

FAMU

FIRST



Management Seminar 2012

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FRIDAY, MAY 4, 2012

GRAND BALLROOM

- 8:30 - 9:15 *Sign in/Registration
Continental Breakfast*
- 9:15 - 9:30 ***Opening Remarks***
*James H. Ammons, President
Larry Robinson, Provost and Vice President, Academic Affairs*
- 9:30 - 10:30 ***Increasing our Understanding of the LGBTQ Community***
Yolanda Bogan, Associate Professor and Director, Counseling Services
- 10:30 - 11:30 ***Non-Discrimination/Harassment Issues and Consensual Relationships***
Carrie Gavin, Director, Equal Opportunity Programs and Labor Relations
- 11:30 - 12:30 ***Bullying and Harassment***
*Daiquiri Steele, Attorney, U.S. Department of Education,
Office for Civil Rights*
- 12:30 - 1:30 *Lunch*
- 1:30 - 2:30 ***Recent Trends in Employment***
Robert E. Larkin, III, Partner, Allen, Norton & Blue, P.A.
- 2:30 - 3:30 ***Managing through Innovation***
*Teresa Hardee, Vice President, Administrative & Financial Services
William E. Hudson, Jr., Vice President, Student Affairs*
- 3:30 - 3:45 *Break*
- 3:45 - 4:15 ***How to Do Business Ethically at FAMU***
*Richard Givens, Interim Vice President, Audit and Compliance
Stephany Fall, Director, Procurement Services*
- 4:15 - 5:00 ***Group Discussion on University Governance and Management***
*Larry Robinson, Provost and Vice President, Academic Affairs
Avery McKnight, Vice President and General Counsel, Legal Affairs
Nellie C. Woodruff, Assistant Vice President, Human Resources*

SPECIAL ACKNOWLEDGEMENTS

*Dr. James H. Ammons
Dr. Larry Robinson
Mrs. Patricia Woodard
Mr. Richard Givens
Shira R. Thomas, Esq.
David C. Self, II, Esq.
Mrs. Abigail Raddar
Ms. Elma Williams
Mr. Christian Whitaker
Ms. Samaria Lewis
Mr. Roosevelt Badger*

Dr. Yolanda Bogan

Mr. Sammie Morris

*Ms. Teresa Hardee
Mrs. Nellie C. Woodruff
Mr. Ray Moody
Ms. Bridget Roberts
Ms. Stephany Fall
Mr. Jerome Swaine
Mr. Kelvin Rozier
Mr. Charles Williams
Mr. Michael Williams
Mr. Arthur Ingram
Mr. John Kirby
Lt. Norman Rollins
Mr. Roland Randolph*

*Mr. Daniel Andrew
Mr. Ronald Henry*

Mrs. Tammy Hamlet

*Robert E. Larkin, III, Esq.
Daiquiri Steele, Esq.*

Mr. J.W. Mitchell

SEMINAR OUTLINES

- 1. Increasing our Understanding of the LGBT Community**
- 2. Non-Discrimination/Harassment Issues and Consensual Relationships**
- 3. Bullying and Harassment**
- 4. How to Do Business Ethically at FAMU**

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FAMU Faculty and Staff: Increasing Understanding of LGBTQ Community

Dr. Yolanda K. H. Bogan,
Assoc. Professor and Director
Office of Counseling Services,
An IACS-accredited Center

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Overview

Campus Safety and SACS

Focus is on increasing your efficacy as a faculty or staff member-Excellence with Caring

Increase sensitivity to LGBTQ's

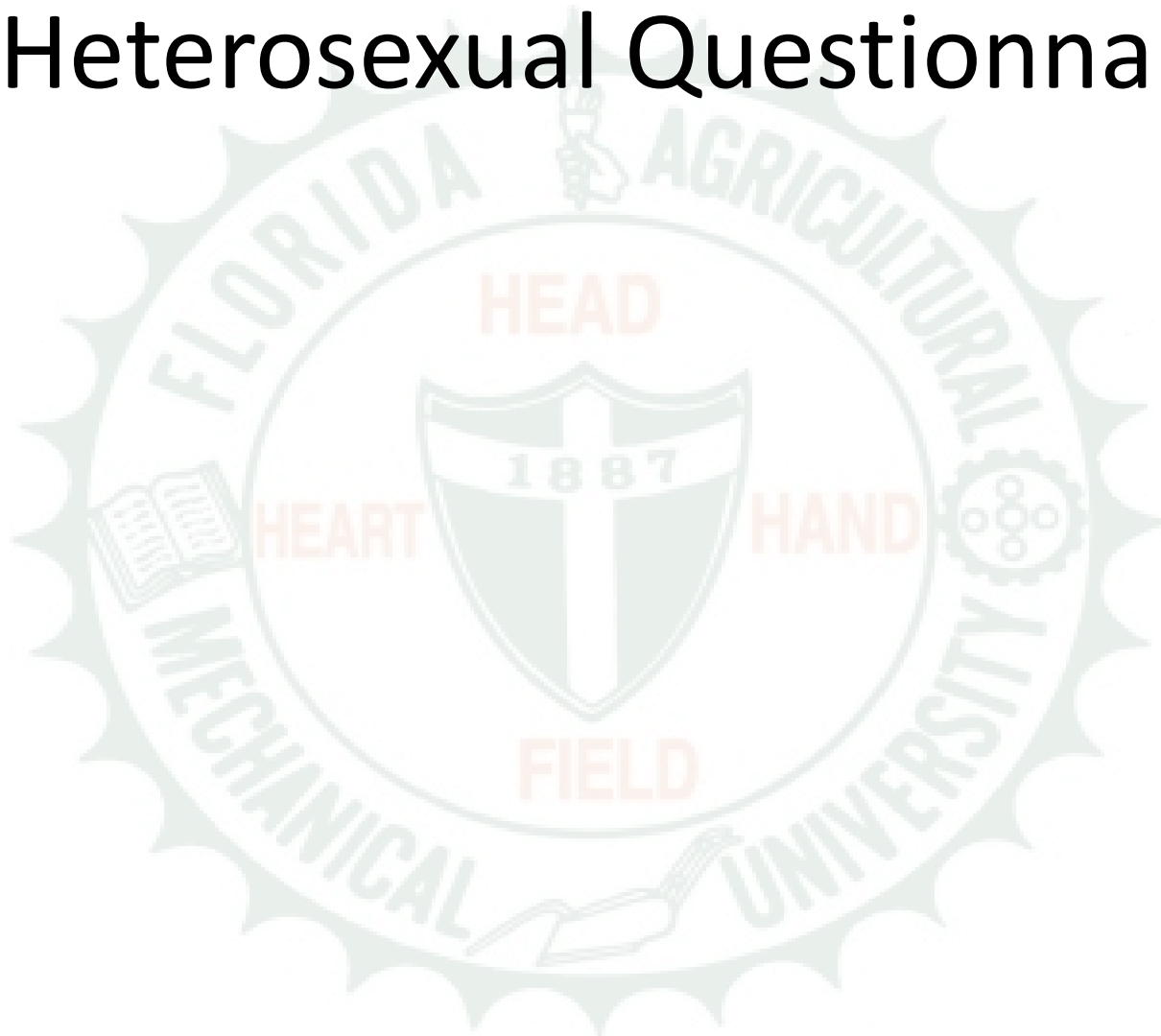
Examine FAQ's about LGBTQs

Examine aspects of the Coming Out Process

All information was taken from the safezone.

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Heterosexual Questionnaire



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What is the “Q”? What does the term “queer” mean?

The word “queer” is not embraced by all gay people

Some use it because of its vagueness

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LGBTQ FAQs

What is homosexuality?

Homosexuality is the capacity to feel love and sexual satisfaction with someone of the same gender.

Heterosexuality— opposite gender

Bisexuality-- with someone of either gender

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- **What is the difference between “sexual preference” and “sexual orientation”?**
 - **Preference implies choice, while orientation does not.**
 - **Sexual orientation-used instead of sexual preference by most LGBTQs**

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- **How many gay men and lesbians are there?**
 - The Kinsey Institute research, conducted in the 1940's and 1950's, suggests that approximately 10%
 - a significant minority group

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- **Is being gay “natural”?**
 - Lesbians and gay men are represented in every socioeconomic class, educational level, and race.
 - A homosexual identity involves both an emotional commitment to people of the same gender and membership in a community.

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- **When do gay men and lesbians first know?**
 - **There is no set age at which a person becomes aware that she or he is lesbian or gay.**
 - **Very young**
 - **Adolescence**
 - **Midlife after marriage**

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- **Can you tell if people are lesbian or gay by their appearance?**
 - No.
 - People who dress in the clothing of the opposite sex are called transvestites, and most are heterosexual

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- **Do lesbians and gay men want to be the opposite sex?**
 - No.
 - Some people confuse sexual orientation (being gay) with gender identity (being transgender).
 - Transgender people are people whose psychological self (“gender identity”) differs from the social expectations for the physical sex they were born with.

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- **Do gay men and lesbians have long-lasting relationships?**
 - Yes.

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- **Why are lesbians and gay men so blatant?**



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- **Won't gay parents make their kids gay?**
 - Research has shown that children of lesbian or gay parents are no more or less likely to become gay or lesbian.
 - Most gays and lesbians had heterosexual parents.
 - Of course children growing up in non-traditional families may face a certain amount of societal prejudice, but such challenges can be empowering for children if they have love and support.
 - Fewer and fewer children are growing up in two-parent, heterosexual, nuclear families.
 - Lesbian and gay families are one of the many diverse family types that exist.

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- **Why do gay people need Gay Rights laws - isn't that asking for special privileges?**
 - Basic necessities as employment or housing
 - Currently there is no federal protection for lesbians and gay men who are discriminated against.
 - Gay civil rights laws would extend the same protection and privileges to gays, lesbians, and bisexuals that other groups in the U.S. already have.

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- **What is homophobia?**
 - Homophobia is the irrational fear, disgust, or hatred of gays, lesbians, or bisexuals or of the homosexual feelings in oneself.
 - Homophobia refers to the discomfort one feels with any behavior, belief, or attitude of self or others which does not conform to traditional sex role stereotypes.
 - Homophobia results in: fear of associating with gays, lesbians, or bisexuals; fear of being perceived as gay, lesbian, or bisexual; fear of stepping out of accepted sex-role behavior; and fear of knowing and befriending over 10% of humanity.

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- **What is heterosexism?**
 - Heterosexism is a form of oppression (like other forms of oppression - racism sexism, anti- Semitism, classism, ableism, etc.) that targets gays, lesbians, and bisexuals.
 - Heterosexism includes the belief in the superiority of heterosexuality and inferiority of homosexuality as well as assigning rights and privileges to heterosexuals that are denied to gay, lesbian, and bisexual people.
 - Heterosexism is revealed through: personal behaviors (telling "queer jokes," anti-gay graffiti, verbal and physical harassment); institutional policies (discrimination in jobs, housing, immigration, child custody, etc. with no civil rights protection); and cultural norms (no positive images of gays, lesbians, or bisexuals in the media, in courses, or as role models).

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- **What is transgender/transsexual?**
 - **Transgender people- psychological self (“gender identity”) differs from the social expectations for the physical sex they were born with.**
 - **Transsexual- a mismatch of body and the brain and sometimes undergoes medical treatment to change his/her physical sex to match his/her gender identity.**

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Symbols of Pride



- Double-woman (mirror of Venus)
- Lambda (1970)
 - Carried by ancient Greek warriors accompanied by young male lovers
 - Fierceness,
 - Willingness to fight to the death
- Double-man (Mars, Greek god of war)
- Rainbow flag
- Pink triangle (WII)
- Transgender pride flag (2000)-
“symbolizes us trying to find correctness in our own lives.”
- Bisexual pride flag (1998)
represents attraction to both genders

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Coming Out Process

- **What might gays, lesbians, bisexuals, or transgender individuals be afraid of?**
- **Rejection - loss of relationships**
- **Gossip- Harassment/abuse**
- **Being thrown out of family**
- **Being thrown out of house**
- **Having their lover arrested**
- **Loss of financial support**
- **Losing their job**
- **Physical violence**

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- **How might gays, lesbians, bisexuals, or transgender individuals feel about their coming out to someone?**
- **Scared**
- **Vulnerable**
- **Relieved**
- **Wondering how the person will react**
- **Proud**

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- **How might someone feel after a gay, lesbian, bisexual, or transgender person comes out to them?**
- Scared
- Shocked
- Disbelieving
- Uncomfortable
- Not sure what to say
- Not sure what to do next
- Wondering why the person "came out"

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- Supportive
- Flattered
- Honored
- Angry
- Disgusted

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- **Why might gays, lesbians, bisexuals or transgender individuals want to come out to friends/relatives?**
- **End the “hiding game”**
- **Feel closer to those people**
- **Be able to be "whole" around them**
- **Stop wasting energy by hiding all the time**
- **Feel like they have integrity**
- **To make a statement that “gay is ok”**

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- **What do you think gays, lesbians, bisexuals, or transgender individuals want from the people they come out to?**
- **Acceptance**
- **Support**
- **Understanding**
- **Comfort**
- **Closer friendship**
- **That knowing won't negatively affect their friendship**
- **A hug and a smile**
- **An acknowledgment of their feelings**

Developed by Vernon Wall and Jamie Washington, 1989

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Counseling Services

- Sunshine Manor
- M-F 8a-5p
- 12 free sessions a year
- Call us @ 599-3145
- E-mail us at counseling@famu.edu
- Follow us on twitter @CounselingFAMU
- Friend us on Facebook-Sunshine Manor

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Thank you for your attention.



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EQUAL OPPORTUNITY PROGRAMS AND LABOR RELATIONS

- *New Division
- *Additional Responsibilities

REMINDERS

Primary EOP
Role – to
investigate and
conciliate
complaints of
discrimination
and harassment

- Race
- Religion
- Sex
- Age
- Disability
- National Origin
- Marital Status
- Veteran Status
- Color

Our Focus Today

Are we Accommodating Hosts?

- Comfort
- Communication (Listening)
- Contact
- Action

Specifically in regards to employees requesting accommodations based on religious and disability concerns

Religious Accommodations

- The EEOC defines “religion” broadly to include all aspects of religious observance, practice and belief. Employers must “reasonably accommodate” the religious observances or practices of their employees, unless an employer can demonstrate that to do so would cause “undue hardship” on the conduct of business.

Definition: Undue Hardship

An employer can claim undue hardship when accommodating an employee's religious practices requires more than ordinary administrative costs. Undue hardship also may be shown if changing a bona fide seniority system to accommodate one employee's religious practices denies another employee the job or shift preference guaranteed by the seniority system.

Reasonable Accommodations based on Religious Requests

- *Flexible Scheduling
- *Voluntary substitutes and swaps of shifts
- *Lateral transfer
- *Modify workplace practices, policies and/or procedures

Scenario R1: Would you Accommodate the Employee?

