

**THE FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES
NOTICE OF PROPOSED REGULATION**

REGULATION NUMBER AND TITLE: FPU-3.006 Student Code of Conduct

SUMMARY OF THE REGULATION: This regulation provides for the student conduct review process and sanctions, and students rights and responsibilities.

TEXT OF THE REGULATION: The full text of the Proposed Regulation can be viewed below and on the Florida Polytechnic University Board of Trustees website, at <http://floridapolytechnic.org/board-of-trustees/university-policies-and-regulations>. If you would like a copy of the Proposed Regulation, please contact Bacogie Luke, Administrative Assistant to the VP and General Counsel at (863)583-9061.

AUTHORITY: Board of Governors Regulations 1.001(4), 6.010, and 6.0105

NAME OF PERSON INITIATING PROPOSED REGULATION: Ghazi Darkazalli, VP of Academic Affairs.

ANY PERSON SEEKING TO COMMENT ON THE PROPOSED REGULATION MUST SUBMIT COMMENTS IN WRITING TO THE CONTACT PERSON LISTED BELOW. ALL WRITTEN COMMENTS MUST BE RECEIVED BY THE CONTACT PERSON WITHIN 14 CALENDAR DAYS OF THE DATE OF PUBLICATION OF THIS NOTICE.

THE CONTACT PERSON REGARDING THIS REGULATION IS: Bacogie Luke, Administrative Assistant to the VP and General Counsel at 439 South Florida Avenue, Suite 300, Lakeland, Florida 33810, Email: bluke@floridapolytechnic.org, Phone: (863)583-9061, Fax: (863)583-9070.

DATE OF PUBLICATION: November 16, 2013

THE FULL TEXT OF THE PROPOSED REGULATION IS PROVIDED BELOW:

FPU-3.006 Student Code of Conduct

(1) Introduction

The Student Code of Conduct is designed to promote responsible behavior for all students consistent with the values and welfare of the Florida Polytechnic University (“University”) community. It exists to define the behavioral rights and responsibilities of University students and Student Organizations. The Code of Conduct fosters and enhances the academic mission of the University as well as protects the rights of all University students, faculty, and staff.

(2) Authority

- (a) The Florida Polytechnic University Board of Trustees is charged with the responsibility and authority for creating a Student Conduct Review Process. Authority for the Student Conduct Review Process rests with the University President or his or her designee (“President”).
- (b) Registered student organizations are also regulated under this authority.

(3) Student Rights and Responsibilities

- (a) **Students Rights.** The student has the right to:
 - (i) Be provided with the opportunity to obtain a relevant, quality education, consistent with the mission of the University;
 - (ii) Freedom from self-incrimination. However, the University is not required to postpone any disciplinary proceeding pending the outcome of a criminal prosecution;
 - (iii) Receive accurate information about the University, its programs, its costs, and its expectations;
 - (iv) Be informed of and receive just and unbiased treatment under the rules and regulations of the University, in its classes, in its residential life, and in its extracurricular activities;
 - (v) Be informed of, and be graded on, specific requirements for each program and each course;
 - (vi) Be treated in a respectful manner by all other members of the University community;
 - (vii) Be informed of decisions impacting his or her status, advancement, or exercise of University benefits, and have the opportunity to appeal, through a defined process and framework, those decisions in accordance with the procedures prescribed in this Student Code of Conduct;
 - (viii) Exercise his or her rights and privileges without fear of university interference and without regard to age, race, gender, national origin, sexual preference, disability, religion, political views, veteran status or any other protected status;
 - (ix) Privacy, including the confidentiality of education records according to the Federal Family Educational Rights and Privacy Act of 1974 (FERPA);
 - (x) Participate in the student government and its elective process;
 - (xi) Membership in student organizations;
 - (xii) Engage in inquiry and discussion, to exchange thought and opinion, and to speak, write, and print freely on any subject;
 - (xiii) Participate in the formulation of policy directly affecting students through membership on appropriate committees and student organizations;

