

Student Affairs

Action Items



Florida Agricultural and Mechanical University Board of Trustees Action Item

Meeting Date – June 6, 2013

Agenda Item _____

Item Origination and Authorization

Policy _____ Award of Bid _____ Budget Amendment _____ Change Order _____
 Resolution _____ Contract _____ Grant _____ Other _____

Action of Board

Approved _____ Approved w/ Conditions _____ Disapproved _____ Continued _____ Withdrawn _____

Subject: Student Affairs – Student Disciplinary System Regulation

2.012 Student Code of Conduct

Rationale: This Regulation is being revised to specify the University has “zero tolerance” for violations of the Student Code of Conduct; the right to proceed prior to, concurrent with, or subsequent to any civil or criminal proceeding; clarifies sanctions, definitions and violations; and removes the designation of felony and misdemeanor violations. It also includes new provisions such as mediation, sexual misconduct, Amnesty in alcohol/drug cases; sealing of a student disciplinary record; an Organization Review Board Committee; an alternative should the student fail to timely request a hearing; use of written witness statements; and biennial review of the Student Code of Conduct. Additionally, Florida Board of Governors Regulation 6.0105(8) requires periodic evaluation of the student disciplinary system; the last review was conducted in 2009.

The University is requesting that the Board of Trustees approve the amendment to Regulation 2.012 for notice and adoption after the expiration of the thirty (30) day notice period, provided there are no public comments, in accordance with the Florida Board of Governors’ Regulation Development Procedure.

Recommendation: Approval of the University’s Notice of the Intent to amend Florida A&M University Regulation 2.012.

Regulation of
Florida A&M University



DRAFT

2.012 ~~Conduct~~, Student Code of Conduct.

- (1) All student conduct regulations of the University shall be printed in a form or forms which make them available to all students and shall be applicable ~~only~~ upon adoption by the FAMU Board of Trustees and subsequent publication in the Student Handbook, FANG, or other reasonable means of written or electronic notification such as the FAMU Website. The Student Code of Conduct shall hereinafter be referred to as the "Code".
- (2) As members of the academic community, students enjoy the rights and privileges that accrue to such membership including, but not limited to, academic freedom and participation in the decision-making processes of the University. Additionally, students are subject to the obligations and duties that accompany this membership and are responsible for compliance with the requirements of law and with all governance by students, faculty, and staff. It is incumbent upon members of the campus community to notify the appropriate judicial body or officials of a violation of these regulations, to encourage all to comply with them, and assist in their enforcement by testifying as witnesses when called upon to do so. Accordingly, all alleged violations of the Code shall be referred to the University Judicial Officer. Students, faculty and staff members, stakeholders or other individuals with knowledge, may report ~~allege~~ violations of the Code and make their report in writing to the Judicial Office. The University has zero tolerance for violation of any provisions of the Code as well as the Anti-Hazing Regulation 2.028 and Alcoholic Beverages Regulation 3.021. "Zero tolerance" means that given the factual circumstances of the alleged violation the charged student may be removed from University Housing and receive a penalty up to suspension or expulsion from the University. Due process protections in accordance with University Regulation 2.013 will be appropriately accorded the charged student. If the Judicial Officer or his/her designee believes after ~~an investigation~~ a review of the allegations that the allegations have merit, the student will be issued, in writing, an administrative request to appear at an information briefing before the Judicial Officer or his/her

designee. At the information briefing, the Judicial Officer or his /her designee will explain to the students the elements of due process that will be afforded to the student.

(a) University disciplinary proceedings may be instituted against a student charged with a violation of the law that is also a violation of the Code. The University reserves the right to proceed under the Code with a hearing and the possible imposition of a sanction prior to, concurrent with, or subsequent to civil litigation, criminal arrest, and/or criminal prosecution.

(b) Normally, the University will proceed with an alleged violation of the Code prior to any final disposition of the Courts.

(c) Determinations made or sanctions imposed under the Code shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of University rules and regulations were dismissed, reduced or resolved in favor of or against the criminal law defendant.

(d) Any admission of guilt, responsibility or statement against the student's interest made by a student at off-campus proceedings shall be conclusive for University purposes.

(e) A verdict of guilty, a plea of guilty, a plea of no contest (*nolo contendere*) or similar plea in a court of law by a charged student will operate as a conclusive finding that the student is "responsible" for the purpose of student conduct proceedings.

(f) Prior to the entry of a Recommended Order, the University may amend its charge(s) based on information obtained through an outside proceeding when that information is relevant to activity adversely affecting the University community.

(g) The University will cooperate fully with law enforcement agencies in any criminal prosecutions to the extent permitted by law.

(3) Discipline may be imposed for offenses against the Code occurring at any of the following locations or activities:

(a) University campus;

(b) University owned or controlled property;

(c) University premises, including but not limited to fraternities, sororities, and organizations property;

(d) Activities sponsored by the University wherever they may occur;

(e) Activities officially approved by the University that are conducted by University

Chartered certified organizations wherever they may occur;

(f) Activities occurring off campus, either university or non-university related.

~~(4) — Felony — a serious offense against the University for which a student, upon a finding of responsible, shall be punished by:~~

~~(a) — Expulsion from the University; or~~

~~(b) — Dismissal from the University for a period not to exceed five years; or~~

~~(c) — Suspension from the University for a period not to exceed three years; or~~

~~(d) — Community service, not to exceed 15 hours per week and not to exceed a total of 11 weeks; or~~

~~(e) — Probation for a specified period, or for a period not to exceed a total of time needed by the student to complete requirements for graduation; or~~

~~(f) — Restitution for the loss, damage or injury; or~~

~~(g) — Discretionary educational sanctions; or~~

~~(h) — Counseling — The University can require the student to seek professional counseling on or off-campus in order to remain at the University; or~~

~~(i) Any combination of the foregoing that the majority of the hearing body or the University Judicial Officer may, under the circumstances, consider fair and appropriate.~~

(4) **Sanctions.** A student found responsible for a violation or violations of the Code shall be subject to sanctions commensurate with the offense with consideration given to any aggravating and mitigating circumstances, including but not limited to the student's conduct record. The student will be deemed to have knowledge of his or her record of previous conduct violations and sanctions. If a student does not complete a sanction by the required deadline, a hold may be placed on the student's record. Sanctions include one or more of the following, unless otherwise expressly provided: ~~Felony — A serious offense against the University for which a student, upon a finding of responsible, shall be punished by:~~

(a) Expulsion from the University. The student is permanently deprived of his/her opportunity to continue at the University in any status; ~~or~~

~~(b) — Dismissal from the University for a period not to exceed five years; or~~

(e) Suspension from the University for a period not to exceed ~~three~~ five (5) years; ~~or which may also include restricted access to campus and/or other specified activities. The student must comply with all conditions imposed by the hearing body prior to re-enrolling. Students who are suspended for more than one year will need to apply for re-admission.~~

(~~dc~~) University/Community service, not to exceed 15 hours per week and not to exceed a total of 11 weeks; or The student is required to complete a specified number of hours of service to the campus or general community.

(~~ed~~) Probation for a specified period which shall not, or for a period not to exceed a total of time needed by the student to complete requirements for graduation. Students placed on probation are not in good standing with the University and are subject to suspension or expulsion should they be found “responsible” for another violation during the probationary term.; or

(~~fe~~) Restitution for the loss, or damage or injury to University property; or

(~~gf~~) Discretionary sanctions; or

(~~hg~~) Counseling Assessment.– The University can refer a student for an assessment at a counseling center for alcohol/drug dependence, general mental health, or other counseling issues. The student shall choose an appropriately licensed and qualified facility, require the student to seek professional counseling in order to remain at the University; or

(~~ih~~) Written reprimand.

(~~ji~~) Restriction/Loss of Privileges. The denial of specific University privileges including but not limited to attendance at athletic functions, restricted library use, parking privileges, University computer usage, University facilities and resources; residence hall visitation for a designated period of time, etc.

(~~kj~~) Educational Requirements. Attendance or presentation at educational programs; interviews with appropriate officials; planning and implementing educational programs; completion of essay or project; or other educational activities.

(~~lk~~) No Contact Order. A directive to refrain from any intentional contact, direct or indirect, with one or more designated persons or group(s) through any means including personal contact, e-mail, text messaging, telephone, social media or third parties. A No Contact Order may be temporary or permanent.

(~~ml~~) Withholding of diplomas, transcripts, or other records.

