

NOTICE OF PROPOSED REGULATION AMENDMENT

Date: September 29, 2015

REGULATION TITLE:
Rules of Conduct

REGULATION NO.:
UCF-5.008

SUMMARY OF REGULATION AMENDMENT: This regulation is amended to rewrite the code of conduct provision relating to sexual misconduct and to define additional terms. Minor edits and formatting changes made throughout.

AUTHORITY: BOG Regulations 1.001 and 6.0105

NAME OF PERSON WHO INITIATED PROPOSED REGULATION AMENDMENT:
Michael Gilmer, Director of Student Conduct

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 AMENDMENT IS:

Regulations Administrator
4365 Andromeda Loop North
Millican Hall, Suite 360
Orlando, FL 32816-0015
Phone: (407) 823-2482
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FULL TEXT OF THE PROPOSED REGULATION AMENDMENT:

UCF-5.008 Rules of Conduct

The following defined and described actions include, but are not limited to, conduct for which disciplinary action may be taken at the University of Central Florida. Students and organizations are responsible for the observation of all University policies and regulations. Each student is expected to abide by these rules of conduct, and administrators are expected to enforce them. These Rules of Conduct should be read broadly and are not designed to define prohibited conduct in exhaustive terms. Additional rules and regulations may be revised during the year; announcements will be made on adoption of the changes or additions. The right of all students to

seek knowledge, debate ideas, form opinions, and freely express their ideas is fully recognized by the University of Central Florida. The Rules of Conduct apply to student conduct and will not be used to impose discipline for the lawful expression of ideas.

(1) Academic Misconduct

- (a) Unauthorized assistance: Using or attempting to use unauthorized materials, information or study aids in any academic exercise unless specifically authorized by the instructor of record. The unauthorized possession of examination or course related material also constitutes cheating.
- (b) Communication to another through written, visual, electronic, or oral means. The presentation of material which has not been studied or learned, but rather was obtained through someone else's efforts and used as part of an examination, course assignment or project.
- (c) Commercial Use of Academic Material: Selling notes, handouts, etc. without authorization or using them for any commercial purpose without the express written permission of the University and the Instructor is a violation of this rule.
- (d) Falsifying or misrepresenting your academic work.
- (e) Plagiarism: Whereby another's work is used or appropriated without any indication of the source, thereby attempting to convey the impression that such work is the student's own.
- (f) Multiple Submissions: Submitting the same academic work for credit more than once without the express written permission of the instructor.
- (g) Any student who knowingly helps another violate academic behavior standards is also in violation of the standards.

(2) Possessing and/or Providing False and Misleading Information and/or Falsification of University Records

- (a) Withholding related information, or furnishing false or misleading information (oral or written) to University officials, university and non-university law enforcement officers, faculty or staff.
- (b) Possession, use or attempted use of any form of fraudulent identification.
- (c) Forgery, alteration or misuse of any University document, material, file, record or instrument of identification.

- (d) Deliberately and purposefully providing false or misleading verbal or written information about another person.
- (e) Falsification, distortion, or misrepresentation of information during the Student Conduct Review Process, including knowingly initiating a false complaint.

(3) Disruptive Conduct

- (a) An act that impairs, interferes with, or obstructs the orderly conduct, processes, and functions of the University or any part thereof or the rights of ~~other members of the University community~~ one or more individuals.
- (b) Any act which deliberately impedes or interferes with the normal flow of pedestrian and vehicular traffic.
- (c) An act which tampers with the election(s) of any University student organization or group including major violations of the SGA Election Statutes.
- (d) Misuse of any University safety equipment, firefighting equipment, or fire alarms.
- (e) An act which deliberately interferes with the academic freedom or the freedom of speech of any member or guest of the University community.
- (f) A false report of an explosive or incendiary device, which constitutes a threat or bomb scare.
- (g) Breach of peace: an act, which aids, abets, or procures another person to breach the peace on the University premises or at University sponsored/related functions.
- (h) Failure to comply with oral or written instruction from duly authorized University officials (i.e. faculty, staff, administration, residence hall staff) acting within the scope of their job duties or law enforcement officers acting in the performance of their duties, including failure to identify oneself to these persons when requested to do so.
- (i) Failure to produce identification upon request by a University official (i.e. faculty, staff, administration, residence hall staff), acting within the scope of their job duties or law enforcement officers acting in the performance of their duties.
- (j) Hindering or interfering with the Student Conduct Review Process by failing to obey the notice from a university official to appear for a student conduct meeting or hearing; and/or attempting to discourage an individual's proper participating in, or use of, the Student Conduct Review Process.

