

This Emergency Regulation temporarily amends an existing regulation. These emergency amendments are being done to comply with Title IX rules recently adopted by the U.S. Department of Education and which take effect August 14, 2020. The emergency regulation procedure must be utilized to ensure the University is in compliance with federal law in a timely manner. The Board of Governors Regulation Development Procedure does not require a public notice and comment period prior to approval of emergency regulations/regulation amendments. The emergency amendments below will be effective for a period not to exceed ninety (90) days - during this time, the University will propose regulation amendments through the normal public notice and comment process. Therefore, please follow the UCF Regulations page for future notice of regulation development.

NOTICE OF EMERGENCY REGULATION AMENDMENT

Date: August 14, 2020

REGULATION TITLE:

Organization Conduct Review Process; Sanctions; Appeals

REGULATION NO.:

UCF-5.013

SUMMARY OF REGULATION AMENDMENT: This regulation is amended on an emergency basis to include changes necessary to comply with new Title IX regulations recently adopted by the U.S. Department of Education and which take effect on August 14, 2020.

AUTHORITY: BOG Regulation 1.001

NAME OF PERSONS WHO INITIATED PROPOSED REGULATION AMENDMENT: Regulations Administrator

COMMENTS CONCERNING THE PROPOSED EMERGENCY 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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FULL TEXT OF THE PROPOSED REGULATION AMENDMENT:

UCF-5.013 Organization Conduct Review Process; Sanctions; Appeals

(1) Violation Reports

- (a) Alleged violations of the UCF Organizational Rules of Conduct shall be reported in writing to the Director of Student Conduct and Academic Integrity (SCAI) or designee. Incident reports can be submitted for information purposes only, for information purposes with the requirement that the registered student organization attend an academic integrity seminar, or to initiate the student conduct review process. Upon receiving an incident report, 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 health and safety of any individual, the student body, or any part of the University or its community, the Director of SCAI or designee, upon notifying the VP of SDES or designee, may take immediate action to resolve the situation by placing the registered student organization on interim organizational suspension. Interim organizational suspension is not a sanction. Interim organizational suspension is preliminary in nature; it is in effect only until there is a resolution of the registered student organization conduct matter. Interim organizational suspension is subject to review at a hearing within ten (10) business days by the VP of SDES or designee to determine the status of the interim organizational suspension. The outcome of an interim organizational suspension hearing shall remain in effect until the final disposition of formal charges resulting from the circumstances of the case, unless the VP of SDES or designee shall decide otherwise.
- (b) The Director of SCAI will refer all information warranting disciplinary action and assign the case to the appropriate staff member. SCAI will send written notification to the chief officer of the registered student organization at their UCF mailing address indicating the nature of the activity in question and what Organizational Rules of Conduct were allegedly violated. The chief officer of the registered student organization shall serve as the organization's representative in the organization conduct review process.

- (c) Upon receipt of an incident report SCAI has six months to charge a registered student organization with a violation of the Organizational 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 the violation report was filed.
- (d) A registered student organization charged with alleged violations of the Organizational Rules of Conduct (see UCF-5.012) will receive notice to attend a mandatory preliminary conference with SCAI. If the registered student organization fails to attend the mandatory preliminary conference without providing a satisfactory reason for the absence, the registered student organization may be placed on immediate social probation until such time as the registered student organization completes the mandatory preliminary conference. During the mandatory preliminary conference the registered student organization will receive information regarding the Registered Student Organization Conduct Review Process, including the registered student organization's rights during the process; an opportunity to inspect and/or review the information known at the time charges were prepared and how to contact the Student Government Association Judicial Advisor. At the conclusion of the mandatory preliminary conference, one of the following will occur: case dismissal, mediation, informal hearing, or formal hearing.
- (e) Social probation includes but is not limited to the prohibition of the following: any on or off campus fundraisers, socials, intramural competitions, receptions, service projects, conferences, retreats, etc. The organization may also not be able to update its registration until such time that it appears before a hearing. Groups under social probation may gather at regularly scheduled business meetings.

