



LEADERSHIP *Legacy &* LOYALTY



Florida A&M University

2014 Management Seminar

LEADERSHIP, LOYALTY AND LEGACY

FRIDAY, FEBRUARY 21, 2014

GRAND BALLROOM

- 8:30 - 9:15 *Sign in/Registration*
Continental Breakfast
- 9:15 - 9:30 *Opening Remarks*

Larry Robinson, Interim President
- 9:30 - 11:00 *Understanding and Engaging Under-Resourced College Students*

Ruby K. Payne, PH.D., Founder of aha!Process, Inc.
- 11:00 - 11:15 *Break*
- 11:15 - 12:00 *Open Meeting Laws and Public Records*

Pat Gleason, Esquire
- 12:00 - 12:30 *Lunch*
- 12:30 - 1:15 *Current Trends in Employment Law*

Robert E. Larkin, III, Partner, Allen, Norton & Blue, P.A.
- 1:15 - 2:00 *Best Practices in Contract & Grant Management and Audit and Compliance Update*

Richard Givens, Vice President, Audit and Compliance
- 2:00 - 2:15 *Break*
- 2:15 - 3:15 *Best Practices to Defend Against the Employed and Litigious*

Pamela Clark, Risk Management Program Specialist
William Woodyard, Esquire
Donald Palm, Associate Vice President, Academic Affairs
- 3:15 - 4:00 *Title IX*

Terence Calloway, Chief, Department of Public Safety
Iris Elijah, Assistant General Counsel
Antoneia Roe, Director of Judicial Affairs

SPECIAL ACKNOWLEDGEMENTS

*Dr. Larry Robinson
Mrs. Ora Mukes*

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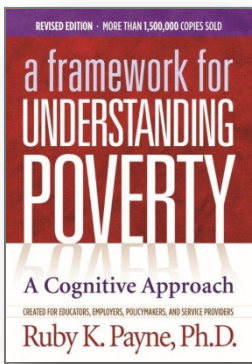
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SEMINAR OUTLINES

1. **Understanding and Engaging Under-Resourced College Students**
2. **Open Meeting Laws and Public Records**
3. **Current Trends in Employment Law**
4. **Best Practices in Contract & Grant Management and Audit and Compliance Updates**
5. **Title IX**



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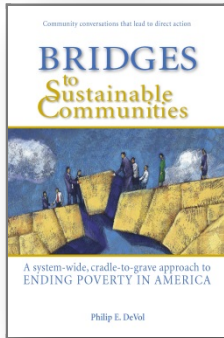
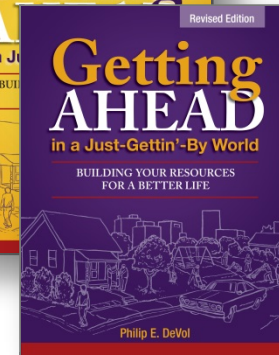
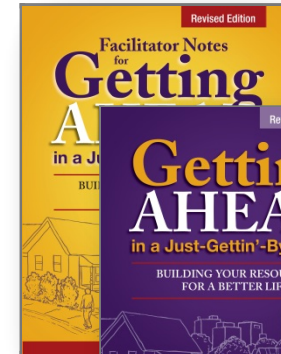
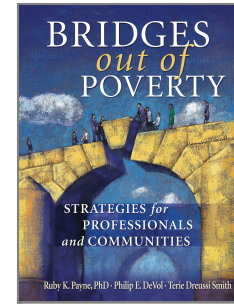


A Framework for Understanding Socio-Economic Differences

Ruby K. Payne, Ph.D.



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Causes of Poverty

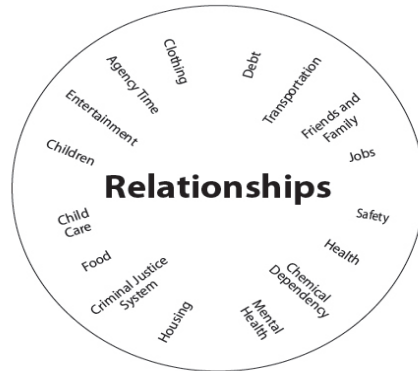
Behaviors of the Individual	Human and Social Capital in the Community	Exploitation	Political/Economic Structures
<p><i>Definition:</i> Research on the choices, behaviors, characteristics, and habits of people in poverty.</p>	<p><i>Definition:</i> Research on the resources available to individuals, communities, and businesses.</p>	<p><i>Definition:</i> Research on how people in poverty are exploited because they are in poverty.</p>	<p><i>Definition:</i> Research on the economic, political, and social policies at the international, national, state, and local levels.</p>
<p><i>Sample topics:</i> Dependence on welfare Morality Crime Single parenthood Breakup of families Intergenerational character traits Work ethic Racism and discrimination Commitment to achievement Spending habits Addiction, mental illness, domestic violence Planning skills Orientation to the future Language experience</p>	<p><i>Sample topics:</i> Intellectual capital Social capital Availability of jobs Availability of well-paying jobs Racism and discrimination Availability and quality of education Adequate skill sets Childcare for working families Decline in neighborhoods Decline in social morality Urbanization Suburbanization of manufacturing Middle-class flight City and regional planning</p>	<p><i>Sample topics:</i> Drug trade Racism and discrimination Payday lenders Sub-prime lenders Lease/purchase outlets Gambling Temp work Sweatshops Sex trade Internet scams</p>	<p><i>Sample topics:</i> Globalization Equity and growth Corporate influence on legislators Declining middle class De-industrialization Job loss Decline of unions Taxation patterns Salary ratio of CEO to line worker Immigration patterns Economic disparity Racism and discrimination</p>

Community Sustainability Grid

	Individual Behavior	Human and Social Capital	Exploitation	Political/Economic Structures
Individual Action				
Agency Action				
Community Action				
Policy				

Mental Model for Poverty

Actual responses from people living in poverty.



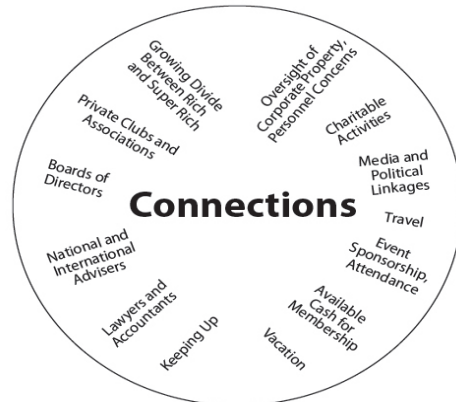
Note. Developed by Phil DeVol, 2006.

Mental Model for Middle Class



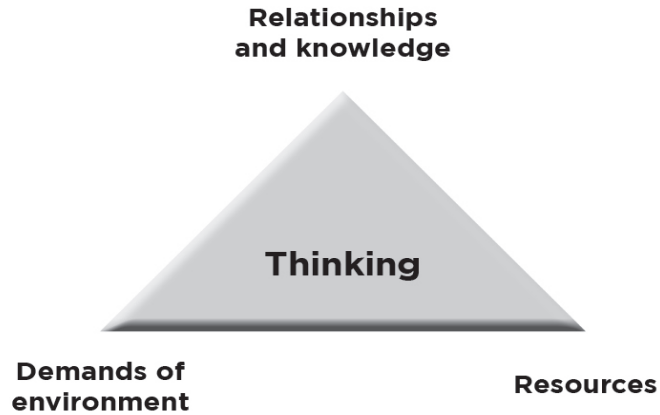
Note. Developed by Phil DeVol, 2006.

Mental Model for Wealth



Note. Developed by Ruby Payne, 2005.

What is this cognitive frame?



Continuum of Resources

Resources help build stability

UNDER-RESOURCED		RESOURCED
Instability/crisis	.....	Stability
Isolation	.....	Exposure
Dysfunction	.....	Functionality
Concrete reality	.....	Abstract, representational reality
Casual, oral language	.....	Written, formal register
Thought polarization	.....	Option seeking
Survival	.....	Abundance
No work/intermittent work	.....	Work/careers/larger cause
Poverty	.....	Wealth
Less educated	.....	More educated

Registers of Language

REGISTER	EXPLANATION
FROZEN	Language that is always the same. For example: Lord's Prayer, wedding vows, etc.
FORMAL	The standard sentence syntax and word choice of work and school. Has complete sentences and specific word choice.
CONSULTATIVE	Formal register when used in conversation. Discourse pattern not quite as direct as formal register.
CASUAL	Language between friends characterized by a 400- to 800-word vocabulary. Word choice general and not specific. Conversation dependent upon non-verbal assists. Sentence syntax often incomplete.
INTIMATE	Language between lovers or twins. Language of sexual harassment.

Note. Adapted from Martin Joos, 1967.

Research About Language in Children, Ages 1 to 4, in Stable Households by Economic Group			
Number of words exposed to	Economic group	Affirmations (strokes)	Prohibitions (discounts)
13 million words	Welfare	1 for every	2
26 million words	Working class	2 for every	1
45 million words	Professional	6 for every	1

Note. From *Meaningful Differences in the Everyday Experience of Young American Children*, by B. Hart and T. R. Risley, 1995.