Ward, an applicant as a creative writing instructor, states that Writers Unlimited refused to hire him because he stated that his religion required that he not cut his hair. Writers does not question the sincerity of Ward's beliefs. It asserts, though, that since it operates as a sub-contractor within a public school system, all of its male instructors must wear their hair above their shoulders. Cut your hair or no job!

Cut your hair or lose job?

The EEOC would likely find Writers in violation of Title IV, since it has not demonstrated that Ward's long hair would have prevented him from maintaining a neat appearance and/or controlling his students.

Religious accommodations apply to prospective employees as well as current employees.

Scenario R2: Would you Accommodate the Employee?

Beth notified her employer, Handy Toolworks, and Union Local 97 of her religious objections to the payment of union dues. She also told the Union that she was willing to pay a sum equal to her monthly union dues to a charity of the Union's choice. The Union rejected the offer and requested that Handy discharge her. Handy terminated Beth.

Do we terminate Beth?

The union maintains that its collective bargaining agreement with Handy Toolworks stipulates that all employees shall become members of the union. The Union asserts that if one employee is permitted to opt out of the union, others might want out and the union could be “busted”.

Is Beth required to pay Union Dues?

Since Beth is sincere in her religious beliefs, and mere speculation that the Union might someday be “busted” is insufficient to prove undue hardship, the Union will have to accommodate Beth’s religious needs (pursuant to EEOC).

Scenario R3: Would you accommodate the employee?

Juan, a temporary harvest season employee, notified Famous Farms of his religious need to observe Sabbath on Saturday. Famous Farms denied the request and stated Juan would be fired if he missed work on Saturdays.

Do you accommodate Juan?

Does Famous Farms Prevail?

Juan was discharged for missing three successive working Saturdays. Juan missed work to observe his Sabbath. All harvest season employees were needed at work every day in order to avoid crops spoiling in the fields. It was ruled that on these facts, Famous Farms did not violate Title VII because it could not accommodate Juan religious needs without incurring undue hardship.

Pursuant to ADAAA

- Definition of disability has been expanded
- Major life activities were expanded
- Easier for persons who are disabled to file a discrimination complaint
- The shift is now on accommodating the employee's request

Definition: Reasonable Accommodation

Reasonable accommodation is a modification or adjustment to a job, the work environment, or the way things usually are done that enables a qualified individual with a disability to enjoy an equal employment opportunity.

How to be an Accommodating Host

- Comfort
- Communication
- Contact
- Action



DOCUMENT ... DOCUMENT...
DOCUMENT... DOCUMENT

Every stage of the Accommodation
Process should be documented!

Reasonable Accommodations made Based on a Disability

- Making facilities readily accessible
- Restructuring a job by reallocating marginal functions
- Obtaining or modifying equipment or devices
- Providing qualified readers/interpreters
- Allowing an employee to provide equipment or devices that an employer is not required to provide

Accommodations Continued....

- Permitting use of accrued paid leave or unpaid leave for necessary treatment
- Reassignment to a vacant position
- Altering when or how an essential job function is performed

Elevator Outage is a major concern at FAMU

Contingency Plan

- 1) Be cognizant of employees needing assistance
- 2) Can we accommodate before the elevator needs repairing? (Classes held on main floor)
- 3) Have a contingency plan developed in case the elevator requires repairing
- 4) Please notify ADA Coordinator of renovations

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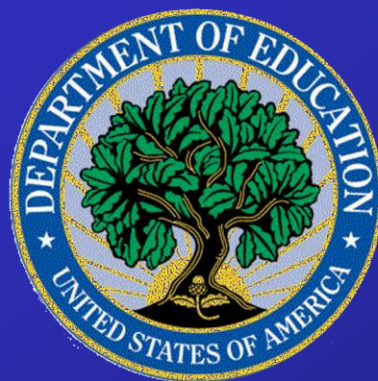
Harassment

**Office for Civil Rights
U.S. Department of Education
www.ed.gov/ocr**

**Phone: (404) 974-9406
Fax: (404) 974-9471**

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Office for Civil Rights U.S. Department of Education



This presentation provides general information and does not represent a complete recitation of the applicable law and OCR policy in this area. It does not address specific issues of compliance because determinations of compliance depend on specific facts on a case-by-case basis. The language used in these slides is approved for the purposes of this presentation only and should not be used for other purposes.

Laws We Will Discuss



- Race (Title VI)
- Disability (Section 504 & Title II)
- Sex (Title IX)

Why is Harassment a Concern?

- Harassment based on race, disability or sex is a form of discrimination that violates students' civil rights
- It can deny equal educational opportunities to the harassed student
- It can create a hostile environment that undermines the education of all students

Scope of the Problem

- 10% of students reported being the target of discriminatory words at school
- 35% reported seeing hate-related graffiti at school
- 32% of students reported having been bullied at school
- 2009 nearly 3,300 forcible sex offenses reported on college campuses*

*U.S. Department of Education, Office of Postsecondary Education, Summary Crime Statistics (data compiled from reports submitted in compliance with the Clery Act).

Two Kinds of Harassment

- Teacher-student harassment (different treatment)
- Peer harassment (hostile environment)

Who Can Be Harassed?

- All ages, races and ethnicities
- Men and women, girls and boys
- People perceived to be of a particular race or sex, or perceived to have a disability
- People who have a relationship or association with a person of a particular race, sex or disability

Who Can Be A Harasser?

- An employee, such as a teacher, professor, or administrator
- Another student
- A third party

Same Status

Harassment is prohibited regardless of the race/disability/sex of the harasser or the target.

Harassing Conduct

- Conduct which is unwelcome, and
- Denies or limits a student's ability to participate in or receive the benefits, services or opportunities of the school's programs or activities.
- Examples:
 - Verbal abuse, such as name-calling
 - Graphic or written statements
 - Threats
 - Physical Assault

Where Harassment Occurs

- School bus
- Playground
- Athletic field
- Locker room
- Classroom
- Cafeteria
- Hallways
- Residence hall
- On internet and social networking sites
- Off campus school sponsored functions

Harassment vs. Bullying

- The specific label used (e.g., bullying, hazing, teasing) does not determine whether discriminatory harassment occurred.
- The nature of the conduct itself must be assessed for civil rights implications.

Harassment Based on Race Disability and Sex

Harassment Race or National Origin (Title VI)

- Examples: Slurs, Taunts, Jokes, Insults, Demeaning or stereotyping comments, cartoons, pictures.
- Harassment against students who are members of a religious group based on
 - the group's shared ancestry or ethnic characteristics or
 - citizenship or residency in a country whose residents share a dominant religion or a distinct religious identity.

Disability Harassment (Section 504 and Title II)

Examples:

- Verbal or physical abuse
- Obstructing entry to programs
- Contempt or ridicule regarding disability or accommodations

Sexual Harassment

- Unwelcome sexual advances, sexually motivated or inappropriate patting, pinching or other touching of a sexual nature
- Displaying or distributing of sexually explicit drawings, pictures and written materials
- Sexual gestures, sexual or “dirty” jokes

Sexual Harassment

- *Pressure for sexual favors*
- *Spreading rumors about or rating other students as to sexual activity or performance*
- *Rape , sexual assault, sexually motivated stalking (sexual violence)*
- *Taunting, teasing based on perceived gender stereotyping*

Employee- Student Harassment “Different Treatment” Analysis

- A school employee treated a student differently than other students
- Different treatment occurred in the course of employee’s authorized or assigned duties
- Student’s ability to participate in or benefit from a school program or activity was denied or limited
- Different treatment was based on race, sex, or disability (and there is no legitimate non-discriminatory reason for the different treatment)

Peer Harassment (Hostile Environment)

The conduct must be sufficiently severe and pervasive to constitute a hostile environment.

The determination of whether conduct constitutes a hostile environment is based on the totality of the circumstances.

Factors to Consider When Applying Severe and Pervasive Standard

- Context
- Nature (e.g. verbal or physical)
- Scope
- Frequency
- Duration
- Location of incidents
- Identity, number, and relationships of persons involved
- Particularized characteristics
- Incidents outside complaint
- Generally, the more severe the conduct, the less need to show repeated incidents.

Deny or Limit

- A person is unable to fully participate in or benefit from a school's services, programs, or activities as a result of the harassment
- Examples may include:
 - A student's grades go down
 - A student feels forced to withdraw from an activity, program, or school
 - A student continues to participate in programs and activities but does so with great difficulty

Examples of Effects on Target

- Fear
- Feelings of blame, guilt and shame
- Depression, anxiety, loneliness
- Physical illness including insomnia, high blood pressure, stomach aches, headaches
- Increased absenteeism
- Poor academic performance

Examples of Effects on School

- Unsafe school environment
- Reduced performance/productivity
- Unhappy/unmotivated staff and student body
- Increased staff turnover and student attrition
- Damaged school reputation
- Lost time and resources devoted to dealing with complaints

Notice Requirement: How Does a School Learn of Harassment?

- Actual Notice OR Constructive Notice

Possible sources of notice to the school include:

- A student tells a teacher, counselor, playground supervisor, administrator
- A parent tells a site or district administrator
- A complaint or grievance is filed
- A staff member observes harassing behavior
- A report is received indirectly, perhaps from members of the community or the media

Administrative Enforcement vs. Private Lawsuit for Money Damages

- Administrative enforcement
 - Knew or should have known
- Lawsuit for money damages
 - Actual knowledge
 - Deliberate indifference

What to Do if You Believe a Student is Being Harassed

- Immediately report the harassment to a school official
- Identify all incidents of harassment and explain how they have affected the student
- File a formal grievance with the school specifically alleging discrimination based on race, sex or disability
- Maintain good documentation and follow through

Recipient's Response

- Immediate and appropriate action to investigate or otherwise determine what happened.
- Inquiry must be prompt, thorough and impartial.
- School should take steps reasonably calculated to:
 - End the harassment
 - Eliminate any hostile environment
 - Prevent harassment from recurring
 - Remedy the effects of harassment
 - Prevent retaliation against the target or complainant

Appropriate Response

In evaluating the school's response, OCR examines:

- Reasonableness, timeliness, effectiveness
- Whether the response was tailored to redress the specific problems experienced in the recipient's programs and activities
- Whether the response was reasonably calculated to prevent recurrence and ensure students are not restricted in their participation or benefits as a result of the hostile environment

Confidentiality

- In any investigation or proceeding, the names of the parties and the allegations should be kept confidential to the greatest extent possible.
- If students ask that their names not be used, the school should take all reasonable steps to investigate and respond to the complaint consistent with that request as long as doing so does not preclude the school from responding effectively to the harassment and preventing harassment of other students.

Remedies

- Appropriate remedies will depend on the facts of each case.
- Every remedy discussed in this presentation will not be appropriate in every situation.

Possible Remedies

- Discipline harassers
- Develop, revise, and/or publicize:
 - policy prohibiting harassment and discrimination
 - grievance procedures for students to file harassment complaints
 - contact information for Section 504/Title VI/Title IX coordinators
- Limit interaction between harassers and target
- Provide harassed student an additional opportunity to obtain a benefit that was denied (e.g., retaking a test/class)

Possible Remedies

- Provide counseling to harassers or harassed students
- Implement harassment monitoring programs
- Publicize statements that the school will not tolerate harassment and will respond to any student who reports such conduct
- Incorporate harassment awareness and cultural tolerance training into curriculum and other education programs for staff, students, and parents
- Conduct school climate survey
- Involve parents and community groups in preventing future harassment

Grievance Procedures

- Contact Person
- Timeframes
- Method for filing complaint
- Investigative Process
- Appeal Process

Proactive Steps

- Encourage communication and open dialogue among all members of the school community regarding school life and anti-harassment policies
- Develop or update policies and procedures
- Widely publish policies and procedures against harassment
- Provide training to staff and students
- Establish and sustain an environment of tolerance and respect

Title VI: How Not To Respond

- Inconsistently apply policies and procedures and conduct codes
- Fail to take action until hostile environment escalates to interracial violence.
- Don't respond to student and parent complaints.

How To Respond

- Respond to each incident of harassment.
- Provide academic tutoring where harassment causes a student's absence.
- Monitor the locations of reported incidents of harassment.
- Discipline students who violate student conduct codes.

Section 504: How Not to Respond

- Don't unnecessarily isolate/punish the target.
- Don't discourage a student from using an accommodation in order to appease or deter harassers.
- Don't tell a student to handle harassment on his own, particularly when the student is developmentally disabled.
- Don't require the student to identify disability as the basis for the harassment.

Section 504: How to Respond

- Keep complainant informed of the school's response.
- Reprimand perpetrators and staff for inappropriate behavior.
- Adopt and publicize new policies addressing the particular disability issues present in the school community.
- Follow up with perpetrators and targets to ensure harassment does not recur.

Title IX: How Not to Respond

- Don't make the victim feel what happened to him/her is their fault
- Don't leave the investigation solely up to law enforcement (sexual assault)
- Require students to work out harassment issue amongst themselves

Title IX: How to Respond

- Take immediate action to ensure student safety by eliminating the hostile environment and prevent its recurrence
- Take interim steps before final outcome of investigation (avoiding contact with alleged perpetrator – change dorm, classes)
- Make victim aware of Title IX rights and available resources such as

Other Federal Resources

- Bullying Prevention and Response
www.bullyinginfo.org
- Dept. of Justice Community Relations Service
www.usdoj.gov/crs/
- Dept. of Justice Office for Victims of Crimes
www.ojp.usdoj.gov/ovc/

Thank You

How to contact us:

- OCR web site at www.ed.gov/ocr/
- Technical assistance inquiries:
 - U.S. Department of Education Office for Civil Rights
 - Sam Nunn Atlanta Federal Center
 - 61 Forsyth Street, Suite 19T10
 - Atlanta, Georgia 30303
 - Tel: (404) 974-9406

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EMERGING TRENDS IN EMPLOYMENT

Robert E. Larkin, III

Allen, Norton & Blue, P.A.

906 North Monroe Street

Tallahassee, Florida 32301

850-561-3503

May 4, 2012

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OVERVIEW

- Recent Changes to Employment Laws;
- Significant Court Cases Interpreting Employment Law;
- Update on status of law allowing Employees to possess guns in their vehicles;
- Latest Cyber and Social Media Concerns.

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CHANGES TO EMPLOYMENT LAWS:

- Amendments to the ADA
- Amendments to the FMLA
 - Recent Supreme Court Case on FMLA
- Amendments to USERRA
- Amendment to the FLSA for Nursing Mothers
- Recent case challenging Guns at work

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AMERICANS WITH DISABILITIES ACT (ADA):

- Passed in 1990, no significant amendments since.
- Purpose: broad application - believed 43 million disabled employees.
- Protects individuals with disabilities and encourages Reasonable Accommodations to permit continued employment
- Defines “Disability” as:
 - (a) a physical or mental impairment that substantially limits one or more major life activities, or
 - (b) a record or past history of such an impairment, or
 - (c) being regarded as having a disability.
- Reasonable Accommodations required through the “interactive process”.

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- **2008 ADA Amendments Act (ADAAA)**
- ADAAA expands the definition of “disability”.
- EEOC adopted final regulations interpreting ADAAA effective on June 24, 2011.
- New EEOC ADAAA regulations make it easier for employees to qualify for protection under the law.