(~~nm~~) Mediation. Depending on the nature and severity of the alleged violation, the University Judicial Officer may recommend formal mediation as an alternative to formal disciplinary action. The involved parties must each agree to mediation. Mediation shall not be offered as an alternative in instances to include, but not specifically limited to: sexual misconduct, loss of life, serious bodily injuries, use of weapons, hazing and the cultivation, distribution or sale of drugs.

(n) Any combination of the foregoing that the majority of the hearing body or the University Judicial Officer may, under the circumstances, consider fair and appropriate.

(5) A charged student may request an opportunity to provide testimony to the Judicial Officer against other students who are charged with violations of the Code arising out of the same incident or circumstances, including the student's own involvement, in exchange for imposition of sanction(s) by the Judicial Officer. Under this provision, the student waives his/her right to a hearing and/or appeal. The provision of testimony against other students will be considered a mitigating factor in determining sanctions. ~~Misdemeanor—an offense against the University for which the student, upon a finding of responsible, shall be punished by:~~

~~(a) — Suspension from the University for a period not to exceed two semesters; or~~

~~(b) — Community service, not to exceed 15 hours per week and not to exceed a total of 11 weeks; or~~

~~(c) — Probation for a specified period, or for a period not to exceed one year; or~~

~~(d) — A letter of reprimand; or~~

~~(e) — Restitution for the loss, damage or injury; or~~

~~(f) — Discretionary sanctions; or~~

~~(g) — Counseling — The University can require the student to seek counseling on or off campus from a professional counselor in order to remain at the University; or~~

~~(h) — Mediation; or~~

~~(i) — Any combination of the foregoing that the hearing body or judicial officer may, under the circumstances, consider fair and appropriate.~~

(6) Definitions of student conduct terms — The following terms are defined as follows:

(a) Expulsion – a student shall be deprived of his/her opportunity to reenter the University.

The student is permanently separated from the University.

(b) Dismissal — separation of the student from the University for a period not to exceed five years. ~~Readmission is conditioned by the recommendation of an ad hoc review board appointed by the President or Vice President for Student Affairs.~~

(eb) Suspension – Separation of the student from the University for a definite period of time. The duration of the period of suspension shall not exceed five ~~three~~ years and shall be in direct proportion to the degree of seriousness attached to the misconduct. Readmission for suspensions exceeding one year is conditioned upon the recommendation of an ad hoc review board appointed by the President or Vice President for Student Affairs.

(cd) Probation – an official warning that the student's conduct violated the eCode of conduct of

the University and requires the withdrawal of special privileges, participation in inter-collegiate activities, and others. Special privileges means ~~F~~the student may not be elected to office or represent the University in any other capacity during the period of probation. If the student is holding an office, he/she must vacate the office for the term of probation. The penalty of probation may also include a specified monetary fine from \$100.00 to \$350.00.

(~~de~~) Reprimand – a formal rebuke and official recognition by letter to the student of misconduct as charged by the University.

(~~ef~~) University/Community service – hours the student may be required to perform in specified areas of service.

(~~fg~~) Restitution – Compensation for loss, or damage to University property, ~~or injury~~. This may be in the form of monetary or material replacement.

(~~gh~~) Educational Discretionary sanctions – Work assignments, essays, presentations or other related discretionary educational assignments.

(~~hi~~) Student—Any person matriculated to the University; any person who enrolls in any course or program in any school, college, institute or unit of Florida A&M University; or any person who has enrolled in any course or program at the University and continues to be associated with the University because he/she has not completed the course or program at the University. The term “student” will also refer to student clubs and organizations.

(~~ij~~) University official—any person employed by the University, performing administrative or professional responsibilities.

(~~jk~~) Faculty member—Any person hired by the University to conduct classroom instruction and/or research activities or who is otherwise considered by the University to be a member of its faculty.

(~~kl~~) University—The Florida A&M University whose main campus is located in Tallahassee, Florida and any of its satellite or branch campuses.

(~~lm~~) University premises—All buildings, land, facilities, and any other property owned, leased, operated, controlled or supervised by the University.

(~~mn~~) University sponsored activity—Any activity on or off campus which is initiated, aided, authorized or supervised by the University.

(~~no~~) Hearing body—Any person or persons who have been authorized by the University to determine whether a student has violated the Code and to recommend sanctions that may be imposed when a Code violation has been committed.

(o) Mediator – Any neutral member of the University community who has been trained in conflict resolution to assist parties in reaching a mutual agreement to resolve their differences. The Mediator shall not have personal connections with either party or have prior knowledge of the disagreement.

(p) Club and/or organization—Any number of students who have complied with the University requirements for ~~recognition or registration~~ certification. The term “club or organization” also will refer to student.

(q) ~~Charged~~ Accused Student –The student ~~accused~~charged with of violating violations of this Code.

(r) Complainant—Any person who submits a ~~charge~~ report alleging that a student violated this Code.

(s) The word, “Shall”, is used in the imperative sense.

(t) The word, “Will” is used in the imperative sense.

(u) The word, “May” is used in the permissive sense.

(v) The word “Can” is used in the permissive sense.

~~(wv)~~ Mediation—This is the actual mediation process in which all parties voluntarily agree to 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 are responsible for keeping their agreement or renegotiating if necessary. In the event 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. Breach of a mediated agreement may result in a follow up mediation session or the matter may be referred back through the conduct process. involved in a dispute seek to reach a resolution with the aid of neutral mediators. Agreements reached are based on the interests of all parties so that everyone reaches a satisfactory compromise or settlement of the dispute.

~~(xw)~~ Judicial hold—This prevents the student from conducting any form of registration or obtaining transcripts.

~~(yx)~~ Sanction—A penalty imposed upon a student after the student has admitted that he/she is responsible or has been determined responsible by the Judicial Officer or a hearing body for violating a provision(s) of the Code.

~~(zy)~~ Preponderance of Evidence—The term “preponderance of evidence” means that evidence considered as a whole indicates the fact sought to be proved is more probable than not.

(~~aa~~) “Responsible”—The term “responsible” means that the ~~Accused/charged~~ Sstudent has been found responsible or accepted responsibility for violating a provision(s) of the Code.

(~~baa~~) “Not responsible”—The term “not responsible” means that the ~~Accused/charged~~ Sstudent has not been found responsible or did not accept responsibility for the alleged violation(s) of a provision(s) of the Code.

(~~cc~~) Business Day – The term “business day” means a day of normal business operation (excluding legal holidays) that occurs during the officially designated workweek of the University.

(~~ddb~~) All ~~code of conduct~~ definitions not included in this Code are in accordance with definitions found in the most recent edition of Blacks Law Dictionary in effect at the time of the violation of the Code.

(~~ee~~)—Self Defense

(7) Amnesty - In serious or life-threatening situations, particularly where alcohol poisoning or drug overdose is suspected or where other medical treatment is reasonably believed to be appropriate, students are asked to call 911 (or FAMU Police Department at 850-599-3256 if on campus); stay with the person needing assistance until help arrives; and be prepared to give emergency medical personnel as much information as possible including the amount and type of alcohol or substances consumed. Students who receive medical attention as a result of alcohol and/or drug use are eligible for Amnesty and may not face formal action under the Code. Students seeking medical assistance for another person while simultaneously violating the alcohol and/or drug regulation may also be eligible. Students who qualify for Amnesty are required to complete educational measures and pay any incurring costs. It is the expectation that a student uses Amnesty only once. If a student is involved in subsequent alcohol and/or drug abuse incidents, the incident will be reviewed for violation of the Code. ~~A student convicted of a second misdemeanor while on probation shall be liable for punishment of a felony.~~

(8) The ~~hearing body~~ or ~~J~~Judicial ~~o~~Officer may defer or suspend a finding of responsibility pending completion of specific sanctions ~~recommend suspension of sanction(s) for a specified period of time~~ where circumstances warrant. If a student successfully completes the required sanctions, the student’s conduct record may be sealed. This means that the record sealed will not appear on a student disciplinary/background check; however, the record may be considered by a hearing body or the Judicial Officer should the student commit a subsequent violation of the Code. ~~A probationary period must be imposed.~~

(9) ~~The President of the University or the Vice President for Student Affairs may expel,~~

~~dismiss or suspend any student when the student's conduct is detrimental to the University and involves disruption of the University process or is dangerous to the health, safety and morals of the University community.~~

(910) Violations ~~Offenses Classified as Felonies and Their Definitions.~~

(a) The offense affray is defined as the fighting of two or more students in a public or private place, ~~voluntarily or not,~~ to the disturbance of others. ~~Penalty: Probation up to expulsion.~~