Resources

FINANCIAL

Having the money to purchase goods and services.

EMOTIONAL

Being able to choose and control emotional responses, particularly to negative situations, without engaging in self-destructive behavior. This is an internal resource and shows itself through stamina, perseverance, and choices.

MENTAL

Having the mental abilities and acquired skills (reading, writing, computing) to deal with daily life.

SPIRITUAL

Believing in divine purpose and guidance.

PHYSICAL

Having physical health and mobility.

SUPPORT SYSTEMS

Having friends, family, and backup resources available to access in times of need. These are external resources.

RELATIONSHIPS/ROLE MODELS

Having frequent access to adult(s) who are appropriate, who are nurturing to the child, and who do not engage in self-destructive behavior.

KNOWLEDGE OF HIDDEN RULES

Knowing the unspoken cues and habits of a group.

FORMAL REGISTER

Having the vocabulary, language ability, and negotiation skills necessary to succeed in school and/or work settings.

Bridges Constructs

1. Use the lens of economic class to understand and take responsibility for your own societal experience while being open to the experiences of others.
2. At the intersections of poverty with other social disparities (racial, gender, physical ability, age, etc.), address inequalities in access to resources.
3. Define poverty as the extent to which a person, institution, or community does without resources.
4. Build relationships of mutual respect.
5. Base plans on the premise that people in all classes, sectors, and political persuasions are problem solvers and need to be at the decision making table.
6. Base plans on accurate mental models of poverty, middle class, and wealth.
7. At the individual, institutional, and community/policy levels: Stabilize the environment, remove barriers to transition, and build resources.
8. Address all causes of poverty (four areas of research).
9. Build long-term support for individual, institutional, and community/policy transition.
10. Build economically sustainable communities in which everyone can live well.

10 Actions to Educate Students

Action	Why?
1 Build relationships of mutual respect.	Motivation for learning.
2 Teach students the hidden rules of school.	Hidden rules break relationships, and without relationships learning is decreased.
3 Analyze the resources of your students, and make interventions based on resources the students have access to.	Interventions do not work if they are based on resources that are not available.
4 Teach formal register, the language of school and work.	To understand written text, which is essential for success at school and work.
5 Teach abstract processes.	All learning involves <i>what</i> , <i>why</i> , and <i>how</i> . The <i>how</i> piece must be direct-taught for tasks to be done.
6 Teach mental models.	Mental models translate between the abstract representational world and the sensory concrete world.
7 Teach students how to plan.	To control impulsivity for task completion.
8 Use the adult voice and reframing to change behaviors.	To maintain relationships and get the appropriate behaviors.
9 Understand the family resources and dynamics.	To better understand the resources the child has access to and better select interventions.
10 Teach how to ask questions.	So students can get past the third-grade reading level—and so they can get inside their head and know what they know and what they don't know.

What Information Does *A Framework for Understanding Poverty* Have That Cannot Be Obtained Easily from Other Sources?

Why Do Critics Love to Hate It and Practitioners Love to Use It?

By Ruby K. Payne, Ph.D.

WHAT IS IT THAT MAKES *A Framework for Understanding Poverty* (Payne, 2005) so widely embraced and used by practitioners? Some critics attribute the popularity to the bias of the readers. But that hardly makes sense because so many educators are the first generation to be college-educated in their families. Many of their parents came from poverty, so the information resonates with them. Therefore, what actually does the work offer that individuals cannot get from other sources?

Most studies of class issues are statistical or descriptive and use one of four frames of reference to identify what causes class. These four frames are:

- Individual choices
- Resources of the community
- Racial/gender exploitation
- Economic/political systems and structures.

Most current studies describe poverty as a systemic problem involving racial/gender exploitation. Yes, this is a significant contributor to poverty. Such a *sole* approach, however, does not answer this question: If the system is to blame, why do some people make it out and others never do? Thirty percent of Americans born in the bottom quintile make it out of that quintile (Isaacs, Sawhill, & Haskins, n.d.). And furthermore, why is it that the first waves of political refugees who have come to United States in abject poverty usually have re-created, within one generation, the asset base they left behind? They make it out because of human capital. Ignorance is just as oppressive as any systemic barrier. Human

capital is developed through education, employment, the intergenerational transfer of knowledge, and social bridging capital. Money makes human capital development easier, but money alone does not develop human capital. Furthermore, any system in the world will oppress you if you are uneducated and unemployed.

This analysis of class is a cognitive approach based upon a 32-year longitudinal study of living next to and in a poverty neighborhood of mostly whites. It examines the thinking that comes from the “situated learning” environment of generational poverty (Lave & Wenger, 1991). It is the accumulation of years of living with and next to this situated learning environment. The book does not assign moral value to the thinking or the behaviors but rather says, These are patterns that you see. These are why individuals use these patterns, and here is what you can do to help those individuals make the transition to the “decontextualized” environment of formal schooling, if they so desire to make that transition.

In the book *Change or Die*, Deutschman (2007) says that for people to change, three things must happen. They must relate, reframe, and repeat. And that is precisely what the Framework book does: It identifies what one must do to develop relationships, what must be reframed to go from poverty to the decontextualized world of formal schooling, and the skills and behaviors that must be repeated in order to do that. And whether one likes it or not, both schools and social agencies have as their bottom line: *change*. That is what they are getting paid to do.

Again, not everyone wants to change. The question is this: Do you have a choice not to live in poverty? If you are not educated or employed, then choice has been taken from you.

So what is it about the book that is so important to practitioners? Why do so many practitioners love to use it?

1. A language to talk about the experience of generational poverty

In order to reframe anything, one must have language to do that. You must have language to talk about your current experience and the experience to which you are moving. Class, just like race, is experienced at a very personal level first and impacts thinking (Lave & Wenger, 1991). The book explains the patterns in the situated learning environment of generational poverty and is very careful to say that not everyone will have those patterns. As one person who grew up in extreme poverty said to me, "Growing up in poverty is like growing up in a foreign country. No one explains to you what you do know, what you do not know, or what you could know."

2. The resource base of themselves or other individuals used to negotiate an environment in order to know which interventions to use

Many professionals think poverty and wealth are related to money. They actually are much more related to a set of resources to which one has access. Interventions work because the resources are there to make them work. If that basic concept is not understood, then any intervention will not be successful. For example, if a parent cannot read (mental resource), then there is no success in asking the parent to read to the child.

3. The basic patterns in the mindset differences between classes so that one can have social bridging capital

In order to relate to someone different than you, there must be enough understanding of that person's reality to have a conversation. The "hidden rules" allow you to understand that there may be different thinking than yours. Members of a group that has the most people (dominant culture), the most money, or the most power tend to believe that their "hidden rules" are the best. In fact, hidden rules are often equated with intelligence. Knowing different sets of hidden rules allows one to negotiate more environments successfully. "Social bridging capital" (Putnam, 2000) are individuals you know who are different than you because they can impact your thinking if there is mutual respect. As we say to audiences, "Social bonding capital helps you get by, social bridging capital helps you get ahead."

4. The key issues in transition

A huge issue for the secondary students and adults with whom we work is transition. If individuals desire to be better educated, make a change in their living situation, end addiction, have better health, or have a better job, then what is it that those individuals need to know in order to do that? We find that they must assess and develop a resource base, develop social bridging relationships, have a language to talk about their own experience and the one they are moving to, and live in a "decontextualized" world of paper/computers. The book provides the understandings and tools to do this.

5. Key issues in the intergenerational transfer of knowledge

Part of human capital is a knowledge base. Knowledge bases are a form of privilege, just as social access and money are. Such knowledge bases also can be passed on intergenerationally. In an Australian study, which followed 8,556 children for 14 years, the researchers found they could predict with reasonable accuracy the verbal reasoning scores of 14-year-olds based on

the maternal grandfather's occupation (Najman et al., 2004).

Part of the intergenerational transfer of knowledge is also vocabulary. Hart and Risley (1995) put tape recorders in homes by economic class and recorded the language that children have access to between the ages of 1 and 3. They found that a 3-year-old in a professional household has a larger vocabulary than an adult in a welfare household. In fact, by age 4, children in welfare households had heard 13 million words compared with 45 million words in a professional household. Vocabulary is key in negotiating situations and environments.

6. The abstract representational skills and procedural planning skills that one has to have in order to go from the situated learning of poverty to the decontextualized environment of formal schooling

Lave & Wenger (1991) indicate that beginning learning is always about a "situated environment" that has "people, relationships, context, tasks and language." They add that when an individual makes the transition to formal schooling, learning becomes decontextualized. The context is taken away, relationships are not considered in the learning, reasoning is not with stories but with laws and symbols (abstract representational systems). The research indicates that to make the transition between those two environments, one needs relationships and support systems.

Furthermore, in a study released in 2008 using EEG scans with poor and middle-class children, the researchers found that the prefrontal cortex of the brain (executive function) in poor children was undeveloped and resembled the brains of adults who have had strokes. The executive function of the brain handles impulse control, planning, and working memory (Kishiyama, Boyce, Jimenez, Perry, & Knight, in press, p. 1). The researchers went on to state that it is remediable, but there must be direct interven-

tion. So teaching planning is critical for success in the decontextualized environment of school because it is not taught in the environment of generational poverty.