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- **ADAAA CHANGES**
- ADAAA regulations confirm that determining whether an individual qualifies as disabled still requires an individualized analysis, rather than mere reference to a diagnosis.
- ADAAA regulations also create a presumption that individuals suffering from certain conditions will qualify as disabled.

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- **ADAAA CHANGES:**
- Lowers the bar on “Substantial Limitation”- Substantial Limitation is now a lower degree of functional limitation.
- ADA required substantial limitation in a major life activity (significant functions, *i.e.*, Walking, Seeing, Caring for oneself, and Working in a broad class of jobs).
- ADAAA requires impairment to be “substantially limiting” when compared to the general population.
- Requires Courts to construe the term “substantial limitation” broadly in favor of expansive coverage.

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- **ADAAA CHANGES:**
- Overturns “Mitigating Measures” Cases. Now determination of whether an impairment may substantially limit a major life activity **without regard to the ameliorative effects of mitigating measures**, such as medication or hearing aids.
- Exception: Eyeglasses and contact lenses.

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- **ADAAA Changes:**
- ADA required permanent impairments. (broken limbs and treatable conditions were not disabilities).
- Temporary impairments may amount to Disabilities- Episodic impairments, or impairments that are in remission, qualify as disabilities if, while active, they would substantially limit a major life activity.

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- **FAMILY AND MEDICAL LEAVE ACT:**
 - Passed in 1993;
 - 2 primary coverages: Self-Care and Care for Another;
 - Allows up to 12 weeks of unpaid leave for medical care or to provide assistance;
 - Restoration of employment position; and
 - Maintenance of benefits.

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- **2008 National Defense Authorization Act (NDAA).**
- Amends FMLA for first time since 1993.
- Creates 2 new categories of leave and expands definitions.
 - Qualifying Exigency Leave
 - Military Caregiver Leave

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- **NDAAs CHANGES CONTINUED.**
- Qualifying Exigency Leave - New category of traditional 12-week leave requiring up to 12 weeks of unpaid FMLA leave to immediate family members of reservists and members of National Guard called to active duty.
- Employee is now permitted to take FMLA leave for "any qualifying exigency arising out of the employee's spouse, son, daughter, or parent being called to active duty (or notified of an impending call to active duty) in the Armed Forces in support of a contingency operation."

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NDAA CHANGES CONTINUED:

- Effective January 16, 2009 Dept. of Labor final rule defines “qualifying exigency” as:
 - Short notice deployment;
 - Military events and related activities (official ceremonies related to active duty or call to active duty);
 - Childcare and school activities;
 - Financial and legal arrangements (ex: drafting wills);
 - Counseling;
 - Rest and recuperation; and post-deployment activities

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NDAA CHANGES COTINUED:

- Military Caregiver Leave - New category of leave.
- Permits a "spouse, son, daughter, parent, or next of kin" to take up to 26 workweeks of leave to care for a "member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness."

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Family and Medical Leave Act National Defense Authorization Act - 2010 Amendments

- In 2009, President signs NDAA for FY 2010.
- Expands both leaves:
 - Qualifying Exigency Leave expanded to employees with family members serving in the Armed Forces and National Guard.
 - Military Caregiver Leave expanded to include caring for a veteran who has honorably discharged from the military, not just current members of the military.

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Family and Medical Leave Act National Defense Authorization Act for FY 2010 Amendments cont'd:

- Expansion of “military caregiver” – Now entitles an eligible employee who is the spouse, son, daughter, parent, or next of kin of a “covered servicemember” to take up to 26 workweeks of FMLA leave in a single 12-month period to care for a “covered servicemember” with a “serious injury or illness”.

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Family and Medical Leave Act National Defense Authorization Act for FY 2010 Amendments cont'd:

- Expands definition of “covered servicemember” to include a **veteran** “who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.”
- Extends time period up to 5 years after veteran is discharged

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Family and Medical Leave Act National Defense Authorization Act for FY 2010 Amendments cont'd:

- Expands coverage of FMLA definition of “Serious injury or illness” to include:
 - Aggravation of an injury that “existed before the beginning of the member’s active duty that renders the veteran medically unfit to perform the duties of the his/her office, grade, rank, or rating.”

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Recent Supreme Court Ruling on FMLA:

Coleman v. Court of Appeals of Maryland.

- Decided: March 20, 2012, 5-4 Decision.
- Facts: Daniel Coleman had sued for monetary damages after he was fired for requesting time off to take care of his health.
- Issue: Whether Congress, in passing the “self-care” provision of FMLA, validly abrogated the sovereign immunity of states.
- Under the self-care provision, a state worker may sue if the state interferes with the worker’s statutory FMLA right to a leave for his or her own serious health condition.

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Recent Supreme Court Ruling on FMLA:

Coleman v. Court of Appeals of Maryland.

- Holding: Lawsuits against States under the self-care provisions of FMLA for money damages are barred by the doctrine of sovereign immunity. It held that Congress did not have the power to abrogate the state's sovereign immunity for such a purpose under the 14th Amendment.

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Recent Supreme Court Ruling on FMLA:

Coleman v. Court of Appeals of Maryland.

- This does not affect FMLA leave requirements where the purpose is to care for “: (A) “the birth of a son or daughter . . . in order to care for such son or daughter,” (B) the adoption or foster-care placement of a child with the employee, (C) the care of a “spouse . . . son, daughter, or parent” with “a serious health condition.”
- Those lawsuits are not barred by sovereign immunity. See, *Nevada Dept. of Human Resources v. Hibbs*,

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Fair Labor Standards Act Amendments:

- The Patient Protection and Affordable Care Act (“Affordable Care Act”) amended section 7 of the Fair Labor Standards Act (“FLSA”) on March 23, 2010.
- Requires employers to provide:
 - Reasonable break time for an employee to express breast milk for her nursing child for one year after the child’s birth each time such employee has need to express the milk.
 - A place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

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Uniform Services Employment and Reemployment Rights Act (USERRA)

- Protects members of uniformed services rights to re-employment and maintenance of job seniority and benefits if called to duty.
- Prohibits discrimination against members of armed services
- Requires military member to be in good standing and/or receive an Honorable Discharge.

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Veterans Opportunity to Work to Hire Heroes Act

- Signed by President Obama in November 2011;
- Amends USERRA to prohibit the creation of hostile work environment against employees because of their military service. (no tangible benefit loss or constructive termination).
- This protection was added to USERRA by the VOW to Hire Heroes Act.

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Why VOW to Hire Heroes?

- 5th Circuit Case, *Carder v. Continental Airlines*
- Class action brought by pilots who also served in the National Guard.
- Claimed their managers made comments like:
 - “If you guys take more than 3 or 4 days a month in military leave, you’re just taking advantage of the system.”
 - “I used to be a Guard guy, so I know the scams you guys are running.”
 - “Continental is your big boss, the Guard is your little boss.”
- 5th Circuit dismissed the suit because they couldn’t find appropriate definitions of a hostile work environment in USERRA as it stood then.

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Key Changes USERRA cont'd:

- VOW to Hire Heroes uses same standard for hostile environment claims on account of military status as that required for Title VII and other employment discrimination claims.
- As *Farragher/Ellerth* defenses will likely apply to USERRA hostile environment claims, employers should provide reporting procedures for USERRA-covered workplace complaints and promptly investigate such complaints.

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- **Preservation and Protection of the Right to Keep and Bear Arms in Motor Vehicle Act of 2008**
 - No public or private employer may prohibit employee from possessing any legally owned firearm (with concealed weapons permit) locked inside a motor vehicle in a parking lot.
 - Cannot ask about firearm, or discipline employee for having a firearm inside motor vehicle.

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- **2011 Florida Legislative Session – Bill introduced to allow firearms on Florida campuses.**
- Inconsistency: Florida universities may prohibit guns on campus, but state law allows people to keep guns in their cars.
- Lawsuit filed last fall filed by University of North Florida student Alexandria Lainez and gun rights organization Florida Carry Inc. The student wants to keep a gun in her car while on campus, but school policy prohibits it.

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- **2011 Florida Legislative Session – Bill introduced to allow firearms on Florida campuses.**
- **STATUS OF THE CASE:**
- Student sought an injunction and repeal of the University's regulations prohibiting possession of firearms
- April 4, 2012 Judge dismissed the case.
- Florida Carry Inc., is appealing the dismissal to the First District Court of Appeals.

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Cyber and Social Media Concerns in Education

- East Stroudsburg-University of Pennsylvania
- Gloria Gadsden, Sociology Professor posts on her facebook:
 - “Had a good day today, didn’t want to kill even one student.”
 - Couple months earlier had written, “Does anyone know where I can find a very discrete hitman, it’s been that kind of day.”

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Cyber and Social Media Concerns in Education

- Student blew the whistle claiming posts were threatening.
- What was the College's reaction?
- She is escorted off campus and placed on administrative leave because of security concerns.
- Saga is just beginning:
 - Gadsden has filed suit claiming retaliation; and
 - “Support Gloria Gadsden” page launched.

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Cyber and Social Media Concerns in Education

- Another Case Study: Spanierman v. Hughes, (U.S.D.C. Conn).
- High School English Teacher in Connecticut;
- Students referred to him as “Mr. Spiderman;”
- Creates a MySpace Page to communicate with his student using profile name of “Mr. Spiderman”.
- School receives complaints about the MySpace page and investigates.

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Cyber and Social Media Concerns in Education

- Inappropriate pictures with inappropriate comments discovered.
 - Photos of him with his students;
 - Photos of him with friends from his past;
 - A photo with him and a naked man
- School believed it was disruptive to students, he deactivates web page, but creates another one with similar content;
- School discovers second MySpace page and non-renews him;
- Spanierman sues claiming violation of First Amendment.

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Cyber and Social Media Concerns in Education

- Court dismisses case.
- Court Holds that Spanierman's position as a teacher with supervisory authority over his students and his obligation to maintain a professional, respectful association with them outweighs the value of his speech.
- **Point: Do not have cyber relations with your students!**

THANK YOU.

QUESTIONS?

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MANAGING THROUGH INNOVATION

Teresa Hardee
William Hudson, Jr.

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CHANGING
ENVIRONMENT
CHANGING
CULTURE
CHANGING
WORLD

The Movie: [Link to File](#)

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How do we manage through innovation?

One way is through an ERP system!

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What is an ERP system?

An ERP or Enterprise Resource Plan system integrates information and business process. (PeopleSoft or iRattler)



Benefits of ERP:

- ✓ **Improve access to information**
- ✓ **Improve efficiency**
- ✓ **Improve internal controls**
- ✓ **Update old processes**

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What is an ERP system?

Disadvantages of ERP:

- ✓ Implementation is very difficult
- ✓ ERP are very expensive
- ✓ Takes time to realize the benefits
- ✓ Forces change and change = resistance



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How can an ERP system be successful?

- ✓ **Partnership:** It's not US vs YOU, it's a team
- ✓ **Partnership** b/w functional and technical teams
- ✓ **Partnership** b/w CFO and CIO
- ✓ **Partnership** b/w consultants and University
- ✓ **Partnership** with users



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What has to be done before a new function or process is implemented?

1. Needs analysis
2. Process engineering
3. Back-filling staffs
4. Training
5. Process documentation
6. Pilot units
7. Reporting needs
8. Gap analysis
9. Setting expectations
10. User buy-in
11. Validation of data and modules
12. Communication

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What has to be done before a new function or process is implemented?

13. **Conversion of data**
14. **Report Development**
15. **Change Management**
16. **Help Desk and ongoing support**
17. **Upgrades**
18. **Production upkeep**

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What are we doing?

IMAGENOW

TRAVEL

What is ImageNow?

It is an enterprise content management (ECM) software product that integrates easily with iRattler to fuel operational efficiency.

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What are the benefits?

- ✓ Streamlined business processes
- ✓ Accessibility of University's forms for external and internal constituents
- ✓ Limited paper and minimal front office work
- ✓ Faster processing & high productivity
- ✓ Readily available information to multiple areas (i.e. Admissions, Financial Aid, Student Housing)
- ✓ Automatically integrates with iRattler (PeopleSoft)
- ✓ Electronic document retention provides space savings and elimination of storage cost

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What does it mean for Admissions?

- ✓ Speed applicant processing and decision making
- ✓ Improve student service, ensuring a greater likelihood of enrolling the best students
- ✓ Boost employee productivity and satisfaction
- ✓ Reduce costs associated with storage, file creation and misplaced documents
- ✓ Protect student privacy

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What does it mean for Financial Aid?

- ✓ Streamline the collection of complete financial aid packets
- ✓ Simplify verification and speed award processing
- ✓ Improve student service and increase access to education
- ✓ Boost employee productivity and satisfaction
- ✓ Reduce costs associated with misplaced documents

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Example of Leveraging e-forms

- ✓ Student admissions application and other forms can be completed and/or attached on-line and submitted directly to the appropriate workflow queue. Student records (checklist) in iRattler are automatically updated and integrated with ImageNow for faster admissions process.

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Cash Advances:

- May be made to authorized university employees only
- May be 80% of the estimated travel expenses that will be reimbursed
- May be issued for group travel; the group must consist of non-employees
- Must be for more than \$200
- Will not be paid earlier than 5 calendar days prior to the first day of travel

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Determine Type Of Travel

- **Class A Travel**

Continuous travel of more than 24 hours away from headquarters

- **Class B Travel**

Continuous travel of 24 hours or less involving overnight absence from headquarters

- **Class C Travel**

Travel for short or day trips not involving overnight stay away from headquarters

[Travel must be more than 50 miles away from headquarters to claim meals/lodging/per diem.]

CLASS C MEALS/PER DIEM PROHIBITED

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Per Diem vs. Meals & Lodging

For purposes of reimbursement rate and methods of calculation the traveler may exercise one of the following for each day of travel:

- Per diem at \$80.00 a day

OR

- Amount permitted for meals, plus actual expenses for lodging

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Subsistence Allowance: Meals, Continued

Review the Conference Agenda for Meals



- Traveler may not claim a meal allowance if the meals were included in the registration fee paid by the University; this applies even if the traveler decides not to eat the meals
- **A continental breakfast is considered a meal**
- A reception *is not* considered a meal

Submit necessary portions of the Agenda with ER

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Common Errors on ER's

- TAuth number not placed in Reference field
- Not selecting appropriate and consistent Billing Type (In-State, Out-of State, Foreign, Non-Travel) for each expense line-item
- No justification submitted when a vehicle other than a compact (Class B) is rented or the state contract Preferred Merchant not used OR when lodging is over the maximum daily rate of \$150
- Agenda not provided for conference
- Flight itineraries and airfare receipts clearly stating the total amount paid not provided
- Destination(s) not provided in description on mileage expense type
- Vicinity Mileage not separated from Map Mileage

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Expense Other Than Travel

- **Examples of Prohibited Expenditures From State Funds include but are not limited to:**
 - a) flowers
 - b) presentation of plaques for outstanding services
 - c) entertainment for visiting dignitaries
 - d) refreshments such as coffee or donuts
 - e) decorative items (globes, potted plants, picture frames, microwaves)
 - f) gift cards
 - g) alcoholic beverages
 - h) meals

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Expense Other Than Travel

- In some rare instances, it may be necessary for a faculty/staff member to pay for materials or services from their personal funds with the expectation that they will be reimbursed by the University for the purchase.
- Prior to making a purchase, it is important that the individual seek confirmation that the purchase is appropriate for reimbursement by the University. The University's purchasing system should be used to make purchases of commodities, goods or to secure services.
- If it is deemed that the purchase is improper, the Expense Report will be denied and “***the charges will be borne at the personal expense of the individual making the purchase***”

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What's Next?

