

NOTICE OF PROPOSED REGULATION AMENDMENT

Date: August 19, 2005

REGULATION TITLE:
Student Discipline

REGULATION NO.:
6C7-5.0041

SUMMARY OF REGULATION AMENDMENT: This regulation establishes terms for disciplinary probation and suspension and modifies the listing of conduct regulations to match changes in regulation 6C7-5.003. This regulation is further amended with respect to the requirements and conduct of formal hearings, including changes to the composition of the Student Conduct Board, and appeals.

AUTHORITY: BOG Resolution dated January 7, 2003

NAME OF PERSON WHO INITIATED PROPOSED REGULATION AMENDMENT:
Patricia MacKown, Assistant Vice President, CAMPUS LIFE

COMMENTS CONCERNING THE PROPOSED REGULATION AMENDMENT 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 AMENDMENT:

6C7-5.0041 Student Discipline.

(1) Scope.

(a) This rule shall apply to all undergraduate students, graduate students, and student organizations of the university and its branch campuses and shall be deemed to be a part of the terms and conditions of admission, enrollment and retention of all students.

(b) Excluded from this particular rule are disciplinary actions which are described in the following UCF Rules except that repeated or aggravated cases may be subject to action under this rule:

1. Rule 6C7-6.007, F.A.C., Parking and Traffic Violation.

2. Rule 6C7-5.0042, F.A.C., Student Academic Behavior – action taken by instructor unless referred by a college dean or designee to the Director of the Office of Student Rights and Responsibilities or designee for disposition under this rule.

(2) Rules of Conduct. The following listed actions, which are more fully described in paragraph 6C7-5.003(2)(c), F.A.C., are a list of the actions for which students may be subject to disciplinary action under the provisions of this rule. These rules apply to all students and student organization for conduct that occurs against other students or non-students on University premises, while participating in University sponsored or related activities, during school sessions, during holidays, and during periods of continuous enrollment, or off-campus when that conduct is determined to adversely affect the interest(s) of any part of the University. A student is continuously enrolled, once admitted, unless the student fails to register in two consecutive terms, excluding summer terms, and must reapply for University admission.

(a) Subparagraphs 6C7-5.003(2)(c)1. through 19., F.A.C., including:

1. Misuse of Computing Service and Telecommunications Resources.
2. Possessing and/or Providing False and Misleading Information and/or Falsification of University Records.
3. Gambling.
4. Unauthorized Use of Keys and/or Entry.
5. Personal Abuse.
6. Commission of a Felony or a Misdemeanor.
7. Unlawful Possession, Use, or Sale of any Controlled Substances.
8. Instigation or Participation in Group Disturbances During Demonstrations, Parades or Picketing.
9. Disruptive Conduct.
10. Possession and/or Use of a Firearm and/or Dangerous Materials.
11. Hazing.
12. Larceny/Property Damage.
- ~~13. Property Damage.~~
- ~~13.~~ 14. Misconduct at University Sponsored/Related Activities.
- ~~14.~~ 15. Academic Dishonesty/Cheating (cf. Rule 6C7-5.0043, F.A.C.).
- ~~15.~~ 16. Sexual Abuse ~~Misconduct.~~

16. ~~47.~~ Alcoholic Beverages Violations.

17. ~~48.~~ University Designated Student Residence Violations.

18. ~~49.~~ University Wordmark Violations.

(b) See also paragraph (1)(b) above.

(3) Disciplinary Sanctions. The sanctions which may be imposed on students for violation of any of the rules of conduct of this University shall include any of the sanctions listed under informal disposition in subsection (6) below or any of the following. Review boards may recommend any sanction listed below with any appropriate modifications as well as any from the sanctions listed under informal disposition.

(a) Disciplinary Warning – An official warning that the student’s behavior is in violation of the UCF Rules of Conduct, and that if the student is subsequently found in violation of this rule, subsequent action may be more severe.

(b) Disciplinary Probation – Disciplinary probation status shall be for a specific length of time extending from a week to a number of semesters. Restrictive conditions may be imposed and vary according to the severity of the offense. Restrictive conditions may include, but may not be limited to, the following: loss of good standing which may become a matter of record; ineligibility to receive any university award, scholarship, loan, honorary recognition, or initiation into any local or national organizations; denial of the privilege to occupy a position of leadership or responsibility in any university student organization, publication or activity, or ability to represent the University in an official capacity or position. Under disciplinary probation, the student may continue to attend classes and is given a chance to show capability and willingness to live in accordance with University rules. However, if the student is subsequently found in violation of a rule while on disciplinary probation, the University may suspend or expel the student from the University.

