restrictive probation) as well as educational sanctions (papers, seminars, community service, etc.). If the matter is not settled informally, the case will be resolved through a formal hearing.

(d) Formal Hearing: If an alleged violation of the Organizational Rules of Conduct is not dismissed or otherwise resolved, then the Office of Student Conduct shall present in writing formal charges to the student organization. The charged student organization may request either a panel or administrative hearing. In cases of alleged Harmful Behavior or Sexual Misconduct (see Organizational Rules of Conduct, UCF-5.012) the student organization is required to have a

panel hearing. The charged student organization's hearing shall only be open to the charged student organization's chief officer, their advisor, the hearing body, witnesses (when called upon), a representative from the Office of Student Conduct, and a university staff member from an appropriate office (Office of Student Involvement, Office of Fraternity and Sorority Life, Recreation and Wellness Center, etc.).

(3) Formal Hearings

There are two types of formal hearings – panel hearings and administrative hearings.

(a) Panel Hearings.

1. A panel to consider an organizational case shall be comprised of members from the Office of Student Conduct Student Conduct Board. The panel shall consist of two (2) faculty and administrative staff members combined and two (2) student members that have been trained by the Office of Student Conduct to hear organizational cases. One panel member shall be selected by the Office of Student Conduct to chair the hearing and report the finding(s) and recommended sanction(s), if any, to the Director of the OSRR or designee.

2. At hearings conducted by a panel, an Office of Student Conduct staff member shall act as an advisor to the panel. The Director of the OSRR shall receive the panel's finding(s) as to "in violation" or "not in violation" of the Organizational Rules of Conduct and consider any recommended sanctions by the panel.

3. The Director of the OSRR or designee may accept the finding(s) of "in violation" or "not in violation" or remand the case for rehearing. If the Director of the OSRR or designee accepts the finding of "in violation," they may approve, mitigate or increase the sanctions recommended by the panel.

4. Any decision by the Director of the OSRR or designee to alter sanctions or return a case shall be accompanied by a concise and explicit written statement that explains the basis for that decision.

(b) Administrative Hearings

1. Administrative hearings shall be conducted by a faculty or staff member from the Student Conduct Board trained by the Office of Student Conduct to hear organizational cases. The charged student organization shall be informed of the hearing officer assigned to its case and shall have the opportunity to challenge the impartiality of the individual within three (3) business days of notification. The charged student organization shall state in writing the basis for such challenge. A hearing officer so challenged will be excused; however, indiscriminate challenges shall not be permitted. In the event that a charged student organization has opted not to challenge the impartiality of a hearing officer prior to the allotted three (3) business days, the assigned hearing officer shall remain as scheduled. Administrative hearings are not an option in cases of alleged Harmful Behavior or Sexual Misconduct (see Organizational Rules of Conduct, UCF 5.012).

2. At hearings conducted by an administrative hearing officer, an Office of Student Conduct staff member shall act as an advisor to the administrative hearing officer. The Director of the OSRR or designee shall receive the administrative hearing officer's finding(s) as to "in violation" or "not in violation" of the Organizational Rules of Conduct, and consider any sanctions recommended by the administrative hearing officer.

3. The Director of the OSRR or designee may accept the finding(s) of "in violation" or "not in violation" or remand the case for rehearing. If the Director of the OSRR or designee

accepts the finding(s) of “in violation,” they may approve, mitigate or increase the sanctions recommended by the administrative hearing officer.

4. Any decision by the Director of the OSRR or designee to alter sanctions or return a case shall be accompanied by a concise and explicit written statement that explains the basis for that decision.

