

NOTICE OF PROPOSED REGULATION AMENDMENT

Date: May 25, 2023

REGULATION TITLE:
Student Conduct Review Process; Sanctions

REGULATION NO.:
UCF-5.009

SUMMARY OF REGULATION AMENDMENT: This regulation sets out the process for reviewing alleged student rule violations. The proposed amendments are to: include a reference to UCF-5.010 for the appeals process (section (2)(d)), add new language regarding a student's right to their disciplinary record (section (4)(m)), clarify that a student under disciplinary dismissal or disciplinary expulsion may not otherwise be present on University premises for the duration of the dismissal unless authorized in advance (sections (6)(e) and (h)), and to make additional minor edits such as position title updates throughout.

AUTHORITY: BOG Regulations 1.001 and 6.0105

NAME OF PERSON WHO INITIATED PROPOSED REGULATION AMENDMENT:

Michael Gilmer, Director of Student Conduct & Academic Integrity

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
e-mail: regulations@ucf.edu

FULL TEXT OF THE PROPOSED REGULATION AMENDMENT:

UCF-5.009 Student Conduct Review Process; Sanctions

(1) Violation Reports. To initiate the Student Conduct Review Process, Alleged violations of the UCF Rules of Conduct ~~shall~~must be reported in writing to the Director of the Student Conduct and Academic Integrity (SCAI) or designee. Upon receiving an alleged violation of misconduct, the Director of SCAI or designee may review relevant information and consult with relevant parties regarding the incident in question. Where deemed necessary to protect the safety and well-being of others, of the University, or of property, the Director of SCAI or designee, upon notifying the VP of ~~SDES~~Student Success and Well-Being (SSWB) or designee, may take immediate action to resolve the safety and/or well-being concern by placing the student on interim action. Interim action is not a sanction. An interim action is subject to review at a hearing within three (3) business days by the VP of ~~SDES-SSWB~~ or designee to determine the status of the interim action. The outcome of an interim action hearing shall remain in effect until

the final disposition of any formal charges resulting from the circumstances of the case, unless the VP of ~~SDES-SSWB~~ or designee shall decide otherwise.

- (a) The Director of the SCAI or designee will refer all information warranting disciplinary action and assign the case to the appropriate staff member. SCAI will send written notification to the charged student indicating the nature of the activity in question and what university rules were allegedly violated.
- (b) Upon receipt of an incident report SCAI has six (6) months to charge a student with a violation of the Rules of Conduct. SCAI may exercise discretion when applying the time provision to account for circumstances that warrant a waiver of the six-month time limit. SCAI will waive the six-month limit in cases involving sexual harassment, dating violence, domestic violence, and stalking and may waive the time limit for other extraordinary cases, as determined by the Director of SCAI or designee.
- (c) Students charged with alleged violations of the Rules of Conduct will receive notice to attend a preliminary conference with SCAI to discuss the charges. At the preliminary conference, the student will receive information regarding the Student Conduct Review Process, including the student's rights during the process, an opportunity to inspect and/or review the information known at the time, and notice on how to contact the Student Government ~~Judicial Advisor~~Impartial Advisor. At the conclusion of the conference, SCAI recommends an option for resolution of the disciplinary charges. If the student fails to attend the preliminary conference, a hold may be placed on the student's record, preventing them from registering for future classes until the matter is resolved, and SCAI may move forward with scheduling a formal hearing as a resolution for disciplinary charges. Students who leave the university or withdraw from a class before a disciplinary matter is resolved may be prohibited from future enrollment until such time as the matter is resolved.

(2) Options for Resolution of Disciplinary Charges.

- (a) **Case Dismissal:** The Director of SCAI or designee may dismiss a case if it is found to not have sufficient facts or information to substantiate the claim of misconduct, the accused person is not a student, or the action claimed as misconduct is not a violation of the Rules of Conduct.
- (b) **Mediation:** Depending on the nature and severity of the alleged violation, SCAI may recommend mediation as an alternative to disciplinary action. The involved parties must each agree to mediation. Mediation is confidential. In mediation, 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 for possible disciplinary action. 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 SCAI. Mediation will not be a resolution option for cases involving allegations of incidents of sexual misconduct and/or interpersonal violence.
- (c) **Informal Resolution Conference:** At the discretion of SCAI, violations found not to warrant a formal hearing may be referred to an informal resolution conference. SCAI shall provide timely written notice to the student of the charges at least seven (7) business days before the informal resolution conference. At the informal