- **Transition over from IBM to CederCrestone**
- **Upgrade of HCM (online employment applications)**
- **Procure to Pay (e-supplier and e-settlement)**
- **And many more improvements.....**

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Division of Audit and Compliance
And
Office of Procurement Services

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ETHICAL BEHAVIOR

- The Malcolm Baldrige Award-Educational Criteria for Performance Excellence-defines the term ethical behavior as follows: Refers to how an organization ensures that all its decisions, actions, and stakeholder interactions conform to the organization's moral and professional principles. These principles should support all applicable laws and regulations.

ETHICAL BEHAVIOR

- These principles define “right” and “wrong” behavior.
- Ethics could be called a set or system of moral values, principles, or duties. Key expressions for ethics are:
 - What ought a person to do?
 - What ought a person to not do?
 - What attitudes are viewed as good?

ETHICAL BEHAVIOR

- What behaviors are viewed as good?
- Why are they viewed a good?
- Teaching of ethics
 - Can one teach someone to be ethical? No, either it is in one's self or it is not.
 - Can one teach someone what is ethical behavior? Yes, it is a system of values or principles for actions.

FLORIDA LAWS

- Section 112.313, FS, Standards of conduct
- Section 112.3135, FS, Restrictions on employment of relatives
- Section 112.317, FS, Penalties

UNIVERSITY POLICIES

- BOT 2006-03 Guiding Principles for Fiscal Affairs
- BOT 2006-05 Motor Vehicles
- BOT 2007-02 Telecommunications
- BOT 2009-01 Identity Theft Prevention Policy and Procedures

FAMU Values

- Scholarship
- Excellence
- Openness
- Fiscal Responsibility
- Accountability
- Collaboration
- Diversity
- Service
- Fairness
- Courage
- Integrity
- Respect
- Collegiality
- Freedom
- Ethics
- Shared Governance



Training Programs

Human Resources features ethics courses in many of its programs including:

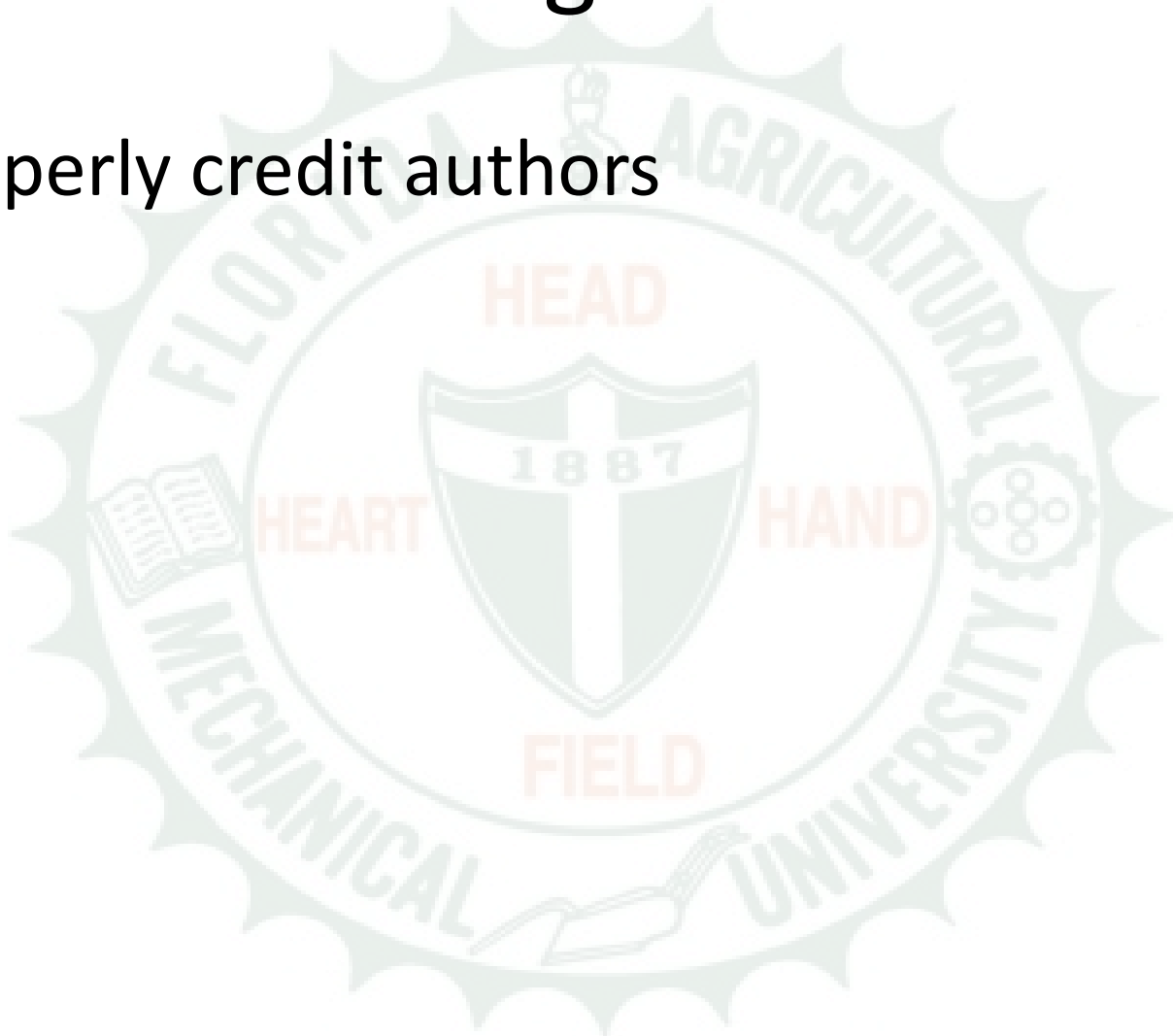
- “Gateway to Success” certification program
- Grants Management
- Compliance Training
- Administrative and Fiscal Training
- Professional Development Programs

Code of Conduct

Preamble. As members of the Florida Agricultural and Mechanical University community, all faculty, staff, students, members of the Board of Trustees, University officers and affiliates are responsible for sustaining the highest ethical standards of professional conduct and integrity for this institution, and for the broader community in which we function. We share responsibility for this institution and of its enterprises. The values we hold as essential to responsible professional behavior include: integrity, honesty, respect and fairness in dealing with other people, and loyalty toward the ethical principles.

Plagiarism

- Properly credit authors



Misuse and Waste

- Misuse of Property
 - University Vehicles (BOT Policy 2006-05)
 - Long Distance Phone Calls
 - University Resources
- Use of Time
- Abuse of Title/Position

Fraud and Theft

- Honesty in Research
- Grant Management
- Time and Effort Reporting

Nepotism

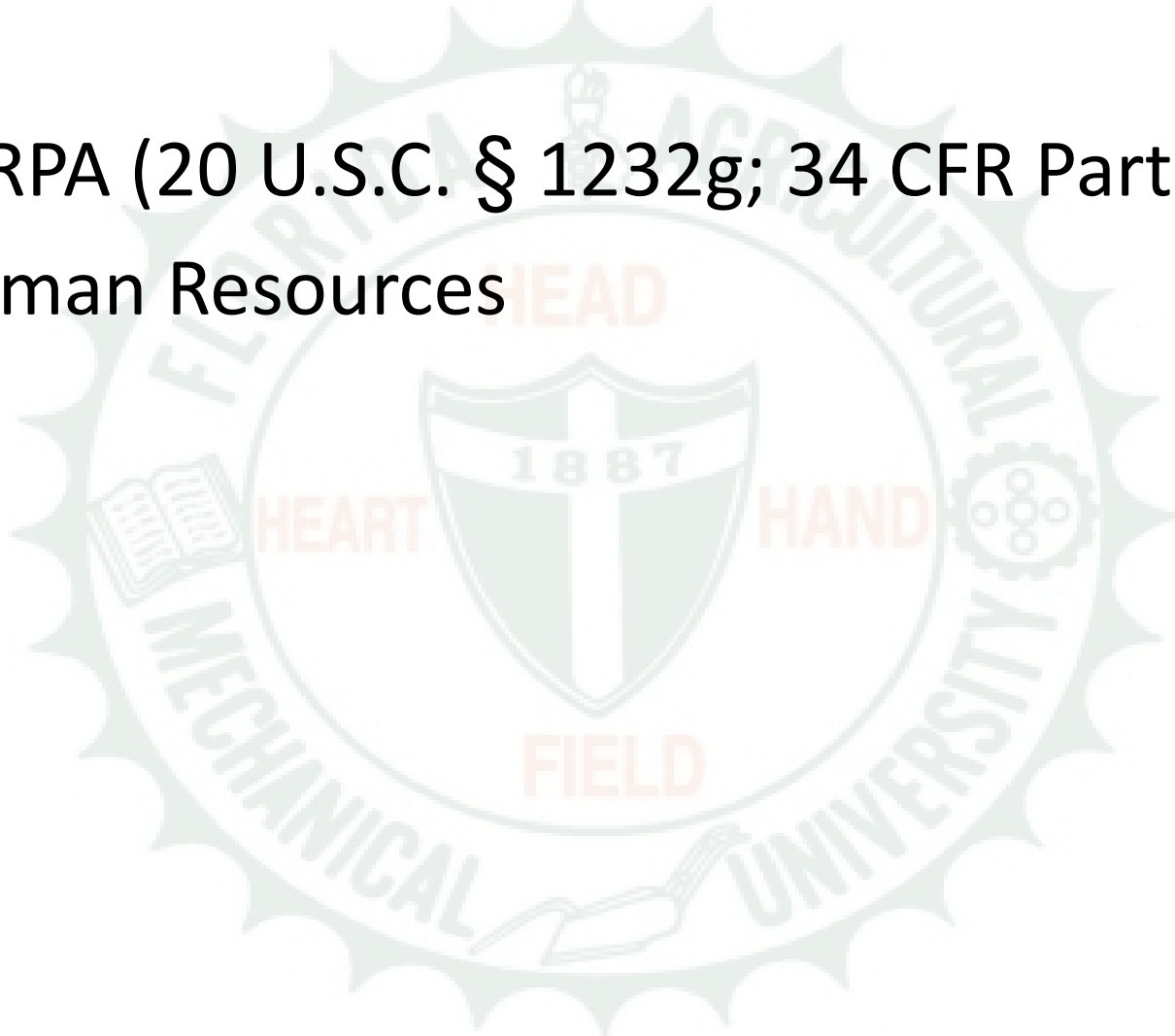
- Board of Trustees Regulation 10.121
Employment of Relatives
- All supervisors, administrators and managers are responsible for maintaining objectivity in their work relationships.
- No person shall be employed by, transferred to or promoted into a work unit where a supervisory relationship would exist between two related persons.

Conflict of Interest

- “Objectivity in Research” (BOT policy 2005-14)
- Contract awards
- Outside Employment (BOT Regulation 10.122)
- Kickbacks

Confidential Information

- FERPA (20 U.S.C. § 1232g; 34 CFR Part 99)
- Human Resources



Financial Disclosure

- Florida Commission on Ethics
- Filed within 30 days of appointment or employment and then annually by July 1 of each year.

Cash Collection Points

- Approved cash collection points
- Cash Collection and Controls Manual
- Collection, safeguarding, recording, reconciliation, and depositing of cash
- Inappropriate handling of cash
- Separation of duties

Safeguarding Cash

- Cash should be promptly deposited in the University cashier's office
- Limit access to authorized personnel
- Cash register drawers
- Locked boxes and safes
- Consider protection from theft or fire

Bank Deposit Accounts

- Unauthorized bank accounts
- Foundation accounts



Petty Cash Fund

- Approval of petty cash is required
- Proper management of petty cash requirements are outlined in the Cash Collection and Controls Manual

Travel and Accounts Payable

- Most cost efficient
- Proper signatures
- Appropriate recording and accounting
- No double-dipping on grants

Organization Dues

- Campus organizations
- Unauthorized collection of dues
- Collection and deposit of funds

Reporting Hotline

- Confidential, anonymous reporting
- Global Compliance
- Use the Web or phone
- www.famu.edu Phone 866-445-4968
- Information relayed to Audit & Compliance

Ethics in Procurement

- BOT Regulation 6.002 Standard of Conduct
- BOT Regulation 1.019 University Code of Conduct
- Chapter 112, Part III, Florida Statutes Florida Code of Ethics for Public Officers and Employees

STANDARD OF CONDUCT

- It shall be a conflict of interest and breach of ethical standards, for any employee to:
 - Participate directly or indirectly in a procurement when the employee knows
 - the employee or its immediate family has a financial interest pertaining to the procurement
 - Accept, solicit, or agree to accept a kickback, offer of employment or gratuity of any kind, form or type in connection with any contract for commodities or services

UNIVERSITY CODE OF CONDUCT

As members of the FAMU community, we are responsible for sustaining the highest ethical standards of professional conduct and integrity for our institution

CODE OF ETHICS FOR PUBLIC OFFICERS AND EMPLOYEES

112.313(2), SOLICITATION OR ACCEPTANCE OF GIFTS.—No public officer, or employee shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, or employee would be influenced thereby.

CODE OF ETHICS FOR PUBLIC OFFICERS AND EMPLOYEES

112.313(3), Doing business with one's Agency—No employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the employee's own agency. Unless the business is awarded under a sealed competitive bidding to the lowest or best bidder and

- The employee in no way participated in the determination of bid specification or award
- The employee's spouse or child in no way attempted to influence or persuade the award
- The employee prior to submission of bid, filed a statement with the Commission on Ethics, disclosing the employee's, spouse or child interest

Guiding Principles

It is very important that the public procurement function has honesty, transparency and accountability in a manner that secures the best value for public money.

Honestly

Honestly requires the purchasing process to be conducted :

- Ethically
 - Disclosure of Interest
 - Accept no gifts or gratuity of any kind
- Promote open and fair competition
 - Follow all regulations and laws; i.e, quotes, and competitive solicitations
- With fairness to all participants
 - Treat everyone with respect

Transparency and accountability

Transparency and accountability requires that the basis for decisions is clear and objective

- Transaction and decision must be fair, equitable and ensure value for money
- Accurate written records must be maintained throughout the purchasing process.
- Disclosure of supplier bid/quote information prior to contract award is strictly prohibited.