- (xiv) Engage in peaceful and orderly speech, protest, demonstration, and picketing within the public forum which does not disrupt the educational functions of the University or violate any University policy or regulation;
 - (xv) Adequate notice of charges alleged and a fair and impartial hearing under the Student Code of Conduct;
 - (xvi) Bring complaints to the attention of the University through the Student Grievance Process;
 - (xvii) Be secure in their persons, living quarters, papers, and effects against unreasonable searches and seizures;
 - (xviii) Retain ownership of class projects and assignments authored by the student and submitted to fulfill the requirements of a course in accordance with the University's Intellectual Property policy; and
 - (xix) Ready access to established university policies and procedures.
- (b) **Responsibilities.** The student has the responsibility to:
- (i) Observe and comply with all University regulations and policies and local, state and federal laws;
 - (ii) Move forward in intellectual development, while taking advantage of the many opportunities provided in this University environment for total personal growth, development, and maturation;
 - (iii) Respect the rights and privacy of others;
 - (iv) Accept the consequences of one's actions;
 - (v) Maintain high standards of academic integrity and honor in all work submitted;
 - (vi) Conduct oneself in a manner which does not infringe upon the rights of other members of the University community; and
 - (vii) As members of both the University and the surrounding community, demonstrate respect and concern for one's neighbors. Therefore, students, both residential and non-residential, have an obligation to demonstrate responsible citizenship in their local neighborhood and communities.

(4) Definitions

- (a) **Accused.** The term "Accused" means any Accused Student or Accused Student Organization.
- (b) **Accused Student.** The term "Accused Student" means any student that is charged with a violation of the Student Code of Conduct.
- (c) **Accused Student Organization.** The term "Accused Student Organization" means any student organization that is charged with a violation of the Student Code of Conduct.
- (d) **Advisor.** The term "Advisor" refers to the person chosen by the Accused Student or Accused Student Organization who may assist and/or accompany such Student or Student Organization throughout the Student Conduct Review Process but shall not participate directly in the Student Conduct Review Process.
- (e) **Cheating.** The term "cheating" includes, but is not limited to: (1) use of any unauthorized assistance in taking quizzes, tests, or examinations; (2) use of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments; (3) the acquisition, without permission, of tests or other academic material belonging to a faculty member or University staff; or (4) engaging in

- any behavior specifically prohibited by a faculty member in the course syllabus or class discussion.
- (f) **Complainant.** The term “Complainant” means any person who submits a charge alleging that a Student or Student Organization violated the Student Code of Conduct. When a student believes that he or she has been a victim of another student’s misconduct, the student who believes he or she has been a victim will have the same rights under this Student Code of Conduct as are provided to the Complainant, even if he or she was not the person who submitted the charge itself.
 - (g) **Faculty Member.** The term “faculty member” means any person hired by the University to conduct classroom or teaching activities or who is otherwise considered by the University to be a member of its faculty.
 - (h) **Hearing Officer.** The term “Hearing Officer” refers to any person authorized by the Office of Student Affairs to gather information and make proposed findings regarding whether a student has violated the Student Code of Conduct and to propose sanctions that may be imposed.
 - (i) **May.** The term “may” is used in the permissive sense.
 - (j) **Organization.** The term “organization” means a group of any number of persons who have complied with the formal requirements for University recognition or registration.
 - (k) **Plagiarism.** The term “plagiarism” includes, but is not limited to, the use by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment. It also includes the unacknowledged use of materials prepared by another person or agency in the selling of term papers or other academic materials.
 - (l) **Policy.** The term “policy” means the written regulations of the University as found in, but not limited to, the Student Code of Conduct, Residence Life Handbook, University web page, computer use policy, Student Handbook, and Undergraduate and Graduate Catalogs.
 - (m) **Preponderance of Information.** Information, considered as a whole that indicates the facts sought to be proved are more likely than not. This is the burden of proof that shall be met in a determination of “responsible” or “not responsible” for any Accused Student or Accused Student Organization.
 - (n) **Sanction.** The term “sanction” refers to outcome(s) imposed on students or student organizations found responsible for violations of the Student Code of Conduct.
 - (o) **Shall.** The term “shall” is used in the imperative sense.
 - (p) **Student.** The term “student” includes all persons taking courses at the University (full-time or part-time) in undergraduate, graduate, or professional studies. Persons who withdraw from the University after allegedly violating the Student Code of Conduct, who are not officially enrolled for a particular term but who have a continuing relationship with the University, or who have been notified of their acceptance for admissions are considered “students” as are persons who are living in University residence halls, although not enrolled in classes at the University.
 - (q) **University Community.** The term “University community” includes any person who is a student, faculty member, University official, or any other person employed by the University.
 - (r) **University Official.** The term “University official” includes any person employed by the University that is performing assigned administrative or professional responsibilities.