resolution conference, the charged student has the opportunity to meet with an SCAI member or designee and accept responsibility for the charges of violation of the Rules of Conduct. At the informal level, the matter will be settled by the following outcomes: punitive sanction (Disciplinary Warning, Disciplinary Probation, or Disciplinary Deferred Suspension) as well as educational sanctions (papers, seminars, community service, etc.). If the matter is not resolved informally, the case will be resolved through a formal hearing. The outcomes from an informal resolution conference (decision of responsibility and **recommended** sanctions) are final and are not eligible to be appealed (UCF-5.010). The student will receive written notice of the Resolution Agreement within ten (10) business days of the conference, except in the case of extraordinary circumstances. Written notice of the Resolution Agreement will include the determination regarding responsibility for conduct violations and applicable sanctions.

- (d) **Formal Hearing:** If an alleged violation of the Rules of Conduct is not dismissed or otherwise resolved, then SCAI shall provide timely written notice to the student of the charges at least seven (7) business days before the formal hearing. Except as set forth in (5) below, the charged student may request either a panel or administrative hearing. The charged student's hearing shall be open only to the charged student; the charged student's advisor, advocate, or legal representative; the hearing body; witnesses (when called upon); a representative from SCAI; and a legal representative for the University. For cases of sex-based misconduct (non-Title IX Sexual Harassment), the hearing shall also be open to the complainant and advisor. For cases of Title IX Sexual Harassment, the hearing shall also be open to the complainant, advisor, and support person. In cases of alleged Academic Misconduct, the student is required to have an academic integrity hearing as stated in UCF-5.015. Following the formal hearing, the student will have a specified timeline to file an appeal; should the student fail to file an appeal within the specified timeline, the outcome from the formal hearing will be considered final agency action by the University (see Regulation UCF-5.010).

(3) Formal Hearings. There are two types of formal hearings – panel hearings and administrative hearings.

- (a) **Panel Hearings.**
1. A panel to consider an individual case shall be randomly selected by SCAI from the Student Conduct Board and shall consist of two (2) faculty and administrative staff members combined, and two (2) student members. One panel member shall be selected by SCAI to chair the hearing and report the proposed finding(s) and recommended sanctions, if any, to the Director of SCAI or designee.
 2. At hearings conducted by a panel, an SCAI staff member shall act as an advisor to the panel. The Director of SCAI or designee shall receive the panel's proposed finding(s) as to "in violation" or "not in violation" of the Rules of Conduct, and consider any sanctions proposed by the panel.
 3. The Director of SCAI or designee may accept the proposed finding(s) of "in violation" or "not in violation" or remand the case for rehearing. If the Director of SCAI or designee accepts the proposed finding(s) of "in violation," they may approve, mitigate, or increase the sanctions proposed by the panel.

4. Any decision by the Director of SCAI or designee to alter proposed sanctions or remand 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 one faculty or staff member selected by SCAI from the Student Conduct Board.
 2. At hearings conducted by an administrative hearing officer, an SCAI staff member shall act as an advisor to the administrative hearing officer. The Director of SCAI or designee shall receive the administrative hearing officer's proposed finding(s) as to "in violation" or "not in violation" of the Rules of Conduct, and consider any sanctions proposed by the administrative hearing officer.
 3. The Director of SCAI or designee may accept the proposed finding(s) of "in violation" or "not in violation" or remand the case for rehearing. If the Director of SCAI or designee accepts the proposed finding(s) of "in violation," they may approve, mitigate, or increase the sanctions proposed by the administrative hearing officer.
 4. Any decision by the Director of SCAI or designee to alter sanctions or remand 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 sequence of events in a formal hearing. The formal hearing will be recorded by the University, and no other recordings are permitted. The recording will be made part of the official record of the hearing.
1. Reading of charges.
 2. Charged Student response of "in violation" or "not in violation."
 3. Presentation of information in support of the charges.
 4. Opening statement by the charged student.
 5. Questioning of the charged student.
 6. Presentation and questioning of all other parties.
 7. Final questions of the charged student by the hearing body.
 8. Closing remarks by the charged student.
 9. Hearing is brought to a close.
- (d) Deliberations by the hearing body are not part of the hearing and are confidential. Deliberations occur after the closure of the hearing and are not recorded. Following deliberations, the hearing body will prepare a written statement of its proposed finding(s) and, if applicable, recommend sanctions.
- (e) 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 proposed finding(s) and sanction(s) by the hearing panel or administrator, if any.
 6. The Director of SCAI's or designee's decision.