Things to remember

BOT Regulation 6.00 2 Code of Conduct
BOT Regulation 6.00 Purchasing
BOG Regulation 18. Purchasing

CONTACT INFORMATION

STEPHANY FALL, DIRECTOR OF PROCUREMENT SERVICES

599-3202

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Or stephany.fall@famu.edu



FLORIDA **A&M** UNIVERSITY

FAMU BOT POLICIES

- 2005-15** **Separation and Return of Academic Administrators to Faculty**
- 2005-23** **Benefits and Leaves**

**Florida Agricultural & Mechanical University
Board of Trustees Policy**



**Board of Trustees Policy Number:
2005-15**

Date of Adoption: June 30, 2005
Date Revised: February 12, 2008

Subject	Separation and Return of Academic Administrators to Faculty
Authority	Section 7(d), Article IX, Florida Constitution; Board of Governors Resolution adopted January 7, 2003

I. Rescinding of FAMU Internal Management Memorandum No. 2002-10

FAMU Internal Management Memorandum No. 2002-10, Transfer of University President or Academic Administrator to the faculty or an Administrative & Professional Position, is hereby repealed or rescinded effective at the time of adoption of this policy.

II. Application

This policy applies to employees holding both a tenured faculty position and serving as an academic administrator of the University (hereinafter referred to as "administrator"), but who are leaving their administrative and academic office to return to the tenured faculty. Examples of such positions are the provost, vice presidents, assistant or associate vice presidents, deans, assistant or associate deans, and directors.

III. Lack of Property Interest In Administrative Appointment

An employee has no property interest in his or her appointment as an administrator; thus, the President may not comport to confer on any such administrator any property interest in such employment. Tenure status as a member of the faculty held concurrently by any administrator is separate and distinct from the administrative office, and such tenure status is governed by the provisions of Regulation 10.204 and the Florida A&M University Board of Trustees (FAMU BOT) – United Faculty of Florida (UFF) Collective Bargaining Agreement. Tenure shall not extend to administrative appointments in the General Faculty or Administrative & Professional classification plans. However, the President may extend a multi-year appointment to an administrator as approved by the FAMU BOT and consistent with all applicable federal and state laws, and Florida Board of Governors and FAMU BOT rules, regulations and policies. Any instrument affecting the employment of an administrator must clearly state that the incumbent's administrative duties are subject to removal at any time as determined by the President or the President's designee.

IV. Salary upon Change in Assignment to a Faculty Position

A. New Hire as Administrator

If the employee was hired upon initial appointment as an administrator, his or her new salary will be the median salary of the employees within the same professorial rank and discipline.

B. Tenured Faculty Prior to Becoming an Administrator

If the employee was previously a tenured faculty member prior to becoming an administrator, his or her new salary will be the salary held by the employee immediately prior to the time of the administrative appointment and any increases received by the faculty during the time of service as an administrator. These separate compensations will be noted in the appointment letter.

C. Other Consideration

Notwithstanding the provisions of IV.A. and IV.B., any agreed upon salary arrangement negotiated by the President or President's designee upon appointment as an administrator shall also be considered.

V. Reappointment of an Administrator without Faculty Return Rights.

An employee leaving a position that is categorized as "at will" has no claim to a position at the university; however, there may be circumstances in which assignment to another administrative or teaching position would be beneficial for both the university and the employee. In these cases, the new salary should be appropriate to the subsequent assignment, if any.



Florida Agricultural & Mechanical University Board of Trustees Policy

Board of Trustees Policy Number:
2005-23

Date of Adoption/Revision: October 6, 2005;
September 13, 2007; December 3, 2009

Subject	BENEFITS AND LEAVES
Authority	Chapters 110, 117, 1012 and Sections 92.142, 110.121, 110.118, 110.122, 110.222, Florida Statutes; Fair Labor Standards Act (FLSA) of 1938, as amended, Family and Medical Leave Act (FMLA) of 1993; Americans with Disabilities Act (ADA) of 1990.
Applicability	This policy applies to all University employees.

1. BENEFITS AND HOURS OF WORK

- (a) Benefits made available to Faculty, A&P, and USPS employees include paid and unpaid leave, holidays, State- and University-sponsored insurance programs and retirement. Benefits and hours of work requirements shall be administered consistent with the provisions set forth herein.
- (b) Each employee is expected to work the number of hours in the employee's established workweek unless on approved leave. Benefits shall be provided proportionate to the time on the payroll.
- (c) The regular workweek is 40 hours for full-time employees. Holiday pay (maximum of eight hours) and paid leave are not considered overtime and are paid at the employee's regular pay rate. Approved leave may be adjusted to ensure an employee's workweek will not exceed 40 hours. Overtime shall be paid no later than the end of the following pay period in which the overtime was worked.
- (d) All eligible Faculty and A&P, including the Executive Service employees are enrolled in the Optional Retirement Program (ORP) for the first ninety (90) days of employment. If the employee wishes to remain in the ORP, he/she must elect to do so prior to the end of the 90-day period. All eligible USPS employees are enrolled in the Florida Retirement System, except those who remain in the State and County Officers and Employees Retirement System or Faculty employees who remain in the Teachers Retirement System.
- (e) All eligible Faculty, A&P including the Executive Service and USPS employees may participate in the various employee group insurance plans as a result of their employment with the University.

2. COMPENSATORY LEAVE

Compensatory leave shall consist of the following types:

- (a) Regular compensatory leave shall be provided to a USPS exempt employee for work beyond 40 hours on an hour-for-hour basis.
- (b) Special compensatory leave is provided to USPS as follows:
 - 1. Special compensatory leave is provided to compensate an employee for a State holiday when the employee observed the holiday and worked 40 hours the week during which the holiday occurred; the holiday falls on the employee's regularly scheduled day off; or the employee is required to work the holiday.
 - 2. Special compensatory leave is provided to compensate an employee for administrative leave for jury duty or court appearance when the employee worked 40 hours the week during which the jury duty or court appearance occurred.
 - 3. Special compensatory leave is provided to employees required to perform essential duties during an emergency closing for the hours worked during the closing.
 - 4. An employee who separates from employment shall not be paid for accrued special compensatory leave.
- (c) Overtime compensatory leave is provided to nonexempt USPS employees who work in excess of 40 hours during the workweek.

3. PAID HOLIDAYS

The following holidays shall be observed by the University as paid annual holidays:

New Year's Day	Veteran's Day
Martin Luther King, Jr., Birthday	Thanksgiving Day
Memorial Day	Friday after Thanksgiving
Independence Day	Christmas Day
Labor Day	

4. WINTER BREAK

Winter break refers to that period of time between the end of the fall semester and the beginning of the spring semester. During the winter break, the President, in consultation with the Vice President for Administration and Financial Services, may provide all salaried employees up to five (5) paid personal holidays in addition to the officially designated holidays for December 25 and January 1. The President shall inform the Board of Trustees of the decision regarding the winter break as soon as practicable.

5. REPORTING LEAVE

All salaried employees are required to report all leave taken during the pay period in which the leave was used. Employees on official University business are required to properly report such leave.

Failure to report leave taken may result in disciplinary action up to and including dismissal from employment.

6. LEAVES OF ABSENCE

- (a) An employee shall be paid proportionate to the time in pay status for all holidays designated for University employees.
- (b) Leave shall be accrued while in pay status and shall be credited on the last day of that pay period or, in the case of separation, on the last day the employee is on the payroll.
- (c) During approved unpaid leave for parental, foster care, medical, or military reasons, an employee may use accrued leave to continue the contributions to State benefits and other expenses.
- (d) Unless agreed otherwise, an employee shall be employed in the same or similar status upon completion of the approved leave period. While on paid leave, an employee may not be employed elsewhere unless prior approval is obtained.

7. SICK LEAVE

- (a) Sick leave accrual for full-time employees shall be as follows with proportionate accrual for less than full-time.

Hours Accrued During Pay Period

	<u>Monthly</u>	<u>Biweekly</u>
Faculty	8.667	4
A&P	8.667	4
Ex. Service	10.833	5
USPS	8.667	4

- (b) Sick leave shall be accrued before use unless available through a sick leave pool. There is no maximum on the amount of sick leave that can be accrued. Sick leave accrued prior to October 1, 1973, shall be used prior to any sick leave accrued after that date.
- (c) Sick leave is authorized for the following purposes:
 - 1. The employee's personal illness, injury, exposure to a contagious disease, a disability where the employee is unable to perform assigned duties or appointments with health care providers.

2. The illness, injury, appointments with health care providers, or death of a member of the employee's family.
- (d) Notice of absence due to illness, injury, disability, or exposure to a contagious disease shall be given on the first day of absence.
- (e) Transfer of Sick Leave
- 1) All unused sick leave accrued in another Florida governmental entity or University for which payment has not been received will be transferable provided no more than 31 days have elapsed between employments or if reemployed by the University within 100 days.
 - 2) An individual who resigns from a governmental entity within Florida and is employed in the USPS within 31 calendar days, may transfer up to 480 hours of accrued unused sick leave as follows:
 - i. 80 hours upon date of hire
 - ii. 80 hours upon completion of each succeeding year
 - 3) Accrued sick leave from a governmental entity for Faculty and A&P is not permitted, unless a reciprocal agreement is in effect at the time of employment.
- (f) Payment for unused Sick Leave
- 1) Upon separation, an employee with 10 or more years of creditable service shall be paid for one-eighth of all unused sick leave accrued prior to October 1, 1973, and one-fourth of unused sick leave up to a total of 480 hours accrued after October 1, 1973. Sick leave payment shall be made at the employee's current rate of pay in accordance with Section 110.122, Florida Statutes.
 - 2) An employee with less than 10 years of creditable service who separates from the University shall not be paid for any unused sick leave and such unused sick leave shall be forfeited unless the employee is reemployed by the University within 100 days or recalled from layoff by the University within one year.
 - 3) Upon layoff, an employee with 10 or more years of creditable service shall be paid for unused sick leave, unless the employee requests in writing that sick leave credits be retained pending reemployment. For an employee who is reemployed by the University within one year following layoff, all unused sick leave shall be restored to the employee, provided the employee requests such action in writing and repays the full amount of any lump-sum leave payments received at the time of layoff.

4) In the event of the death of an employee, payment for sick leave unused at the time of death should be made to the employee’s beneficiary, as provided by Section 110.122, Florida Statutes.

(g) An employee is required to first use accrued compensatory leave before using accrued sick leave.

8. ANNUAL LEAVE

(a) Annual leave for full-time employees shall be as indicated below with proportionate accrual for less than full-time employees. An academic year (39 weeks) employee and a Developmental Research School employee shall not accrue annual leave. Hours of accrual for USPS employees are based on years of creditable service and such service shall be awarded as one month of service credit for each calendar month that the employee is on the salaried (non-OPS) payroll of the University or other State agency or during authorized unpaid leave.

Hours Accrued During

	Pay Period		Year End	Maximum
	<u>Monthly</u>	<u>Biweekly</u>	<u>Maximums</u>	<u>Payment</u>
Faculty	14.667	6.769	352	352
A & P	14.667	6.769	352	352
Ex. Service	20	9.195	480	480

	Pay Period		Year End	Maximum
	<u>Monthly</u>	<u>Biweekly</u>	<u>Maximums</u>	<u>Payment</u>
USPS (Months of Service)				
0-5	8.667	4	240	0
6-60	8.667	4	240	240
61 to 120	10.833	5	240	240
Over 120	13	6	240	240

(b) Annual leave shall be accrued prior to use.

(c) Upon transfer from an annual leave-accruing position to a non leave-accruing position, the employee shall be paid for unused annual leave, unless the employee elects to retain all unused annual leave, for up to two years.

- (d) Annual leave accrued in any other State University System institution or governmental agency shall not be transferable to the University.
- (e) An employee who separates from employment shall be paid for all unused annual leave hours up to 240 hours for USPS; 352 hours for Faculty and A&P and 480 hours for Executive Service employees.
- (f) An employee is required to first use accrued compensatory leave before using accrued annual leave.

9. LEARNING OPPORTUNITIES

Eligible full-time Faculty and A&P employees may participate in learning opportunities which include:

- (a) *Sabbaticals* - Sabbaticals for professional development will be made available to full-time tenured faculty employees, with at least six years of full-time service with the University. The requirements for Sabbaticals are as outlined in the Collective Bargaining Agreement shall apply.
- (b) *Faculty Development Leave Program* - The Faculty Development Leave Program provides for faculty employees the opportunity to take a period of months, as determined by the University and the faculty employee, for purposes of professional renewal, planned study, formal education research, writing or other experience of professional value. Eligible faculty employees must have achieved the rank of assistant professor or higher and have six years of full-time service at the University. The requirements for participation in the Faculty Development Program as outlined in the Collective Bargaining Agreement shall apply to employees who are members of the collective bargaining unit.
- (c) *Professional Development Leave Program* - All Faculty and A&P employees who have six or more years of service, except those who are serving in tenure-earning or tenured positions, shall be eligible for professional development leave and may apply for the professional development program at full pay for up to one semester for purposes of taking academic course work, performing individual research, or other relevant activities which shall improve the employee's professional experience. Employees whose positions are funded through contracts or grants may be eligible for Professional Development leave provided the contract or grant allows for such leave. The terms of the Collective Bargaining Agreement shall apply to employees who are members of the collective bargaining unit.

10. COMPULSORY DISABILITY LEAVE

Compulsory leave provisions shall be consistent with the following:

- (a) Medical certification by an approved health care provider may be required.
- (b) Notice shall be provided to the employee identifying duration of the leave, the conditions for return to the position, and whether such leave shall count toward FMLA entitlements.
- (c) The employee may be allowed to use paid leave during compulsory leave to continue the contributions to State benefits and other expenses.
- (d) Unless agreed otherwise, an employee shall be employed in the same or similar status upon completion of the approved leave period and upon receipt of medical certification.
- (e) Employees who fail to meet the conditions of the compulsory leave or who fail to obtain medical certification and are unable to perform duties may be offered part-time employment, placed on unpaid leave or have such leave extended, requested to resign, or be dismissed for inability to perform the duties of the position.

11. FAMILY AND MEDICAL LEAVE

Employees are provided with twelve unpaid workweeks of Family and Medical Leave within a 12-month period in compliance with the Family and Medical Leave Act (FMLA) of 1993 (Public Law 103-3) and the Final Regulations of the Family and Medical Leave Act of 1993 (29 CFR Part 825). Employees may use their accrued sick and annual leave for FMLA purposes. The 12-month period is defined as the fiscal year (July 1 - June 30). Faculty, A&P, and USPS employees may use paid leave for an FMLA event and such shall be counted toward the entitlement.

12. PARENTAL LEAVE

Employees shall be provided with up to six months unpaid parental leave during which time the employee may use paid leave when the employee becomes a biological or adoptive parent. Parental leave shall begin two weeks prior to the expected date of the child's arrival unless otherwise approved by the Chief Administrative Officer.