(c) Conduct of Formal Hearings - the following is furnished as a guide to the events in a formal hearing:

1. Reading of charges.
2. Student organization response of “in violation” or “not in violation.”
3. Presentation of information in support of the charges.
4. Opening statement by the charged student organization.
5. Questioning of the charged student organization by the hearing body.
6. Presentation and questioning of witnesses in support of the charges.
7. Presentation and questioning of witnesses by the charged student organization.
8. Final questions of the charged student organization by the hearing body.
9. Closing remarks by the charged student organization.
10. Deliberation (in confidential executive session).
11. Announcement of the finding(s) and recommended sanction(s), if any..

(d) Case Record for Formal Hearing - The case record shall consist of the following items:

1. A copy of the formal charges in writing.
2. A recording of the formal hearing.
3. All staff memoranda submitted.

4. All items of physical or written documentation submitted, provided such items are not returned to a rightful owner. In that case, photographs or other facsimiles shall be made before return.

5. The finding(s) and recommended sanction(s), if any, by the hearing panel or administrator.

6. The Director of the OSRR's decision.

(4) Student Organization Rights during the Formal Conduct Review Process-

(a) The following rights shall be explained to the charged student organization before the commencement of a formal disciplinary hearing:

1. The charged student organization shall be afforded written notice, at least five (5) business days prior to a formal hearing, unless waived in writing. Written notice sent to the chief student officer of the charged student organization's electronic and/or physical address shall constitute full and adequate notice. Written notice shall include:

(i) The name of the organization, the chief student officer's name and organization's address, if applicable.

(ii) Date, time and location of the formal hearing

(iii) Alleged Organizational Rule of Conduct Violation(s) known at the time formal charges are prepared.

(iv) Names of potential witnesses known at the time that formal charges are prepared.

(v) A description of any physical or written documentation known at the time charges are prepared.

Provided that the required notice stated above has been given to the student organization along with its representative(s) but a representative failed to attend a scheduled formal hearing

without providing a satisfactory reason for the absence, the organization may be placed on immediate social probation until such time as the organization completes the formal hearing and any further steps in the conduct process. The organization will also not be able to update its registration while on social probation.

2. The student organization may have at their own expense and initiative, an advisor present at the hearing. It is the student organization's responsibility to make appropriate arrangements for the advisor to attend the hearing, and the hearing shall not be delayed due to scheduling conflicts of the chosen advisor. The advisor may be present to advise the student organization but shall not speak for or present the case for the student organization or otherwise participate directly in the proceeding. A student organization may consult with their advisor at any time during the hearing. This consultation must take place in a manner that does not disrupt the proceedings. A student organization's advisor must not be connected to the actual conduct case or a related case. In addition, an advisor may not serve as a witness. If the advisor does not adhere to their defined role in the student conduct review process, they may be removed from the hearing. The Office of Student Conduct shall maintain a list of impartial advisors and resources available to the student organization.

3. All hearings shall be conducted on the basis that the charged student organization is not in violation until the preponderance of evidence proves otherwise. At a student conduct organizational hearing, the technical rules of evidence applicable to civil and criminal cases shall not apply. The burden of proof in a student conduct hearing is not on the student organization charged with a violation of the Organizational Rules of Conduct.

4. The student organization's chief officer may inspect any information presented in support of the charges. Information may be presented in support of the charged student organization.

5. The university cannot compel any person to attend a student organizational hearing. However, all parties to a student organizational conduct hearing may arrange for witnesses to voluntarily present relevant information during the proceeding. Pertinent information may be accepted as information for consideration by the person or body conducting the student organizational formal hearing. The student organization may hear and question adverse witnesses who testify at the student organizational formal hearing.

6. The student organization shall not be forced to present information that incriminates its individual members; however, the University is not required to postpone disciplinary proceedings pending the outcome of any civil or criminal prosecution.

7. The finding(s) of "in violation" or "not in violation" on the charges shall be based solely on the information presented at the student organizational formal hearing.

8. Should the finding(s) of the hearing body be in violation, prior conduct history that has occurred within three academic years of the incident will then be reviewed and may affect sanctioning.