(2) Options for Resolution of Disciplinary Charges

- (a) Case Dismissal: The Director of SCAI or designee may dismiss a case if it is found to not have sufficient facts or evidence to substantiate the claim of misconduct or the misconduct is not a violation of the organizational rules of conduct.
- (b) Mediation: Depending on the nature and severity of the alleged violation, 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 a confidential process where the parties voluntarily

meet with an impartial mediator to communicate their concerns and needs to each other and to reach their own agreement on the resolution of the case. The participants in mediation are responsible for keeping their agreement or renegotiating it, if necessary. In the event that the participants do not agree to mediate or mediate but do not reach a full and final resolution, the case will be referred back to SCAI 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.

- (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 registered student organization has the opportunity to meet with an SCAI staff member and accept responsibility for the charges of violation of the Organizational Rules of Conduct. At the informal level the matter will be settled by the following outcomes: punitive sanction (organizational warning, organizational probation, organizational probation with restrictions, deferred organizational suspension) as well as educational sanctions (papers, seminars, community service, etc.). If the matter is not settled informally, the case will be resolved through a formal hearing.
 - (d) Formal Hearing: If an alleged violation of the Organizational Rules of Conduct is not dismissed or otherwise resolved, then SCAI shall present in writing formal charges to the registered student organization. The charged registered student organization may request either a panel or administrative hearing. The charged registered student organization's hearing shall only be open to the charged registered student organization's chief officer, their advisor, the hearing body, witnesses (when called upon), a representative from SCAI, and a university staff member from an appropriate office (Office of Student Involvement, Office of Fraternity and Sorority Life, Recreation and Wellness Center, etc.).
- (3) Formal Hearings. There are two types of formal hearings – panel hearings and administrative hearings.
- (a) Panel Hearings.
 - 1. A panel to consider an organizational case shall be comprised of members from SCAI Student Conduct Board. The panel shall consist of two (2) faculty and administrative staff members combined and two (2) student members that have

been trained by SCAI to hear organizational cases. One panel member shall be selected by SCAI to chair the hearing and report the proposed finding(s) and sanction(s), if any, to the Director of SCAI or designee.

2. At hearings conducted by a panel, a SCAI staff member shall act as an advisor to the panel. The Director of SCAI shall receive the panel's proposed finding(s) as to "in violation" or "not in violation" of the Organizational 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 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 sanctions or return a case shall be accompanied by a concise and explicit written statement that explains the basis for that decision.

(b) Administrative Hearings

1. Administrative hearings shall be conducted by a faculty or staff member from the Student Conduct Board trained by SCAI to hear organizational cases. The charged registered student organization shall be informed of the hearing officer assigned to its case and shall have the opportunity to challenge the impartiality of the individual within three (3) business days of notification. The charged registered student organization shall state in writing the basis for such challenge. A hearing officer so challenged will be excused; however, indiscriminate challenges shall not be permitted. In the event that a charged registered student organization has opted not to challenge the impartiality of a hearing officer prior to the allotted three (3) business days, the assigned hearing officer shall remain as scheduled.
2. At hearings conducted by an administrative hearing officer, a 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 Organizational 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 return a case shall be accompanied by a concise and explicit written statement that explains the basis for that decision.
- (c) Conduct of Formal Hearings - the following is furnished as a guide to the events in a formal hearing. Please note that all formal hearing proceedings are recorded. The recording is part of the official record of the hearing and no other recordings are permitted.
1. Reading of charges.
 2. Registered student organization response of “in violation” or “not in violation.”
 3. Presentation of information in support of the charges.
 4. Opening statement by the charged registered student organization.
 5. Questioning of the charged registered student organization by the hearing body.
 6. Presentation and questioning of witnesses in support of the charges.
 7. Presentation and questioning of witnesses by the charged registered student organization.
 8. Final questions of the charged student organization by the hearing body.
 9. Closing remarks by the charged registered student organization.
 10. Hearing is brought to a close.
 11. Registered student organization is scheduled for a meeting to discuss the hearing body’s proposed finding(s) and recommended sanction(s), if any.
- (d) Deliberations by the panel or the administrative hearing officer are not part of the hearing and are confidential. Deliberations occur after the closure of the hearing and are not recorded.
- (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 Director of SCAI'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) Registered Student Organization Rights during the Formal Conduct Review Process - The following rights shall be explained to the charged registered student organization before the commencement of a formal disciplinary hearing:
- (a) The charged registered student organization shall be afforded written notice, at least five (5) business days prior to a formal hearing, unless waived in writing. Written notice sent to the chief student officer of the charged registered student organization's electronic and/or physical address shall constitute full and adequate notice. Written notice shall include:
 1. The name of the organization, the chief student officer's name and organization's address, if applicable.
 2. Date, time and location of the formal hearing
 3. Alleged Organizational Rule of Conduct Violation(s) known at the time formal charges are prepared.
 4. Names of potential witnesses known at the time that formal charges are prepared.
 5. A description of any physical or written documentation known at the time charges are prepared.

