6.0105 Student Conduct and Discipline.

(1) In furtherance of the educational mission of the universities, each university president shall establish university regulations that ensure fairness and due process in student disciplinary proceedings and that guarantee the academic integrity of the university. This regulation applies to all student disciplinary proceedings conducted by a university under ss. 240.132, 240.1325, 240.133, 240.261, or 240.262, F.S.

(2) Each university shall establish a Student Disciplinary System, including a code of conduct, which shall include, at a minimum:

(a) A written description of the rights and responsibilities of students, standards of conduct expected by the university, a list of specific violations, appropriate penalties or sanctions, and procedures for filing complaints and conducting student disciplinary proceedings, which must be consistently administered by the university. An amendment to the list of specific violations in the university’s code of conduct may not be applied retroactively to conduct that occurred before the effective date of the amendment;

(b) Definitions of terms used in the university’s code of conduct, such as "student" and "university community," and a description of the specific locations to which the code of conduct generally applies, except in circumstances of certain off-campus conduct as described in the code of conduct;

(c) University hearing committees, panels, or courts, of which students, appointed by the appropriate university process, comprise at least one-half of the membership;

(d) A written description of the general procedures to be followed in the initial student disciplinary proceeding which shall include a description of each step of the disciplinary process, the services available to the student for preparing his or her defense, and the availability of impartial advisers for a student charged with a violation;

(e) A written procedure for the disposition of emergency cases that involve the health, safety, or welfare of the student or the university community;

(f) Acknowledgement that the burden of proof in student disciplinary proceedings is on the complainant;

(g) Provision for the requirements as to the burden of proof required in student disciplinary proceedings, which shall, at a minimum, be a preponderance of the evidence;

(h) Provision of a time limit for charging a student with a violation of the university's code of conduct, which may not exceed 1 year from the date the violation was committed or discovered, whichever is later. University administrators may exercise professional discretion when applying the time provision to account for circumstances that warrant a waiver of the one-year time limit from the date of discovery. Such circumstances include but are not limited to: stalking, sexual battery, relationship violence, in which the delay may be related to issues of victimization; and

(i) Provision for an accurate and complete record of each student disciplinary proceeding and the preservation thereof.

(3) Each university shall publish the following information on its Internet website and in its student handbook as described in s. 240.2097, F.S.:

(a) University policies implementing ss. 240.132, 240.1325, 240.133, 240.261, and 240.262, F.S., which govern the conduct and discipline of students, including the university’s code of conduct and the procedures for filing complaints and conducting student disciplinary proceedings; and
(b) A description of each step of the disciplinary process, the resources available to a student for preparing his or her defense, and the availability of impartial advisers for a student charged with a violation.

(4) Each university shall comply with s. 228.093, F.S., 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy Act of 1974, as amended, and other requirements of state and federal law relating to the confidentiality of the records and reports of students.

(5) The due process requirements contained in subsection (6), below, are applicable in all cases involving student discipline, including matters concerning academic dishonesty.

(6) Due process as applied by the universities must include, as a minimum, the following:
   
   (a) The student shall be provided with written notice of the charges against him or her in sufficient detail and in sufficient time to prepare for a hearing before an appropriate committee, panel, or court, as established by each university, or before the appropriate university official or officials. The written notice of the charges shall be accompanied by the forms and information described in paragraph (6)(c), below.
   
   (b) Each university shall establish a minimum number of days before the student disciplinary proceeding within which the university must present to the student the written notice of charges, but in no case will this notice be less than 3 regular business days (excluding legal holidays), except in cases of emergency as specified below or unless waived by the student.
   
   (c) The student shall be entitled to a prompt disciplinary proceeding before an appropriate committee, panel, or court, as established by each university, with allowances for delays due to the unavailability of student members serving on such committee, panel or court. Alternatively, the student has the option to waive the notice requirements in paragraph (b) and request adjudication of the matter by an appropriate university official or officials, as designated by the university. The student's right to a student disciplinary proceeding conducted by a committee, panel, or court composed at least one-half of students may only be waived by the student in writing on forms provided by the university which include an explanation of the effect of the waiver.
   
   (d) The student may have an adviser of the student's choice present at the student disciplinary proceeding.
   
   (e) The student and his or her adviser, if any, have the right to inspect all of the information that will be presented against the student at least 3 regular business days (excluding legal holidays) before the student disciplinary proceeding. The University also has the right to review any information the student intends to use at least 3 regular business days (excluding legal holidays) before the student disciplinary proceeding.
   