(b) The offense assault and/or battery is defined as the unlawful and intentional application of force, or attempt of such, to the person of another. This includes physically contacting another person without his/her consent and causing or intending to cause injury or imminent fear of injury. ~~Penalty: Probation up to expulsion.~~

(c) ~~The offense a~~Assaulting a University official is defined as the unlawful attempt or offer to do bodily harm to an official of the University when the official is in the execution of his office. ~~Penalty: Probation up to expulsion.~~

(d) ~~The offense d~~Disobeying a University official is defined as an intentional defiance of authority. The offense includes disobeying orders of the University official or the use of contemptuous words toward the University official. ~~Penalty: Probation up to expulsion.~~

(e) ~~The offense b~~Breaking and entering is defined as the unlawful breaking entry into of a building or structure of another, ~~with intent to commit an offense therein.~~ The word building includes a room, classroom, office, store, or trailer. A break includes any removal of any part of the building designed to prevent entry. Opening a closed door or window or other similar fixture, or cutting out the glass or the netting of a screen, or unauthorized possession, duplication or use of keys, access cards/codes for such property is defined as breaking. ~~Penalty: Probation up to expulsion.~~

(f) The student who knowingly, with the intent to deceive, falsifies records or gives misleading information, oral or written, is subject to charges of deliberate deception. This includes falsifying, tampering, altering, forging, or misusing any University record or official document. ~~Penalty: Probation up to expulsion.~~

(g) ~~The offense d~~Destruction of property, including misuse or tampering with emergency equipment or systems, ~~of property~~ is defined as willful and malicious defacement, damage, misuse or destruction of University property or the private property of another or emergency equipment or systems. It includes vandalizing, or misusing emergency equipment for non-emergency events. This shall include but not be specifically limited to intentional misuse of 911 blue lights systems, fire alarm pull stations, fire extinguishers, and unauthorized use of emergency

exit doors or intentional losses of University or private property. In addition to being subject to disciplinary action, students or student organizations responsible for such damage may be financially liable. ~~The value of the property referred to must be \$100.00 or more. Penalty: Probation up to expulsion.~~

(h) The offense hazing is defined as noted in FAMU Regulation 2.028. ~~Penalty: See subsections (3) and (4) of said regulation.~~

(i) Stealing is defined as the intent to deprive or defraud the true owner of his/her property or to appropriate the same to the use of the taker or someone other than the true owner. It is taking from the possession of another or obtaining from a person value of any kind, appropriating the same to personal use or to the use of another person other than the true owner. ~~The property alleged as being stolen must be of a value of \$100.00 or more. Penalty: Probation up to dismissal.~~

~~(j) Lewd and Lascivious Behavior is defined as such behavior as indicated under Section Chapter 800.03, Florida Statutes. Penalty: Probation up to expulsion.~~

(k) Use and/or possession of weapons, firearms, ammunitions, explosives, knives, firecrackers, fireworks or any other instrument as a weapon ~~in a reckless manner~~ is prohibited. Firecrackers or fireworks may be used only when approved by appropriate University officials.

1. ~~“Firearm” “Weapon” means any item weapon (including but not specifically limited to metallic knuckles, sword, any dangerous chemical or biological agent, a firearm, machine gun, starter gun, BB gun, stun gun, paintball gun, taser, archery equipment or any other object and)~~ which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; ~~or any machine gun. The term “firearm” does not include an antique firearm unless the antique firearm is used in the commission of a riot; the inciting or encouraging of a riot; or the commission of any felony under this Rule.~~

2. “Fireworks” means and includes any combustible or explosive composition or substance or combination of substances, or except as hereinafter provided, any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation. The term includes blank cartridges and toy cannons in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, roman candles, incense, dago bombs, and any fireworks containing any explosives or flammable compound or any tablets or other device containing any explosive substance. The term “fireworks” does not include sparklers; toy pistols, toy canes, and toy guns.

3. The term “sparkler” means a device which emits showers of sparks upon burning, does not

contain any explosive compounds, does not detonate or explode, is hand-held or ground-based, and cannot propel itself through the air. ~~Penalty: Probation up to expulsion.~~

(~~k~~) The opening and removing of the mail, including electronic mail, of another person without authority is a violation of Federal law. University penalties may also be imposed for such a violation. ~~Penalty: Probation up to expulsion.~~

(~~l~~) The student convicted of a felony by an off-campus court of competent jurisdiction may be subject to sanctions by the University. ~~Penalty: Probation up to expulsion.~~

(~~m~~) Violations of the terms of disciplinary action imposed as a result of previous disciplinary proceedings under the provision of this Code will subject the student to additional sanctions. ~~Penalty: Probation up to dismissal.~~

(~~n~~) The offense conspiracy is defined as planning with one or more ~~fellow students~~ individuals to commit an act or acts that violate(s) the University Code of Conduct. ~~Penalty: Probation up to expulsion.~~

(~~o~~) Identification violations include:

1. To fail to present identification when requested by a University Law Enforcement Officer or other university official who identifies him/herself. ~~Penalty: Probation up to dismissal.~~
2. To alter, illegally use or attempt to illegally use ~~an~~ another's identification ~~card, library card, decal or other means of identification not issued to the student, regardless of methodology (i.e., card, identification number, access code, etc.).~~ Penalty: Probation up to dismissal.
3. The student who knowingly, with intent to deceive, allows another to use his/her student identification card, decal or other means of identification. ~~Penalty: Probation up to dismissal.~~
4. To manufacture, distribute, deliver, sale, purchase, possess or use of false identification.
5. Impersonation or misrepresenting the authority to act on behalf of another or the University. ~~Penalty: Probation up to dismissal.~~

(~~p~~) Stalking:

1. Any person who willfully, maliciously, and repeatedly follows or harasses another person, including via electronic means, commits the offense of stalking. ~~Penalty: Probation up to suspension.~~
2. Any person who willfully, maliciously, and repeatedly follows or harasses another person, including via electronic means, and who makes a credible threat with the intent to place that person in fear of bodily injury or loss of life; or who fails to comply with an off-campus court order to cease and desist with any such conduct toward subject person or that person's property commits the offense of aggravated stalking. ~~Penalty: Suspension up to expulsion.~~

~~(r) — Sexual Battery — The non-consensual oral, anal or vaginal penetration by, or union with the sexual organ of another or the anal or vaginal penetration with an object by another; however, sexual battery does not include an act done for a bona fide medical purpose. Penalty: Suspension up to expulsion.~~

~~1. “Victim” means a person who has been the object of a sexual battery.~~

~~2. “Alleged Offender” means the person who has been accused of committing sexual battery.~~

~~3. Unless expressly prohibited by law, the University is committed to affording the victim of a sexual assault the following rights:~~

~~a. To not require the corroboration of the victim’s testimony.~~

~~b. To prohibit the victim’s past sexual history from being admitted as testimony in university proceedings.~~

~~c. To allow the victim to submit to the Hearing Body during the penalty phase a victim impact statement.~~

~~d. To authorize the Vice President for Student Affairs or Associate Vice President for Student Affairs or Director of Housing to modify living arrangements in cases where the victim and alleged offender live in the same housing complex.~~

~~e. To authorize the Vice President for Student Affairs or Associate Vice President for Student Affairs, or the University Judicial Official to issue an immediate administrative restraining order, forbidding the alleged offender from all contact with the victim.~~

~~f. To authorize the University provost and/or the academic deans to establish an immediate reassignment of classes for the alleged offender when both alleged offender and victim attend the same classes.~~

~~g. To provide on-campus counseling services to victims of sexual assault.~~

~~h. To close the proceedings from the public as provided in all other disciplinary proceedings.~~

(q) Sexual Misconduct – any sexual activity that occurs without the clear, knowing and voluntary consent prior to and during such sexual activity or that occurs when the victim is unable to give consent.

1. Inability to give consent includes but is not limited to situations where an individual is:

a) under the influence of alcohol, drugs or other substances (including, but not limited to prescribed medications)

b) unconscious, asleep, ill or in shock

c) under the age of 18 and therefore legally incapable of giving consent; or

d) known by reason of impairment, mental condition or developmental or physical disability to be reasonably unable to give consent.

e) Consent is not freely given if achieved through force, threat of force or coercion. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Lack of resistance is not consent and consent can be withdrawn at any time.