(4) Harmful Behavior

- (a) Physical harm or threat of physical harm to any person. This harmful behavior policy may not apply in those instances where it is found that a student is acting in self-defense.
- (b) Verbal or written abuse, threats, intimidation, coercion and/or other conduct that endangers the health, safety, or wellbeing of others, or which would place a reasonable person in the victim's position in fear of bodily injury or death. This definition, however, shall not be interpreted to abridge the rights of the University community to freedom of expression protected by the First Amendment of the United States Constitution and any other applicable law.
- (c) Harassment: defined as conduct (including written or electronic communication) based on a protected category (such as race, color, religion, national origin, gender equity, et al), which, due to the severity and pervasiveness of the conduct and its targeted nature on the basis of a protected category, (i) has the purpose or effect of creating an objectively intimidating, hostile or offensive educational or work environment; and (ii) has the purpose or effect of unreasonably interfering with an individual's employment, schooling, or business with the University. Harassment under this provision is conduct (verbal or physical behavior) that would constitute harassment under federal or state civil rights laws or under University Regulation (UCF-3.001).
- (d) Bullying: Defined as behavior of any sort (including communicative behavior) directed at another, that is severe, pervasive, or persistent, and is of a nature that would cause a reasonable person in the target's position substantial emotional distress and undermine his or her ability to work, study, or participate in University life or regular activities, or which would place a reasonable person in fear of injury or death. ~~Bullying: Defined as behavior (including written, visual, electronic or oral means) that is intentional and repeated, or meant to be done in humor or in jest, that results in the intimidation, injury, or distress of another individual physically, mentally, or socially. Bullying, however, is not speech or conduct otherwise protected by the First Amendment of the United States Constitution and any other applicable law~~

- ~~(e) Dating Violence: defined as violence, or threat of such violence, to an individual committed by a student who is or has been in a romantic or intimate relationship with said individual.~~
- ~~(f) Domestic Violence: defined as violence towards a current or former spouse or intimate partner in which the individuals are currently or have previously cohabitated together.~~
- (ge) Stalking: defined as repeated, unwanted conduct toward or contact with another person that creates fear for the person's safety or the safety of others, or causes an individual to suffer emotional distress. Such conduct is direct, indirect, or through a third party using any type of action, method, or means. Cyber stalking is also included in this definition.
- (hf) Failure to respect the privacy of other individuals including but not limited to stalking.
- (ig) Retaliation against or harassment of complainant(s), ~~or~~ other person(s) alleging misconduct, or anyone who participates in an investigation of harassment.
- (jh) Condoning or encouraging acts of harmful behavior as defined above or failing to stop an act of harmful behavior while it is occurring. ~~Note: See provisions for victim/survivor acts of violence regarding domestic violence, dating violence, and stalking in section UCF-5.006(2) under Student Rights. See F.S.S. 741.28, 784.046, 784.048 for definitions of Florida State Statutes www.leg.state.fl.us/Statutes/.~~

(5) Sexual Misconduct

~~(a) Any nonconsensual sexual conduct which occurs on or off the UCF campus.~~

~~Consent, to be valid, must be:~~

- ~~1. Freely and actively given.~~
- ~~2. In mutually understandable words or actions.~~
- ~~3. Consent to one form of sexual activity can never imply consent to other forms of sexual activity.~~
- ~~4. Consent is not the lack of resistance; there is no duty to fight off a sexual aggressor.~~