- (f) Student Conduct Board members for panel and administrative formal hearings are selected through an annual application and interview process with the exception of the justices from the Student Government Judicial Branch. All Student Conduct Board members, including justices, receive annual training from SCAI. Student Conduct Board members who serve on hearings related to allegations of sex discrimination, including but not limited to relationship violence, sexual assault, sex harassment, and stalking receive additional training annually.

(4) Student Rights in the Student Conduct Review Process. The following rights apply to a student disciplinary proceeding:

- (a) The charged student shall be afforded timely written notice, at least seven (7) business days prior to each disciplinary proceeding, unless waived in writing. Written notice may be sent to the charged student's electronic and/or physical address listed in the Registrar's records. Written notice shall include:
 1. The student's name and address.
 2. Date, time, and location of the disciplinary proceeding.
 3. The rule(s) of conduct allegedly violated as known at the time the notice is sent.
 4. A listing of all known witnesses that have provided, or will provide, information against the student.
 5. A description of any physical or written documentation known at the time the notice is sent.
- (b) The student may have at their own expense and initiative, an advisor, advocate, or legal representative to be present and who can fully participate in the disciplinary proceeding (i.e., informal resolution conference or formal hearing). It is the student's responsibility to make appropriate arrangements for the advisor, advocate, or legal representative to attend the preliminary conference or disciplinary proceeding(s), and the disciplinary proceeding(s) shall not be delayed due to scheduling conflicts of the chosen advisor, advocate, or legal representative. An advisor, advocate, or legal representative may not serve as a witness during any a disciplinary proceeding. The student may consult with their advisor, advocate, or legal representative at any time during the preliminary conference or disciplinary proceeding(s). This consultation must take place in a manner that does not disrupt the preliminary conference or disciplinary proceeding(s). If the advisor, advocate, or legal representative does not adhere to their defined role in the Student Conduct Review Process, they may be removed from the disciplinary proceeding.
- (c) The Student Conduct Review Process shall be conducted on the basis that the charged student is not in violation until the preponderance of evidence proves otherwise, except if the student accepts responsibility for the charge(s). The technical rules of evidence applicable to civil and criminal cases shall not apply to the Student Conduct Review Process, including during a formal hearing. The burden of proof is not on the student charged with a violation of the Rules of Conduct. The university has the burden to prove, by a preponderance of the evidence, that a violation has taken place. Nothing contained in this paragraph prohibits or limits the University in offering other forms of resolution, such as mediation or informal resolution.
- (d) The student shall have the right to an impartial hearing officer for the formal hearing. Prior to the commencement of the formal hearing, the charged student

shall have the opportunity to challenge the impartiality of any member(s) of the hearing body. If the student shows good cause for the removal of any member(s) of the hearing body, the Associate Vice President and Dean of Students or designee will assign a new hearing body member.

- (e) At least five (5) business days before the informal resolution conference or formal hearing, the University will provide the student with the opportunity to inspect all known information relating to the allegation(s), including inculpatory and exculpatory information. The University also has the right to review any information the student intends to use at the informal resolution conference or formal hearing at least five (5) business days before the informal resolution conference or formal hearing. During a formal hearing, only such information that is determined to be "Relevant Information" will be allowed.
- (f) The University cannot compel any person to attend a formal hearing. However, all parties may arrange for witnesses to voluntarily present Relevant Information during the proceeding. The questioning of a witness shall be facilitated by the hearing officer or panel conducting the formal hearing.
- (g) The student shall not be forced to present self-incriminating information during a disciplinary proceeding. In addition, the student reserves the right to remain silent. Such silence may not be used against the student. The University is not required to postpone any disciplinary proceeding(s) pending the outcome of any civil or criminal case. The University's formal hearing is not a criminal or judicial proceeding and is designed to address student behavior; therefore, alleged violations of the UCF Rules of Conduct will be addressed independently of any outcome imposed by the courts for a criminal offense.
- (h) The proposed finding, as well as the Director of SCAI's or designee's determination, of "in violation" or "not in violation" on the charges shall be based solely on the information presented at the formal hearing.
- (i) Should the student fail to attend the scheduled formal hearing, the hearing will be held in the student's absence and the proposed findings, including any recommended sanctions, will be made using the information available at the time of the scheduled formal hearing.
- (j) Only if the proposed finding of the formal hearing body is that the student is in violation, will prior conduct history be reviewed and potentially affect proposed sanctioning.
- (k) The results of any formal hearing shall be made available to the charged student within ten (10) business days following the hearing. Should SCAI need additional time, the deadline can be extended by the Director of SCAI or designee by notifying the charged student. For academic integrity cases, the results of any formal hearing shall be made available to the charged student within fifteen (15) business days following the hearing. The Director of SCAI or designee shall notify the charged student in writing of the need for additional time.
- (l) The student's enrollment status shall remain unchanged pending the University's final agency action in the matter, except in cases where the VP of ~~SDES-SSWB~~ or designee determines that the safety, health, or general welfare of the student, any individual, or any part of the University may be involved.
- (m) The student has the right to an accurate and complete record of each disciplinary proceeding related to the charged violation(s) of the Rules of Conduct, including record of any appeal, to be made, preserved, and available for copying upon request by the charged student. The disciplinary record is considered complete