The book provides the tools to assist with this transition.

7. The necessity of relationships of mutual respect in learning

All learning is double coded—emotionally and cognitively (Greenspan & Benderly, 1997). The nature of the relationship makes a huge difference in how the information is coded emotionally and therefore received. In a study of 910 first-graders, even when the pedagogy of both teachers was excellent, at-risk students would not learn from a teacher if the student perceived the teacher as being "cold and uncaring" (Goleman, 1995).

In short, *Framework* provides the tools to give choice to people who do not want to live in poverty. It provides the tools for practitioners themselves to relate, reframe, and repeat.

Why do so many critics love to hate it?

In the last five years, critics have attacked the work, and almost all are connected with higher education in some manner (adjunct faculty, assistant professors, et al.). A large part of it appears to have to do with the nature of the role.

First of all, researchers ask questions and must have a clean methodology in order to publish. Researchers need to publish in order to get tenure and to keep their job. You cannot publish if your methodology is not clean, your details are not perfect, all the qualifiers are not included, and your definitions are not exact. Researchers are trained to critique ideas, details, theory, methodology, and findings but not to assess the practicality of the suggestions or situ-

ations. Furthermore, many researchers believe that “researched” information has much more value than information acquired through “practice.” In fact, Bohn (2006) asks, “How had someone so widely hailed in the public schools as an expert on poverty been ignored by national research institutes, higher education, and all the major, published authorities on the subject of poverty?” In other words, the information does not have value because it has not been acknowledged by higher education.

Practitioners, on the other hand, must have solutions to practical problems. Working with people involves a messy social ecology. To keep your job you must handle and solve problems quickly. If you are a teacher in a classroom with 30 students, then details are not the focus, patterns are; methodology is not considered; group well-being ensures safety of individuals; and the focus is on working with each student for high achievement results. Furthermore, there is simply not the time to document all the details or identify the theoretical frames of the situation. Practitioners deal with people and situations and must have a level of understanding about them in order to meet their needs. Change is one of the agendas of practitioners, so efforts focus on that as well.

Why do critics love to hate the work? Quite simply, the work breaks the rules of higher education around the issue of credibility.

1. *It does not document every detail with the source* (Bomer, Dworin, May, & Semingson, 2008).
2. *It does not explain the information with details and qualifiers but rather in patterns or stereotyping* (Bohn, 2006; Bomer et al., 2008; Gorski, 2005).
3. *It does not reference systems issues or exploitation issues or racial or gender information and their roles in poverty. It does not address the macro-level issues* (Bohn, 2006; Bomer et al., 2008; Gorski, 2005).

4. *It does not have a clean methodology. It has a mixed methodology.*
5. *It looks at what students cannot do and what needs to be taught—deficit model* (Bomer et al., 2008; Gorski, 2005).
6. *It can be misused and misunderstood, so therefore it is dangerous* (Bohn, 2006).
7. *The writer self-published. The book is not peer-reviewed.* (It could be argued that selling 1.4 million copies is a form of peer review.)
8. *Race and class are not talked about together. Therefore, the work is racist* (Gorski, 2005). (As an aside, the book does not discuss gender and class either, and poverty tends to be feminized around the world.)

What seems to be an additional outrage in the criticism is the number of books that have been sold; almost every critic mentions it. Rather than asking why so many people would find the information helpful, the critics belittle the readers as not having enough intelligence to know their own biases (Bohn, 2006; Bomer et al., 2008; Gorski, 2005).

In defense of higher education, however, there is not a good research methodology for social ecologies. Neither quantitative nor qualitative methods address social ecologies very well. Norretranders (1991) explains that the research in entropy leads to the understandings of information technology. Perhaps fractal or chaos theory would provide a better theoretical model for researching social ecologies.

Does it work? Does it help make changes? Does it build human capital?

Unequivocally, yes. In some places more so than other places that use the work. Implementation is always messy and uneven. We have collected research against a set of fidelity instruments for more than seven years in K–12 settings; these data have been compiled by Dr. William Swan and peer reviewed (“Scientific Research Based Results,” 2009).

A few key findings were ...

When using the normal distribution to determine expected frequencies and analyzing the observed versus the expected frequencies: In mathematics, there were twice as many positive findings as would be expected in a normal distribution (statistically significant at the .05 level); in literacy/language arts, there were three times as many positive results as would be expected in a normal distribution (statistically significant at the .001 level).

- These results led Swan to conclude, “The large number of statistically significant findings for the Payne School Model strongly supports the efficacy of the Model in improving student achievement in mathematics and English/reading/literacy/language arts.”
- Additionally, an external review of nine research reports on the Payne School Model, led by Dr. C. Thomas Holmes (n.d.), professor at the University of Georgia, was completed. Holmes, along with four other reviewers, concluded that the design employed in these studies was appropriate, the statistical tests were well-chosen and clearly reported, and the author’s conclusions followed directly from the obtained results.

We also have hard data about the impact on adults as well. Using *Getting Ahead in a Just-Gettin’-By World* by Phil DeVol, using concepts and tools in *Framework*, we are seeing phenomenal results. YWCA National named “Bridges out of Poverty/Getting Ahead” as a model program in December 2008. These are the results that the YWCA of Saint Joseph County, IN, is getting.

Increase in participants:	Positive change in 3 months	Positive changes in 6 months
Income	26%	84%
Education	36%	69%
Employment	32%	63%
Support Systems	13%	84%

Conclusion

The book is about developing human capital through relationships and education at the micro level.

I am baffled why the discussion so often must be polarized; in other words, if one idea is right, then another idea must be wrong. Poverty is multifaceted. In fact, the subject is analogous to the six blind men and the elephant. If we are ever going to successfully address poverty, it will take all the ideas, as well as greater understandings than we have at present.

References

- Bohn, A. (2006). Rethinking schools online: A framework for understanding Ruby Payne. Retrieved April 27, 2009, from www.rethinkingschools.org/archive/21_02/fram212.shtml
- Bomer, R., Dworin, J., May, L., & Semingson, P. (2008). Miseducating teachers about the poor: A critical analysis of Ruby Payne’s claims about poverty. *Teachers College Record*, 110, 2497–2531.
- DeVol, P. E. (2004). *Getting ahead in a just-gettin’-by world: Building your resources for a better life* (2nd ed.). Highlands, TX: aha! Process.
- Deutschman, A. (2007). *Change or die: The three keys to change at work and in life*. New York, NY: HarperCollins.
- Goleman, D. (1995). *Emotional intelligence: Why it can matter more than IQ*. New York, NY: Bantam Books.
- Gorski, P. (2005). *Savage unrealities: Uncovering classism in Ruby Payne’s framework* [Abridged version]. Retrieved April 27, 2009, from http://www.edchange.org/publications/Savage_Unrealities_abridged.pdf
- Greenspan, S. I., & Benderly, B. L. (1997). *The growth of the mind and the endangered origins of intelligence*. Reading, MA: Addison-Wesley.

- Hart, B., & Risley, T. R. (1995). *Meaningful differences in the everyday experience of young American children*. Baltimore: Paul H. Brookes.
- Holmes, C. T. (n.d.). Review of program evaluations. Retrieved April 27, 2009, from http://www.ahaprocess.com/files/R&D_School/ExternalReviewRevised.pdf
- Isaacs, J. B., Sawhill, I. V., & Haskins, R. (n.d.). Getting ahead or losing ground: Economic Mobility in America. Retrieved April 27, 2009, from http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Economic_Mobility/Economic_Mobility_in_America_Full.pdf
- Kishiyama, M. M., Boyce, W. T., Jimenez, A. M., Perry, L. M., & Knight, R. T. (in press). Socio-economic disparities affect prefrontal function in children. *Journal of Cognitive Neuroscience*. Available from <http://www.mitpressjournals.org/doi/abs/10.1162/jocn.2009.21101>
- Lave, J., & Wenger, E. (1991). *Situated learning: Legitimate peripheral participation*. Cambridge, England: Cambridge University Press.
- Najman, J. M., Aird, R., Bor, W., O'Callaghan, M., Williams, G., & Shuttlewood, G. (2004). The generational transmission of socioeconomic inequalities in child cognitive development and emotional health. *Social Science and Medicine*, 58, 1147–1158.
- Norretranders, T. (1991). *The user illusion: Cutting consciousness down to size*. New York, NY: Penguin.
- Payne, R. K. (2005). *A framework for understanding poverty* (4th ed.). Highlands, TX: aha! Process.
- Putnam, R. D. (2000). *Bowling alone: The collapse and revival of American community*. New York, NY: Simon & Schuster.
- Scientific research based results of aha! Process. (2009). Retrieved April 27, 2009, from http://www.ahaprocess.com/School_Programs/Research_&_Development/Scientific_Research.html

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Florida A&M University

2014 Management Seminar

2014 Open Government Overview

Patricia R. Gleason

Special Counsel for Open Government



Office of Attorney General Pam
Bondi

SCOPE OF THE SUNSHINE LAW

- Florida's Government in the Sunshine Law, commonly referred to as the Sunshine Law, provides a right of access to governmental proceedings at both the state and local levels. The law is equally applicable to elected and appointed boards and has been applied to any gathering of two or more members of the same board to discuss some matter which will foreseeably come before that board for action.

