

FLORIDA A&M UNIVERSITY BOARD OF TRUSTEES



NOTICE OF PROPOSED NEW REGULATION

DATE: June 4, 2020

REGULATION CHAPTER NO.: Chapter 2

REGULATION CHAPTER TITLE: Student Affairs

REGULATION TITLE AND NUMBER: Due Process, Other Rights and Responsibilities (2.013)

SUMMARY OF REGULATION: This amended regulation clarifies the types of hearings; provides that a student may have one advisor during the conduct proceedings and must notify the University of the advisor's participation at least three business days prior to the meeting or proceeding; and requires the University to provide notice to the alleged victim of their rights as required by Florida Board of Governors Regulation 6.0105. The amended regulation also specifies that the decision of the hearing body or University official constitutes official action and not a recommendation as required by Florida Board of Governors Regulation 6.0105.

AUTHORITY FOR REGULATION: Section 7, Article IX, Florida Constitution and Board of Governors Regulations 1.001 and 6.0105; Sections 1006.60, 1006.61, 1006.62, Florida Statutes.

RESPONSIBLE VICE PRESIDENT/UNIVERSITY OFFICIAL INITIATING THIS REGULATION: William E. Hudson, Jr., Ph.D., Vice President for Student Affairs.

PROCEDURE FOR COMMENTS: Written comments concerning this proposed regulation shall be submitted within 14 days of the date of this notice to the person identified below. The comments must specifically identify the regulation you are commenting on.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION IS: William E. Hudson, Jr., Ph.D., Vice President for Student Affairs, 1700 Lee Hall Drive, 308 FHAC, Tallahassee, Florida 32307-3100, (850) 599-3183 (Telephone), (850) 599-2674 (Fax), William.hudsonjr@famu.edu OR Antoneia Roe, Esq., Assistant Vice President for Student Affairs, 1628 S. Martin Luther King Jr. Blvd., 101 Efferson Student Union, Tallahassee, Florida 32307-3100, (850) 599-3541 (Telephone), (850) 561-2169 (Fax), antoneia.roe@famu.edu.

FULL TEXT OF THE PROPOSED REGULATION: The full text of this amended regulation follows:

**Regulations 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 purported violations of the Student Code of Conduct. Applicable definitions are found in Florida A&M University (“University”) Regulation 2.012, Student Code of Conduct. All definitions not included herein or in [University](#) Regulation 2.012, are in accordance with definitions found in the Merriam-Webster’s dictionary located in the Office of Student Conduct and Conflict Resolution. Due process as applied by the University and its schools, institutes, and colleges shall include, as a minimum, the following:

(a) **Notice.** The student shall be provided with written notice of the violations against ~~him~~her/them in sufficient detail and in sufficient time to prepare for a hearing or meeting before an appropriate committee, hearing body, or designated University official. This notice shall be presented no less than five (5) business days prior to the hearing or meeting, except in cases of emergency hearings, where the notice will be provided as soon as possible.

(b) **Scheduling of the Emergency and Administrative (non-emergency) Hearings.** The student shall be entitled to a prompt hearing or meeting before an appropriate committee or hearing body, as established by the University. The student is

responsible for ensuring that the University receives the student's written request for any hearing within the allotted times.

1. **Emergency Hearing.** The student shall have five (5) business days from the date of the notice to request, in writing, an emergency hearing solely on the summary suspension/expulsion at which the student may show cause why ~~his or her~~their continued presence on the University eCampus is not a threat pursuant to University Regulation 2.012(19) and/or (20). For emergency hearings, the hearing shall be scheduled within five (5) business days from receipt of student's written request.
2. **Administrative (non-emergency) Hearing.** Pursuant to University Regulation 2.012(22)(b), when a student has been summarily suspended or expelled, the student is provided with ten (10) business days from the date of the notice to request, in writing, an administrative (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 administrative (non-emergency) hearing shall be scheduled within fifteen (15) business days from receipt of the student's written request.
3. **Combined Hearings.** Should a student timely request both an emergency hearing on the summary suspension/expulsion and administrative (non-emergency) hearing on the merits of the case (see University Regulation 2.012(22)(b), Administrative (non-emergency) hearings), the University Conduct Officer, at ~~his/her~~their discretion, may combine the hearings into one proceeding. If the hearings are combined, the timeframes for an emergency hearing shall govern.

4. **Administrative Request to Appear.** If the University Conduct Officer or ~~his/her~~ their designee believes after a review of the purported violations that the information has merit, the student will be issued ~~in writing an~~ written Administrative Request to Appear at an ~~i~~Information ~~b~~Briefing before the University Conduct Officer or ~~his/her~~ their designee. The student is provided ~~four~~ (4) business days from the date of the Administrative Request to Appear to schedule an ~~i~~Information ~~b~~Briefing with the University Conduct Officer. At the ~~i~~Information ~~b~~Briefing, the University Conduct Officer or ~~his /her~~their designee will explain to the student the allegations and elements of due process that will be afforded. The student will be provided with the opportunity to request an administrative hearing or informal disposition of the case, except in cases involving alleged Gender-Based Misconduct.