~~5. Consent can be withdrawn at anytime, as long as the withdrawal is clearly communicated by the person withdrawing consent through words or actions.~~

~~6. A person shall not knowingly take advantage of another person who is under 18 years of age, mentally defective, under the influence of prescribed medication, alcohol or other chemical drugs, or who is not conscious or awake, and thus is not able to give consent as defined above. Further, a person shall not physically or verbally coerce another person to engage in any form of sexual conduct, to the end that consent as defined above is not given.~~

~~7. Any attempted acts of sexual misconduct are also violations of this policy.~~

(a) Any nonconsensual sexual conduct which occurs on or off the UCF campus.

1. Consent, to be valid, must be an affirmative act or statement by each person that is informed, freely given and mutually understood. A determination of whether consent exists will be based on the information the initiator of the sexual act knew or should have known as a sober, reasonable person. Being intoxicated does not relieve an initiator of a sexual act from obtaining consent.:

a. It is the responsibility of each person involved in any sexual activity to ensure that he or she has the affirmative consent of the other, or others, to engage in the sexual activity.

b. The existence of a dating or sexual relationship between the persons involved, or the fact of past sexual relations is not indicator of consent for any current or future sexual encounter.

c. Consent cannot be obtained by force, threat, coercion, manipulation, reasonable fear of injury, intimidation, use of position of influence, or through the use of one's mental or physical helplessness or incapacity.

2. Consent must be ongoing throughout a sexual activity, for each sexual act, and can be revoked at any time.

a. Within each sexual encounter, there may be separate individual sexual acts involved.

- b. Consent to one act by itself does not constitute to another act.
- c. If verbal consent is not given, ongoing active participation is required for consent.
- d. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
- e. Lack of protest or resistance is not consent
- f. Silence is not consent.
- g. Consent can be withdrawn at any time as long as the withdrawal is clearly communicated by the person withdrawing consent through words or actions.

3. If a person is mentally or physically incapacitated so that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent.

a. Incapacitation is a temporary or permanent state in which a person cannot make informed, rational judgments because the person lacks the physical or mental capacity to understand the nature or consequences of their words and/or conduct, and/or the person is unable to physically or verbally communicate consent.

b. This includes but is not limited to conditions due to age, alcohol or drug consumption, being unconscious or asleep, or because of an intellectual or other disability that prevents the person from having the capacity to give consent.

(b) Sexual Harassment: Conduct (verbal or physical behavior) that would constitute sexual harassment under federal or state civil rights laws or under University Regulation UCF-3.001. Unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature which, due to the severity and pervasiveness of the conduct and the targeted nature of the conduct on the basis of sex, objectively prevents or impairs another person's full enjoyment of the educational benefits, atmosphere, or opportunities provided as part of the University. This provision also applies to unwanted, unwelcome, inappropriate, or irrelevant sexual or gender-based activities, sexual advances, or requests for sexual favors, when (i) submission to such conduct is made either explicitly or implicitly a term

or condition of a student's academic, extracurricular, or employment participation; or (ii) submission to or rejection of such conduct or request is used as the basis for employment decisions or to determine participation in academic or extracurricular activities.

- (c) Exposure of one's body in such a manner that another party reasonably could be offended or to display sexual behavior which another person reasonably finds offensive.
- (d) Sexual stimulation sought through trespass, spy, or eavesdropping activities.
- (e) Attempting to commit by solicitation sexual acts with a minor by oral, written, or electronic means.
- (f) Dating Violence: defined as violence, or threat of such violence, to an individual committed by a student who is or has been in a romantic or intimate relationship with said individual.
- (g) Domestic Violence: defined as violence towards a current or former spouse or intimate partner in which the individuals are currently or have previously cohabitated together.
- (h) Sex-related stalking: defined as repeated, unwanted conduct toward or contact with another person because of sex that creates fear for the person's safety or the safety of others, or causes an individual to suffer emotional distress. Such conduct is direct, indirect, or through a third party, using any type of action, method, or means. Cyber stalking is also included in this definition.
- (fi) Condoning or encouraging acts of sexual misconduct as defined above or failing to stop an act of sexual misconduct while it is occurring.
- (gi) Any attempted acts of sexual misconduct are also violations of this policy.