9. The final decision shall be furnished in writing to the student organization within two (2) business days following the hearing (the deadline can be extended by mutual agreement of the charged student organization and the Director of the OSRR or designee).

10. The student organization's registration status shall remain unchanged pending the University's final decision in the matter except in cases where the VP of SDES or designee

determines that the safety, health, or general welfare of any individual, or any part of the University may be involved.

(5) Sanctions for Student Organizations

(a) Disciplinary Warning: An official warning that the organization's behavior is in violation of the Organizational Rules of Conduct and that if the organization is subsequently found in violation of a rule, subsequent action may be more severe.

(b) Disciplinary Probation: A period of time during which any further violation of the Organizational Rules of Conduct puts the student organization's status with the University in jeopardy. Restrictive conditions may also be imposed as part of disciplinary probation and will vary according to the severity of the offense. Restrictive conditions may include barring or limiting some or all of the organization's activities and/or privileges (including, but not limited to: social activities; intramural competition; organizational competition; Homecoming; eligibility to receive any University award or honorary recognition; privilege to occupy a position of leadership or responsibility in any University student organization governing body, publication, or activity; or ability to represent the University in an official capacity or position). If a student organization is found "in violation" for another violation of the Organizational Rules of Conduct while on disciplinary probation, more severe sanctions may be imposed.

(c) Suspension: While on suspension the student organization loses its University recognition and/or registration for a temporary period of time. While an organization is suspended, it may not use University resources or participate as an organization in any University activities or events.

(d) Revocation of UCF Registration: Permanent severance of the organization's relationship with UCF.

(e) Recommendation for Charter Revocation: An official request to a national office that the local chapter's charter be revoked.

(f) Educational Sanctions: In conjunction with any sanction listed above, a student organization found to have been in violation of any of the Organizational Rules of Conduct will be assigned educational sanctions such as, but not limited to: reflective/research papers, classes/seminars, community service, restitution, interviews, etc. If a student organization has any outstanding educational sanctions at the conclusion of disciplinary probation or suspension, the disciplinary probation or suspension will remain in effect pending completion of the educational sanctions.

(6) Appeal Within the Student Organization Review Process

(a) A student organization found in violation as a result of a hearing may appeal the finding(s) and sanction(s) imposed. The appeal must be made in writing to the Appellate Officer (VP of SDES or designee) within seven (7) business days after the date the student organization was notified of the decision by the Director of the OSRR.

(b) Student organizations may appeal the finding(s) and sanction(s) imposed on the basis of one or more of the following:

1. Irregularities in fairness and stated procedures of the hearing that substantially affected the outcome of the hearing.

2. Discovery of new and significant information that would be likely to change the outcome of the hearing and that was not known or could not reasonably have been discovered and/or presented at the time of the initial hearing.

3. The sanction(s) are extraordinarily disproportionate to the violation(s).

(c) On the appeal form, the student organization must state the reason(s) for appeal, the supporting facts, and the recommended solution. This is not a re-hearing of the conduct case. An appeal cannot be filed simply because a student organization is dissatisfied with the decision. Failure to describe the nature of the information in full detail in the appeal letter will result in the denial of an appeal.

(d) The Appellate Officer shall first determine if sufficient grounds for appeal exist and then, if so, may either deny the appeal, thus sustaining the initial decision and sanction(s), or do one of the following:

1. reduce the sanction; or.
2. order a new hearing.

(e) The student organization shall receive a written decision to the appeal. There is no definitive timeline for receiving an appeal response. It depends on many factors including the complexity of the case and the information mentioned in the appeal, as well as the Appellate Officer's appeal load at that particular time. Decisions of the VP of SDES or designee reflect final agency action.

(f) If the Appellate Officer upholds the original findings, the effective date of any disciplinary sanction(s) imposed will revert back to the date of the Director of OSRR's final decision letter.

Authority: Florida Board of Governors Regulations 1.001 and 6.0105. History - New _____-09.