5. Exceptions to ~~the scheduling of~~ the hearing within the specified ~~numbered~~ of days may occur due to outside factors such as the availability of witnesses or the student conduct panel members. It is the responsibility of the student to ensure that ~~his or her~~their written requests are timely received by the appropriate University official.

(c) **Informal Disposition.** In lieu of a hearing, the student shall have the option to request resolution of the matter by an appropriate official designated by the University. This opportunity will be provided to the student ~~at~~during the ~~administrative request to appear~~Information Briefing. Please refer to University Regulation 2.012(23).

(d) **Disclosure of Information.**

1. In Emergency Hearings and upon the student's written request, the student shall have the opportunity to inspect all of the information that will be presented against the student at least one (1) business day prior to the hearing. The University shall also have the right to inspect any information the student intends to use at the hearing at least one (1) business day prior to the hearing.
 2. In Administrative (non-Emergency) Hearings/Meetings and upon the student's written request, the student shall have the opportunity to inspect all of the information that will be presented against the student. Inspection of the information shall occur at least three (3) business days before the student conduct hearing or meeting. Failure of the student to timely request inspection of the information waives the three (3) business day timeframe in which the University has to comply. Upon waiver, inspection will occur at the University's availability. The University shall also have the right to inspect any information the student intends to use at least three (3) business days before the student conduct hearing or meeting.
 3. If the student fails to notify the University, within the above-allotted times before the hearing, that ~~he or she~~they ~~has~~ have information the student plans ~~on to~~ presenting, and/or fails to allow the University to inspect the information that the student intends to use at the hearing ~~within the allotted times stated above before the hearing,~~ it may be considered a waiver by the student, ~~and as~~ a result, the student might not be able to present ~~his/her~~the information at the hearing.
- (e) **Hearing/Meeting Procedures.** The student may present relevant information on ~~his/her~~their own behalf during the student conduct hearing or meeting. The student

may hear and question adverse witnesses who testify at the hearing or meeting. The student shall not be forced to present testimony, which would be self-incriminating.

1. The University is not required to postpone the proceedings pending the outcome of a criminal or other outside proceeding.
2. The University student conduct proceeding is designed to address student behavior; therefore, purported academic dishonesty or violations of the Student Code of Conduct will be addressed independently of any penalty imposed by an external judicial or administrative body.

(f) **Advisor.** The student may, at ~~his/her~~their own expense and initiative, have ~~an~~one (1) advisor of the student's choice present during the student conduct process who may be an attorney. The student must provide, in writing, the name, mailing or email address, and phone number of their advisor at least three (3) business days prior to the meeting or hearing date. It is the student's responsibility to make appropriate arrangements for the advisor to attend the student conduct proceedings and the proceedings will not be delayed due to scheduling conflicts of the chosen advisor. The student shall coordinate the scheduling of the hearing and not the advisor.

1. The student is responsible for presenting ~~his or her~~their own information. Advisors are not permitted to speak or participate directly in any proceeding. An advisor may not act as a witness. An advisor's attempt to participate in a proceeding by speaking, presenting information, or otherwise intervening in the proceeding is grounds for the advisor being required to leave. In such event, the proceeding will continue without the advisor present, and the advisor's absence shall not require a delay or affect the validity of the proceedings.

(g) The decision of Responsible or Not Responsible shall be based solely on the information presented during the proceedings.

(h) The decisions of any committee, hearing body, or designated University official, is not a recommendation but is an official action and shall be presented to the student in writing within fourteen (14) business days following the proceeding.

(i) **Appeal.**

1. The student may appeal ~~in writing~~ the decision of any committee, hearing body, or designated University official, in writing, within ten (10) business days from the date of the decision to the Dean of Students, or other designated University official, as appropriate, unless otherwise proscribed.

2. At the conclusion of the appeals process regarding violations of the Student Code of Conduct, the decision of the Dean of Students or other designated University official shall be final and the student's conduct matter shall be disposed through a final order signed by the Vice President for Student Affairs. The final order shall include notice to the student of the right to appeal to an external judicial forum, as appropriate.

3. In cases where the student selects informal disposition of the case, the student is limited to appealing the sanctions.

(j) A student shall remain eligible to attend classes and University activities pending the University's conduct decision, and until any appeal is concluded except as set forth below:

1. In cases where the Vice President for Student Affairs determines that the health, safety, or welfare of the student or a member of the university community is involved, the student may be temporarily suspended or expelled from classes

and/or University activities,

2. In cases where the sanction(s) determined by the University official(s) in the conduct decision include either suspension or expulsion, the student's privileges at the University, including the ability to attend classes and engage in University activities may be revoked.