13. ADMINISTRATIVE AND MILITARY LEAVE

Administrative leave is not accrued, and shall not cause the full-time employee to exceed 40 hours during the workweek. Employees are provided paid administrative leave as follows:

- (a) Administrative leave for jury duty shall not exceed the number of hours in the employee's normal workday. If jury duty does not require absence for the entire workday, the employee shall return to work immediately upon release by the court. If the jury duty does not coincide with the regular work schedule, the employee shall be granted administrative leave based on the total hours served on jury duty and such leave shall be granted on the next scheduled work shift. Any jury pay shall be retained by the employee.
- (b) Administrative leave shall be provided to an employee summoned as a witness in a matter not involving personal interests. Administrative leave shall not be provided to an employee serving as an expert witness. Witness pay shall be retained by the employee.
- (c) Administrative leave for athletic competition in Olympic events shall be provided in accordance with Section 110.118, F.S.
- (d) Administrative leave up to two days shall be provided to an employee upon the death of an immediate family member. Immediate family is defined as the mother, father, sister, brother, child, grandparents of both the employee and the employees spouse.
- (e) Administrative leave shall be provided for official emergency closing of University facilities. Special Compensatory leave shall be provided to USPS employees required to perform essential services during the emergency closing. Only employees scheduled to work during the time of the emergency closing shall be provided leave.
- (f) The President or President's designee may provide administrative leave for Florida Disaster Volunteers in accordance with Section 110.120, F.S.
- (g) The President or President's designee may grant administrative leave for civil disorder or disaster for an employee who is a member of a volunteer emergency response team.
- (h) The President or President's designee may authorize employees who live at such distance from the work location as to preclude voting outside of regular work hours up to two hours of administrative leave. Any other employee may be granted up to one hour of administrative leave with pay for such purpose.
- (i) The President or President's designee may place an employee under investigation on leave up to the length of the investigation.
- (j) The President may place an employee on administrative leave with or without pay between the notice of reduction in pay, suspension, or dismissal and the effective date of such action.

- (k) The President or President's designee may place an employee on administrative leave with or without pay when the employee's presence in the workplace may result in damage to property, or injury to the employee or others.
- (l) The President or President's designee shall upon presentation of a copy of employees' official orders, grant seventeen (17) working days in any one federal fiscal year of administrative leave to employees who are members of the United States Armed Forces Reserve.

14. JOB RELATED DISABILITY LEAVE

Workers' Compensation benefits for an injury compensable under the Florida Workers' Compensation Law shall be provided consistent with the following:

- (a) An employee shall remain in full pay status for a period up to a maximum of forty (40) hours without being required to use accrued leave credits. If, during that period, the employee receives Workers' Compensation benefits then the employee shall reimburse the University the amount of the benefits. Such reimbursement shall not include payments for expenses related to medical, surgical, hospital, or nursing treatment or payments of disability losses.
- (b) An employee may elect to use paid leave to supplement Workers' Compensation payments up to the employee's regular salary.
- (c) The period of paid or unpaid job-related disability leave shall be in accordance with Chapter 440, F.S.
- (d) An employee, who was injured in the workplace, may be returned to alternate duty consistent with established University policies or procedures.
- (e) If at the end of the leave period, an employee is unable to return from leave to work full-time and perform the duties of the position, the President or President's designee may offer the employee a part-time appointment, place the employee on unpaid leave or extend the leave status, request the employee's resignation, or terminate the employee from employment.

FAMU BOT REGULATIONS

- 1.019 University Code of Conduct**
- 2.012 Conduct, Student Code of**
- 2.013 Due Process, Other Rights and Responsibilities**
- 2.028 Anti-hazing**
- 2.028 Proposed New Anti-hazing**
- 3.021 Alcoholic Beverages**
- 10.103 Non-Discrimination Policy and Discrimination and Harassment Complaint
Procedures**
- 10.112 Consensual Relationships**

Regulations of Florida A&M University



1.019 University Code of Conduct

(1) *Applicability.* This Code of Conduct applies to the following members of the University community: a) faculty, staff and students who are paid for working for the University; b) consultants, vendors and contractors and other individuals using University resources or facilities, or receiving funds administered by the University; and c) individuals who perform services for the University as volunteers and who assert an association with the University. Any reference to the University community as provided in this policy shall refer to all of the above persons.

(2) *Preamble.* As members of the Florida Agricultural and Mechanical University (University) community, all faculty, staff, students, members of the Board of Trustees, University officers and affiliates are responsible for sustaining the highest ethical standards of professional conduct and integrity for this institution, and for the broader community in which we function. We share responsibility for this institution and of its enterprises. The values we hold as essential to responsible professional behaviour include: integrity, honesty, respect and fairness in dealing with other people, and loyalty toward the ethical principles espoused by the Florida Code of Ethics for Public Officers and Employees in Chapter 112, Part III, Florida Statutes. Therefore, adherence by officers, faculty, staff, student employees and others acting on behalf of the University to standards set forth in this Code of Conduct is an integral part of the University's goal of attracting quality students, faculty and staff, ensuring the use of hazardous materials.

Members also have an obligation to report any noncompliance of regulations that are observed. We are cognizant of and shall comply with the applicable standards, policies, rules, regulations and state and federal laws that govern and guide our work. This Code of Conduct describes standards to guide us in our daily University activities and provides guidelines for those acting on behalf of the University.

(3) *Compliance with Laws and University Rules and Policies.* All members of the University community will strive to ensure that all activity conducted by, at or on behalf of the Institution is in full compliance with applicable federal, state and local laws, and the official rules and policies of the University. Administrators, supervisors and managers
Specific Authority: 120.54, 1001.74, FS. Law Implemented 120.54, 1001.74 FS. History–New

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are responsible for teaching and monitoring compliance. The acceptance of an agreement, including sponsored project funding, may create a legal obligation on the part of the University to comply with the terms and conditions of the agreement and applicable laws and regulations. Therefore, only individuals who have authority delegated by an appropriate University official are authorized to enter into agreements on behalf of the University.

(4) *Conflict of Interest and Commitment.* Faculty and staff of the University owe their primary professional allegiance to the University and its mission to engage in education, scholarship and research. The University has obligations to parents and students, government, external organizations, and donors to use its resources responsibly and, where required, for designated purposes. Thus, all officers, faculty, principal investigators, staff, student employees and others acting on behalf of the University hold positions of trust, and the University expects them to carry out their responsibilities with the highest level of integrity and ethical behavior. In order to protect the University's mission, members of the University community with private or other professional or financial interests which conflict with applicable State of Florida's, state or federal laws and University rules and policies must disclose them in compliance with the University's conflict of interest/conflict of commitment policies and the Florida Code of Ethics for Public Officers and Employees.

(5) *Confidentiality and Privacy.* The University community shall use confidential information acquired in the course of University affiliation only for official or legal purposes, and not for personal or illegal advantage, during or after such affiliation. It is imperative that each community member complies with all federal laws, state laws, agreements with third parties, and University policies and procedures pertaining to the use, protection and disclosure of such information, and such policies apply even after the community member's relationship with the University ends.

(6) *Protection of Assets.* The University community will strive to preserve, protect and enhance the University's assets by making prudent and effective use of University resources and property and by accurately reporting its financial condition. All funds provided for research must be spent in ways consistent with funding requirements and in compliance with guidelines on allowable costs.

Specific Authority: 120.54, 1001.74, FS. Law Implemented 120.54, 1001.74 FS. History–New

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- (7) *Reporting Suspected Violations.*
- a. Reporting to management. The University community should report suspected violations of applicable laws, regulations, government contract and grant requirements of this Code. This reporting should normally be made initially through normal management channels, beginning with one's immediate supervisor. If it is not appropriate to report to the immediate supervisor, e.g., the suspected violation is by the manager, individuals may go to a higher level of management within the college or department.
 - b. Other Reporting. Violations may be reported internally to the Office of the Inspector General, or its successor office, or the Office of the General Counsel. In addition, any suspected violations of state and federal laws may also be reported to the Florida whistleblower's Hotline.
 - c. Confidentiality. Such reports may be made confidentially, and even anonymously.
 - d. Cooperation. All employees are expected to cooperate fully in the investigation of any misconduct.

Regulation of Florida A&M University



2.012 Conduct, Student Code of.

- (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 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 may allege violations of the Code and make their report in writing to the Judicial Office. If the Judicial Officer or his/her designee believes after an investigation 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.
- (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 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 sanctions; or
 - (h) Counseling—The University can require the student to seek professional counseling 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.
- (5) 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 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) Definition 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.
 - (c) Suspension – separation of the student from the University for a definite period of time. The duration of the period of suspension shall not exceed three years and shall be in direct proportion to the degree of seriousness attached to the misconduct.
 - (d) Probation – an official warning that the student’s conduct violated the code of conduct of the University and requires the withdrawal of special privileges, participation in inter-collegiate activities, and others. The student may not be elected to office 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.
 - (e) Reprimand – a formal rebuke and official recognition by letter to the student of misconduct as charged by the University.
 - (f) Community service – hours the student may be required to perform in specified areas of service.
 - (g) Restitution – Compensation for loss, damage, or injury. This may be in the form of monetary or material replacement.
 - (h) Discretionary sanctions – Work assignments, essays or other related discretionary assignments.
 - (i) 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.

(j) University official – Any person employed by the University, performing administrative or professional responsibilities.

(k) 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.

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

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

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

(o) 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.

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

(q) Accused Student –The student accused of violating this Code.

(r) Complainant—Any person who submits a charge 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) Mediation—This is the actual mediation in which all parties 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.

(w) Judicial hold—This prevents the student from conducting any form of registration.

(x) 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.

(y) 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 .

(z) “Responsible”—The term “responsible” means that the Accused Student has been found responsible or accepted responsibility for violating a provision(s) of the Code.

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

(bb) 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.

(7) A student convicted of a second misdemeanor while on probation shall be liable for punishment of a felony.

(8) The hearing body or judicial officer may recommend suspension of sanction(s) for a specified period of time where circumstances warrant. 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.

(10) 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 battery is defined as the unlawful and intentional application of force 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 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 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 breaking and entering is defined as the unlawful breaking 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 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. Penalty: Probation up to expulsion.

(g) The offense destruction of property is defined as willful and malicious defacement, damage or destruction of University property or the private property of another. It includes vandalizing, misusing 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 800.03, Florida Statutes. Penalty: Probation up to expulsion.

(k) Use and/or possession of 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” means any weapon (including a starter gun, BB gun, 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, 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.

(l) The opening and removing of the 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.

(m) 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.

(n) 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.

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

(p) 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 identification card, library card, decal or other means of identification not issued to the student. 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.

(q) Stalking:

1. Any person who willfully, maliciously, and repeatedly follows or harasses another person commits the offense of stalking. Penalty: Probation up to suspension.

2. Any person who willfully, maliciously, and repeatedly follows or harasses another person, 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.

(s) 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 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 in the respective school or college.
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.

(t) Theft or other abuse of computer facilities and resources, including but not limited to:

1. Unauthorized entry 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.
4. Use of computing facilities and resources to send obscene or abusive messages.
5. Use of computing facilities or resources to interfere with normal operation of the University computing system.
6. Penalties—Written reprimand up to suspension.

(u) 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.
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 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.

(v) 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.

(w) Obstruction of the free flow of pedestrian or vehicular traffic on University premises.

Penalty: Written reprimand up to suspension.(x) Use, possession, manufacturing, or distribution of illegal drugs and/or substances.

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.

(y) Use, possession, manufacturing, or distribution of alcoholic beverages, or public intoxication. Penalty: Probation up to dismissal.

(z) 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.

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

(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 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) The time limit for filing a charge against a student for violation of the Code should be filed within 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 from the date of discovery. Circumstances that may warrant a waiver include but are not limited to: stalking, sexual battery, or relationship violence, in which the delay may be related to issues of victimization. The written notice of the charge of violation to the accused student should proceed the actual hearing date or information briefing with the accused student by no less than three workdays, except in an emergency. A hearing shall normally be scheduled with ten workdays of the date of the notice of the charge of violation to the accused student, unless the accused 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 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 student or from university attorney.

(13) The University may summarily dismiss 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, 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) Violation of residence hall policies and procedures are punishable as misdemeanors. 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.

(15) The President or Vice President for Student Affairs may summarily dismiss 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, or property of the members of the academic community.

(16) 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) If a student charged with a violation of the Student Code of Conduct, regardless of which judicial body may hear the matter, wishes to have the hearing postponed 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) 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) 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) 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 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) workdays 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) workdays from the date of the waiver.

(21) When a student is accused of 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) 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) Decisions of the Student Supreme Court pursuant to subsection (21) 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.

(a) The student has ten (10) workdays 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) above.

(24) A tape/video recording or verbatim recording of each hearing will be made and preserved until the appeal process has been exhausted. Deliberations shall not be recorded. During the appeal period the accused, with or without the company of legal counsel, and/or advisor, and/or parent with the written authorization of the Accused Student 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 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 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) 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), and (15) 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.

(a) The student shall have five workdays 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) of the Student Code of Conduct.

(b) The emergency hearing shall be held within five workdays 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 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.

(26) The hearing body, ad hoc committee or University Judicial Officer shall afford the accused student with due process as, provided by FAMU Regulation 2.013, and/or Board of Governors Regulation 6C-6.0105(5). 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) 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. 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. 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 Student.

(28) 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 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. 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 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.

(d) The Complainant and the Accused 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 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 workdays days prior to the hearing date.

(e) The Complainant, the Accused 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 Accused Student at least three workdays prior to the judicial hearing. Witnesses will provide information to and answer questions from the hearing body and the Accused Student. No witness may be compelled to provide self-incriminating information.

(f) If the Accused Student fails to appear at the hearing after being properly notified, the hearing body may hear the case on the basis of evidence accumulated as a result of witnesses and shall notify the Accused Student of the decision. In the absence of the Accused Student, the plea of not responsible shall be entered on the student's behalf by the chairperson of the hearing body.

(g) An Accused student may request only one postponement of a judicial hearing by contacting in writing the University Judicial Officer at least three workdays 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 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 Student is responsible or not responsible for violating the Code.

- (j) An Accused 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 pursuant to Sections (6-13) of University Regulation 2.007, Voluntary and Involuntary Withdrawal, that the Accused 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 Accused Student is responsible or not responsible for violating each section of the Code which the Accused Student is charged. The chairperson of the hearing body cannot vote.
- (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 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 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 3 to 5 persons, depending upon the nature of the violation. At least one of the members must be a student.
- (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 Student and all witnesses at least three workdays prior to the hearing.

(29) Victim Rights- Victim is defined as the person harmed by a violation of the Code by the Accused 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 Accused Student is found responsible for the violations/charges. If the Accused 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 three workdays 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, refer to additional rights noted under Section (10) r above.

(30) 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.