   (f) The student may present information on his or her own behalf.
   
   (g) The student may hear and question adverse witnesses.
   
   (h) The student may not be forced to present testimony that is self-incriminating; however, the university is not required to postpone student disciplinary proceedings pending the outcome of a criminal prosecution, and a penalty or sanction imposed under the university's code of conduct is in addition to any penalty imposed by the courts for the criminal offense.
(i) The decision of responsible or not responsible on the charges of violating the university's code of conduct must be based solely on the information presented at the student disciplinary proceeding.

(j) The decisions of any university committee, panel, or court, or of any university official or officials, must be presented to the student in writing and within a reasonable period of time after the conclusion of the student disciplinary proceeding, as specifically prescribed by the university's rules.

(k) If a university's policies provide that the decision of a university committee, panel, or court in a student disciplinary proceeding constitutes a recommendation to a university official for official action, then the following apply:

1. With respect to a finding of responsible or not responsible on the charges of violating the university's code of conduct, the university official reviewing the recommendation of the university committee, panel, or court may only:
   a. Accept the recommendation; or
   b. Remand the case for rehearing.

2. With respect to penalties or sanctions, the university official may modify the penalty or sanction recommended by the university committee, panel, or court if the penalty or sanction is inappropriate to the violation.

3. Any differences between the recommendation of the university committee, panel, or court and the university official's final decision, and the reasons therefore, must be based on information from the student disciplinary hearing and presented to the student in writing.

(l) The student may appeal the decision of any university committee, panel, or court, or of any university official or officials, within a period specified by the university, to the president or the president's designee. No person may hear or decide an appeal if he or she participated in the decision to charge the student with the violation or if he or she conducted or participated in the student disciplinary proceeding being reviewed on appeal.

(m) The student's status will remain unchanged pending the university's final decision in the student disciplinary proceeding, except in cases where the president or president's designee determines that the health, safety, or welfare of the student or the university community 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 health, safety, or welfare of the student or the university community. If a student's enrollment status is changed under this paragraph, but the student is subsequently found not responsible for the violation, the university must:

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 fees and charges for tuition, other university specific fees and charges as appropriate due to the temporary change in enrollment status and in a manner consistent with university policies and procedures.

(7) At the conclusion of the appeals process, the decision of the president or the president's designee shall be final.

(8) Each university shall include in its list of violations of the university's code of conduct, a description of those types of violations occurring off-campus for which the student may be subject to discipline. The action of the university with respect to any such off-campus conduct shall be taken independently of any off-campus authority. The disciplinary authority of the university for off-campus conduct will not be exercised to
merely duplicate the penalties imposed under applicable federal, state, and local laws and ordinances. The university may only take disciplinary action against a student for violations committed off campus if at least one of the following applies:

(a) The off-campus conduct is specifically provided by law or the university's code of conduct as subject to university discipline.

(b) The off-campus conduct demonstrates that the continued presence of the student on campus presents a danger to the health, safety, or welfare of the university community; is disruptive to the orderly conduct processes and functions of the university; or is intimidating or threatening to the university community or an individual within the university community.

(c) The off-campus conduct is of such a serious nature that it adversely affects the student's suitability to remain a part of the university community.

(9) If a student charged with an off-campus violation of the university's code of conduct disputes whether the off-campus conduct is subject to discipline under the university's code of conduct, the university committee, panel, or court, or the university official or officials, shall consider the dispute and review the decision to charge the student with a violation.

(10) Each university's code of conduct shall include a description of the rights of alleged victims in the student disciplinary system. The university shall provide notice to the victim of his or her rights at least 3 regular business days (excluding legal holidays) before the student judicial proceeding is conducted. Each university is encouraged to provide support and assistance programs for victims, as appropriate.

(11) Each university shall establish a committee for the periodic evaluation of its student disciplinary system. At least one-half of the committee members shall be students appointed by the student body president.

(12) At least once every 5 years, the committee created by s. 120.81 (1)(g), F.S., shall periodically review and evaluate this rule to determine that it ensures fairness and due process in disciplinary proceedings involving students in the State University System and systemwide accountability for the proper functioning of the student judicial system at each of the universities.

Authority: Section 7(d), Art. IX, Fla. Const., History--New 2-18-85, Formerly 6C-6.105, 4-29-01.