2. Sexual Misconduct offenses include, but are not limited to:

a) Sexual Harassment – any words, conduct or action of a repeated nature being directed at a male or female; including the inappropriate display of gender-based pictorial images offensive or degrading to a person of that gender, including, but not limited to sexual posters, photographs, cartoons, drawings, or other displays of sexually suggestive objects or pictures; that creates an intimidating, hostile or offensive environment that interferes with, denies or limits a person's ability to participate in or benefit from the University's programs and activities.

b) Non-Consensual Sexual Contact (or attempts to commit same) – is any intentional sexual touching, however slight with any object by a man or woman upon a man or woman that is without consent and/or by force.

c) Non-Consensual Sexual Intercourse (or attempts to commit same) – is any sexual intercourse however slight, with any object, by a man or woman upon a man or woman that is without consent and/or by force. Examples include, but are not specifically limited to:

- i. Sexual contact when the person is below the statutory age of consent.
- ii. Vaginal, anal or oral intercourse, digital penetration or penetration by an object
- iii. Sexual contact without full and free consent given by the person, including situations where drugs and/or alcohol impair the person's ability to give full and free consent
- iv. Attempted or actual unwanted sexual activity, such as sexual touching or fondling an unwilling person's intimate parts (e.g., genitalia, groin, breast or buttock, or clothing covering them) or forcing an unwilling person to touch another's intimate parts;
- v. Sexual contact when the perpetrator knows the person is unaware of the sexual contact;
and

d) Sexual Exploitation – occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the individual being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not specifically limited to:

- i. Invasion of sexual privacy

- ii. Non-consensual video or audio recording of sexual activity
- iii. Going beyond the boundaries of consent (such as letting friends hide in the closet to watch you having consensual sex)
- iv. Engaging in voyeurism;
- v. Knowingly transmitting a sexually transmitted infection (STI) or HIV to another student;
- vi. Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- vii. Sexually-based stalking and/or bullying may also be forms of sexual exploitation
 - e) Lewd and Lascivious Behavior – unlawful sexual acts with minors.
 - f) Relationship Violence – occurs when one partner tries to maintain power and control over the other through actual or threatened physical or sexual violence, or psychological and emotional abuse. These acts can be directed at a spouse, ex-spouse, current or former girlfriend, boyfriend, or current or former dating partner.
- 2. Other student conduct offenses (will fall under Title IX when gender-based)
 - a. Threatening or causing physical harm, extreme verbal abuse or other conduct which threatens or endangers the health or safety of a person
 - b. Discrimination – Refer to Regulation 10.103, Non-Discrimination, Policy and Discrimination and Harassment Complaint Procedures.
 - c. Intimidation – implied threats or acts that cause an unreasonable fear of harm
 - d. Hazing – Refer to Regulation 2.028, Anti-Hazing.
 - e. Bullying – repeated and/or severe aggressive behavior likely to intimidate or intentionally harm, control or diminish another person, physically or mentally
 - f. Violence between those in an intimate relationship to each other
- 3. Stalking – Refer to Section (9)(p) of this Code.
- 4. Victim Rights
 - a. While the University encourages all violations to be reported, the victim has the right to choose whether or not to file a formal complaint. There is also the option of filing an anonymous report. However, here may be circumstances based on the status or seriousness of the alleged offense, the University must investigate and take action to protect the victim or other members of the University community.
 - b. In addition to pursuing administrative/judicial remedies, the victim maintains the right to pursue criminal charges.
 - c. To not require the corroboration of the victim's testimony.

- d. To prohibit the victim's past sexual history from being admitted as testimony in University proceedings.
- e. To allow the victim to submit to the Hearing Body a victim impact statement to be considered during the sanctioning phase.
- f. To authorize the Vice President for Student Affairs or Associate Vice President for Student Affairs or Director of Housing to modify living arrangements in cases where the victim and alleged offender live in the same housing complex.
- g. To authorize the Vice President for Student Affairs or Associate Vice President for Student Affairs, or the University Judicial Officer to issue an immediate administrative restraining order, forbidding the alleged offender from all contact with the victim.
- h. To authorize the University Provost and/or the academic deans to establish an immediate reassignment of classes for the alleged offender when both alleged offender and victim attend the same classes.
- i. To provide on-campus counseling services to victims of sexual assault.
- j. To close the proceedings from the public as provided in all other disciplinary proceedings.
- k. At the request of the victim in cases involving sexual misconduct, physical violence or stalking charges, the victim to be able to testify in a separate room from the alleged offender as long as this does not interfere with the alleged offender's right to question the victim.
- l. Both the victim and the charged student shall be informed of the outcome of any University disciplinary proceeding brought alleging a sex offense, the University's final determination and any sanctions.

(rs) Academic Honesty Violations:

- 1. An academic honesty violation shall include a student who gives or takes information or material and wrongfully uses it to aid himself/herself or another student in academic endeavors. It shall further include receiving unauthorized written or oral information from a fellow student. Additionally, it shall include stealing, buying, selling, or referring to a copy of an examination before it is administered.
- 2. In the instance of papers written outside of the class, academic honesty violations shall include plagiarism. Plagiarism may be specifically defined for the purposes of any course by the ~~instructor~~ school or college involved. Unless otherwise defined, plagiarism shall include failure to use quotation marks or other conventional markings around material quoted from any source. Plagiarism shall also include paraphrasing a specific passage from a specific source without indicating accurately what that source is. Plagiarism shall further include letting another person

compose or rewrite a written assignment.

3. A student who assists in any of the academic honesty violations mentioned above shall be considered equally as responsible as the student who accepts such assistance.

4. For procedural information regarding academic honesty violations, students should consult with the academic dean or director or program coordinator in the respective school, ~~or~~ college, or institute.

5. The penalties for academic honesty violations shall include: reprimand, reduction of grade; denial of academic credit; invalidation of university credit or of the degree based upon such credit; probation; suspension; dismissal; or expulsion. In addition to any other penalties that may be imposed, the individual or student may be denied admission or further registration, and the University may invalidate academic credit for work done by a student and may invalidate or revoke the degree based upon such credit if it is determined that the student has made false, fraudulent, or incomplete statements in the application, residence affidavit, or accompanying documents or statements in connection with, or supplemental to, the application for admission to or graduation from the University.

(st) Theft or other abuse of computer facilities, wireless system, network, data and resources, including but not limited to:

1. Unauthorized access, entry or use of a University's or another's computer, computer system, network, software, password, account or data into a file, to use, read, or change the contents, or for any other purpose.

~~2. Unauthorized transfer of a file.~~

~~3. Use of another's individual's identification and/or password.~~

2. Unauthorized alteration or degradation of computer equipment, software, network, data or system performance.

3. Unauthorized copying or distribution of computer software or data.

4. Theft or unauthorized use of intellectual property.

5. Use of a computer or computer system in the commission of a crime to violate or facilitate the violation of laws, Board of Governors or University rules, regulations or policies.

6. Any unauthorized commercial use of University computer or computing resources.

7. Any unauthorized use of electronic or other devices to make an audio or video recording.

84. Use of computing facilities and resources to send obscene or abusive messages or material.

95. Use of computing facilities or resources to interfere with the work of another student.

faculty/staff, University official or the normal operation of the University computing system.

6. ~~Penalties—Written reprimand up to suspension.~~

(~~t~~) Abuse of the Student Judicial System, including but not limited to:

1. Failure to obey the notice from the University Judicial Officer to appear for a information briefing or hearing as part of the student judicial system.
2. Falsification, distortion, or misrepresentation of information before a hearing body or a staff member of the Office of Judicial Affairs during an information briefing.
3. Disruption or interference with the orderly conduct of a judicial hearing.
4. Attempting to discourage an individual's proper participation in, or use of, the student judicial system.
5. Attempting to influence the impartiality of a member of a hearing body prior to, during, and/or after a judicial hearing.
6. Harassment, verbal or physical, and/or intimidation of a member of the hearing body, Judicial Affairs staff or a witness prior to, during, and/or after a judicial hearing.
7. Influencing or attempting to influence another person to commit an abuse of the student judicial system.

8. ~~Penalties—Written reprimand up to suspension.~~

(~~u~~) Participating in an on-campus or off-campus demonstration, riot, or activity that disrupts or obstructs the normal operations of the University and/or infringes upon the rights of other members of the University community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area. ~~Penalty: Probation up to Suspension.~~

(~~v~~) Obstruction of the free flow of pedestrian or vehicular traffic on University premises. ~~Penalty: Written reprimand up to suspension.~~

(~~w~~) Use, possession, manufacturing, cultivation, or distribution or sale of illegal drugs and/or controlled substances. Illegal drugs include but is not limited to synthetic drugs or other substances that will alter a student's mental state (e.g. glue, nitrous oxide, paint, etc.); drug paraphernalia; possession, use, sale or distribution of prescription medication not issued to the student.