- (s) **University Premises.** The term “University premises” includes all lands, buildings, facilities, and other property in the possession of or owned, used, or controlled by the University (including adjacent streets and sidewalks).

(5) Misconduct

Any student or student organization found to have committed or to have attempted to commit the following misconduct is subject to sanctions described below.

- (a) Acts of Dishonesty, including but not limited to the following:
- (i) Cheating, plagiarism, or other forms of academic dishonesty.
 - (ii) Furnishing false information to any University official, faculty member, or office.
 - (iii) Forgery, alteration, or misuse of any University document, record, or instrument of identification.
- (b) Disruption or obstruction of teaching, research, administration, disciplinary proceedings, other University activities, including its public service functions, on or off campus, or of other authorized non-University activities when the conduct occurs on University premises.
- (c) Physical abuse, verbal abuse, threats, intimidation, harassment, coercion, and/or other conduct which threatens or endangers the health or safety of any person.
- (d) Attempted or actual theft of and/or damage to property of the University or property of a member of the University community or other personal or public property, on or off campus.
- (e) Hazing, defined as an act which endangers the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization. The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing are not neutral acts; they are violations of this regulation.
- (f) Failure to comply with directions of University officials or law enforcement officers acting in performance of their duties and/or failure to identify oneself to such persons when requested to do so.
- (g) Unauthorized possession, duplication or use of keys to any University premises or unauthorized entry into or use of University premises.
- (h) Violation of any University policy, rule, or regulation published in hard copy or available on the University’s website.
- (i) Violation of any federal state, or local law.
- (j) Use, possession, manufacturing, or distribution of marijuana, heroin, narcotics, or other controlled substances, except as expressly permitted by law.
- (k) Use, possession, manufacturing, or distribution of alcoholic beverages (except as expressly permitted by University regulations), or public intoxication. Alcoholic beverages may not, in any circumstance, be used by, possessed by or distributed to any person under twenty-one (21) years of age.
- (l) Illegal or unauthorized possession of firearms, explosives, weapons, or dangerous chemicals on University premises or use of any such item, even if legally possessed, in a manner that harms, threatens or causes fear to others.
- (m) Participation in an on-campus or off-campus demonstration, riot or activity that disrupts the normal operations of the University and/or infringes on the rights of other members of

- the University community; or leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area.
- (n) Obstruction of the free flow of pedestrian or vehicular traffic on University premises or at University sponsored or supervised functions.
 - (o) Conduct that is disorderly, lewd, or indecent; breach of peace; or aiding, abetting, or procuring another person to breach the peace on University premises or at functions the University or members of the University community have sponsored or participated in. "Disorderly Conduct" includes, but is not limited to: any unauthorized use of electronic or other devices to make an audio or video record of any person while on University premises without his or her prior knowledge, or without his or her effective consent when such a recording is likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom.
 - (p) Theft or other abuse of computer facilities and resources, including but not limited to:
 - i. Unauthorized entry into a file to use, read, or change the contents, or for any other purpose.
 - ii. Unauthorized transfer of a file.
 - iii. Use of another individual's identification and/or password.
 - iv. Use of computing facilities and resources to interfere with the work of another student, faculty member or University Official.
 - v. Use of computing facilities and resources to send obscene or abusive messages.
 - vi. Use of computing facilities and resources to interfere with normal operation of the University computing system.
 - vii. Use of computing facilities and resources in violation of copyright laws.
 - viii. Any violation of the University Computer Use Policy.
 - (q) Abuse of the Student Conduct Review Process, including but not limited to:
 - (i) Failure to obey the notice from Office of Student Affairs or University official to appear for a meeting or hearing as part of the Student Conduct Review Process.
 - (ii) Falsification, distortion, or misrepresentation of information before a Hearing Officer
 - (iii) Disruption or interference with the orderly conduct of a Student Conduct Review proceeding.
 - (iv) Institution of a student conduct code proceeding in bad faith.
 - (v) Attempting to discourage an individual's proper participation in, or use of, the student conduct system.
 - (vi) Attempting to influence the impartiality of a Hearing Officer prior to, and/or during the course of, the Student Conduct Review Process.
 - (vii) Harassment (verbal or physical) and/or intimidation of a Hearing Officer prior to, during, and/or after a Student Conduct Review Proceeding.
 - (viii) Failure to comply with the sanction(s) imposed under the Student Code of Conduct.
 - (ix) Influencing or attempting to influence another person to commit an abuse of the Student Conduct System.