~~Note:— See provisions for victim acts of sexual misconduct in section UCF-5.006(2) under Student Rights. See F.S.S. 784.046 for definitions of Florida State Statutes www.leg.state.fl.us/Statutes/.~~

(6) Larceny/Property Damage

- (a) Unauthorized use, possession, ~~or services~~ or theft of property or service. Such property may be personal or public.

- (b) Damage or defacing of University property or the property of another person whether or not it is on University premises.

(7) Hazing

- (a) Any action or situation which recklessly or intentionally endangers the mental or physical health and/or safety of a student for the purpose of initiation or admission into, or affiliation with, any organization operating under registration with the University. Hazing may result in felony charges.
- (b) Brutality of a physical nature such as whipping, beating, branding, forced calisthenics, exposure to the elements; forced consumption of any food, liquid, liquor, drug, or other substances; or other forced elements; or other forced activity which could adversely affect the mental or physical health or safety of the individual.
- (c) Any activity which could subject the individual to mental stress such as sleep deprivation, forced exclusion from social contact, forced contact which could result in embarrassment, or any other activity which could adversely affect the mental health or dignity of the individual.
- (d) Forcing or requiring the violation of University policies, federal, state, or local law.
- (e) Any activity, as described above, upon which the initiation or admission into or affiliation with a University of Central Florida organization may be directly or indirectly conditioned, shall be presumed to be a “forced” activity, the willingness of an individual to participate in such an activity notwithstanding.

(8) Misuse or Unauthorized Use of Facilities and Grounds

- (a) Misuse or unauthorized use of classroom or laboratory facilities.
- (b) Abusing grounds or building structures including, but not limited to ramps, rails, stair sets and entryways by means of recreational cycling, skating, scootering, or other recreational activities or devices as outlined in Regulation UCF-4.036.
- (c) Unauthorized entry or attempted entry to any University facility.
- (d) Unauthorized possession, duplication or use of keys to any University premises.

(9) Misconduct at University Sponsored/Related Activities

- (a) Violation of UCF rules of conduct at UCF sponsored related activities shall also be a violation of the golden rule.

- (b) Violations of a regulation(s) of a host institution sponsored/related activity shall be a violation of the golden rule.

(10) Controlled Substance and Drug Violations

- (a) Possessing, consuming, or attempting to possess cannabis in any amount, except as expressly permitted by law
- (b) Cultivating, manufacturing, or attempting to obtain cannabis in any amount, except as expressly permitted by law.
- (c) Possessing, consuming, cultivating, manufacturing, or attempting to possess any controlled substances other than alcohol, cannabis, , except as expressly permitted by law.
- (d) Selling or distributing cannabis or any other controlled substances and related paraphernalia, other than alcohol and alcohol-related paraphernalia, except as expressly permitted by law.
- (e) Possessing or attempting to possess any drug related paraphernalia, other than alcohol-related paraphernalia, except as expressly permitted by law.
- (f) Misconduct under the influence of controlled substance of alcohol.

(11) Alcoholic Beverages Violation

- (a) Possessing or consuming alcoholic beverages, or possessing or using alcohol-related paraphernalia, except as expressly permitted by the law and University Regulations and/or Policies.
- (b) Selling or distributing alcoholic beverages or alcohol-related paraphernalia, except as expressly permitted by law and University Regulations and/or Policies
- (c) Misconduct under the influence of alcohol
- (d) Alcohol Emergencies- University Expectations for Individuals.
 1. University of Central Florida students who receive medical attention due to alcohol-related emergencies may be exempt from disciplinary action as part of the conditions for alcohol emergencies after review by the Director of the Office of Student ~~Rights and Responsibilities~~Conduct. Students eligible for exemption will be referred for assessment and follow-up services in lieu of the student conduct review process.
 2. Students who receive medical assistance for alcohol emergencies may receive exemption for violations of the Rules of Conduct Section 11