following final agency action by the University. The disciplinary records will be maintained in accordance with UCF-5.007.

(5) Additional Procedures in Cases of Sex-Based Misconduct and Title IX Sexual Harassment

- (a) In cases involving sex-based misconduct or Title IX sexual harassment, a single hearing officer will be the only option for a formal hearing.
- (b) Where a student is charged with a violation of UCF-5.008(5), the procedures outlined in UCF-5.006(6) and UCF Policy 2-004 will apply in addition to the procedures of the Student Conduct Review Process outlined above.
- (c) Where a student is charged with Title IX Sexual Harassment as prohibited under UCF-5.008(6), the procedures outlined in UCF-5.006(7) and the Title IX Grievance Policy (University Policy 2-012) will apply in place of the procedures of the Student Conduct Review Process outlined above, except that UCF-5.009(4)(a) and (e) will apply, and the sanctions outlined below may be applied to violations of UCF-5.008(6) Title IX Sexual Harassment.
- (d) The sanctions outlined below may be applied to violations of UCF-5.008(5) Sex-Based Misconduct (non-Title IX) and UCF-5.008(6) Title IX Sexual Harassment.

(6) Sanctions.

- (a) Disciplinary Warning - An official warning that the student's behavior is in violation of the UCF Rules of Conduct.
- (b) Disciplinary Probation – Disciplinary Probation status shall be for a specific length of time in which any further violation of the Rules of Conduct puts the student's status with the University in jeopardy. While on Disciplinary Probation, the student may continue to attend classes and is given a chance to show capability and willingness to live in accordance with the Rules of Conduct. If the student is found “in-violation” for another violation of the Rules of Conduct, while on Disciplinary Probation, more severe sanctions may be imposed. Restrictive conditions may be imposed and vary according to the severity of the offense. A non-exhaustive list of possible restrictive conditions shall be listed on the SCAI website (scai.sdes.ucf.edu). Student leadership eligibility shall be governed by the eligibility requirements outlined by the Office of Student Involvement and their eligibility appeal process. While on Disciplinary Probation, a ~~hold~~ service indicator will be placed on a student's record for record keeping purposes.
- (c) Deferred Disciplinary Suspension - Deferred Disciplinary Suspension is a designated period of time during which a student is given the opportunity to demonstrate the ability to abide by the Rules of Conduct. Deferred Disciplinary Suspension is used for offenses found serious enough to warrant Disciplinary Suspension, but where the specific circumstances of the case mitigate the offense or for repeated offenses of a less serious nature. During a Deferred Disciplinary Suspension, the student will be officially suspended from the university, but the suspension will be deferred, meaning that the student may continue to attend classes. Students placed on Deferred Disciplinary Suspension will have a conduct overlay placed on their transcripts for the period of time that the Deferred Disciplinary Suspension is in effect. The conduct overlay is a notation indicating that the student is not in good standing. Restrictive conditions may be imposed and vary according to the severity of the offense. A non-exhaustive list of possible restrictive conditions shall be listed on the SCAI website (scai.sdes.ucf.edu). Student leadership eligibility shall be governed by the eligibility requirements

outlined by the Office of Student Involvement and their eligibility appeal process. A disciplinary suspension will be enforced for failure to complete any assigned educational sanctions by the deadline(s) and/or for any subsequent violation of the Rules of Conduct, unless the Director of SCAI or designee determines otherwise in exceptional circumstances. If the student is found in violation for any violation(s) of the Rules of Conduct that occurred while on Deferred Disciplinary Suspension status, including failure to complete any assigned educational sanctions by the deadline(s), the student will be suspended for a minimum of one (1) semester, in addition to the educational sanctions imposed for the subsequent violation. While on Deferred Disciplinary Suspension, a hold-service indicator will be placed on a student's record for recordkeeping purposes.