(6) Interim Suspension

In certain situations the Office of Student Affairs may impose a University or residence hall suspension prior to the Student Conduct Review Process.

- (a) Interim suspension may be imposed:
 - (i) To ensure the safety and well-being of members of the University community or preservation of University property;
 - (ii) To ensure the student's own physical or emotional safety and well-being; or
 - (iii) If the student poses an ongoing threat of disruption of, or interference with, the normal operations of the University.
- (b) During the interim suspension, a student may be denied access to the residence halls and/or to the campus (including classes) and/or all other University activities or privileges for which the student might otherwise be eligible, as the Office of Student Affairs determines to be appropriate.
- (c) The interim suspension does not replace the regular Student Conduct Review Process, which shall proceed on the normal schedule, up to and through a formal hearing, if required.

(7) Student Conduct Review Process

- (a) **Filing of Charges.** Any person or entity may request that charges be filed against a student for an alleged violation of the Student Code of Conduct (which includes violation of any law or University regulation or policy). An investigation may take place regarding the circumstances of the complaint. The Director of Student Affairs will review the information to determine if a student will be charged with violating the Student Code of Conduct. Upon receipt of an alleged violation, the Office of Student Affairs will have up to six (6) months to charge a student with a violation of the Student Code of Conduct. The Office of Student Affairs may exercise discretion when applying the time provision to account for circumstances that warrant a waiver of the six (6) month time limit from the receipt of the alleged violation.
- (b) **Notice of Charges.**
 - i. The Office of Student Affairs will give the Accused Student, or Accused Student Organization, written notice of any allegations and charges. The written notice will include the following: 1) Notice of the charges, including any specific code sections, which constitutes the alleged violations of the Student Code of Conduct, and any other detail in order to prepare for the Student Conduct Review Process; and 2) An opportunity to attend a preliminary conference.
 - ii. The Accused and the Accused's Advisor, if any, have the right to inspect all of the information that will be presented against the Accused at least five (5) business days (excluding legal holidays) before the disciplinary hearing or review. The University also has the right to review any information the Accused intends to use at least three (3) regular business days (excluding legal holidays) before the disciplinary hearing or review.
 - iii. If the Accused chooses an attorney as the Advisor, the Accused must inform the Director of Student Affairs of such at least three (3) business days before the hearing or review. In such cases, the University may be advised by an attorney.
 - iv. During the preliminary conference, the Accused will receive information regarding the Student Conduct Review Process, including the Accused's rights during the process and an opportunity to inspect and/or review the information known at the time charges were