SCOPE OF THE SUNSHINE LAW

There are three basic requirements :

- 1) Meetings of public boards or commissions must be open to the public
- 2) Reasonable notice of such meetings must be given
- 3) Minutes of the meetings must be taken, promptly recorded and open to public inspection

SCOPE OF THE SUNSHINE LAW

- Advisory boards created pursuant to law or ordinance or otherwise established by public agencies may be subject to the Sunshine Law, even though their recommendations are not binding upon the agencies that create them.

SCOPE OF THE SUNSHINE LAW

- Neither the Legislature nor the courts are subject to the Sunshine Law. There is a constitutional provision that provides access to legislative meetings but it is not as strict as the Sunshine Law. However, if legislators are appointed to serve on a board subject to the Sunshine Law, the legislator members are subject to the same Sunshine Law requirements as the other board members.

SCOPE OF THE SUNSHINE LAW

- Staff meetings are not normally subject to the Sunshine Law.
- However, staff committees may be subject to the Sunshine Law if they are deemed to be part of the “decision making process” (e.g. the committee is given the authority to screen and reject applicants from further consideration) as opposed to traditional staff functions like fact finding or information gathering.

SCOPE OF THE SUNSHINE LAW

- Only the Legislature can create an exemption to the Sunshine Law (by a 2/3 vote) and allow a board to close a meeting. *Exemptions are narrowly construed.*

SCOPE OF THE SUNSHINE LAW

- Board members may not use electronic communications (i.e. e-mail, text messages, Facebook or the telephone) to conduct a private discussion about board business. Board members may send a “one-way” communication to each other as long as the communication is kept as a public record and there is no response to the communication except at an open public meeting. Accordingly, any “one-way” communications (for example one board member wants to forward an article to the board members for information) should be distributed by the board office so that they can be preserved as public records and ensure that any response to the communication is made only at a public meeting.

SCOPE OF THE SUNSHINE LAW

- While a board member is not prohibited from discussing board business with staff or a non-board member, these individuals cannot be used as a liaison to communicate information between board members.
 - For example, a board member cannot ask staff to poll the other board members to determine their views on a board issue.

BOARD MEETINGS

- Board members are not prohibited from using written ballots to cast a vote as long as the votes are made openly at a public meeting, the name of the person who voted and his or her selection are written on the ballot, and the ballots are maintained and made available for public inspection in accordance with the Public Records Act.

BOARD MEETINGS

- While boards may adopt reasonable rules and policies to ensure orderly conduct of meetings, the Sunshine Law does not allow boards to ban non-disruptive videotaping, tape recording, or photography at public meetings.

BOARD MEETINGS

- Board meetings should be held in buildings that are open to the public. This means that meetings should not be held in private homes.

BOARD MEETINGS

- The phrase “open to the public” means open to all who choose to attend. Boards are not authorized to exclude some members of the public (i.e. employees or vendors) from public meetings.

BOARD MEETINGS

- A 2013 law requires, subject to listed exceptions, that boards provide a reasonable opportunity to be heard before the board takes official action on a proposition.
- This statute, section 286.0114, F.S., took effect on October 1, 2013.

PENALTIES

- Any member of a board or commission or of any state agency or authority of a county, municipal corporation, or political subdivision who *knowingly* violates the Sunshine Law is guilty of a misdemeanor of the second degree. An unintentional violation may be prosecuted as a noncriminal infraction resulting in a civil penalty up to \$500.

PENALTIES

- The Sunshine Law provides that no resolution, rule, regulation or formal action shall be considered binding except as taken or made at an open meeting.

PENALTIES

- Recognizing that the Sunshine Law should be construed so as to frustrate all evasive devices, the courts have held that action taken in violation of the law was void *ab initio*.

PENALTIES

- Where, however, a public board or commission does not merely perfunctorily ratify or ceremoniously accept at a later open meeting those decisions which were made at an earlier secret meeting but rather takes "independent final action in the sunshine," the board's decision may stand.

SCOPE OF THE PUBLIC RECORDS ACT

- Florida's Public Records Act provides a right of access to records of state and local governments as well as to private entities acting on their behalf.
- A right of access is also recognized in Article I, section 24 of the Florida Constitution, which applies to virtually all state and governmental entities including the legislative, executive, and judicial branches of government. The only exceptions are those established by law or by the Constitution.

SCOPE OF THE PUBLIC RECORDS ACT

- Section 119.011(12), Florida Statutes, defines "public records" to include:
 - all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

SCOPE OF THE PUBLIC RECORDS ACT

- The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge.

SCOPE OF THE PUBLIC RECORDS ACT

- Only the Legislature (by a 2/3 vote) may create an exemption from the public access requirements in the Public Records Act. There are over 1000 exemptions.

ELECTRONIC RECORDS

- Email messages and texts made or received by public officers or employees in connection with official business are public records and subject to disclosure in the absence of a statutory exemption.
- The Attorney General has advised that materials placed on an agency's Facebook page presumably would be in connection with official business and thus subject to Chapter 119, Florida Statutes.

PROVIDING PUBLIC RECORDS

- Section 119.07(1)(a), Florida Statutes, provides that “[e]very person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of public records or the custodian’s designee.”

PROVIDING PUBLIC RECORDS

- The Public Records Act requires no showing of purpose or "special interest" as a condition of access to public records. Unless authorized by law, an agency may not ask the requestor to produce identification as a condition to providing public records.

PROVIDING PUBLIC RECORDS

- The custodian is not authorized to deny a request to inspect and/or copy public records because of a lack of specifics in the request. A request cannot be denied because it is “overbroad.”

PROVIDING PUBLIC RECORDS

- The Public Records Act does not contain a specific time limit (such as 24 hours or 10 days) for compliance with public records requests. The Florida Supreme Court has stated that the only delay in producing records permitted under Chapter 119, Florida Statutes, is the reasonable time allowed the custodian to retrieve the record and delete those portions of the record the custodian asserts are exempt.

PROVIDING PUBLIC RECORDS

- Nothing in Chapter 119, Florida Statutes, requires that a requesting party make a demand for public records in person or in writing.

PROVIDING PUBLIC RECORDS

- A custodian is not required to give out *information* from the records of his or her office. For example, the Public Records Act does not require a town to produce an employee, such as the financial officer, to answer questions regarding the financial records of the town.
- The Public Records Act requires that an agency produce nonexempt existing records. An agency is not required to create a new record.

PROVIDING PUBLIC RECORDS

- In the absence of express legislative authority, an agency may not refuse to allow public records made or received in the official course of business to be inspected or copied if requested to do so by the maker or sender of the document.

PROVIDING PUBLIC RECORDS

- A custodian of a public record who contends that a record or part of a record is exempt from inspection must state the basis for the exemption, including the statutory citation to the exemption. Additionally, upon request, the custodian must state in writing and with particularity the reasons for the conclusion that the record is exempt from inspection.

PROVIDING PUBLIC RECORDS

- There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Act and confidential. If information is made confidential in the statutes, the information is not subject to inspection by the public and may be released only to those persons and entities designated in the statute. On the other hand, if the records are not made confidential but are simply exempt from the mandatory disclosure requirements in section 119.07(1)(a), Florida Statutes, the agency is not prohibited from disclosing the documents in all circumstances.

PROVIDING PUBLIC RECORDS

- The general rule is that records which would otherwise be public under state law are unavailable for public inspection only when there is an absolute conflict between federal and state law relating to confidentiality of records. If a federal statute requires particular records to be closed and the state is clearly subject to the provisions of such statute, then pursuant to the Supremacy Clause of the United States Constitution, Article VI, section 2, United States Constitution, the state must keep the records confidential.

RETENTION

- All public records must be retained in accordance with retention schedules approved by the Department of State.
- Even exempt records must be retained in accordance with an approved retention schedule.

FEES

- Providing access to public records is a statutory duty imposed by the Legislature upon all record custodians and should not be considered a profit-making or revenue-generating operation. Thus, public information must be open for inspection without charge unless otherwise expressly provided by law.

FEES

- Section 119.07(4)(d), Florida Statutes, authorizes the imposition of a special service charge to inspect or copy public records when the nature or volume of public records to be inspected is such as to require extensive use of information technology resources, or extensive clerical or supervisory assistance, or both. The charge must be reasonable and based on the labor or computer costs actually incurred by the agency.

FEES

- If no fee is prescribed elsewhere in the statutes, section 119.07(4)(a)1., Florida Statutes, authorizes the custodian to charge a fee of up to 15 cents per one-sided copy for copies that are 14 inches by 8 ½ inches or less. An agency may charge no more than an additional 5 cents for each two-sided duplicated copy.

FEES

- The courts have upheld an agency's requirement of a reasonable deposit or advance payment in cases where a large number of records have been requested. In such cases, the fee should be communicated to the requestor before the work is undertaken.

PENALTIES

- A person who has been denied the right to inspect and/or copy public records under the Public Records Act may bring a civil action against the agency to enforce the terms of Ch. 119.