- (d) Disciplinary Suspension - A student involved in an offense warranting consideration of action more serious than Deferred Disciplinary Suspension or one involved in repeated misconduct may face Disciplinary Suspension. During the period of Disciplinary Suspension, a student may not be enrolled in classes, participate in University related activities, whether they occur on or off campus. A student under Disciplinary Suspension may not otherwise be present on University premises unless authorized in writing in advance under conditions approved by the Director of SCAI or designee. Upon being withdrawn, the student may no longer enroll in classes, may not be an active member of a Registered Student Organization, may no longer use university facilities, must vacate university owned housing, may no longer be permitted on university property, may not be employed by the University, and may be entitled to whatever refunds of tuition, fees, and room and board charges as would be appropriate given the timing of the withdrawal. In determining if and to what extent suspended students shall be authorized to be on University premises, the Director of SCAI or designee shall consider whether the suspension creates an undue hardship on the disciplinary suspended student. Students placed on Disciplinary Suspension will have a conduct overlay placed on their transcript for the period of time that the Disciplinary Suspension is in effect.–The conduct overlay is a notation indicating that the student is not in good standing. Further, while on Disciplinary Suspension, a hold will be placed on a student's record for record keeping purposes. All assigned educational sanctions must be completed prior to the conclusion of Disciplinary Suspension; otherwise, the Disciplinary Suspension will remain in effect.
- (e) Disciplinary Dismissal – Disciplinary Dismissal is a sanction which removes the student from the individual's academic program and separates the student from the University for a period of at least two years and up to seven years. A dismissed student has none of the rights or privileges of a student of the University. A student under Disciplinary Dismissal may not otherwise be present on University premises for the duration of the dismissal unless authorized in writing in advance under conditions approved by the Director of SCAI or designee. Following Disciplinary Dismissal, the individual must apply for readmission to the University. Readmission is possible but not guaranteed and will only be considered after the two-to-seven-year time allotted from the effective date of the Dismissal, based on meeting all readmission criteria and obtaining clearance from the Associate Vice President and Dean of Students or designee. This may include restricted access to campus and/or other specified activities. Students placed on Disciplinary Dismissal will have a conduct overlay placed on their transcript for the period of time that the

Disciplinary Dismissal is in effect. The conduct overlay is a notation indicating that the student is not in good standing. Further, while on Disciplinary Dismissal, a hold will be placed on a student's record for record keeping purposes. All assigned educational sanctions must be completed prior to the conclusion of Disciplinary Dismissal; otherwise, the Disciplinary Dismissal will remain in effect.

- (f) Delayed Issuance of Diploma: The issuance of a student's diploma from the University of Central Florida will be withheld until the completion of a stated time frame and all educational sanctions imposed through the Student Conduct Review Process.
- (g) Delayed Conferral of Degree – The Administrative process of a student's degree being conferred through the University's Registrar's Office will be delayed. This means the student's degree will not be awarded until the completion of a stated time frame and all educational sanctions imposed through the Student Conduct Review Process.
- (h) Disciplinary Expulsion – Disciplinary Expulsion is a sanction which removes the student from the individual's academic program and permanently separates a student from the University without opportunity to graduate or re-enroll at the university in the future. A student under Disciplinary Expulsion may not otherwise be present on University premises. An overlay will be permanently placed on the student's record. Further, a hold will be permanently placed on a student's record for record keeping purposes.
- (i) Educational Sanctions - In conjunction with a sanction listed above, a student found to have been in violation of any of the Rules of Conduct will be assigned educational requirements such as, but not limited to, reflective/research papers, classes/seminars, interviews, etc. Educational sanctions are intended to provide a student with opportunities to repair the harm of their actions and to engage in meaningful developmental experiences that will help the student in avoiding future violations of University policy.

Authority: BOG Regulations 1.001 and 6.0105. History - Formerly 6C7-5.0041, New 6-18-09. Amended 9-5-13, 3-5-15, 10-29-15, 7-28-16, 7-20-17, 1-18-18, 7-19-18, 7-18-19, 6-18-20, 10-22-20, 9-23-21, 5-26-22, _____-23.