(k) If a student's privileges are temporarily revoked as described in ~~paragraph (1)(j)2~~ the above ~~paragraph~~, but the student is subsequently found not responsible for the violations, the University will:

1. Correct any record of the change in enrollment status in the student's permanent records and reports in a manner compliant with state and federal laws; and
2. Refund to the student a pro rata portion of any charges for tuition and out-of-state fees, as appropriate, if the temporary revocation or suspension of the student's ability to attend classes lasts for more than ten (10) business days;

(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 6.0105.

(3) Waivers.

(a) In accordance with University Regulation 2.012(22)(a), a student is provided five (5) business days from the date of the notice of suspension or expulsion to request in writing an emergency hearing regarding ~~his or her~~ the student's continued presence on the University's eCampus. If the student does not provide the University with a timely, written request for the emergency hearing, the student will have waived the opportunity for the emergency hearing; therefore, the student shall remain suspended

or expelled until ~~he or she~~ the student requests an administrative hearing on the merits of the alleged violations, the administrative hearing is held, and sanctions are rendered.

(b) Pursuant to University Regulation 2.012(22)(b), when a student has been summarily suspended or expelled, the student is provided with ten (10) business days from the date of the notice to request in writing an administrative (non-emergency) hearing on the merits of the case. Should the student fail to submit a timely, written request for an administrative (non-emergency) hearing, the student would have waived the opportunity to contest the alleged facts. Based on the student's waiver, the University Conduct Officer shall adopt the allegations as the findings, find the student responsible for the alleged violations, and render sanctions.

(c) If the student has been summarily suspended or expelled and fails to timely request, in writing, an Administrative (non-emergency) hearing on the merits of the case, the University Conduct Officer in his/her/their sole discretion may accept a written request from the student to proceed with informal disposition. (Informal disposition is explained in University Regulation 2.012(23).) The written request must be submitted within ten (10) business days *following* the emergency hearing. Should the student fail to submit a timely request for informal disposition, the University Conduct Officer shall adopt the allegations as the findings and find the student responsible for the alleged violations. The student shall not have a right to appeal under this provision.

(4) The Student Code of Conduct supersedes all other means of disciplining or removing students for behaviors prohibited by the University.

(5) **Victim Rights.** A victim is defined as the person harmed by a violation of the Student Code

of Conduct committed by the charged student. The University will provide notice to the alleged victim(s) of their rights at least five (5) business days before any hearing is held.

Victims have the following rights:

- (a) To have an advisor of the purported victim's choice accompany ~~him/her~~ them when presenting information to the hearing body and to any other relevant meetings held throughout the student conduct process;
- (b) To submit an impact statement to the hearing body. This information may be used only in the sanctioning phase of deliberations, if the charged student is found Responsible for the violation(s). If the charged student appeals the decision on the basis of severity of the sanction imposed, ~~he/she~~ the charged student will have the right to view the impact statement upon written request;
- (c) To have unrelated past behavior excluded from the hearing. The University Conduct Officer or chairperson of the hearing body will decide if such information is unrelated;
- (d) To submit questions to the ~~Office of Student Conduct and Conflict Resolution~~ University Conduct Officer at least three (3) business days prior to the hearing. The University Conduct Officer will decide whether the questions are relevant and should be presented at the hearing;
- (e) To have personal property returned ~~to him/her~~ if in the current possession of the University. The determination of when this property may be returned is ~~left to~~ within the discretion of the University Conduct Officer and/or University Department of Campus Safety and Security;
- (f) For Complaints of a ~~g~~ Gender-Based ~~M~~ misconduct violation(s), please refer to additional rights noted in University Regulation 2.012(8)(~~h~~).

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(6) **Basic Rights.** 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/them 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 regulations, policy, and 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 and the Florida Board of Governors;
- (f) The right to participate in dialogue during public discussions that provide a diversity of opinions;
- (g) The ~~right~~/rightability to join University clubs and organizations for educational, political, social, religious, and cultural purposes in accordance with the regulations, policy, and procedures of the University and the respective clubs and organizations;
- (h) The right of due process as outlined above; and

- (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.

(7) **Student Responsibilities.** The 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 a 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 University policies, procedures, and regulations (e.g. the General Catalog of the University and Student Handbook, including the Student Code of Conduct, 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; and
- (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: Article IX, section 7(c), Florida Constitution, sections 1006.60, 1006.61, 1006.62, Florida Statutes, Board of Governors Regulation 6.0105. History New October 1, 1975, Formerly 6C3-2.13, Amended September 14, 1987, Amended June 29, 2006, Amended July 15, 2013; Amended July 7, 2014, Amended June 11, 2016, Amended _____, 2020.