Provided that the required notice stated above has been given to the registered student organization along with its representative(s) but a representative failed to attend a scheduled formal hearing without providing a satisfactory reason for the absence, the organization may be placed on immediate social probation until such time as the

organization completes the formal hearing and any further steps in the conduct process. The organization will also not be able to update its registration while on social probation.

- (b) The registered student organization may have at their own expense and initiative, an advisor present at the hearing. It is the registered student organization's responsibility to make appropriate arrangements for the advisor to attend the hearing, and the hearing shall not be delayed due to scheduling conflicts of the chosen advisor. The advisor may be present to advise the registered student organization but shall not speak for or present the case for the registered student organization or otherwise participate directly in the proceeding. A registered student organization may consult with their advisor at any time during the hearing. This consultation must take place in a manner that does not disrupt the proceedings. A registered student organization's advisor must not be connected to the actual conduct case or a related case. In addition, an advisor may not serve as a witness. If the advisor does not adhere to their defined role in the student conduct review process, they may be removed from the hearing. SCAI shall maintain a list of impartial advisors and resources available to the registered student organization.
- (c) All hearings shall be conducted on the basis that the charged registered student organization is not in violation until the preponderance of evidence proves otherwise. At a student conduct organizational hearing, the technical rules of evidence applicable to civil and criminal cases shall not apply. The burden of proof in a student conduct hearing is not on the registered student organization charged with a violation of the Organizational Rules of Conduct.
- (d) The registered student organization's chief officer or designee may inspect any information presented in support of the charges. Information may be presented in support of the charged student organization.
- (e) The University cannot compel any person serving as a witness to attend a registered student organizational hearing. However, all parties to a registered student organizational conduct hearing may arrange for witnesses to voluntarily present relevant information during the proceeding. Pertinent information may be accepted as information for consideration by the person or body conducting the registered student organizational formal hearing. The registered student organization may hear and

question adverse witnesses who testify at the registered student organizational formal hearing.

- (f) The registered student organization shall not be forced to present information that incriminates its individual members; however, the University is not required to postpone disciplinary proceedings pending the outcome of any civil or criminal prosecution.
- (g) Should the registered student organization fail to attend the scheduled formal hearing, the hearing will be held in the registered student organization'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.
- (h) The proposed finding(s), as well as the Director of SCAI's determination, of "in violation" or "not in violation" on the charges shall be based solely on the information presented at the registered student organizational formal hearing.
- (i) Only if the proposed finding(s) of the hearing body is that the registered organization is in violation, will prior conduct history be reviewed and potentially affect the proposed sanctioning.
- (j) The final decision shall be furnished in writing to the registered student organization within fifteen (15) 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 organization.
- (k) The registered student organization's registration status shall remain unchanged pending the University's final decision in the matter except in cases where the VP of SDES or designee determines that the safety, health, or general welfare of any individual, or any part of the University may be involved.

(5) Additional Procedures in Cases of ~~Sexual-Sex-Based~~ Misconduct ~~and/or Interpersonal Violence~~. Where a registered student organization is charged with sexual misconduct and other identified sex-based misconduct and/or interpersonal violence, the procedures outlined in UCF-5.006(101) will apply in addition to the procedures of the ~~Student Conduct Organization Conduct~~ Review Process.