1. ~~The University has a Zero Tolerance Policy for the use, possession, manufacturing or distribution of illegal drugs and/or substances.~~

2. ~~Zero Tolerance means that the student may be removed from University housing, and up to suspension or expulsion from the University.~~

(~~x~~) The violation of alcoholic beverages is defined as noted in FAMU Regulation 3.021. ~~Use,~~

~~possession, manufacturing, or distribution of alcoholic beverages, or public intoxication. Penalty: Probation up to dismissal.~~

~~(yz) Harassment—Words, conduct or action of a repeated nature being directed at a male or female, that annoys, alarms or causes substantial emotional distress to the male or female. Penalty: Probation to Suspension.~~

~~(zaa) Extortion – The act or practice of obtaining something or compelling some action by force, coercion, intimidation or threat.~~

~~(aabb) The offense disorderly conduct encompasses the act or acts, disorders and neglect which affect the peace, harmony, and well being of the University community to the prejudice of good order and discipline. Disorderly conduct includes, but is not limited to the use of profanity in public, drunkenness in University buildings and grounds and the use of insulting or defamatory language. Penalty: Letter of reprimand up to suspension.~~

~~(11) Offenses Classified as Misdemeanors and Their Definition.~~

~~(a) — The offense assault is defined as an unlawful offer or attempt to do bodily harm toward the person of another. Penalty: Letter of reprimand up to suspension.~~

~~(b) — The student who gives or takes any information or material with the intention of wrongly using it to aid himself/herself or another student in academic endeavors shall be subject to the charge of cheating. This includes falsifying, tampering, altering, forging, or misusing any University record or official document or knowingly supplying false or misleading information to a University official. Penalty: Letter of reprimand up to suspension.~~

~~(c) — The offense destruction, misuse of property is defined as willful and malicious defacement, damage or destruction of University property or the property of another. It includes vandalizing, misusing or intentional loss of University or private property. In addition to being subject to disciplinary action, students or student organizations responsible for such damage may be financially liable. The value of the property referred to must be less than \$100.00. Penalty: Letter of reprimand up to suspension.~~

~~(d) — The offense disorderly conduct encompasses the act or acts, disorders and neglect which affect the peace, harmony, and well being of the University community to the prejudice of good order and discipline. Disorderly conduct includes, but is not limited to the use of profanity in public, drunkenness in University buildings and grounds and the use of insulting or defamatory language. Penalty: Letter of reprimand up to suspension.~~

~~(e) — The offense stealing is defined as the intent to deprive or defraud the true owner of his/her property or to appropriate the same to the use of the taker or someone other than the true owner. It~~

~~is taking from the possession of another or obtaining from a person value of any kind, appropriating the same to personal use or to the use of another person other than the true owner. The property alleged as being stolen must be of a value of less than \$100.00. Penalty: Letter of reprimand up to suspension.~~

~~(f) — The possession of firearms, ammunitions, explosives, firecrackers or fireworks, or the possession of a knife or other discharges or weapons of whatever kind or character is in violation of the code of conduct. Penalty: Letter of reprimand up to suspension.~~

~~(12)~~(10) The time limit for filing a charge against a student for violation of the Code should be filed within six months ~~twenty days~~ of the date the violation was committed or discovered, whichever is later. The University Judicial Officer may exercise professional discretion when applying the time limit for filing a charge against a student when there are circumstances that warrant a waiver of ~~the twenty days~~ six months from the date of discovery. Circumstances that may warrant a waiver include but are not specifically limited to: stalking, sexual misconduct, ~~battery~~, or relationship violence, in which the delay may be related to issues of victimization; requests from law enforcement not to take action or concern for the safety of witnesses. The written notice of the charge of violation to the ~~accused~~ charged student should proceed the actual hearing date or information briefing with the ~~accused~~ charged student by no less than ~~three~~ four work/business days, except in an emergency. A hearing shall normally be scheduled within fifteen work/business days of the date of the notice of the charge of violation to the ~~accused~~ charged student, unless the ~~accused~~ charged student and the Judicial Officer or his/her designee agree in writing to a later hearing date or unless there are extenuating circumstances. Extenuating circumstances that may warrant a delay of a hearing include, but not specifically limited to: unavailability of witnesses, illnesses, death, pending civil or criminal proceedings which might prejudice University findings; an on-going related law enforcement investigation, and written requests for continuance from an attorney secured by the ~~accused~~ charged student or from the university attorney.

~~(13)~~(11) The University may summarily ~~dismiss~~ suspend or expel any student or group of students, pending a hearing at a later date if requested, under the following circumstances:

- (a) The continued presence of the student on campus is likely to create interference with the educational process and/or the orderly operation of the University; or
- (b) The continued presence of the student on campus is likely to endanger the health, safety, morals, welfare or property of the University community.
- (c) The offense or conduct committed by the student is of such a serious, heinous or repulsive

nature, as to adversely affect the University community and the student's suitability as a member of the academic community.

(14)(12) Other University Boards

(a) Violation of residence hall policies and procedures are punishable ~~as misdemeanors~~ under the Code. Violation of the Visitation Policy as found in the Residence Life Handbook shall carry either an arrest for trespassing, suspension or probation and ~~the~~ removal from residing in University housing facilities.

(b) University Housing Conduct Boards may conduct informal hearings regarding cases arising in university housing where the charged student is a resident of university housing. University Housing Hearing Officers include the Director, Associate and Assistant Directors and designees.

(c) Matters involving a club and/or organization may be referred to the Organization Review Board Committee by the Dean of Students and Director of Judicial Affairs/University Judicial Officer.

(15)(13) The President or Vice President for Student Affairs may summarily ~~dismiss~~suspend or expel any student, pending a hearing at a later date if requested, who is convicted of or pleaded guilty to a criminal offense of a kind which interferes with the educational orderly operation of the university, or a kind which, if the student were allowed to remain enrolled, would endanger the health, safety, morals, welfare or property of the members of the academic community.

(16)(14) A student who fails to respond to an administrative request to appear shall be prohibited from attending classes and participating in extra-curricular activities until compliance with the administrative request to appear is effected.

(17)(15) ~~If a~~A student charged with a violation of the Student Code of Conduct, regardless of which judicial body may hear the matter, ~~wishes~~ may request to have the hearing postponed ~~and because there is pending or possible civil or criminal litigation which he/she feels might be prejudiced by the findings of the University hearing,~~ such postponement may be granted provided the student requests it in writing and agrees to accept the imposition of probation, suspension or withdraws from the University voluntarily, depending upon the gravity of the offense. Such probation, suspension or withdrawal will be determined and activated by the University Judicial Officer with recommendations to the Vice President for Student Affairs. Action taken shall remain in force until such time as the student requesting a hearing appears before the appropriate hearing body and a hearing is held. The student shall be informed whether he/she would be placed on probation or would be suspended prior to his making a decision to postpone the hearing.

~~(18)~~(16) Students are required to carry a Florida A&M University picture identification card at all times. Failure to do so, may subject them to a reasonable detention by appropriate University authorities.

~~(19)~~(17) In addition to the right of University officials to enter a student's room in University housing pursuant to the terms of the Housing ~~and Board~~ Agreement, officials may enter when an emergency exists, where there is reasonable cause to believe there is a clear and present danger or where there is a reasonable belief that contraband is present which interferes with the educational process of the University, or where the health, safety and morals of the University community are in imminent and apparent danger.

~~(20)~~(18) In the event a student charged with an offense wishes to waive, in writing, his/her right to a hearing and/or an appeal of a hearing to the appropriate official or hearing body, including external judicial forums, bodies or entities, and the University Judicial Officer wishes to accept jurisdiction, the University Judicial Officer may make a determination of facts and, if the student is found responsible for the offense, make a recommendation of penalty. The student's written waiver shall be obtained after being given an explanation of the charges against him/her and of his/her rights to a hearing and appeal under the Student Code of Conduct. The student shall have two (2) workbusiness days from the date of signing the waiver to rescind, in writing, his/her waiver and request a hearing. In the absence of a rescission of waiver, the student shall be informed in writing of the decision of his/her case within ten (10) workbusiness days from the date of the waiver. Should the student elect to proceed under this provision and fails to complete the process, a judicial hold may be placed on the student's account.

~~(21)~~(19) When a student is ~~accused of~~ charged with a violation, which in the opinion of the University Judicial Officer, if proven, would not warrant a penalty in excess of probation, the University Judicial Officer may channel the case to the Student Government Association Supreme Court.