PENALTIES

- In addition to judicial remedies, section 119.10(1)(b), Florida Statutes, provides that a public officer who knowingly violates the provisions of section 119.07(1), Florida Statutes, is subject to suspension and removal or impeachment and is guilty of a misdemeanor of the first degree, punishable by possible criminal penalties of one year in prison, or \$1,000 fine, or both.

ATTORNEY'S FEES

- Section 119.12, Florida Statutes, provides that if a civil action is filed against an agency to enforce the Public Records Act and the court determines that the agency unlawfully refused to permit a public record to be inspected or copied, the court shall assess and award against the agency responsible the reasonable costs of enforcement, including attorney's fees.

ADDITIONAL RESOURCES

- Office of Attorney General Pam Bondi website:
<http://www.myfloridalegal.com>
- Governor Rick Scott website.
<http://www.flgov.com>
- First Amendment Foundation website:
<http://www.floridafaf.org>



Florida A&M University

2014 Management Seminar

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RECENT TRENDS IN EMPLOYMENT CASES

Robert E. Larkin, III
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rlarkin@anblaw.com



Overview

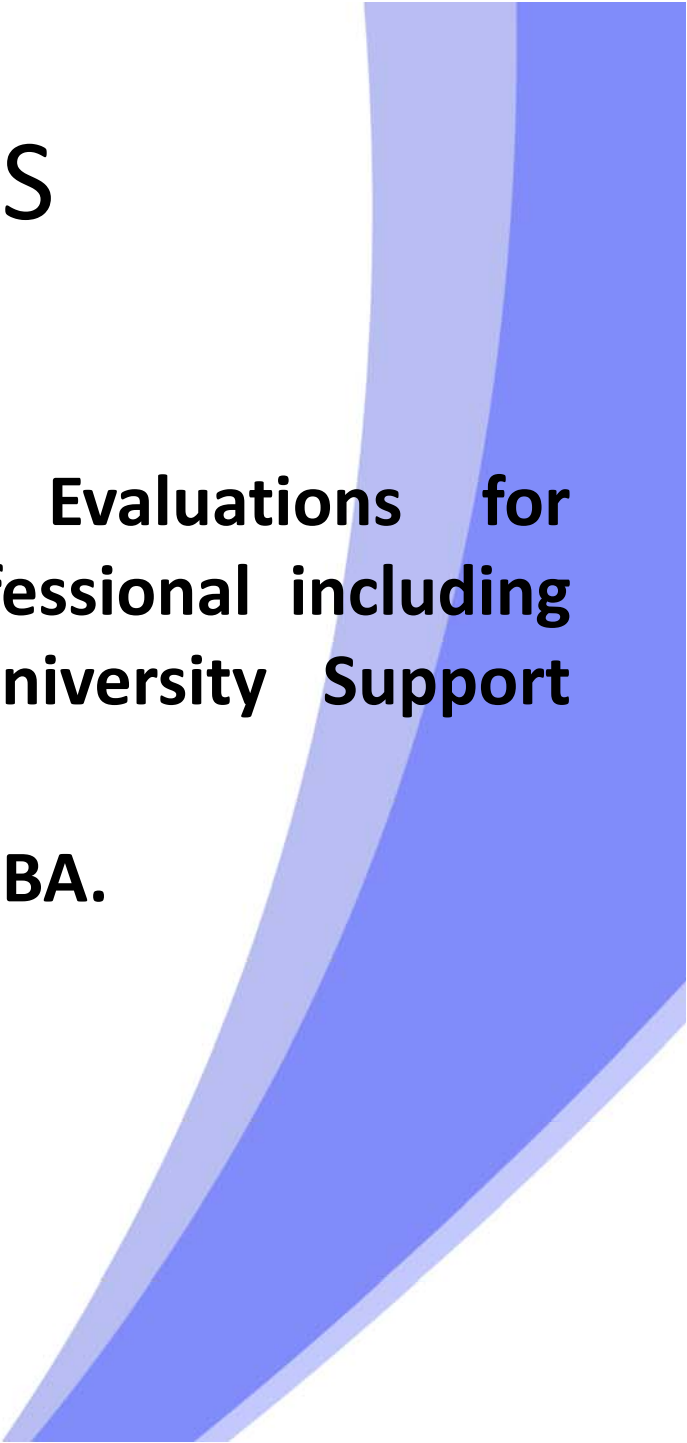
- Importance of Evaluations!
 - Faculty and Tenured Faculty
 - A&P employees
 - USPS employees



Pay Increase for Faculty, Staff, and Graduate Assistants

- Legislative Appropriation 1950A
- Base Salary **lesser** than \$40,000 → \$1,400 Raise
- Base Salary **greater** than \$40,000 → \$1,000 Raise
- Additionally, in June of each year, \$600 bonus available to employees from special Legislative appropriation
- Top 35% of eligible permanent employees
- Baseline requirements – Section 110.1245(2) Florida Statutes
 - Employed prior to July 1 of that year
 - Employed for 6 consecutive months
 - No sustained disciplinary actions in past year

EVALUATIONS

- **SOURCES OF AUTHORITY:**
 - **University Regulation 10.119 Evaluations for Faculty, Administrative and Professional including the Executive, Service, and University Support Personnel System Employees.**
 - **Articles 10 and 15 of the Faculty CBA.**
 - **Article 14 of AFSCME CBA.**
- 

PERFORMANCE EVALUATIONS

- **GENERAL RULES:**

- Identify employee's strengths and weaknesses;
- Use Objective performance criteria.
- Evaluate all 12 months (or relevant time period).
- Do not give inflated performance evaluations – take your time, these documents are critical to you, the employee and to the University.
- Provide realistic and candid evaluations.
- Be objective and consistent – review prior evaluations!

FACULTY EVALUATIONS

- PURPOSE: to assess and communicate the nature and extent of an employee's performance of assigned duties as it relates to teaching effectiveness, contribution to the discovery of new knowledge, the development of new educational techniques, service, and other forms of creative activity.

FACULTY EVALUATION RULES

- Faculty SHALL be evaluated at least once annually.
- Faculty SHALL be advised of the academic term during which the evaluation will be made.
- Evaluations MUST be given to the faculty member within 30 days after the end of the academic term which the evaluation is made.
- Faculty member SHALL be offered the opportunity to discuss the evaluation with the evaluator PRIOR to it being finalized and placed in the faculty member's evaluation file.
- The evaluation SHALL be signed and dated by the evaluator.
- Faculty member MAY attach a concise comment to the evaluation.
- Faculty member MAY request, in writing, a meeting with the next higher level administrator to discuss issues of concern not resolved by evaluator.

FACULTY EVALUATIONS

- SOURCES AND METHODS OF EVALUTION:
 - Evaluator may consider information from the immediate supervisor, peers, students, the faculty member/self, other University officials who have responsibility for supervision of the faculty member and individuals to whom the faculty member may be responsible in the course of their assignments.

FACULTY EVALUATIONS

- SOURCES AND METHODS OF EVALUTION:
 - Evaluator may consider information from the immediate supervisor, peers, students, the faculty member/self, other University officials who have responsibility for supervision of the faculty member and individuals to whom the faculty member may be responsible in the course of their assignments.

FACULTY EVALUATIONS

- EVALUATION CRITERIA:

- Teaching effectiveness. Evaluator may consider student exams, syllabi, course materials, lectures, peer evaluations
- Contributions to the discovery of new knowledge or development of techniques: Research, publications and faculty member's productivity.
- Public Service that extends professional or discipline-related contributions to the community.
- Participation in the governance processes of FAMU – committees, councils, boards, agencies, commissions, etc.
- Other assigned duties as reflected in position description.

FACULTY EVALUATIONS

- POST-EVALUATION IMPROVEMENT:

- Upon written request, from any Faculty member seeking improvement, the persons responsible for supervising and evaluating a faculty member shall endeavor to assist the faculty member in correcting any major performance deficiencies reflected in the annual evaluation.
- A faculty member receiving an unsatisfactory evaluation in any area shall be responsible to demonstrate improvement in the area of unsatisfactory

SUSTAINED FACULTY EVALUATIONS

- In addition to the Annual Evaluation:
 - Tenured faculty members shall receive sustained performance evaluations once every seven years following the award of Tenure.
 - Purpose: To document sustained performance during the previous six (6) years of post-tenure assigned duties and to encourage professional growth and development.
 - Faculty members who have received satisfactory annual evaluations for the previous six years shall not be rated below satisfactory in the sustained performance evaluation

TENURED FACULTY EVALUATIONS

- ARTICLE 15 of the Collective Bargaining Agreement.
 - All Tenure earning/eligible faculty members shall be given a copy of the criteria for tenure and shall be apprised in writing once each year of their progress.
 - The appraisal shall be included as a separate component to the annual evaluation.
 - Purpose: To provide assistance and counseling to help qualify for tenure.
 - Faculty member may request, in writing, a meeting with an higher level administrator if their concerns are not resolved by the evaluator.