subsections a, b, & c; however, exemption for other Rules of Conduct violations may not be granted. The Director of the ~~Office of Student Rights and Responsibilities~~Office of Student Conduct reserves the right to review each incident individually to determine whether the student will be exempt from disciplinary action. The Director of the ~~Office of Student Rights and Responsibilities~~Office of Student Conduct maintains the right to recommend additional requirements for students who are referred for assessment and fail to meet the requirements of their assessment. For subsequent incidents, appropriate interventions will be handled on a case by case basis.

3. Students who seek medical assistance on behalf of another intoxicated student may be exempt from disciplinary action for violations of the Rules of Conduct Section 11 subsections a, b & c. However, exemption for other Rule of Conduct violations may not be granted.
4. For parental notification regarding medical transports for alcohol-related incidents, refer to the Parental Notification Policy in the on the Office of Student Conduct website: <http://osc.sdes.ucf.edu/notification>.
5. Additional information regarding alcohol emergencies can be found through the ~~Office of Student Rights and Responsibilities~~Office of Student Conduct website: ~~<http://osrr.sdes.ucf.edu>~~<http://osc.sdes.ucf.edu/alcohol>.

(12) Possession of Weapons and/or Dangerous Material

- (a) The possession, use, or storage of weapons on property owned or controlled by the University or at events sponsored and/or supported by the University is prohibited, except as specifically outlined in University Policy 3-119.1 (Weapons on University Property and at University Events).
- (b) Possession or use of fireworks of any description, explosives, or chemicals which are disruptive, explosive, or corrosive are prohibited on University premises or at University sponsored/related activities.

(13) Instigation or Participation in Group Disturbances during Demonstrations, Parades, or Picketings

- (a) Participation in a demonstration(s), parade(s), or picketing which invades the rights of others, which interferes with the educational function of the University, or which jeopardizes public order and safety.
- (b) Leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area.

(14) Misuse of Computing and Telecommunications Resources

- (a) Theft or other abuse of computer facilities and resources
- (b) Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.
- (c) Unauthorized transfer of a file.
- (d) Use of another individual's identification and/or password.
- (e) Use of computing facilities and telecommunications resources to interfere with the work of another student, faculty member or University Official.
- (f) Use of computing facilities and telecommunications resources to send obscene or abusive messages.
- (g) Use of computing facilities and telecommunications resources to interfere with normal operation of the University computing system.
- (h) Use of computing facilities and telecommunications resources in violation of copyright laws.
- (i) Any violation of the University of Central Florida Use of Information Technology and Resources Policy.
- (j) Any violation of the University of Central Florida ResNet Acceptable Use Policy.

(15) Gambling

- (a) Play in an unlawful game of chance for money or for anything of value on University premises or at any affair sponsored by a student or student organization.
- (b) Unlawfully sell, barter or dispose of a ticket, order, or any interest in a scheme of chance by whatever name on University premises or at any affair sponsored by a student or student organization.
- (c) Wager on a University team or organization in a competition, with a direct influence in the success of the competition.

(16) University Student Residence Violations. Violation(s) of any Department of Housing and residence Life policy, rule or regulation published in hard copy or available electronically via Department of Housing and Residence Life website.

(17) University Wordmark Violations. Unauthorized use of the official University wordmark, Pegasus, monogram, seal, or other graphic identity symbol.

(18) Violation of Local, State, and/or Federal Laws. Violation of any local, state and/or federal law that may result in a felony or misdemeanor.

Authority: BOG Regulations 1.001 and 6.0105. History – Formerly 6C7-5.0042, New 6-18-09, Amended 7-19-12, 9-5-13, 11-20-14, _____-15.