~~(22)~~(20) In the event the offense charged is within the jurisdiction of more than one primary hearing body, the University Judicial Officer shall determine which primary hearing body shall hear the charge.

~~(23)~~(21) Decisions of the Student Supreme Court pursuant to subsection ~~(21)~~(19) above, Residence Life informal hearing panels and administrative hearing panels are appealed to the Associate Vice President for Student Affairs. ~~The final appeal within the University is to the President or Vice President for Student Affairs.~~ At the conclusion of the appeal process, the decision of the President or the Vice President for Student Affairs shall be final, and made known

via a final order.

(a) The student has ten (10) workbusiness days from the date of the written notification of the decision by the hearing body to make his/her appeal in writing and file same with the Office of the Dean of Students.

(b) The written appeal must specify reason(s) why consideration should be granted and should only deal with matters of record, procedure, testimony and/or evidence.

(c) No student's final penalty shall begin to run until all University appeals are exhausted or denied, except as specified under ~~(13)~~(11) and 13 above.

~~(24)~~(22) A ~~tape/video~~ digital recording or verbatim recording of each hearing will be made by the Chairperson and preserved ~~until the appeal process has been exhausted.~~ Retention of the record is subject to the General Records Schedule GS5 for universities and community colleges. Deliberations shall not be recorded. During the appeal period the ~~accused,~~ charged student, with or without the company of legal counsel, and/or advisor, and/or parent with the written authorization of the ~~Accused~~ charged Sstudent will be granted permission to listen to the recorded testimony under arrangements as determined by the University Judicial Officer, with the express understanding that the record is to remain confidential to the extent provided by law. The student may, at his/her own expense, arrange for the making of a full transcript of the ~~hearing recording~~ by employment of a stenographer, ~~and/or videographer.~~ Other than the above modes of recording the hearing, other mechanical, electronic devices for recording or broadcasting shall be excluded from the hearing. If the student chooses to appeal, the record shall be made available to the ~~accused~~ charged student and the President or Vice President for Student Affairs or his designee. ~~Refer to University Regulation 2.012 for additional information regarding disciplinary records.~~

~~(25)~~(23) The President of the University or Vice President for Student Affairs reserves the right to appoint an ad hoc committee to hear matters regarding, but not specifically limited to, the subject matter of subsections (9), ~~(13)~~(11), and ~~(15)~~(13) above. The chairperson of the committee, who may be an academic dean or director, shall be appointed by the President or Vice President for Student Affairs. Unless an ad hoc committee is appointed, the matter shall ordinarily be heard by the hearing body (panel) and chaired by a staff member of the Judicial Affairs Office.

(a) The student shall have five workbusiness days from the date of the notice to request in writing an emergency hearing at which the student may show cause why his or her continued presence on the University campus is not a threat pursuant to Section ~~(13)~~(11) and 13 of the Student Code of Conduct.

(b) The emergency hearing shall be held within five workbusiness days of receipt of the

written request from the student for an emergency hearing. The emergency hearing shall not abrogate the right of the student to request in writing a regular (non-emergency) hearing on the merits of the case, i.e., whether the student committed the alleged offense or offenses under the ~~Student Code of Conduct~~. The written request ~~form~~from the student for a regular (non-emergency) hearing on the merits of the case must also comply with the specified time period for requesting a regular (non-emergency) hearing as stated in the notice to the student, which normally is ten business days. Should a student timely request both an emergency and regular hearing, the Judicial Officer may combine the hearings into one proceeding. If the hearings are combined, the timeframes for an emergency hearing shall govern.

(c) If the student fails to timely request in writing a regular (non-emergency) hearing on the merits of the case, the Judicial Officer in his/her sole discretion may accept a written request from the student to proceed with informal disposition. The written request must be submitted within ten business days following the emergency hearing. Should the student fail to submit a timely request for informal disposition, the Judicial Officer shall make a determination of facts and appropriate sanction(s). The student shall not have a right to appeal under this provision.

~~(26)~~(24) The hearing body, ad hoc committee or University Judicial Officer shall afford the ~~accused~~ charged student with due process as, provided by FAMU Regulation 2.013, and/or Board of Governors Regulation 6C-6.0105~~(5)~~(c). The regulations or codes implementing the due process provisions as well as other matters referenced in said rules but not included herein shall be printed in the student handbook, the FANG, under the section entitled "Student Rights, Responsibilities and Code of Conduct."

~~(27)~~(25) Students who have a change of address after registration must file a change of address form at the Office of the University Registrar and/or via the ~~Our~~ FAMU IRattler. All notices, decisions and outcomes of judicial matters connected with the disciplinary process will be mailed to the student's last known local address as filed with the Registrar's Office and/or via ~~Our~~ FAMU IRattler or sent via e-mail to the student's University provided e-mail address or permanent address if no local address is on file. ~~All notices, decisions and outcomes of judicial matters connected with the disciplinary process will be mailed to the student's permanent home address when there is no local address furnished to the Office of the Registrar and/or via Our FAMU by the Accused Student. This method shall constitute proper notification to the Accused~~ charged ~~S~~student.

~~(28)~~(26) Disciplinary hearings shall be conducted in accordance with the following guidelines:

(a) All hearings shall be closed to the public unless required by law.

- (b) The Complainant, ~~Accused~~ charged ~~S~~student and his/her advisor, if any, shall be allowed to attend the entire portion of the hearing at which information is received, excluding deliberation. No other person shall be permitted to attend. Admission of any person to the hearing shall be at the discretion of the University Judicial Officer or chairperson of the hearing body.
- (c) In judicial hearings involving more than one ~~Accused~~ charged ~~S~~student, the University Judicial Officer or the chairperson, in his or her discretion, may permit the hearing concerning each student to be conducted separately or jointly. Information received during a hearing arising out of the same circumstances may be used.
- (d) The Complainant and the ~~Accused~~ charged ~~S~~student have the right to be assisted by an advisor they choose, at their own expense. The advisor may be an attorney. The Complainant and/or the ~~Accused~~ charged ~~S~~student are responsible for presenting his or her own information and, therefore advisors are not permitted to speak or participate directly in any hearing before a judicial hearing body. A student should select an advisor whose schedule allows attendance at the scheduled date and time of the hearing because delays will not normally be allowed due to the scheduling conflicts of an advisor. The student must provide, in writing, to the University Judicial Officer or the chairperson of the hearing body, the name, mailing or email address, and phone number of his/her advisor at least three workbusiness days ~~days~~ prior to the hearing date.
- (e) The Complainant, the charged ~~Accused~~ ~~S~~student and may arrange for witnesses to present pertinent information to the hearing body. The University will try to arrange the attendance of possible witnesses who are members of the University community, if reasonably possible and who are identified by the Complainant and/or the charged ~~Accused~~ ~~S~~student at least three workbusiness days prior to the judicial hearing. Witnesses will provide information to and answer questions from the hearing body and the ~~Accused~~charged ~~S~~student. No witness may be compelled to provide self-incriminating information. Witness statements may be provided to the hearing body and are entitled to be given the same weight by the hearing body as live witness testimony. A written statement is not a violation of the due process rights of the charged student, as the charged student has the opportunity to review and respond to the written statement and may offer evidence to rebut the witness statement and other evidence presented at the hearing.
- (f) If the charged ~~Accused~~ ~~S~~student fails to appear at the hearing after being properly notified or fails to cooperate in the hearing process, the hearing body may hear the case on the basis of evidence accumulated as a result of witnesses and shall notify the charged ~~Accused~~ ~~S~~student of the decision. In the absence of the ~~Accused~~ charged ~~S~~student, the plea of not responsible shall be entered on the student's behalf by the chairperson of the hearing body.