(6) Sanctions for Registered Student Organizations

- (a) **Organizational Warning:** An official warning that the organization's behavior is in violation of the Organizational Rules of Conduct and that if the organization is subsequently found in violation of a rule, subsequent action may be more severe.
- (b) **Organizational Probation:** A period of time during which any further violation of the Organizational Rules of Conduct puts the registered student organization's status with the University in jeopardy. Restrictive conditions may also be imposed as part of organizational probation and will vary according to the severity of the offense. Restrictive conditions may include barring or limiting some or all of the organization's activities and/or privileges (including, but not limited to: social activities; intramural competition; organizational competition; Homecoming; eligibility to receive any University award or honorary recognition; privilege to occupy a position of leadership or responsibility in any University registered student organization governing body, publication, or activity; or ability to represent the University in an official capacity or position). If a registered student organization is found "in violation" for another violation of the Organizational Rules of Conduct while on organizational probation, more severe sanctions may be imposed.
- (c) **Organizational Deferred Suspension –** Organizational deferred suspension is used for offenses found serious enough to warrant organizational suspension, but where the specific circumstances of the case mitigate the offense or for repeated offenses of a less serious nature. Organizational deferred suspension is a designated period of time during which a registered student organization is given the opportunity to demonstrate the ability to abide by the community's expectations of behavior articulated in the Organizational Rules of Conduct. During an organizational deferred suspension, the registered student organization will be officially suspended from the University, but the organizational suspension will be deferred, meaning that the registered student organization may continue to operate with sanction-specific restrictions. Organizational suspension will be enforced should the registered student organization fail to complete any of the assigned sanctions by the deadline(s) and/or for any subsequent violation of the Organizational Rules of Conduct unless the Director of SCAI determines otherwise in exceptional circumstances. If the registered student organization is found in violation for any violation of the Organizational Rules of Conduct that occurred while on deferred suspension status, including failure to

complete any assigned sanctions by the deadline(s), the registered student organization will be suspended for a minimum of two (2) semesters in addition to any educational sanctions imposed for the subsequent violation. Registered student organizations on organizational deferred suspension may be limited in their abilities to represent the University in intramural sporting events, extracurricular activities, or official functions. The duration of any organizational deferred suspension period and the specific restrictions imposed will be determined by SCAI on a case-by-case basis.

- (d) **Organizational Suspension:** While on organizational suspension the registered student organization loses its University recognition and/or registration for a temporary period of time. While an organization is suspended, it may not use University resources or participate as an organization in any University activities or events unless authorized in writing in advance under conditions approved by the Director of SCAI or designee. Additional provisions may be assigned that further outline University expectations while on Organizational Suspension Status.
 - (e) **Revocation of UCF Registration:** Permanent severance of the organization's relationship with UCF.
 - (f) **Recommendation for Charter Revocation:** An official request to a national office that the local chapter's charter be revoked.
 - (g) **Educational Sanctions:** In conjunction with any sanction listed above, a registered student organization found to have been in violation of any of the Organizational Rules of Conduct will be assigned educational sanctions that are proportional to the violation such as, but not limited to: reflective/research papers, classes/seminars, community service, restitution, interviews, etc. If a registered student organization has any outstanding educational sanctions at the conclusion of organizational probation or organizational suspension, the organizational probation or organizational suspension will remain in effect pending completion of the educational sanctions.
- (7) **Appeal within the Registered Student Organization Review Process**
- (a) A student organization found in violation as a result of a hearing may appeal the finding(s) and sanction(s) imposed. The appeal must be made in writing to the appellate officer (VP of SDES or designee) within ten (10) business days after the date the registered student organization was notified of the decision by the Director of SCAI.