- prepared. At the conclusion of the preliminary conference, the Office of Student Affairs will recommend an option for resolution of the charge. The options are: 1) Dismissal of Charges; 2) Mediation; 3) Informal Hearing; or 4) Formal Hearing.
- v. Determination of Responsibility. In any proceeding, the determination of “responsible” or “not responsible” will be based upon a preponderance of information. The burden of proof in any disciplinary proceeding is not on the Accused.
- (c) **Non-Formal Resolutions.**
- (i) **Dismissal of Charges:** The Office of Student Affairs may dismiss a charge: if it is found that there are not sufficient facts or information to substantiate a violation of the Student Code of Conduct; when the accused person is not a student; or if the action claimed as misconduct is not a violation of the Student Code of Conduct.
- (ii) **Mediation:** Depending on the nature and severity of the alleged violation, the Office of Student Affairs may recommend formal mediation. The involved parties must each agree to mediation. Mediation will be confidential. In mediation, the parties voluntarily meet with an impartial mediator to communicate their concerns and needs to each other and to reach their own agreement on the resolution of the case. The participants in mediation are responsible for keeping their agreement or renegotiating it, if necessary. In the event that the participants do not agree to mediate or mediate but do not reach a full and final resolution, the matter will be referred back for 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 Student Code Review Process at the discretion of the Office of Student Affairs.
- (iii) **Informal Hearing:** At the discretion of the Office of Student Affairs, violations found not to warrant a formal hearing may be referred to an informal hearing. At the informal hearing the Accused has the opportunity to meet with an Office of Student Affairs staff member and accept responsibility for the charges of violation of the Student Code of Conduct. At the informal hearing level, the matter will be settled by the following outcomes: punitive sanction (disciplinary warning or disciplinary probation) as well as educational sanctions (papers, seminars, community service, etc.) If the matter is not resolved in the informal hearing, the matter will be resolved through a formal hearing.
- (d) **Formal Hearing:** If a charge is not dismissed or otherwise resolved, then the Office of Student Affairs shall present written formal charges to the Accused. The Formal Hearing is not a criminal or judicial proceeding and is designed to address student or student organization 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.
- (i) Formal charges shall be in writing, shall include the date, time, and location of the Formal Hearing, and shall be sent to the Accused at least five (5) business days prior to the hearing. The Accused may waive the notice period by indicating the waiver in writing. Formal charges must include:
1. The names of witnesses to be called and information to be used in the Accused’s matter;
 2. Whether the Hearing Officer received any additional information, after the preliminary conference was conducted that will be used in the Formal Hearing, and, if so, will indicate when and where the additional information may be viewed; and
 3. The name of the Hearing Officer.
- (ii) **Challenging a Hearing Officer’s Impartiality**

The Accused has the right to challenge the Hearing Officer's impartiality at least three (3) business days prior to the scheduled hearing. The challenge must be in writing, and must show actual bias (such as a conflict of interest, animosity, pressure, or influence) that would preclude a fair and impartial hearing. The Office of Student Affairs shall determine whether to grant such a challenge in its discretion, and such decision is final.

(iii) If the Hearing Officer is unable to serve due to an emergency or unforeseeable occurrence, the Office of Student Affairs may appoint a new Hearing Officer prior to the scheduled hearing. The Accused may challenge the substitution of the Hearing Officer at the time of the Formal Hearing. The challenge must be on the basis of actual bias, as described above.

(iv) Request for a Postponement. Any request to postpone a Formal Hearing must be submitted in writing, must be received by the Office of Student Affairs at least 24 hours prior to the Formal Hearing, and must state the reason(s) for the request. The granting of such requests shall be at the discretion of the Office of Student Affairs. The University is not required to postpone a Student Conduct Review proceeding pending the outcome of a criminal prosecution.

(v) Determination

i. The Director of Student Affairs shall receive the Hearing Officer's proposed findings as to "responsible" or "not responsible" for a violation of the Student Code of Conduct, and consider any sanctions proposed by the Hearing Officer.

ii. The Director of Student Affairs may accept the proposed findings of "responsible" or "not responsible" or remand the matter for rehearing. If the Director of Student Affairs accepts the proposed finding of "responsible," he or she may approve, mitigate or increase the sanctions proposed by the Hearing Officer.

iii. Any decision by the Director of Student Affairs to alter sanctions or to remand a case shall be accompanied by a concise and explicit written statement that explains the basis for that decision. This decision must be presented to the Accused in writing.