- (g) ~~An Accused~~ charged student may request only one postponement of a judicial hearing by contacting in writing the University Judicial Officer at least three workbusiness days prior to the hearing. Postponement of the hearing shall be at the discretion of the University Judicial Officer or his/her designee.
- (h) Witnesses shall not serve as advisors at any judicial hearing. At the time of the hearing, an automatic postponement shall be granted if the composition requirements of the hearing body are not met.
- (i) If any member of the hearing body feels that he or she had previous contact with the case or with the students involved so that a fair judgment cannot be rendered, the member must request that he or she not serve for the hearing. The ~~Accused~~charged ~~S~~student may request that any member of the hearing body be excused whenever the student can show a bias on the part of the member. The chairperson of the hearing body will decide on such challenges and, if appropriate, ask the member to excuse him or herself. If the chairperson of the hearing body is challenged by the student, the hearing body will decide by a majority vote whether or not the chairperson should be requested to excuse him or herself, notwithstanding that the chairperson does not vote on whether the ~~Accused~~charged ~~S~~student is responsible or not responsible for violating the Code.
- (j) ~~An Accused~~ charged student may be diverted from the disciplinary process or hearing if prior to or during the disciplinary process or hearing, it is determined by Associate Vice President for Student Affairs/Dean of Students pursuant to Sections (6-13) of University Regulation 2.007, Voluntary and Involuntary Withdrawal, that the ~~Accused~~charged student has a mental disorder and the objectionable behavior appears to be a result of the mental disorder.
- (k) Pertinent records, exhibits, and written statements may be accepted as information for consideration at the discretion of the chairperson of the hearing body.
- (l) All procedural questions are subject to the final decision of the chairperson of the hearing body.
- (m) After the portion of the judicial hearing concludes in which all pertinent information has been received, the hearing body shall determine by a majority vote whether the charged ~~Accused~~ ~~S~~student is responsible or not responsible for violating each section of the Code which the charged ~~Accused~~ ~~S~~student is charged. The chairperson of the hearing body cannot vote. Prior records of student conduct action and witness/complainant impact statements are considered by the hearing body only in the sanctioning phase of deliberations.
- (n) Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court proceedings, are not used in judicial Student Code of Conduct hearings.

(o) The burden of proof in all judicial hearings shall be on the accuser. A “preponderance of evidence” shall constitute the burden of proof standard in all judicial hearings.

(p) The University Judicial Officer and/or the chairperson of the hearing body, under extraordinary circumstances, may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the Complainant, ~~Accused~~charged ~~S~~student, and/or witnesses during the hearing by providing separate waiting rooms and/or by permitting participation, when feasible, by video conferencing, videotape, audio tape, or other means.

(q) The disciplinary hearing body is comprised of faculty members, staff members, administrators and students. The composition is variable from ~~34~~ to ~~56~~ persons, depending upon the nature of the violation. At least one-half of the membership must be ~~a~~ students.

(r) The above guidelines for conducting a judicial hearing are not exhaustive. Therefore, the University Judicial Officer may adopt additional guidelines for the conduct of judicial hearings that are not inconsistent with the provisions of this Code. Such procedural guidelines must be approved by the Vice President for Student Affairs or his/her designee and must be in writing and made available to the ~~Accused~~charged ~~S~~student and all witnesses at least three workbusiness days prior to the hearing.

~~(29)~~(27) Victim Rights - Victim is defined as the person harmed by a violation of the Code by the ~~Accused~~charged ~~S~~student. Victims of violations of the Code have the following rights in accordance with all federal and state laws:

(a) To have an advisor of the alleged victim’s choice accompany him/her when presenting information to the hearing body and to any other relevant meetings held throughout the disciplinary process.

(b) To submit a victim impact statement to the hearing body. This information may be used only in the sanctioning phase of deliberations, if the charged~~Accused~~ ~~S~~student is found responsible for the violations/charges. If the charged~~Accused~~ ~~S~~student appeals the decision on the basis of severity of the sanction imposed, he/she will have the right to view the victim’s impact statement upon written request.

(c) To have unrelated past behavior excluded from the hearing. The University Judicial Officer or chairperson of the hearing body will decide if such information is unrelated.

(d) To submit questions to the Judicial Office at ~~least~~ least three workbusiness days prior to the hearing. The University Judicial Officer will decide whether the questions are relevant and should be presented at the hearing.

(e) To be present throughout the hearings, or portions thereof, at the discretion of the University Judicial Officer.

(f) To have personal property returned to them if in the current possession of the University. The determination of when this property may be returned is left to the University Judicial Officer and/or University Department of Law Enforcement.

(g) To be notified of the outcome, including both the decisions and the sanctions of the disciplinary process.

(h) For victims of sexual ~~battery~~misconduct, refer to additional rights noted under Section ~~(409)~~ ¶g above.

~~(30)~~(28) Unless specifically stated otherwise herein, the provisions of this Code should be read and interpreted broadly, and are not intended to define misconduct in exhaustive terms. The Judicial Affairs Office may adopt internal operating procedures which are consistent with this Code. In instances where there may be conflict between the internal procedures and the Code, the Code shall supersede.

(29) The Student Code of Conduct shall be reviewed on a biennial basis under the direction of the Director of Judicial Affairs who shall appoint a committee, with student representation, to evaluate the Code and make recommendations, if any, for amendments or revisions.

Specific Authority 1001.74(4), F.S. Law Implemented 1001.74(10)(e), 1006.60, 1006.61, 1006.62, 1006.63, F.S. History—New 10-1-75, Repromulgated 3-8-76, Amended 8-6-78, 12-22-83, Formerly 6C3-2.12, Amended 9-14-87, 1-26-04, Amended June 29, 2006, _____.
Cf. BOR University Rule 6C3-2.028, F.A.C., on anti-hazing.



Florida Agricultural and Mechanical University
Board of Trustees Action Item

Meeting Date – June 6, 2013

Agenda Item _____

Item Origination and Authorization				
Policy _____	Award of Bid _____	Budget Amendment _____	Change Order _____	
Resolution _____	Contract _____	Grant _____	Other _____	

Action of Board				
Approved _____	Approved w/ Conditions _____	Disapproved _____	Continued _____	Withdrawn _____

Subject: Student Affairs – Student Disciplinary System Regulation

2.013 Due Process, Other Rights and Responsibilities

Rationale: This Regulation is being revised to include specific timeframes within which to comply with the student disciplinary process; disciplinary sanctions are addressed independent of any criminal penalty and actions the University will take when a student’s privileges were temporarily revoked and subsequently found not responsible for violating the Student Code of Conduct. Additionally, Florida Board of Governors Regulation 6.0105(8) requires periodic evaluation of the student disciplinary system; the last review was conducted in 2009.

The University is requesting that the Board of Trustees approve the amendment to Regulation 2.013 for notice and adoption after the expiration of the thirty (30) day notice period, provided there are no public comments, in accordance with the Florida Board of Governors’ Regulation Development Procedure.

Recommendation: Approval of the University’s Notice of the Intent to amend Florida A&M University Regulation 2.013.

Regulation of
Florida A&M University

DRAFT



2.013 Due Process, Other Rights and Responsibilities

(1) The due process requirements contained below shall be applicable in all cases involving academic dishonesty and ~~matters involving~~ alleged violations of the Student Code of Conduct. Applicable definitions are found in University Regulation 2.012, Student Code of Conduct. Due process as applied by the University and its schools and colleges shall include, as a minimum, the following:

(a) The student shall be provided with written notice of the charges against him/her in sufficient detail and in sufficient time to prepare for a hearing before an appropriate committee or hearing body, as established by the University or its colleges, schools, or institutes, or before the appropriate University official;

(b) The University or its colleges and schools shall establish a minimum number of days in advance of the hearing to present the written notice of charges, but in no case will this notice be less than five (5) business~~three~~ days, except in cases of emergency hearings as specified below;

(c) The Student shall be entitled to a prompt hearing before an appropriate committee or hearing body, as established by the University or its colleges, schools or institutes; or the student shall have the option to request resolution~~adjudication~~ of the matter by an appropriate official designated by the University or its colleges, schools or institutes. The hearing shall normally be scheduled within fifteen (15) business days from the date of notice of the charge(s), except in cases of emergency hearings;

(d) The student and his/her advisor may inspect all of the evidence that will be presented against the student at least three (3) business ~~work~~days before the student disciplinary hearing.

except in cases of emergency hearings where the student may inspect the evidence at least one (1) business day prior to the hearing. The University shall also have the right to inspect any information the student intends to use at least three (3) business workdays before the student disciplinary hearing, except in cases of emergency hearings where the University may inspect the evidence at least one (1) business day prior to the hearing;

(e) The student may present evidence on his/her own behalf;

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

(g) The student shall not be forced to present testimony which would be self incriminating; however, the University and/or its colleges and schools is not required to postpone the proceedings pending the outcome of a criminalany outside prosecution. The University disciplinary proceeding is designed to address student behavior; therefore, alleged violations of the Student Code of Conduct will be addressed independently of any penalty imposed by the courts for a criminal offense and a disciplinary penalty or sanction imposed under the university's code of conduct is in addition to any penalty imposed by the courts for the criminal system;

(h) The student may, at his/her own expense and initiative, have an advisor of the student's choice present at the hearing. An advisor may not act as a witness during the hearing;

(i) The decision of responsible or not responsible ~~on the charges~~ shall be based solely on the evidence presented at the hearing;

(j) The decisions of any committee or hearing body, or of any ~~u~~University official, shall be presented to the student in writing and within fourteen (14) business days following the hearing;

(k) The student may appeal the decision of any committee or hearing body or of any ~~u~~University official, within ten (10) business days ~~a period specified by the university or its colleges, schools or institutes in the written procedures,~~ to the ~~p~~President or the ~~p~~President's designee; and

(l) The student's status will remain unchanged pending the University's final decision in the matter, except where the pPresident or pPresident's designee determines that the safety, health or general welfare of the student or the University is involved. A student's enrollment status may be changed only in cases where the pPresident or pPresident's designee determines that an emergency exists, which affects the safety, health or general welfare of the student or other students or the University and/or its employees. If a student's privileges are temporarily revoked as described in this paragraph, but the student is subsequently found not responsible for the violations, the University will:

1. Correct any record of the change in enrollment status in the student's permanent records and reports in a manner compliant with state and federal laws; and

2. Refund to the student a pro rata portion of any charges for tuition and out-of-state fees, as appropriate, if the temporary revocation or suspension of the student's ability to attend classes lasts for more than 10 school days.