A&P EVALUATIONS

- University Regulation 10.119(3)
 - All A & P Employees should be evaluated once annually.
 - Good time to review Position Descriptions for accuracy.
 - The A & P employee should have completed a minimum of 6 months of A & P service to be eligible to receive an evaluation.
 - The evaluation shall be considered in making personnel decisions relating to salary, retention and assignment or promotion to other responsibilities.

A&P EVALUATIONS

- University Regulation 10.119(3)
 - If no evaluation is conducted: The employee's rating shall be considered to be satisfactory or the same rating that he or she received during the last evaluation period, whichever is higher.

–This is not helpful.

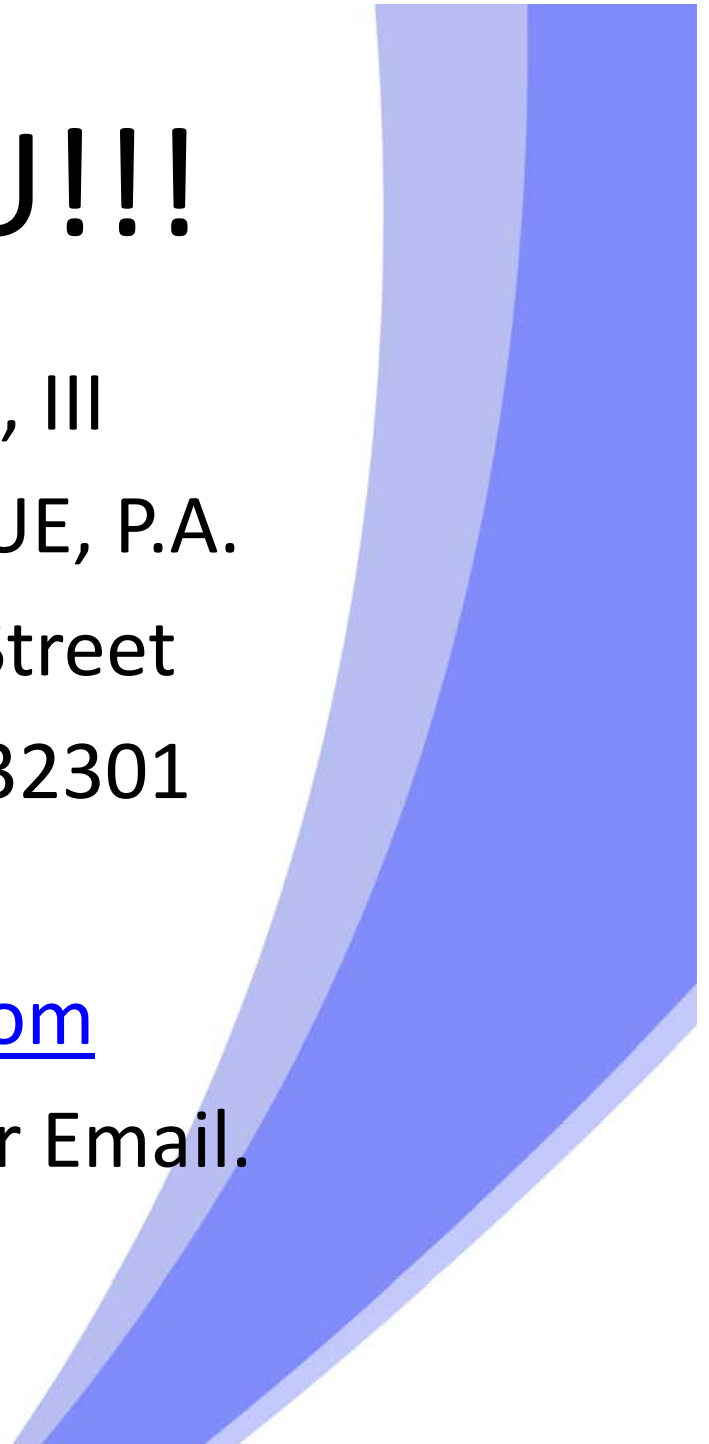
USPS EVALUATIONS

- 10.119(4) and ARTICLE 14 of the Collective Bargaining Agreement.
 - University Regulation 10.119(4)(a) states that evaluations SHALL be done annually by immediate supervisor.
 - PERFORMANCE EVALUATION RATINGS: 1 (does not meet) – 4 (Greatly achieves).
 - The employee SHALL be provided with information regarding the basis of the evaluation and copies of any documents that were considered in completing the evaluation. (You should review Position Description at same time for accuracy).
 - Evaluation SHALL be discussed with employee and given an opportunity to respond.
 - Evaluations are subject to the Grievance Procedure.

THANK YOU!!!

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Any Questions – Call or Email.





Florida A&M University

2014 Management Seminar



Overview of Internal Controls & Operational Audit Update

Florida A&M University
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OVERVIEW OF INTERNAL CONTROLS

Internal Controls

- Internal controls are systems, policies, procedures and practices that are used to **detect** or **prevent** errors of commission and omission.

Internal Controls

- Internal controls provide **reasonable assurance** of adherence to policies and procedures, laws and regulations, safeguarding of assets.

Internal Controls

- Internal controls promote operational efficiency.

Getting the most done

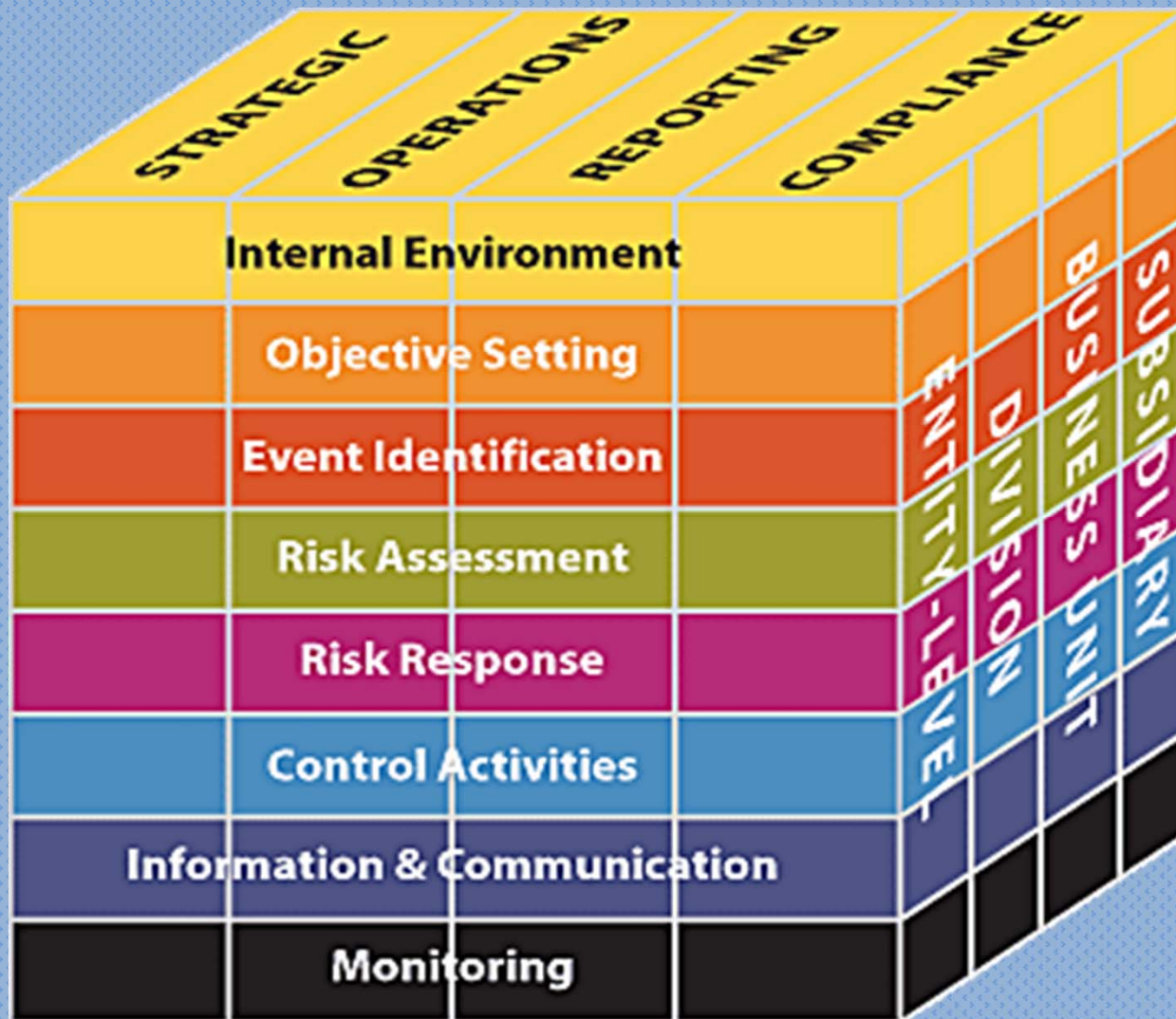
With the best quality

In the least amount of time

At the best price

With the least amount of waste.