(c) Disciplinary Suspension – A student involved in an offense warranting consideration of action more serious than disciplinary probation, or one involved in repeated misconduct, may face suspension. The length of the suspension period shall be defined and may extend from days to a number of semesters. During the period of suspension, a student may not attend classes and may not otherwise be present on University premises unless authorized in writing in advance under conditions approved by the Director of the Office of Student Rights and Responsibilities. In determining if and to what extent suspended students shall be authorized to be on University premises, the Director of the Office of Student Rights and Responsibilities or designee shall consider whether the

suspension creates an undue hardship on the suspended student in regard to considerations that include, but are not limited to, the medical needs of the student.

(d) Disciplinary Expulsion – When an offense is of such severity that the University will not allow the student to re-enroll, the student will be expelled. When a student has been expelled from the University for disciplinary reasons, a full report will be placed in the permanent record of the individual concerned.

(e) Disciplinary Sanction Review Request

1. Disciplinary Probation

After a student has completed a semester of their disciplinary probation they have the opportunity to request a review of their probation status. This request can only be submitted once a semester. Such a review shall allow the student the opportunity to discuss what he/she has done to proactively address their behavior. In considering this request a student's good behavior shall assume that the student is performing above and beyond the basic requirements of their sanction(s). Students that simply fulfill the minimum requirements of their sanction(s) will not have their probation re-evaluated. If the student decides to use this procedure they must submit a written statement to the Director of OSRR explaining why they feel their probation should end early. Such a written statement should include but is not limited to

- Involuntary and/or voluntary psychological testing
- Counseling
- Educational programs
- Community involvement/service
- Occupational growth

This statement will then be reviewed by the Director of OSRR or designee and he/she shall issue a decision within 14 calendar days. The decision shall include an assessment of the student's progress and if rejected a rationale of the decision.

2. Disciplinary Suspension

After a student has completed half of their disciplinary suspension they have the opportunity to request a review of their suspension status. This request can only be submitted once a semester. Such a review shall allow the student the opportunity to discuss what he/she has done to proactively address their behavior. In considering this request a student's good behavior shall assume that the student is performing above and beyond the basic requirements of their sanction(s). Students that simply fulfill the minimum requirements of their sanction(s) will not

have their suspension re-evaluated. If the student decides to use this procedure they must submit a written statement to the Director of OSRR explaining why they feel their suspension should end early. Such a written statement should include but is not limited to

- Involuntary and/or voluntary psychological testing
- Counseling
- Educational programs
- Community involvement/service
- Occupational growth

This statement will then be reviewed by the Director of OSRR or designee and he/she shall issue a decision within 14 calendar days. The decision shall include an assessment of the student's progress and if rejected a rationale of the decision.

(4) Violation Reports. Alleged violations of the UCF Rules of Conduct shall be reported in writing to the Director of the Office of Student Rights and Responsibilities (OSRR), or designee. The written complaint of violation of the UCF Rules of Conduct shall be made no later than six months ~~one year~~ following discovery of the alleged violation. The Director of the Office of Student Rights and Responsibilities or designee shall make appropriate inquiries into the circumstances of the case to determine one of the following dispositions:

- (a) Case dismissal.
- (b) Administrative action.
- (c) Mediation.
- (d) Informal disposition.
- (e) Formal disposition.

(5) Case Dismissal. The Director of OSRR or designee shall dismiss a case if it is found to not have sufficient facts or evidence to substantiate the claim of misconduct, the accused person is not a student or the misconduct is not a violation of the rules of conduct.

(6) Administrative Action.

(a) In unusual cases, which dictate a decision for the welfare of any individual, the student body, or any part of the University or its community, the Director of OSRR, or designee, may take immediate and summary action to resolve the situation. This summary action may include any of the disciplinary sanctions described in subsection (3) of this rule (warning, probation, suspension, or expulsion) or any lesser sanction that the Director of

OSRR, or designee, determines necessary to protect the interests of any or all concerned. Such action is subject to review within three (3) working days by the Vice President for Student Development and Enrollment Services or designee. In the instance of summary suspension or expulsion, there will be a scheduling of a hearing within three (3) days to determine the status of the summary suspension or expulsion.

(b) Sanctions taken through administrative action shall remain in effect until the final disposition of formal charges resulting from the circumstances of the case, unless the Vice President for Student Development and Enrollment Services or designee shall decide otherwise.

(7) Mediation. Depending on the nature and severity of the alleged violation, the Director of OSRR or designee may refer the case to the Dispute Resolution Services Office for mediation as an alternative to disciplinary action. Mediation is a confidential process whereby two or more 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 re-negotiating it, if necessary. In the event that the participants do not reach a full and final resolution, the case will be referred back to the Director of OSRR or designee for disciplinary action.

(8) Informal Disposition. At the discretion of the Director of OSRR, or designee, violations found not to warrant formal disposition may be referred to the appropriate forum for proper disposition and/or settled by one or more of the following outcomes: disciplinary warning; disciplinary probation; restitution; community service; counseling; or other educational sanctions.

