

NOTICE OF PROPOSED REGULATION AMENDMENT

Date: September 18, 2020

REGULATION TITLE:
Student Conduct Review Process; Sanctions

REGULATION NO.:
UCF-5.009

SUMMARY OF PROPOSED REGULATION AMENDMENT: This regulation, which sets out the process for reviewing alleged student rule violations, is amended to update the procedures for student conduct cases involving sex-based misconduct and Title IX Sexual Harassment, with specific reference to the University's Title IX Grievance Policy.

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
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Millican Hall, Suite 360
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FULL TEXT OF THE PROPOSED REGULATION AMENDMENT:

UCF-5.009 Student Conduct Review Process; Sanctions

(1) Violation Reports. Alleged violations of the UCF Rules of Conduct shall be reported in writing to the Director of Student Conduct and Academic Integrity 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 or designee, may take immediate action to resolve the safety and/or well-being concern by placing the student on interim suspension. Interim suspension is not a sanction. An interim suspension is subject to review at a hearing within three

(3) 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.

- (a) The Director of SCAI 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 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 from the date of discovery. For Title IX related cases see UCF-5.006(10).
- (c) Students charged with alleged violations of the Rules of Conduct will receive notice to attend a required preliminary conference with SCAI to discuss the charges. If the student fails to attend that conference, a hold may be placed on the student's record, preventing them from registering for future classes until the matter is resolved. 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. 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 charges are prepared, and notice on how to contact the Student Government Association Judicial Advisor. At the conclusion of the meeting, SCAI recommends an option for resolution of the disciplinary charges.

(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 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 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 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 SCAI. Mediation will not be a resolution option for cases involving allegations of incidents of sexual misconduct and/or interpersonal violence.

- (c) **Informal Hearing:** At the discretion of SCAI, violations found not to warrant a formal hearing may be referred to an informal hearing. At the informal hearing the charged student has the opportunity to meet with an SCAI staff 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 hearing process (decision of responsibility and recommended sanctions) are final and are not eligible to be appealed (UCF-5.010).
- (d) **Formal Hearing:** If an alleged violation of the Rules of Conduct is not dismissed or otherwise resolved, then SCAI shall present in writing formal charges to the student. 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, their/his/her advisor, the hearing body, witnesses (when called upon), and a representative from SCAI. For cases of sex-based misconductsexual harassment or other forms of sexual misconduct and/or interpersonal violence, 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.

Formal notification shall include:

1. The student's name and address.
2. Date, time and location of the formal hearing.
3. The rule(s) of conduct allegedly violated as known at the time formal charges are prepared.
4. Names of potential witnesses known at the time formal charges are prepared.
5. A description of any physical or written documentation known at the time charges are prepared.

(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. The charged student shall be informed of the hearing officer assigned to the case and shall have the opportunity to challenge the impartiality of the individual within three (3) business days of notification. 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. In the event that a student 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.
 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. Please note that all formal hearing proceedings are recorded. The recording is part of the official record of the formal hearing and no other recordings are permitted.
1. Reading of charges.
 2. 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.
 10. The student is invited to await announcement of the proposed finding(s) and recommended sanction(s), if any.
- (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. A recording of the announcement of the proposed finding(s) and proposed sanctions, if any.
 4. All staff memoranda submitted.
 5. 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.
 6. The proposed finding(s) and sanction(s) by the hearing panel or administrator, if any.
 7. 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 Association 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 shall be explained to each charged student prior to the commencement of any formal disciplinary hearing:

- (a) The charged student shall be afforded reasonable written notice, at least five (5) business days prior to the formal hearing, unless waived in writing. Written notice sent to the charged student's electronic and/or physical address listed in the Registrar's records shall constitute full and adequate notice. Written notice shall include:
 1. The student's name and address.
 2. Date, time and location and nature of the proceeding of the formal hearing.
 3. The rule(s) of conduct allegedly violated as known at the time formal charges are prepared.
 4. Names of potential witnesses known at the time formal charges are prepared.
 5. A description of any written or physical documentation known at the time charges are prepared.
- (b) The student may have, at his or her own expense and initiative, an advisor present at the hearing. It is the student'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 but shall not speak for or present the case for the student or otherwise participate directly in the proceeding. The student 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. 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.
- (c) All hearings shall be conducted on the basis that the charged student is not in violation until the preponderance of evidence proves otherwise. At a 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 charged with a violation of the Rules of Conduct.
- (d) The student may inspect any information presented in support of the charges at least three (3) business days before the formal hearing. The University also has the right to review any information the student intends to use at least three (3) business days

before the formal hearing. Only such information that is determined “Relevant Information” will be made part of the hearing record.

- (e) 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 student may hear and question adverse parties who testify at the hearing.
- (f) The student shall not be forced to present self-incriminating information; however, the University is not required to postpone disciplinary proceedings 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.
- (g) 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.
- (h) 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.
- (i) Only if the proposed finding of the hearing body is that the student is in violation, will prior conduct history be reviewed and potentially affect proposed sanctioning.
- (j) The results of any formal hearing shall be made available to the charged student within ten (10) business days following the hearing. Should the 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.
- (k) 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 or designee determines that the safety, health, or general welfare of the student, any individual, or any part of the University may be involved.

(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(11) and UCF Policy 2-004 will apply in addition to the procedures of the Student Conduct Review Process outlined above.
- ~~(c) The sanctions as outlined below may be applied to violations of UCF-5.008(5) Sex-Based Misconduct (Non-Title IX).~~
- (c) Where a student is charged with Title IX Sexual Harassment as prohibited under UCF-5.008(6), ~~sexual misconduct and/or interpersonal violence~~, the procedures outlined in UCF-5.006(12~~44~~) and the Title IX Grievance Policy (University Policy 2-012) will apply in ~~addition place of the to the~~place of the procedures of the Student Conduct Review Process outlined above.
- (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, and that if the student is subsequently found in violation of a rule while on Disciplinary Warning, subsequent action may be more severe.
- (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. 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. While on Disciplinary Probation, restrictive conditions may include, but may not be limited to the following: loss of good standing, which may become a matter of record; denial of the privilege to occupy a position of leadership or responsibility in any University registered student organization, publication, or activity, or ability to represent the University in an official capacity or position; trespass of University facilities or other areas of campus or contact with another specified person(s). 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. While on Disciplinary Probation, a hold will be placed on a student's record for record keeping purposes.

- (c) **Deferred Disciplinary Suspension** - 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. 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 community's expectations of behavior articulated in the Rules of Conduct. During 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. The 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 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) semesters, in addition to the educational sanctions imposed for the subsequent violation. 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. Deferred Disciplinary Suspension may include the denial of specific university privileges, including but not limited to loss of good standing, which may become a matter of record; denial of the privilege to occupy a position of leadership or responsibility in an University registered student organization, publication, or activity, or ability to represent the University in an official capacity or position; trespass of University facilities or other areas of campus or contact with another specified person(s). The duration of any Deferred Disciplinary Suspension period and the specific restrictions imposed will be determined by SCAI on a case-by-case basis. While on Deferred Disciplinary Suspension, a hold will be placed on a student's record for record-keeping 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. 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 in regard to considerations that include, but are not limited to, the medical needs of the 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. 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 Conferral of Degree – Delay of issuance of a student's diploma for a specified period of time or until the student meets certain conditions.
- (g) Recommendation for Degree Revocation – The University of Central Florida reserves the right to revoke any UCF degree awarded to any student. Reasons for degree revocation may include academic dishonesty, grade change, administrative error, disciplinary misconduct, or student request (see UCF Policy 4-406).
- (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. 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, community service, 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, _____-20.