*Specific Authority 1001.74(4) FS. Law Implemented 1001.74(10)(e), 1006.60, 1006.61, 1006.62, 1006.63 FS. 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*

Regulation of Florida A&M University



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. 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 three days, except in cases of emergency 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 adjudication of the matter by an appropriate official designated by the University or its colleges, schools or institutes;
- (d) The student and his/her advisor may inspect all of the evidence that will be presented against the student at least three (3) workdays before the student disciplinary hearing. The University shall also have the right to inspect any information the student intends to use at least three (3) workdays before the student disciplinary 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 any outside prosecution 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 have an advisor of the student's choice present at 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 university official, shall be presented to the student in writing and within fourteen business days following the hearing;
- (k) The student may appeal the decision of any committee or hearing body or of any university official, within a period specified by the university or its colleges, schools or institutes in the written procedures, to the president or the president's designee; and
- (l) The student's status will remain unchanged pending the university's final decision in the matter, except where the president or president'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 president or president'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.
- (m) At the conclusion of the appeals process, the decision of the president or the president's designee shall be final.
 - (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.
 - (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 university 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 university community.

*Specific Authority 1001.74(4) FS. 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.*

**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.

(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 university 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.

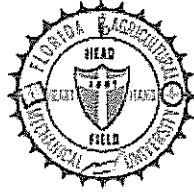
(3) Penalties – Any student(s), student group(s), or student organization(s) which are affiliated with the Florida Agricultural and Mechanical University, on campus or off-campus, that are found responsible for hazing will be subject to appropriate sanctions by the university, which may include the imposition 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 university 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 university organizational event or was not otherwise sanctioned or approved by the university 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 university organization.

(5) All existing university sanctioned organizations are required to amend their existing by-laws to include an anti-hazing section, and all future university 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 university sanctioned organization must attend one Fall semester and one Spring semester hazing workshop each academic year.

Specific Authority 1001.74(4) FS. Law Implemented 1001.74(10)(d), (e), 1006.60, 1006.61, 1006.62, 1006.63 FS. History--New 4-3-83, Formerly 6C3-2.28, Amended 1-26-04.

**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.

(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 university 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 university, which may include 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

PROPOSED

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 university 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 university organizational event or was not otherwise sanctioned or approved by the university 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 university organization.

(5) All existing university sanctioned organizations are required to amend their existing by-laws to include an anti-hazing section, and all future university 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 university 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, -12.

Regulations of Florida A&M University



3.021 Alcoholic Beverages Regulation.

(1) This regulation shall govern the possession, service, sale, consumption or distribution of alcoholic beverages at any and all Florida Agricultural and Mechanical University (FAMU) sponsored activities and events; at any and all facilities or properties operated under the jurisdiction of FAMU; and by any and all trustees, administrators, faculty, staff, students, direct support organizations, vendors and guests attending such FAMU sponsored activities and events. As used in this regulation, the term “alcoholic beverage” includes beer, wine, hard liquor, distilled spirits, mixed drinks, fermented beverages and other beverages containing alcohol.

(2) FAMU recognizes the serious nature and potentially harmful effect of using alcoholic beverages in the workplace and academic settings. Therefore, the manufacture, distribution, dispensation, possession, service, sale, consumption or use of alcoholic beverages in all facilities or upon properties and grounds leased, owned or operated by FAMU is prohibited unless specifically permitted as set forth below.

(3) Upon satisfaction of all legal and regulatory requirements, the possession, service, sale, consumption or distribution of alcoholic beverages at FAMU is restricted as follows:

(a) No alcoholic beverages may be possessed, served, sold, consumed or distributed at the University except the following FAMU Designated Areas: President’s Box (Bragg Stadium); Alumni House; Faculty Club House; Center for Viticultural Sciences & Small Fruit Research Center for Water Quality; and Alfred Lawson Multipurpose Teaching Gymnasium.

(b) No individual under the legal drinking age of 21 may serve, sell, purchase, distribute, consume or possess alcohol on FAMU properties or at FAMU sponsored activities or events except to the extent permitted by law or unless specifically engaged in an approved and supervised academic program that does not involve the actual ingestion of alcohol by an individual under the legal drinking age.

(c) Alcoholic beverages must be served by a licensed and insured third party vendor, who is properly trained regarding Florida's underage drinking laws and who has appropriate permits. Alcoholic beverages shall not be served to persons under the legal drinking age.

(d) All members of the FAMU community (trustees, administrators, faculty, staff, students, direct support organizations, vendors and guests) must adhere to all applicable federal or state laws, local ordinances and FAMU regulations and contracts related to the possession, service, sale, consumption or distribution of alcoholic beverages at the FAMU Designated Areas as appropriate. The requisite permit for the sale of alcoholic beverages must be obtained from the Division of Alcoholic Beverages and Tobacco of the State of Florida.

(e) A written document, contract or agreement, facility request form, memorandum or letter describing the type of event, number of attendees and appropriate event controls shall be submitted to the President or President's designee for approval at least two (2) weeks prior to the scheduled date of the event at the FAMU Designated Areas. Approval may be granted based on demonstrated intent to comply with the requirements set forth in this regulation and proof of appropriate licenses and permits for such events. Any event which will have student attendance also will require the approval of the Vice President for Student Affairs and the Dean of Students.

(f) Individuals or groups who are approved to have an event where alcoholic beverages will be served or consumed at the FAMU Designated Areas will be held responsible for the event. Any announcement or advertisement, including but not limited to a flyer, notice, poster, banner, tee-shirt,

promotional item, newspaper and radio advertisement concerning the event shall note the availability of non-alcoholic beverages at the event as prominently as the availability of alcoholic beverages and note that proper identification is required in order to be served or sold alcoholic beverages, and shall not make reference to the amount of alcoholic beverages to be served at the event. Such advertisements or announcements shall not portray the drinking of alcoholic beverages as a solution to personal or academic problems or as necessary to social, professional, political, personal or academic success.

(g) The only alcoholic beverages that may be served, sold, purchased, distributed, consumed or possessed at FAMU are those alcoholic beverages served at the activity or event, and the served alcoholic beverages must be consumed within the facility or space designated.

(h) The FAMU Department of Public Safety (Department) must be notified of any and all events involving the possession, service, sale, consumption or distribution of alcoholic beverages at FAMU. The Department will determine if a uniformed member of, or substitute by the Chief, must be present during the event. In such cases, the Department's expense must be paid by the sponsoring individual(s) or group(s) unless waived by the President or President's designee.

(4) Notwithstanding the provisions of this regulation, requests related to the possession, service, sale, consumption or distribution of alcoholic beverages outside of the FAMU Designated Areas must be considered by the FAMU Board of Trustees. Any and all approvals by the FAMU Board of Trustees must be consistent with the requirements set forth in this regulation.

(5) The possession, service, sale, consumption or distribution of alcoholic beverages in the absence of the appropriate approval(s) identified herein is a direct violation of this regulation.

*Specific Authority: Article IX, Section 7(c), Florida Constitution, BOG Regulation 1.001.
History: New February 10, 2011.*

Regulations of Florida A&M University



10.103 Non-Discrimination Policy and Discrimination and Harassment Complaint Procedures.

(1) It is the policy of Florida A & M University that each member of the University community be permitted to work or attend class in an environment free from any form of discrimination including race, religion, color, age, handicap, disability, sex, marital status, national origin, veteran status, and sexual harassment, as prohibited by state and federal statutes. Organizations using University facilities, support or services must assure that they do not illegally discriminate in their membership with respect to race, color, religion, age, handicap, disability, sex, marital status, national origin, and veteran status. This commitment applies to all areas affecting students, faculty, administrative and professional (A &P) employees, Executive Service employees, University Support Personnel System (USPS) employees and Other Personal Services (OPS) employees. It is also relevant to the University's selection of contractors, to suppliers of goods and services, and any employment conditions and practices.

(2) Definition of Discrimination and Harassment.

(a) *Discrimination* shall include, but not be limited to:

1. Limiting, segregating or classifying students, employees, applicants for admission, or applicants for employment, in such a way as to deprive individuals of educational or employment opportunities or otherwise adversely affect individuals because of their race, religion, color, age, handicap, disability, sex, marital status, national origin or veteran status;
2. Denying educational or employment opportunities to individuals because of their race, religion, color, age, handicap, disability, sex, marital status, national origin or veteran status;
3. Providing unequal educational or employment opportunities to individuals because of their race, religion, color, age, handicap, disability, sex, marital status, national origin or veteran status;
4. Providing unnecessary separate educational programs or activities for individuals because of their race, religion, color, age, handicap, disability, sex, marital status, national origin or veteran status;
5. Entering into contractual or other arrangements which utilize criteria or

administrative methods which have the effect of subjecting individuals to discrimination or which otherwise adversely affect individuals because of their race, religion, color, age, handicap, disability, sex, marital status, national origin or veteran status;

6. The application of any policy or procedure, or taking of any admission or employment action, that adversely affects a student, employee, applicant for admission, applicant for employment, a group of students, or a group of employees based on race, religion, color, age, handicap, disability, sex, marital status, national origin or veteran status.

(b) *Harassment* shall include, but not be limited to:

1. Any slurs, innuendoes or other verbal or physical conduct reflecting on an individual's race, ethnic background, gender or handicapping condition which has the purpose or effect of creating an intimidating, hostile or offensive educational or work environment; has the purpose or effect of unreasonably interfering with the individual's work or school performance or participation; or otherwise adversely affects an individual's employment or educational opportunities.

2. The denial of or the provision of aid, benefits, grades, rewards, employment, faculty assistance, services, or treatment on the basis of sexual advances or requests for sexual favors.

3. Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational career; submission to or rejection of such conduct is used as a basis for educational or employment decisions affecting the individual; or such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile or offensive working or educational environment.

(3) **Dissemination and Implementation of the Regulation.**

(a) The Office of Equal Opportunity Programs shall disseminate this regulation or portions of it to the University community which shall comply and adhere to its provisions. All units shall also take appropriate action to implement the provisions set forth in this regulation.

(4) **Procedures for Filing a Complaint.**

(a) Any individual who believes that he/she is a victim of discrimination or harassment may seek guidance from the Equal Opportunity Programs (EOP) Officer who has been delegated authority by the President to receive and investigate EEO discrimination and harassment complaints based on a protected class issue. The EOP Officer shall inform prospective complainants of the formal and informal options by which his/her concern can be

addressed and resolved. Issues handled informally will not normally invoke the investigatory procedures set forth in this regulation. Issues handled formally, shall include the full range of processes and reviews that are necessary to ascertain the facts.

(b) A formal complaint shall be filed on the Charge of Discrimination/Harassment Form and submitted to the EOP Officer within 60 calendar days after the alleged occurrence of the discrimination/harassment incident. The form may be obtained from the EOP Office.

(c) No formal action may be undertaken unless and until a formal complaint is filed. This provision shall not limit the University in any way from initiating its own review of the complaint and taking appropriate action should such be deemed warranted under the circumstances presented.

(d) After receiving the signed written complaint, the EOP Officer shall notify, in writing, the complainant and the person against whom the complaint was filed of the allegations; provide the person against whom the complaint was filed an opportunity to respond; conduct a complete investigation; and, determine a resolution to the complaint within thirty (30) working days of receipt of the written complaint.

(e) The complaint will be dismissed if it is determined that the allegations are without merit. If disciplinary action is warranted, the EOP Officer shall prepare written notices to both parties (complainant and person against whom the complaint was filed). The written notice shall include the proposed disciplinary action, the reasons for the disciplinary actions, and the right of the person against whom the complaint has been filed to request, within ten (10) working days of receipt of the proposed disciplinary action, an investigatory interview before a University hearing board.

(f) The University hearing board, when charged to review the complaint, shall file with the President or President's designee their findings and recommendations. The hearing board will notify both parties of its recommendations.

(g) The Complainant or the person against whom the complaint has been filed may upon receipt of the hearing board's decision make an appeal to the President, or the President's designee, for a review of the decision. Any appeals to the President or President's designee must be filed in writing within ten (10) working days of receipt of the hearing board's written decision. Any additional information provided to the President or President's designee can only be provided in conjunction with the written appeal addressed to the President or President's designee. The President or President's designee shall render, within working twenty (20) working days of receipt of the hearing board's recommendation, a final written

decision either dismissing the complaint or taking appropriate disciplinary action. The President or President's designee shall have the right to affirm, modify or reverse any prior decisions.

(5) **Disciplinary Actions.**

(a) Any employee or student of the University who is found to have discriminated against or harassed a student, an employee or an applicant for admission or employment will be subject to counseling or disciplinary action. Disciplinary action may include a written reprimand, probation, suspension, expulsion, or dismissal. The nature of the counseling or disciplinary action shall be guided by the seriousness of the offense.

(b) Any employee in a supervisory capacity who has knowledge of a complaint involving another supervisor, subordinate, employee(s) supervised by another supervisor, or student(s) in the class(es) of another supervisor and who does not take appropriate corrective action or report the matter directly to the President or University EOP Officer will be subject to counseling or disciplinary action. Disciplinary action may include a written reprimand, suspension or dismissal. The nature of the counseling or disciplinary action shall be guided by the seriousness of the offense.

(c) Any employee or student who knowingly files a false complaint of discrimination or harassment or who knowingly provides false testimony under this regulation shall be subject to disciplinary action. Disciplinary action may include a written reprimand, probation, suspension, expulsion or dismissal. The nature of the disciplinary action shall be guided by the seriousness of the offense.

(6) **Retaliation Procedure.**

(a) Complainants who feel that they have been retaliated against for exercising their rights under this regulation shall have the right to file a retaliation complaint with the EOP Officer.

(b) Retaliation complaints shall be handled in the same manner and utilizing the same procedures set forth above in Section 4 of this regulation.

(7) **Election of Remedies.**

(a) The doctrine of election of remedies shall apply to complaints filed pursuant to this regulation. Should a Complainant elect to pursue an available alternative remedy, including the filing of a grievance pursuant to the collective bargaining agreement, the filing of any such grievance shall operate as a waiver of the Complainant's right to file a complaint and

avail the Complainant of the procedures available under this regulation. Should a grievance be filed pursuant to an alternative remedy and subsequent to the filing of a complaint under this regulation but before proceedings under this regulation have been completed, the filing of any such grievance nonetheless will act as a waiver, and proceedings pursuant to this regulation shall be terminated.

(b) The doctrine of election of remedies shall also apply to appeals filed by persons against whom a complaint has been filed. The filing of an appeal pursuant to an alternative remedy by a person against whom a complaint has been filed, including the filing of a grievance under the collective bargaining agreement or the filing of a petition for a hearing pursuant to Section 120.569, F.S., shall operate as a waiver of the right to appeal to the President or President's designee pursuant to this regulation.

Specific Authority 1001.74(4), 1006.60(5), 1012.92(3)FS. Law Implemented 1000.05, 1001.74(10)(a),(19),(20) and (34) FS. History– New 5-6-82, Amended 7-15-87, 6-27-96, 12-1-05, _____.