- (b) Registered student organizations may appeal the finding(s) and sanction(s) imposed on the basis of one or more of the following:
 - 1. Irregularities in fairness and stated procedures of the hearing that substantially affected the outcome of the hearing.
 - 2. Discovery of new and significant information that would be likely to change the outcome of the hearing and that was not known or could not reasonably have been discovered and/or presented at the time of the initial hearing.
 - 3. The sanction(s) are extraordinarily disproportionate to the violation(s).
- (c) On the appeal form, the registered student organization must state the reason(s) for appeal, the supporting facts, and the recommended solution. This is not a re-hearing of the conduct case. An appeal cannot be filed simply because a registered student organization is dissatisfied with the decision. Failure to describe the nature of the information in full detail in the appeal letter will result in the denial of an appeal.
- (d) The appellate officer shall first determine if sufficient grounds for appeal exist and then, if so, may either deny the appeal, thus sustaining the initial decision and sanction(s), or do one of the following:
 - 1. If the registered student organization alleges that the sanction was disproportionate to the violation(s) and the appellate officer finds the sanction to be disproportionate, the appellate officer may alter the sanction; or.
 - 2. If the registered student organization alleges that there was a defect in procedure or new information was presented which was sufficiently substantial to have affected the outcome and the appellate officer agrees, the appellate officer will order a new hearing.
- (e) The registered student organization shall receive a written decision to the appeal. There is no definitive timeline for receiving an appeal response. It depends on many factors including the complexity of the case and the information mentioned in the appeal, as well as the appellate officer's appeal load at that particular time. Decisions of the VP of SDES or designee reflect final agency action.
- (f) Any decision by Appellate Officer to alter sanctions or return a case shall be accompanied by a concise and explicit written statement that explains the basis for that decision.

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

(8) Community ReEngagement and Educational Development (CREED) Program

- (a) The Community ReEngagement and Educational Development (CREED) Program is designated for a student organization to have the opportunity to demonstrate that in the period following the conclusion of the Student Conduct Review Process, they have taken steps to become a productive and engaged organizational member of the UCF Community.
- (b) Upon completion of one semester of the Organizational Probation or Organizational Deferred Suspension and upon completion of all educational sanctions/requirements, a registered student organization can request modification of their organizational disciplinary status through the CREED Program.
 1. Registered student organizations that have been found in violation of a Organizational Rule of Conduct that required an investigation by the Office of Institutional Equity (OIE) are ineligible to apply for relief under the CREED program.
 2. Registered student organizations that have been found in violation of a rule of conduct that had a substantially negative impact on a person or group of people, as determined by SCAI, are ineligible to seek relief under the CREED program.
- (c) Requests must be submitted to the Director of SCAI or designee via an online Student Organization CREED Program Submission form that can be found at <http://www.osc.sdes.ucf.edu> <https://scai.sdes.ucf.edu/creed-program/>.
- (d) The CREED Program is designed for registered student organizations to have the opportunity to demonstrate that in the period following a violation of the Organizational Rules of Conduct, they have taken steps to become productive and engaged members of the UCF community. Student organizations that simply fulfill the minimum requirements of their sanction(s) will not be eligible for the CREED Program.
- (e) Upon receipt of the CREED Program form, the Director of SCAI or designee shall conduct a preliminary review to ensure that the registered student organization's request meets the necessary eligibility and application requirements. The Director of

SCAI or designee must communicate the finding of the preliminary review of the application as well as the date and time of the “CREED review meeting” that has been scheduled for a committee to conduct a review the registered student organization’s application, if applicable. The organization has three (3) business days from when the Director of SCAI or designee sent their preliminary findings to request an alternate date and time for the “CREED review meeting.”

- (f) Prior to this meeting, the committee will have reviewed the packet and will prepare questions to be addressed, as well as provide the opportunity to further discuss why the registered student organization’s organizational disciplinary status should be altered or terminated. No alterations shall be made to include new or increased sanctions. Should the committee feel that further information and/or documentation is necessary in order to render a recommendation, the review may be temporarily recessed. The registered student organization will be given ten (10) business days to produce the information and/or documentation the committee requested. Upon receipt of the requested information and/or documentation, the committee will reconvene the CREED review meeting with the registered student organization.
- (g) After the meeting, the committee will issue a recommendation to the Director of OSCAI or designee. The Director of SCAI or designee will provide a final decision to the registered student organization in writing within ten (10) business days of receiving the recommendation.
- (h) If the request is denied by the Director of SCAI or designee the decision shall include a concise and explicit written statement that explains the basis for that final decision.
- (i) There is no appeal process for a Registered Student Organization Disciplinary CREED Review meeting decision.

Authority: BOG Regulations 1.001 and 6.0105. History - New 10-16-09, Amended 9-3-13, 10-29-15, 7-28-16, 7-20-17, 1-18-18, 7-19-18, 7-18-19, 6-18-20, _____-20.