(m) At the conclusion of the appeals process, the decision of the pPresident or the pPresident's designee shall be final. The final order shall include notice to the student of the right to appeal to an external judicial forum.

(2) Additional due process protections as may be provided by regulation or policy of the Board of Governors shall also be applicable to cases involving academic dishonesty or violations of the Student Code of Conduct as indicated by said regulation. Refer to Board of Governors Regulation ~~6C-6.0105(5)~~.

(3) All students enrolled at the University shall be accorded the basic rights as set forth below.

(a) The right of respect for personal thoughts; the right of freedom from indignity of any type; the right to expect an education of the highest quality; and the right to make the best of one's talents and time toward the objectives which brought him/her to the University.

(b) The right to inquire about and to recommend improvements in University policies, regulations and procedures through established protocol.

(c) The right to participate in the self-governing process of student organizations pursuant to the procedures of the University and affected organizations.

(d) The right to be represented on University-wide committees in accordance with University procedures.

(e) The right of freedom of expression and peaceful assembly as defined and governed by the constitutions of the United States and the State of Florida and the regulations of the University.

(f) The right to participate in dialogue during public discussions that provide a diversity of opinions.

(g) The right to join University clubs and organizations for educational, political, social, religious and cultural purposes in accordance with the guidelines, procedures and regulations of the University and the respective clubs and organizations.

(h) The right of due process.

(i) The right of freedom of press and media to publish and distribute materials in accordance with the constitutions of the United States and the State of Florida and the regulations of the University.

(4) Florida A&M University encourages its students to help maintain a healthy academic climate where students can intellectually grow and develop as mature and responsible individuals. Concomitant with student rights are student responsibilities. These responsibilities include but are not limited to the following:

(a) The responsibility of making the most of their educational opportunities by attending classes and laboratory periods on regular basis and by completing all academic requirements, in a satisfactory manner, as stated in each course syllabus while taking advantage of the many opportunities provided in a University environment for all around personal growth, development, and maturation.



Florida Agricultural and Mechanical University
Board of Trustees Action Item

(b) The responsibility of knowing and observing all published university policies, procedures and regulations (e.g. the General Catalog of the University and Student Handbook, etc.) as well as state and federal laws and requirements.

(c) The responsibility of taking the initiative in exercising the democratic processes to include, but not be limited to, voting and performing community or volunteer services.

(d) The responsibility of ensuring the orderly operation of the uUniversity through appropriate conduct in and out of the classroom.

(e) The responsibility of assuming the consequences of one's own actions, and to avoid conduct detrimental in its effect upon fellow students and members of the uUniversity community.

Specific Authority 1001.74(4), F.S. Law Implemented 1001.74(4) 1006.60, 1006.61, 1006.62FS. History--New 10-1-75, Formerly 6C3-2.13, Amended 9-14-87, Amended June 29, 2006. Amended.

DRAFT

**Regulations of
Florida A&M University**



2.028 Anti-hazing.

_____(1) It is the policy of Florida Agricultural and Mechanical University that any student(s), group(s) of students, or student organization(s) affiliated with the Florida Agricultural and Mechanical University are prohibited from engaging in any form(s) of hazing activities. Moreover, the University has zero tolerance for violation of any provisions of the Anti-hazing Regulation 2.028. "Zero tolerance" means that given the factual circumstances of the alleged violation, the charged student may be removed from University Housing and receive a penalty up to suspension or expulsion from the University. Due process protections in accordance with University Regulation 2.013 will be appropriately accorded the charged student.

_____(2) The term hazing shall include, but not be limited to, pressuring or coercing the student into violating state or federal law, any brutality of a physical nature, such as striking in any manner, whipping, beating, branding, exposure to the elements, forced consumption of food, liquor, drugs, or other substances, or other forced physical activities that would adversely affect the health or safety of the student and also includes any activity that would subject the student to extreme mental stress, such as sleep deprivation, forced exclusion from social contacts, forced conduct that would be demeaning or results in extreme embarrassment or any other forced activity that could adversely affect the mental health or dignity of the student. Hazing does not include customary athletic events or other similar contests or competitions or any activity or conduct that furthers a legal and legitimate objective. For purposes of this section, any activity as described above, or any action or situation that recklessly or intentionally endangers the mental or physical health or safety of a student for purposes, including, but not limited to, initiation or

admission into or affiliation with a uUniversity sanctioned organization, shall be presumed to be hazing and a “forced activity, the willingness or consent of an individual to participate in such activity notwithstanding.

_____(3) Penalties – Any student(s), student group(s), or student organization(s) which are affiliated with the Florida Agricultural and Mechanical University, on campus or off-campus, that are found responsible for hazing will be subject to appropriate sanctions by the uUniversity, which may include but is not limited to the imposition of fines; withholding of grade(s), transcripts and/or diplomas pending payment of fines or pending compliance with the current Student Code of Conduct, Regulation ~~6C3-2.012, F.A.C.~~, of which this Regulation becomes a part of; the imposition of counseling, probation, suspension, dismissal or expulsion of said person(s) or organization(s), and/or the rescission of permission for the University sanctioned organization(s) to operate on the Florida A&M University campus or to otherwise operate under the sanction of the University.

_____(4) All penalties imposed by the University do not absolve the student(s), group(s) of students, or student organization(s) from any penalty imposed for violation of criminal laws of the State of Florida, including but not limited to such criminal penalties prescribed in s. 1006.63, Florida Statutes, for penalties imposed in civil proceedings or for violation of any other uUniversity Regulation(s) to which the violator(s) may be subject. It shall not be a defense that the consent of the victim to participate was obtained, the conduct or activity ~~that resulted in the death or injury of the person~~ was not part of an official uUniversity organizational event or was not otherwise sanctioned or approved by the uUniversity organization or the conduct or activity ~~that resulted in death or injury of the person~~ was not done as a condition of membership to a uUniversity organization.

_____(5) All existing uUniversity sanctioned organizations are required to amend their existing by-laws to include an anti-hazing section, and all future uUniversity sanctioned organizations must include the same in their by-laws. A copy of the by-laws shall be kept on file in the Office of Student Activities. Advisors and each member of a uUniversity sanctioned

organization must attend one Fall semester and one Spring semester hazing workshop each academic year.

_____(6) Any person, including trustees, administrators, faculty, staff, students, members of direct support organizations, vendors, guests and volunteers having knowledge of or receiving information regarding any activity which may constitute hazing or a violation of this regulation must contact the FAMU Department of Public Safety within twenty-four (24) hours at (850) 599-3256. Any person who fails to report any activity of hazing shall be in direct violation of this regulation.

_____(7) It shall be expressly prohibited for any person, including trustees, administrators, faculty, staff, students, members of direct support organizations, vendors, guests and volunteers, to retaliate against a person because that person has been a victim of hazing, reported hazing, refused to participate in hazing, assisted in the investigation of hazing, or participated in the prosecution of any alleged hazing.

_____(8) Any person who has experienced retaliation for reporting any activity, which may constitute hazing or a violation of this regulation, shall have the right to file a retaliation complaint with the Division of Audit and Compliance within twenty-four (24) hours of becoming aware of the act of retaliation at (866) 445-4968.

Specific Authority: Article IX, Section 7(c), Florida Constitution 001.74(4), FS. Law Implemented 1001.74(10)(d), (e), 1006.60, 1006.61, 1006.62, 1006.63 FS. History—New 4-3-83, Formerly Rule 6C3-2.028, Amended 1-26-04, 5-9-12. Amended _____.