Regulations of Florida A&M University



10.112 Consensual Relationships.

1. In General

(a) Consensual sexual relationships between supervisors and employee, faculty-student, employee-student, do not violate laws prohibiting sex-based discrimination. However, such relationships are a concern because of the significant risk, ethical and administrative problems that can be posed when there is an institutional power difference between the parties involved, as between a supervisor and employee, employee and student, faculty and student, senior faculty and junior faculty, mentor and trainee, coach and athlete or academic advisor or counselor and advisee or counselee, and the individuals who supervise the day-to-day living environment and student residents. Because of the conflict or the potential for conflict of interest, exploitation, favoritism, and bias, such relationships may undermine the real or perceived integrity of the supervision, education and evaluation provided. They can lead to a complaint of sexual harassment when the student or employee feels that she or he has been exploited; thus being less consensual than the individual whose position confers power or authority believes. As a matter of sound judgment and professional ethics, all employees have a responsibility to avoid any apparent or actual conflict of interest between their professional responsibilities and personal relationships with students or other employees.

(b) As to students, the integrity of the teacher-student relationship is the foundation of the University's educational mission. This relationship vests considerable trust in the teacher, who, in turn, bears authority and accountability as a mentor, educator and evaluator. The unequal institutional power inherent in this relationship heightens the vulnerability of the student and the potential for coercion. The pedagogical relationship between teacher and student must be protected from influences or activities that can interfere with learning consistent with the goals and ideals of the University. Consequently, the University prohibits a sexual or romantic relationship between a teacher and student, even where

consensual, if the faculty member has direct supervisory or evaluative responsibilities over the student.

(c) Likewise, the University prohibits sexual or romantic relationships between employees and students and between supervisors and their employees.

(d) Through this policy, Florida A & M University asserts its right to protect the integrity of its operations from conflicts of interest, disruptions in its academic and employment environments that can arise from consensual sexual activity involving members of the University community, and to protect persons from the kind of injury that either a subordinate or superior party to such a relationship can suffer. Most of all, this policy seeks to ensure that each member of the Florida A & M University community is treated with dignity and without regard to any factors that are not relevant to the person's work.

(e) For such relationships, recusal is required, the recusing party must also notify his or her supervisor, department chair or dean, so that such chair, dean or supervisor can exercise his or her responsibility to evaluate the adequacy of the alternative supervisory or evaluative arrangements to be put in place.

2. Failure to Comply

A failure to comply with the recusal and notification requirements is a violation of this policy, and therefore grounds for discipline commensurate with the severity of the offense, up to and including termination of employment.

3. Sexual Harassment Complaints

Non-consensual situations or sexual harassment are covered under the University's policy on Sexual Harassment, as provided in Regulation 10.103.

4. Delegation of Authority

The President or the President's designee shall establish further policies and procedures, including such recusal and notification requirements, to implement this policy.

Specific Authority 1001.74(4) FS; Law Implemented 1001.74(19), 1001.75(3) FS; History – New 12-1-05; Amended ____.

FAMU OGC ADVISORIES

- 07-01** **Collection and Disclosure of Social Security Numbers Pursuant to Section 119.071(5)(a), Florida Statutes**
- 11-002** **Contract Procedures**



FLORIDA A & M UNIVERSITY OFFICE OF THE GENERAL COUNSEL ADVISORY

OGC ADVISORY NO. 07-01	INITIAL ISSUANCE DATE: 11/1/07
ATTACHMENT(S): (1) Section 119.071(5)(a), Florida Statutes	REVISION DATE(S):
TO:	Leadership Team, Deans, Directors and Division Heads
FROM:	Avery D. McKnight, General Counsel
SUBJECT:	Collection and Disclosure of Social Security Numbers Pursuant to Section 119.071(5)(a), Florida Statutes

Attached is a copy of Section 119.071(5)(a), Florida Statutes (F.S.), which governs the use and disclosure of social security numbers. Please review the above-cited statutory provision in its entirety and take all appropriate action. Specifically, examine Section 119.071(5)(a)2.a., F.S., which prohibits the collection of social security numbers, except as authorized by law or as imperative for the performance of the agency's duties and responsibilities as prescribed by law.

To the extent any Departments/Areas within the University are collecting social security numbers, such Departments/Areas **must** provide individuals with a statement of the purpose or purposes for which the social security number is being collected and used as set forth in Section 119.071(5)(a)3., F.S. This Office will be available to review such statements as drafted.

Although the University may have a legitimate reason for the **initial collection** of social security numbers, social security numbers should not be used as the primary or sole employee or student identifier. It should be noted that the iRattler System has a component by which alternate employee and student identifiers are assigned. Given that alternate employee and student identifiers are being assigned by the iRattler System, Department/Areas should discontinue the collection of social security numbers for the sole purpose of identification and utilize the alternate employee and student identifiers. Other universities within the State University System have taken similar measures to designate alternative student and employee identifiers.

Please distribute this advisory to the relevant units in your area. If you have any questions, please telephone the Office of the General Counsel at (850) 599-3591.



FLORIDA A&M UNIVERSITY OFFICE OF THE GENERAL COUNSEL ADVISORY

OGC ADVISORY NO. 11-02	INITIAL ISSUANCE DATE: 07/25/11
ATTACHMENT(S): OGC Contract Cover Sheet	REVISION DATE(S):
TO:	University Administrators, Faculty, Staff and Volunteers
FROM:	Avery D. McKnight, General Counsel
SUBJECT:	Contract Procedures

Purpose:

The purpose of this Contract Procedures Advisory (Advisory) is to provide guiding principles and procedures regarding contract review by the Office of the General Counsel (OGC). This Advisory applies to all contracts concerning the Florida A&M University Board of Trustees (FAMU or University) or its resources and includes, but is not limited to, contracts involving payment to or by the University and contracts funded from University sources except University Direct Support Organizations.

Policy:

The University routinely enters into contracts. The OGC reviews contracts to ensure that the legal terms are appropriate and favorable and to protect FAMU's legal and financial interests. Certain contracts are prepared using OGC approved standard forms or templates. If a department uses a standard contract form or template without any modification, the OGC is not required to review and sign the contract. To the extent that there is modification or a nonapproved contract, the OGC must review and approve the document.

Further, FAMU Regulations require that all contracts for commodities and services be submitted to the OGC for review and approval as to form and legality, unless, as noted above, the contract is an approved unmodified template.

Authority to Execute Contracts:

Appropriate authority is essential to FAMU as a public body corporate. All authorities must be expressly granted; implied or apparent authority does not exist. Pursuant to the Florida Constitution, Florida Board of Governors (BOG) and FAMU regulations, the President is the chief executive officer responsible for the operation and administration of the University. The President's authority includes the approval and execution of all contracts, agreements, memoranda of understanding, and other documents legally committing the University on behalf of the FAMU Board of Trustees. Therefore, the President is authorized to sign contracts on behalf of the University in accordance with FAMU regulations. However, the President has delegated to a limited group of senior University administrators (Provost and Vice Presidents) specific written authority to execute contracts, within the limits of their delegation. The list of contract delegations is on the OGC website under the "Delegation of Authority" tab. Delegated authority is only valid within the limits of the express

delegation. Signature authority cannot be sub-delegated.

As expressly delegated, the President, Provost or Vice Presidents must sign all contracts, agreements, memoranda of understanding, and other documents regarding legal assurances, commitments, and obligations on behalf of FAMU. Consequently, University employees must not sign such contracts unless they have been expressly delegated the authority to do so by the President. University personnel must be careful not to misrepresent to a third party that they are in a position to commit the University. Any improper transactions conducted outside a delegated authority or contrary to the state laws or the BOG or FAMU regulations are invalid because the individual signing for the public entity was operating without authority. An employee is subject to personal liability and possible disciplinary action for improperly signing contracts or obligating the University. The President shall sign all contracts in the absence of an express delegation.

Contracts: Definition/Types of Contracts Reviewed

A contract is any agreement between the FAMU and another party creating an obligation to do or refrain from doing a particular thing and which is recognizable at law, regardless of its title as a "contract." Terms synonymous with "contract" include, but is not limited to: "agreement," "letter of agreement," "letter of understanding," "memorandum of understanding/agreement," "operating agreement," "teaming agreement," etc. A contract essentially binds the parties to their agreement. However, the terms "contract" and "agreement" are often used interchangeably.

The elements of a contract include: an offer, acceptance, consideration and mutual assent. There must be a meeting of the minds, i.e. contract terms are to be stated clearly and unambiguously and must contain material terms.

The OGC reviews the following non-exclusive category of contracts: Affiliation Agreements, Construction Contracts; Leases, Athletic Contracts, Service/Commodity Contracts, Research Contracts, Attorney Services, Film Agreements, Information Technology (Software/Hardware) Contracts, Licensing Contracts, Releases/Waivers, Speaker/Artist/Performer Contracts, Facility Use Agreements, Consultant Services Contracts, Sponsorships Contracts, and Media/Publication Contracts.

Procedure:

Forms or templates drafted or approved by the OGC do not require another legal review or approval. However, nonapproved contracts and standard templates, which have been modified, must be forwarded to the OGC prior to execution by either party.

Please allow at least three (3) weeks for the OGC and the signing authorities to review and process all nonstandard contracts and allow at least two (2) weeks for standard contracts. Any revisions made must be incorporated into the contract or initialed as appropriate. If the other party to a contract has questions regarding the changes made by the OGC, the party should direct them to the OGC.

Once the General Counsel's Office has completed its legal review, the contracts are returned to the delivering department for additional processing (e.g. to obtain signatures and execution). Contracts must be completed and fully executed (signed by both parties) prior to providing commodities or performing services. Provide a fully executed copy of the Agreement for the OGC file.

Contracts may be hand delivered, mailed, faxed or emailed to the OGC.

Before forwarding the contract to the OGC for review ensure that:

- the contract OGC cover sheet is completed (see Attachment);

- the document is reviewed thoroughly to ensure that all terms and conditions are clearly stated in the document; and
- to the extent possible, provide an editable version.
- **Note:** Procurement contracts (commodity/service acquisition contracts) must be routed to the OGC from the Purchasing Department.

The following BASIC TERMS AND CONDITIONS must be incorporated in the contract:

- Parties Names (Correct/Legal Name); the University must be identified by its legal name for contracting purposes: “Florida A&M University Board of Trustees” or “Florida A&M University (FAMU), acting for and on behalf of the FAMU Board of Trustees”
- Dates/Term of the contract or Period of Performance;
- The responsibilities and obligations of the parties respectively;
- Payment Terms, if applicable;
- Termination Language/Procedures (e.g., 30 days prior written notice);
- A signature line for the authorized individuals executing the contract; and
- Florida law and jurisdiction.

During the early negotiations phase, please advise the other party that the University cannot accept or agree to the following terms:

- Language that requires FAMU to Indemnify or hold harmless another party.
- Language that requires FAMU to list another entity as an additional insured.
- Confidentiality provisions contrary to Chapter 119, Florida Statutes.
- Alternative Jurisdiction--Governing Law/Venue in another state or county.

Avoid The Common Errors below:

1. **Improper Identification of Parties.** All parties must be clearly identified and the University must be identified by its legal name: “Florida A&M University Board of Trustees” or “Florida A&M University (FAMU), acting for and on behalf of the FAMU Board of Trustees.”
2. **Insufficient Terms.** All terms must be clearly defined. For example, many contracts contain the term "travel expenses." However, absent a definition, this can include the more expensive, first class airfare, which the University never intended. If travel expenses include mileage, define the rate of compensation. There must be a "meeting of the minds" of each party as to the contractual terms.
3. **Fictitious Names.** When a party does business in a name other than its own, it is essential that the name of the party appears as “_____ doing business as (d/b/a) _____ (the fictitious name).” Please check www.sunbiz.org to ensure that the vendor can do business legally in Florida.
4. **Indemnification/Hold Harmless Clauses:** As a state university, FAMU should not indemnify and/or hold harmless other parties. This is comparable to waiving or altering the state’s sovereign immunity. The University cannot alter the state’s sovereign immunity by contract and cannot lend the State’s credit; only the Florida Legislature may do so. Section 768.28, F.S., outlines the extent to which FAMU’s sovereign immunity is waived.
5. **Insurance Clauses:** may require higher coverage limit than is authorized by law. We may

also need additional coverage.

6. **Tax Clauses:** FAMU is exempt from paying state sales and excise taxes.
7. **Penalty for Early Termination:** Do not accept penalties for early termination of contracts.
8. **Contract Renewals.** Please attach the original contract for every contract renewal. **Note: Renewals/Modifications Post-Contract.** No contract may be modified or renewed after its termination date. Please set up an internal mechanism to monitor contract expiration dates. Once a contract is expired, if work continues at an increase in cost, such work is unauthorized and may not be paid.
9. **Marking/Referencing Attachments.** Ensure that contract attachments included and are not misnumbered and/or mislabeled. Please clearly mark and identify additional provisions/riders. Also, reference the attachments, including number of pages, on the front of the attachment.
10. **Numbering Contract Renewals.** Renewal contracts must have the original contract number with a suffix to indicate it is a renewal. Contracts should also be titled as "Amendment," "Renewals," "Addendum," "Modification," etc.
11. **Unilateral Additions.** At no time may a contract be modified without the explicit consent of both parties. Missing paperwork, which is subsequently added, should be approved by the contractor prior to resending the document to the OGC. Do not add terms and conditions to a contract after it is signed, without conferring with all parties.
12. **Initialing of Changes.** All changes, whether written or added on a separate piece of paper, must be initialed by all parties. Please do not use white-out.
13. **Striking Language.** A broad X over inapplicable language may create questions as to what is excluded in a contract. Please draw lines through each and every inapplicable sentence and have all parties initial the change.
14. **Blanks.** Ensure that all blanks are completed and all information is provided before submitting the contract for review.
15. **Bidding Information.** Bidding information must be included as part of the contract, as applicable. Consult with the Purchasing Department.
16. **Sole Source Contracts.** Please provide clear and detailed statements in the certification form on why a contractor is a sole source contract. Consult with the Purchasing Department.
17. **Term of Contract.** Contract, including renewals, should not exceed five (5) years without prior approval from the Purchasing Department or OGC, as applicable.
18. **Mandatory Clauses.** There are mandatory clauses that should be placed contracts.

If your office needs a customized contract, please contact the OGC for assistance.

For further information regarding this Advisory, please contact the Office of the General Counsel.



**FLORIDA A&M UNIVERSITY
OFFICE OF THE GENERAL COUNSEL
CONTRACT REVIEW COVER SHEET**

Date Submitted to OGC: _____ Via: _____

Type of Contract: _____ Attachments: _____

Contracting Party: _____ Contracting Party Contact: _____

Date review/revision (of Contract) needed: _____

Date by which Contract must be signed: _____

Date of Event (if applicable): _____

FAMU Contact: _____ Ext.: _____

Telephone: _____ Email: _____

Dept/Division: _____

Cost (if any): _____

Renewal of an existing contract? _____ If yes, term of original contract _____

Related contracts with this contracting party: _____

By submitting this contract, I am certifying that I have read the contract and that:

- It correctly states my understanding of the business terms with the contracting party.
- There is sufficient funding for this contract and a budget is included, if applicable.
- My concerns about the business terms are noted in comments below or on the contract.
- I do not need to meet with counsel to discuss this contract.

FAMU Contact Signature: _____

Vice President/Dean/Director Signature: _____

Additional Comments/Notes: _____