(vi) Conduct of Formal Hearings. All Formal Hearings are recorded.

1. Reading of charge(s).

2. Accused's response of "responsible" or "not responsible."

3. Presentation of information in support of the charges.

4. Opening statement by the Accused.

5. Questioning of the Accused by the Hearing Officer.

6. Presentation and questioning of witnesses by the Office of Student Affairs.

7. Presentation and questioning of witnesses by the Accused.

8. Final questions of the Accused by the Hearing Officer.

9. Closing remarks by the Accused.

10. Hearing is brought to a close.

(vii) Deliberations. Deliberations by the Hearing Officer are not part of the hearing and are confidential. Deliberations occur after the close of the hearing and are not recorded. Following deliberations, the Hearing Officer will announce to the Accused the proposed findings and proposed sanctions, if any. The announcement of the proposed findings and proposed sanctions, if any, will be recorded as part of the official hearing record.

(viii) Findings and Recommendation. The findings of the Hearing Officer must be presented to the Director of Student Affairs within a reasonable period of time after the conclusion of the Formal Hearing. In each case in which a Hearing Officer determines that

an Accused has violated the Student Code of Conduct, the recommended sanctions shall be provided to the Director of Student Affairs. The Director of Student Affairs will make a decision as to the sanctions that will be imposed, and the Director is not limited to sanctions recommended by members of the Hearing Officer.

(ix) Following the Student Conduct Review Process, the Office of Student Affairs shall advise the Accused Student, Accused Student Organization, the Complainant and any student who identified himself or herself as a victim of the Accused's conduct in writing of the determination and, to the extent permitted by law, of the sanctions imposed, if any.

(x) Official Record. The recording of the Formal Hearing will serve as the official record of the proceeding and shall be the property of the University.

(xi) Other than University expulsion, or revocation or withholding of a degree, disciplinary sanctions shall not be made part of the Accused Student's permanent academic record, but shall become part of the student's disciplinary record. Upon graduation, the student's disciplinary record may be expunged of disciplinary actions other than residence hall expulsion, University suspension, University expulsion, or revocation or withholding of a degree, upon the student's application to the Office of Student Affairs.

(xii) In situations involving both an Accused Student or Accused Student Organization and a student claiming to be the victim of the Accused's conduct, the records of the Student Conduct Review Process and of the sanctions imposed, if any, shall be considered to be the education records of both the Accused Student and the student claiming to be the victim because the educational career and chances of success in the academic community of each may be impacted.

(8) Sanctions

The following sanctions may be imposed upon the Accused found to be responsible for a violation of the Student Code of Conduct:

- (a) **Warning.** A notice in writing to the Accused that the Accused is violating or has violated institutional regulations.
- (b) **Probation.** A written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the Accused is found to violate the Student Code of Conduct during the probationary period.
- (c) **Loss of Privileges.** Denial of specified privileges for a designated period of time.
- (d) **Fines.** Previously established and published financial fines may be imposed.
- (e) **Restitution.** Requiring compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
- (f) **Discretionary Sanctions.** Work assignments, essays, service to the University, or other related discretionary sanctions.
- (g) **Residence Hall Suspension.** Separation of the student from the residence halls for a definite period of time, after which the student is eligible to return. Conditions for readmission to the residence halls may be specified.
- (h) **Residence Hall Expulsion.** Permanent separation of the student from the residence halls.
- (i) **University Suspension.** Separation of the student from the University for a definite period of time. Conditions for readmission to the University will be specified. The Director of Student Affairs will instruct the Registrar to place an overlay on the Accused Student's transcript during the period of suspension indicating the period of suspension.

Further, while on University Suspension, a hold will be placed on the student's record to prevent registration. All assigned educational sanctions must be completed prior to the restoration of student privileges; otherwise the suspension will remain in effect. A suspended student is not permitted on University property during the length of their suspension.