(9) Formal Disposition.

(a) If an alleged violation of the Rules of Conduct is not handled through other appropriate channels, is not dismissed, or is not settled informally, then the Director of OSRR or designee shall present in writing formal charges to the student.

(b) This written notification shall include:

1. The student's name, ~~social security number~~, and address.
2. Brief description of the alleged violation including dates, times and places known at the time formal charges are prepared.
3. Names of potential witnesses known at the time formal charges are prepared.
4. A description of any written or physical evidence known at the time charges are prepared.

5. Notice to attend a required preliminary conference ~~An invitation to attend an information session during which the student will receive instructions~~ regarding the disciplinary process and the student's rights, confirmation of the forum in which the case will be heard, and an opportunity to inspect and/or copy the evidence known at the time charges are prepared that likely could be presented at the hearing and notice on how to contact the SGA Judicial Advisor.

(c) The charged student may request either a hearing before a panel of the Student Conduct Board or before an Administrative Hearing Officer appointed by the Vice President for Student Development and Enrollment Services or designee.

(10) Formal Hearings.

~~(a) Student Conduct Boards. The Student Conduct Board and the Student Organization Hearing Board shall consist of twenty (20) persons appointed by the Vice President for Student Development and Enrollment Services. The Student Conduct Board shall consist of not less than five (5) faculty members, and/or five (5) administrative staff members representing the various administrative divisions of the university, and ten (10) student members. Board members shall serve annual terms beginning and ending in August of each academic year. When a vacancy occurs, the vice president shall make new appointments to fill unexpired terms. Whenever the number of board members available to serve in a particular disciplinary hearing is reduced, the vice president may appoint additional members on an ad hoc basis.~~ The Student Conduct Board shall consist of no less than twenty-five (25) persons. The Student Conduct Board shall be made up of not less than five (5) faculty members and/or five (5) administrative staff members representing the various administrative divisions of the University, and the remainder shall be student members, twelve (12) of whom shall be the justices from the Student Government Association Judicial Council. All conduct board members shall be appointed by Office of Student Rights and Responsibilities except the justices who shall be appointed by the Student Government Association. Board members appointed by the Office of Student Rights and Responsibilities shall serve annual terms beginning and ending in August of each academic year. Board members who are justices shall serve concurrent to their terms of office as outlined by the Student Body Constitution. When a vacancy occurs from a member not on the SGA Judicial Council, the Office of Student Rights and Responsibilities shall make new appointments to fill unexpired terms. Vacancies on the board from justices on the SGA Judicial Council shall be filled pursuant to the procedures outlined in the Student Government Constitution. Whenever the number of board members available to serve in a particular disciplinary hearing is reduced, the Office of Student Rights and Responsibilities may appoint additional members on an ad hoc basis.

(b) Student Hearing Panel. A student hearing panel to consider individual cases shall be randomly selected by the Director of OSRR or designee from the Student Conduct Board and shall consist of two (2) faculty and administrative staff members combined, and two (2) student members. Each panel shall elect from among its number an individual to conduct that hearing and to report its decisions to the Director of OSRR or designee. At hearings conducted by a student or student organization hearing panel, the Director of OSRR or designee shall act as an advisor to the panel, receive the panel's recommendation as to in violation or not in violation of the Rules of Conduct, and consider any sanctions recommended by the panel.

(c) The Director of OSRR or designee shall: Accept the recommendation of "in violation" or "not in violation" or remand the case for rehearing. If the Director of the OSRR or designee accepts the recommendation of "in violation", they may approve, mitigate or increase the sanctions recommended by the panel, based on standards set forth in the Disciplinary Sanctions section of the Student Conduct Review Process.

(d) Administrative hearings shall be conducted by a faculty or staff member randomly selected by the Director of OSRR or designee from the Student Conduct Board. The charged student shall be informed of the hearing officer assigned to his/her case and shall have the opportunity to challenge the impartiality of the individual within three (3) school days of notification. In the event that a student has opted not to challenge the impartiality of a hearing officer prior to the allotted three (3) school days, the assigned hearing officer shall remain as scheduled. The student shall state in writing the basis for such challenge. A hearing officer so challenged will be excused; however, indiscriminate challenges shall not be permitted.

(e) Any decision by the Director of OSRR or designee to alter sanctions or return a case under paragraph (c) of this subsection shall be accompanied by a concise and explicit written statement that explains the basis for that decision.

(11) Conduct of Hearings – The following is furnished as a guide to the sequence of events in a hearing:

(a) Reading of charges.

(b) Student plea of "in violation" or "not in violation".

(c) ~~(b)~~ Presentation of evidence against the charged student.