Components of Internal Controls

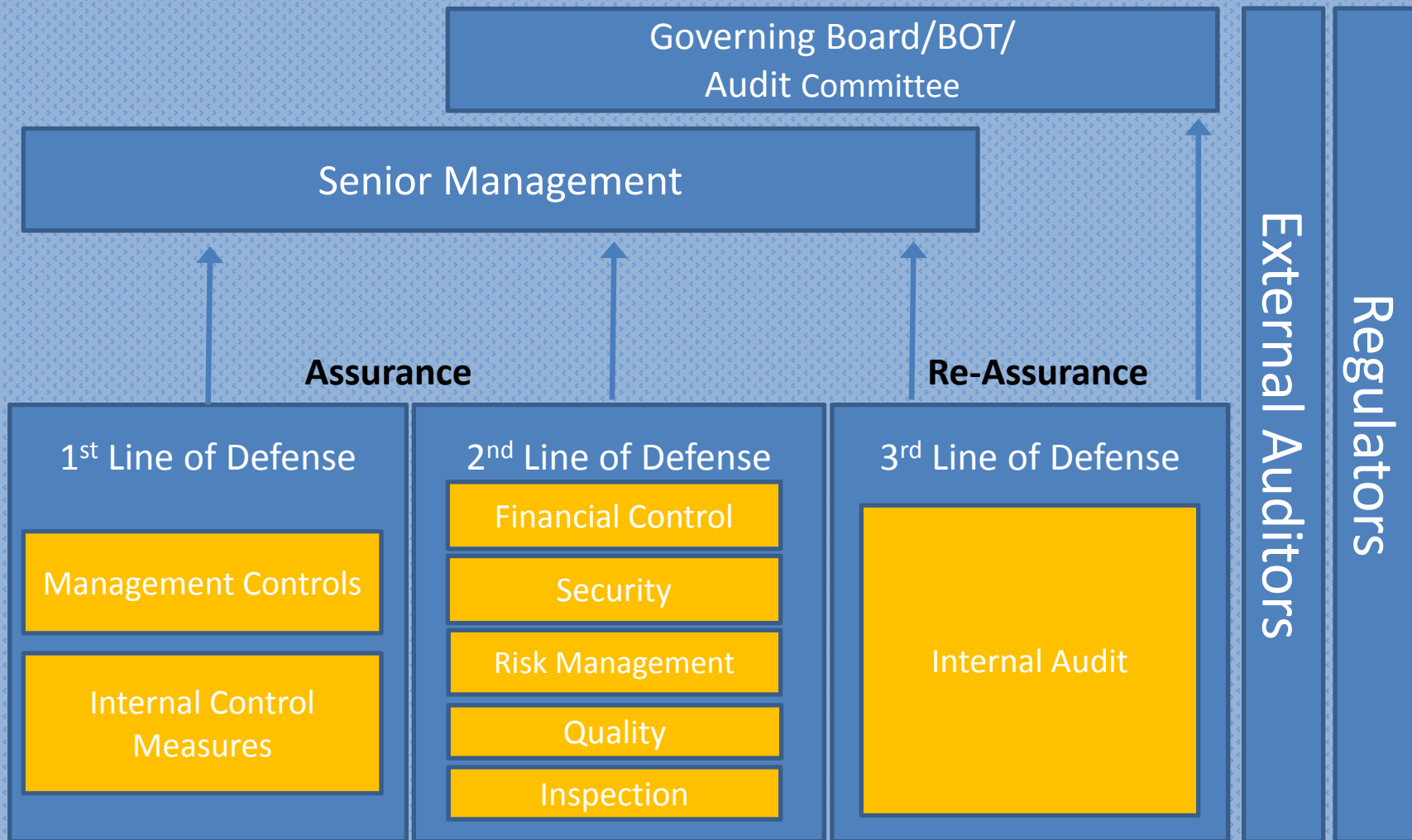


Who is responsible for
internal controls?

Internal Controls

- **All levels of University management** (President, Provosts, Deans, central administrators, college business managers and department heads) are responsible for establishing internal control processes to help the University achieve its mission, to stay on course toward meeting financial goals, to minimize risk, and to more effectively deal with change.

The Three Lines of Defense Model



STATUS OF OPERATIONAL AUDIT

24 Operational Audit Findings

1. • Electronic Fund Transfer

2. • Internal Audit Function

3. • Board Minutes

4. • Textbook Affordability

5. • Identity Theft Prevention Program

6. • Bank Agreement

7. • Pharmaceutical Inventory

8. • Financial Deficits

9. • Florida Residency Status

10. • Tuition Differential Fee

11. • Payroll Processing

12. • Severance Pay

13. • Travel Expenses

14. • Purchasing Cards

15. • Consulting Services

16. • Target Student Assistance Program

17. • Build-Design Services

18. • Construction Contract Management

19. • Subcontractor Selection

20. • Verification of Subcontractor licensure Status

21. • Monitoring Payment Requests

22. • Insurance Coverage

23/24 • Access Privileges/Security Controls

24 Operational Audit Findings

Administrative Management & Board Polices

Finding Name & Number	Issue
1. Electronic Fund Transfer	The board needed to enhance written policies and procedures relating to electronic fund transfers.
2. Internal Audit Function	The University's Division of Audit and Compliance did not provide for a required quality assurance review.
3. Board Minutes	The University needed to improve its procedures to ensure that timely public notice is made for Board and committee meetings and that written minutes of all meetings are prepared and made available for public inspection.
4. Textbook Affordability	The University needed to enhance its textbook affordability monitoring procedures to ensure that textbooks are timely posted on its website in accordance with Florida law.

24 Operational Audit Findings

Administrative Management & Board Polices

Finding Name & Number	Issue
5. Identity Theft Prevention Program	The University needed to improve its identity theft prevention program to enhance compliance with the Fair and Accurate Credit Transaction Act of 2003.

Cash Management

Finding Name & Number	Issue
6. Bank Agreement	The University did not properly amend its bank agreement for changes in personnel.
7. Pharmaceutical Inventory	Record and control procedures related to pharmaceutical inventory needed improvement.

24 Operational Audit Findings

Intercollegiate Athletic Programs

Finding Name & Number	Issue
8. Financial Deficits	The University intercollegiate athletic programs have experienced cash deficits for several years.

Student Tuition & Fees

Finding Name & Number	Issue
9. Florida Residency Status	The University need to enhance its procedures for classifying students as Florida residents for tuition purposes.
10. Tuition Differential Fee	The University needed to enhance its procedures to ensure that tuition differential fees are used in accordance with Florida law, and to ensure that tuition differential fee information reported to the Board of Governors (BOG) is accurate and adequately supported.

24 Operational Audit Findings

Employee Compensation	
Finding Name & Number	Issue
11. Payroll Processing	The University's control related payroll processing needed improvement.
12. Severance Pay	The former President's employment agreement included a severance pay provision that was contrary to Section 215.425, Florida Statutes.
Expenses & Disbursements	
Finding Name & Number	Issue
13. Travel Expenses	The University needed to enhance control over employee travel reimbursements.
14. Purchasing Cards	The University needed to improve controls over its purchasing card program.

24 Operational Audit Findings

Procurement of Goods & Services	
Finding Name & Number	Issue
15. Consulting Services	The university needed to enhance controls over consultant payments.
16. Target Student Assistance Program	The University needed to enhance procedures over monitoring the award and use of Target Student Assistance funds.

24 Operational Audit Findings

Construction Administration	
Finding Name & Number	Issue
17. Build-Design Services	The University needed to establish procedures to ensure finding is approved prior to entering into agreements for design-build service and the design-build form selection process is adequately documented.
18. Construction Contract Management	The University needed to improved its procedures for negotiating and documenting construction-related fees and guaranteed maximum price for construction projects.
19. Subcontractor Selection	The University Procedures for documenting the monitoring of the subcontractor selection process for construction projects needed improvement.

24 Operational Audit Findings

Construction Administration	
Finding Name & Number	Issue
20. Verification of Subcontractor licensure Status	The University needed to enhance its procedures for verifying subcontractors' licensure status.
21. Monitoring Payment Requests	The University needed to enhance its procedures for monitoring construction payment requests.
22. Insurance Coverage	The University needed to implement a policy establishing minimum professional liability insurance requirements for design professionals, and establish monitoring procedures to ensure that construction contractors and architects are properly insured.

24 Operational Audit Findings

Information Technology	
Finding Name & Number	Issue
23. Access Privileges	Some inappropriate or unnecessary information technology (IT) access privileges existed, indicating a need for an improved review of access privileges.
24. Security Controls	University IT security control related to user authentication and data loss prevention needed improvement.

CORRECTIVE ACTION & FOLLOW-UP

Corrective Action

- Leadership established tone at the top
- University wide training
- Implementation of new systems
- Updated policies and procedures
- Established and/or reactivated committees

1. •Electronic Fund Transfer
2. •Internal Audit Function
3. •Board Minutes
4. • Textbook Affordability
5. •Identity Theft Prevention Program
6. •Bank Agreement
7. •Pharmaceutical Inventory
8. • Financial Deficits
9. • Florida Residency Status
10. •Tuition Differential Fee
11. •Payroll Processing
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19. •Subcontractor Selection
20. •Verification of Subcontractor licensure Status
21. •Monitoring Payment Requests
22. •Insurance Coverage
23. •Access Privileges
24. •Security Controls

Follow-Up

Management Responses to Preliminary & Tentative Findings for FY12-13 Operational Audit

Response to Operational Audit Findings

Intercollegiate Athletics Programs		
Finding Name & Number	Issue	Recommendation
1. Financial Deficits	The University intercollegiate athletic programs have experienced cash deficits for several years.	The board should continue to monitor its intercollegiate athletic programs and implement an effective deficit reduction plan to ensure that its intercollegiate athletic programs are self-supporting
University Response: The Board will consider the consultant's report at March 2014 Board of Trustees Meeting. A revised deficit reduction plan will be subsequently prepared for the approval of the Board. The status of the implementation of the deficit reduction plan will be reported to the Board on at least quarterly basis.		