- (j) **University Expulsion.** Permanent separation of the student from the University.
- (k) **Revocation of Admission and/or Degree.** Admission to or a degree awarded from the University may be revoked for fraud, misrepresentation, or other violation of University standards in obtaining the degree, or for other violations committed by a student prior to graduation.
- (l) **Withholding Degree.** The University may withhold awarding a degree otherwise earned until the completion of the process set forth in this Student Code of Conduct, including the completion of any sanctions imposed.
- (m) **Deactivation.** The loss of all privileges, including University recognition, for a specified period of time.
- (n) **More than one of the sanctions listed above may be imposed for any single violation.**

(9) Appeal Process.

- (a) **The Accused or Complainant may appeal a determination reached or a sanction imposed by the Office of Student Affairs to the President within five (5) business days of the date of the determination. Such appeals must be in writing and must be delivered to the President. No person may hear or decide an appeal if he or she conducted or participated in the disciplinary proceeding being reviewed on appeal.**
- (b) **Except as required to explain the basis of new information, an appeal shall be limited to a review of the verbatim record of the Formal Hearing or Other Resolution and supporting documents. An appeal may be made for one or more of the following purposes:**
 - a. **To determine whether the proceeding or other resolution was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures giving the Complainant a reasonable opportunity to prepare and to present information that the Student Code of Conduct was violated and giving the Accused a reasonable opportunity to prepare and to present a response to those allegations. Deviations from designated procedures will not be a basis for sustaining an appeal unless significant prejudice results.**
 - b. **To determine whether the determination or decision reached regarding the Accused was based on substantial information, that is, whether there were facts in the case that, if believed by the fact finder, were sufficient to establish that a violation of the Student Code of Conduct occurred.**
 - c. **To determine whether the sanction(s) imposed were appropriate for the violation which the Accused was found responsible for.**
 - d. **To consider new information, sufficient to alter a determination or decision, or other relevant facts not brought out in the proceeding, because such information and/or facts were not known to the person appealing at the time of the original proceeding.**
- (c) **If the earlier determination or decision is not upheld, the matter shall be returned to the original Hearing Officer to allow reconsideration of the original determination and/or sanction(s). If an earlier decision is upheld, the matter shall be considered final and binding upon all involved.**

- (d) Final appellate decisions that result in a suspension or expulsion of a Student or Student Organization must include notice to the Student or Student Organization of the right to appeal to an external judicial forum.

(10) Alleged Victims or Complainants have the right:

- (a) To have the same rights afforded to the Accused as described above. The Complainant must adhere to the same responsibilities required of the Accused as set forth above.
- (b) To have unrelated past behavior excluded from the hearing. The Hearing Officer will decide if such information is unrelated. Unless there was a prior relationship between the parties, past relationships of the Accused Student or Complainant will not be considered in the hearing.
- (c) To be present throughout the entire hearing or any portions thereof. If the Complainant does not want to be present in the same room as the Accused Student, the Hearing Officer will make alternative arrangements, if possible.
- (d) To testify in limited privacy. In lieu of testifying in person or via telephone, the Complainant may submit a written or recorded statement. The determination of whether the testimony will be given in limited privacy is made at the discretion of the Director of Student Affairs.
- (e) To submit a “student impact statement” and offer to the Hearing Officer a suggestion of what the Complainant believes to be an appropriate sanction for the Accused. This information may be used only in the sanctioning phase of deliberations if the Accused is found “responsible” for violating the Student Code of Conduct.
- (f) To be excluded from direct examination in cases where sexual misconduct or abuse is alleged. The Accused will not be permitted to directly question the Complainant where the alleged violations are sexual misconduct or abuse. In such cases, the Accused and the Complainant shall submit questions to the Hearing Officer; however, the Hearing Officer is not required to ask all of the questions submitted.
- (g) To be informed of their rights within five (5) regular business days before any Student Conduct Review Process is conducted.

(11) Interpretation and Revision.

- (a) Any question of interpretation or application of the Student Code of Conduct shall be referred to the Director of Student Affairs for final determination.
- (b) The Student Code of Conduct shall be reviewed periodically by a committee which shall include Student representation under the direction of the Director of Student Affairs.

Authority: FBOG regulations 1.001(4)(a)(10), 6.010, 6.0105

History: New _____.

11.15.13RLD