(d) ~~(c)~~ Presentation of evidence in defense of the charged student.

(e) ~~(d)~~ Deliberation (in confidential executive session).

(f) ~~(e)~~ Announcement of the decision.

(12) Case Record – The case record shall consist of the following items:

(a) A copy of the formal charges in writing.

(b) A video tape recording of the hearing.

(c) All staff memoranda and/or data submitted.

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

(e) The recommendation by the hearing panel or administrator, if any.

(f) The Director of OSRR decision.

(13) Student Rights During the Student Conduct Review Process. The following rights shall be explained to each charged student prior to the commencement of any formal disciplinary hearing:

(a) All parties shall be afforded reasonable written notice, at least five (5) calendar days prior to the hearing. A letter sent to the charged student at the address listed in the Registrar's records shall constitute full and adequate notice. Written notice shall include:

1. A statement of the time, place, and nature of the proceeding hearing.

2. A statement of the nature of the case and of the forum under which it is to be heard.

3. A brief statement of the behavior of the accused student that serves as the basis for the violation(s) being charged. If the University is unable to state the behavior in detail at the time notice is served, the initial statement may be limited to an explanation of the general issues involved. Thereafter, upon request by the student, a more detailed and definitive statement will be furnished prior to the commencement of any formal hearing.

(b) The student may have an advisor of the student's choice present at the hearing. The Director of OSRR shall maintain a list of impartial advisors and resources available to the student for preparing his/her defense. The advisor shall assist the student in the disciplinary process but shall not speak for or present the case on behalf of the student.

(c) All hearings shall be conducted on the basis that the charged student is not in violation until the preponderance of evidence proves otherwise.

(d) The student may inspect any evidence presented in support of the charges.

(e) Evidence may be presented in defense of the student.

(f) The student may hear and question adverse witnesses.

(g) The student shall not be forced to present self-incriminating evidence; however, the University is not required to postpone disciplinary proceedings pending the outcome of any civil or criminal case prosecution.

(h) The decision of “in violation” or “not in violation” on the charges shall be based solely on the evidence presented at the hearing.

(i) The results of any formal hearing shall be furnished in writing to the student within two (2) working days following the hearing.

(j) The student’s enrollment status shall remain unchanged pending the University’s final decision in the matter except in cases where the Vice President for Student Development and Enrollment Services or designee determines that the safety, health, or general welfare of the student, any individual, or any part of the University may be involved.

(14) Appeals – Students found in violation as the result of a hearing may appeal that finding and sanction(s) imposed as a result thereof on the basis of one or more of the following:

(a) Irregularities in fairness and stated procedures of the hearing that could have affected the outcome of the hearing.

(b) Discovery of new and significant evidence that could have affected 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.

(c) The sanctions are extraordinarily disproportionate to the violation(s).

(d) The appeal must be made in writing to the Associate Vice President for Campus Life within seven (7) calendar days after the date of notification to the student of the disciplinary decision.

(e) The Associate Vice President for Campus Life or designee shall first determine if sufficient grounds for appeal exist and then, if so, may either deny the appeal (thus sustaining the initial decision and sanctions) or remand the case to the original hearing forum for re-consideration.

(f) Further administrative appeal may be made in writing by the student to the Vice President for Student Development and Enrollment Services. Such appeal must be made within seven (7) calendar days after the date that the student was notified of the Associate Vice President’s decision. The Vice-President or designee may approve, modify or reject the original decision or sanction, or approve or reject Associate Vice President’s decision. The Vice President’s decision will be considered final agency action.

(g) Sealing ~~Expungement~~ of a Student Conduct Record – A student’s conduct record is eligible to be sealed ~~for expungement~~ if it is a single minor offense that did not result in suspension or expulsion and where a second violation would not likely result in suspension or expulsion from the University. A student conduct record may be sealed ~~expunged~~ upon the successful submission and review of appropriate paperwork to the Office of Student

Conduct. The factors influencing the decision by the Director of the OSRR for sealing expungement are the severity of the violation, effect of the violation on the University community, sanctions applied, completion of sanctions, and ethical development demonstrated by the student. There is not an appeals process regarding student conduct records being sealed expungements.

(15) Rule Evaluation. This rule will be evaluated not less than every three (3) calendar years by a University committee composed of three student members appointed by the Student Body President to the Vice President for Student Development and Enrollment Services and three (3) faculty and/or staff members appointed by the Vice President for Student Development and Enrollment Services, one of who shall be an attorney within the General Counsel's Office.

Specific Authority: 1001.74(4) FS. Law Implemented 1001.74(10)(e) FS. BOG Resolution dated January 7, 2003. History-New 11-8-79, Amended 9-8-85, Formerly 6C7-5.041, Amended 5-15-86, 10-11-92, 10-8-00, 4-23-03, _____.