Response to Operational Audit Findings

Administrative Management

Finding Name & Number	Issue	Recommendation
4. Textbook Affordability	The University needed to enhance its textbook affordability monitoring procedures to ensure that textbooks are timely posted on its website in accordance with Florida law.	The University should enhance its monitoring procedures to ensure that textbooks are timely posted on its website in accordance with state law.

University Response:

The University will continue to enhance its monitoring procedures to ensure that textbooks are timely posted on its Web site in accordance with State law. The Provost will coordinate efforts of the Academic Deans, Bookstore and University Registrar to identify and post textbooks timely on the University's Website.

Response to Operational Audit Findings

Student Tuition & Fees		
Finding Name & Number	Issue	Recommendation
9. Florida Residency Status	The University need to enhance its procedures for classifying students as Florida residents for tuition purposes.	If it is the University's intent to continue classifying students who are residents of a Caribbean county as Florida residents for tuition purposes because such students were awarded scholarships from University funds, the Board should seek guidance from the Attorney General as to whether this practice is allowable under Section 1009.21(10)(e), Florida Statutes.
University Response: The University continues to enhance its procedures to ensure accurate classification of students as Florida residents for tuition purposes. The University will investigate and implement the residential tuition rates applicable to these students in accordance with guidance provided from the Attorney General's Office.		

MAINTAINING COMPLIANCE

Elements of Effective Compliance Program

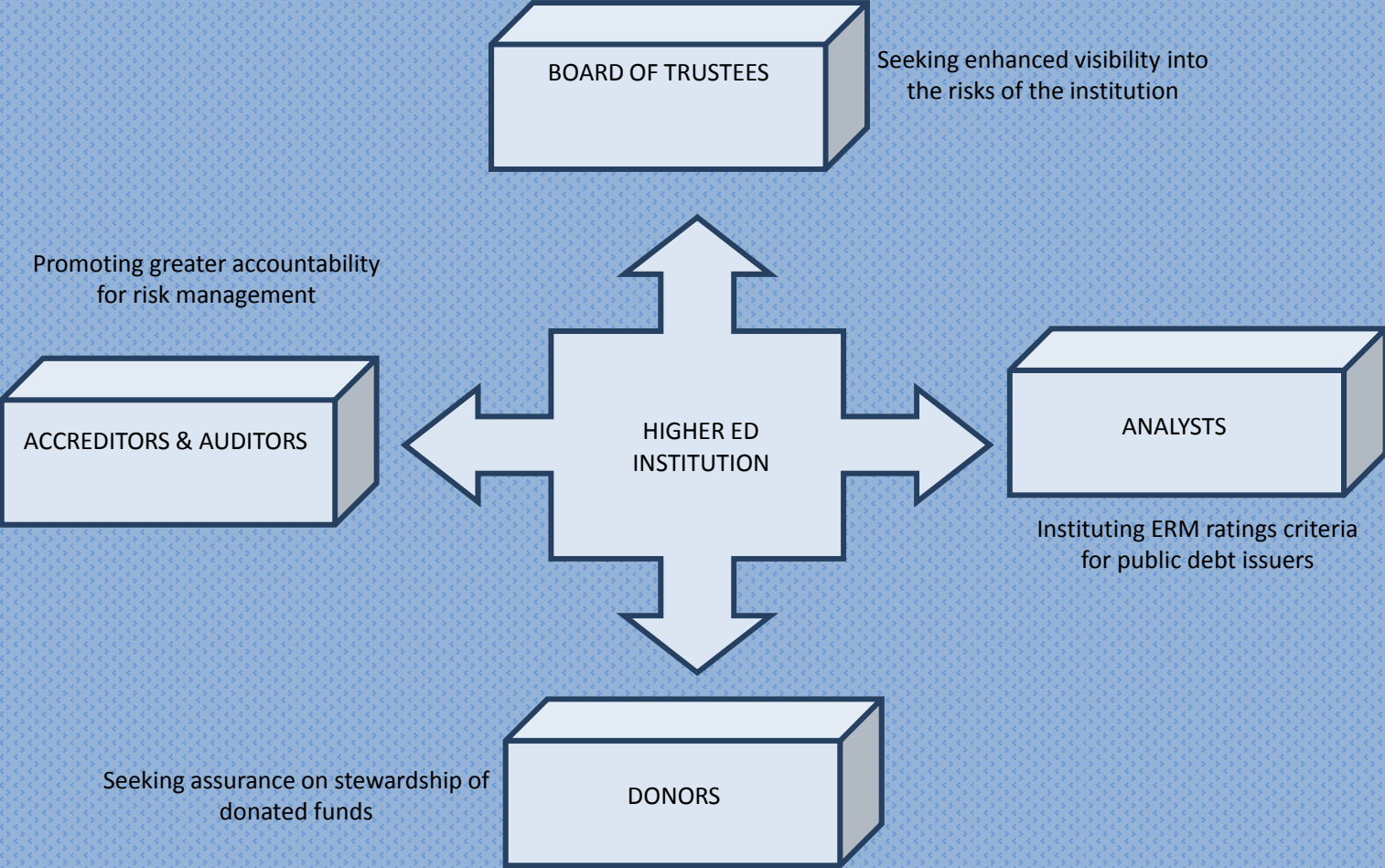
To have an effective compliance program, an organization must establish and maintain an organizational culture that “encourages ethical conduct and a commitment to compliance with the law.”

U.S. Federal Sentencing Guidelines (FSG)
§8B2.1(a)(2)

Why Is It Important?

- Fiduciary Responsibility
- Federal Financial Reporting and Internal Controls Standards
- Legal and Regulatory requirements and organizational policies
- Foster a culture of ethics and compliance that is central to all of the institution operations and activities
- Identify and manage risk that impact institution's reputation

Compliance



Factors Affecting Organizational Context for Compliance

- Organizational Structure
 - Centralized vs. Decentralized
 - Assignment of Authority and Responsibility
- Risk Culture (Appetite and Tolerance)

Elements of Effective Compliance Program

1. Exercise effective oversight and have direct reporting authority to the governing body or appropriate subgroup (e.g. Audit Committee);
2. Written policies and procedures;
3. Training and education
4. Lines of communication
5. Balance of responsibility with authority

Elements of Effective Compliance Program

5. Standards enforced through well-publicized disciplinary guidelines
6. Internal compliance monitoring
7. Response to detected offenses and corrective action plans
8. Periodic risk assessments

Questions & Answers



Florida A&M University

2014 Management Seminar

Best Practices to Defend Against The Employed and Litigious

Overview of the law relative to illegal hiring, promotional, and termination practices.

Discrimination in hiring/promotional and termination practices with emphasis on the following:

- National origin
- Age
- Gender
- Race
- Religion

Uniformity in all hiring/promotional and termination practices.

- Will substantially limit EEOC complaints/lawsuits as well as inconvenience to personnel and staff.
- Will provide explanation of decision making substantially eliminating accusations of unlawful practices.
- Treat all applicants equally. All interview questions must be the same for each applicant. *Chose the most qualified individual without any regard to personal preferences.*
- CAREFULLY DOCUMENT ALL INTERVIEWS AND PROCEEDINGS INVOLVING APPLICANTS. IN THE CASE OF DISCIPLINARY ISSUES DOCUMENTATION OF ALL CONVERSATIONS AND ISSUES IS IMPERATIVE.

Best Practices to Defend Against The Employed and Litigious

The impact of EEOC complaints/lawsuits as a result of improper hiring/ promotional and termination practices.

- **Production of records**
- **Witness interviews**
- **Witness depositions**
- **Witness testimony at trial**
- **Adverse media coverage**

TITLE IX OVERVIEW

Florida A&M University
2014 Management Seminar



What is Title IX?

- No person in the United States shall, on the basis of sex; be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.”

Title IX of the Education Amendments of 1972 to the 1964 Civil Rights Act

Role of University/Title IX Coordinator

- Protect students from sexual harassment, which is a form of sex discrimination
- Sexual violence is a form of sexual harassment pursuant to Title IX.
- Provide immediate action to eliminate the harassment, prevent its recurrence, and address its effects

Role of University/Title IX Coordinator

- Designate, at least, one employee as Title IX Coordinator
- Disseminate a notice of nondiscrimination
- Publish grievance procedures

Role of University/Title IX Coordinator

- Ensure a prompt investigation occurs or victim is notified of investigatory options
- Ongoing training programs
- Provide remedies to the victim

Everyone Plays a Role

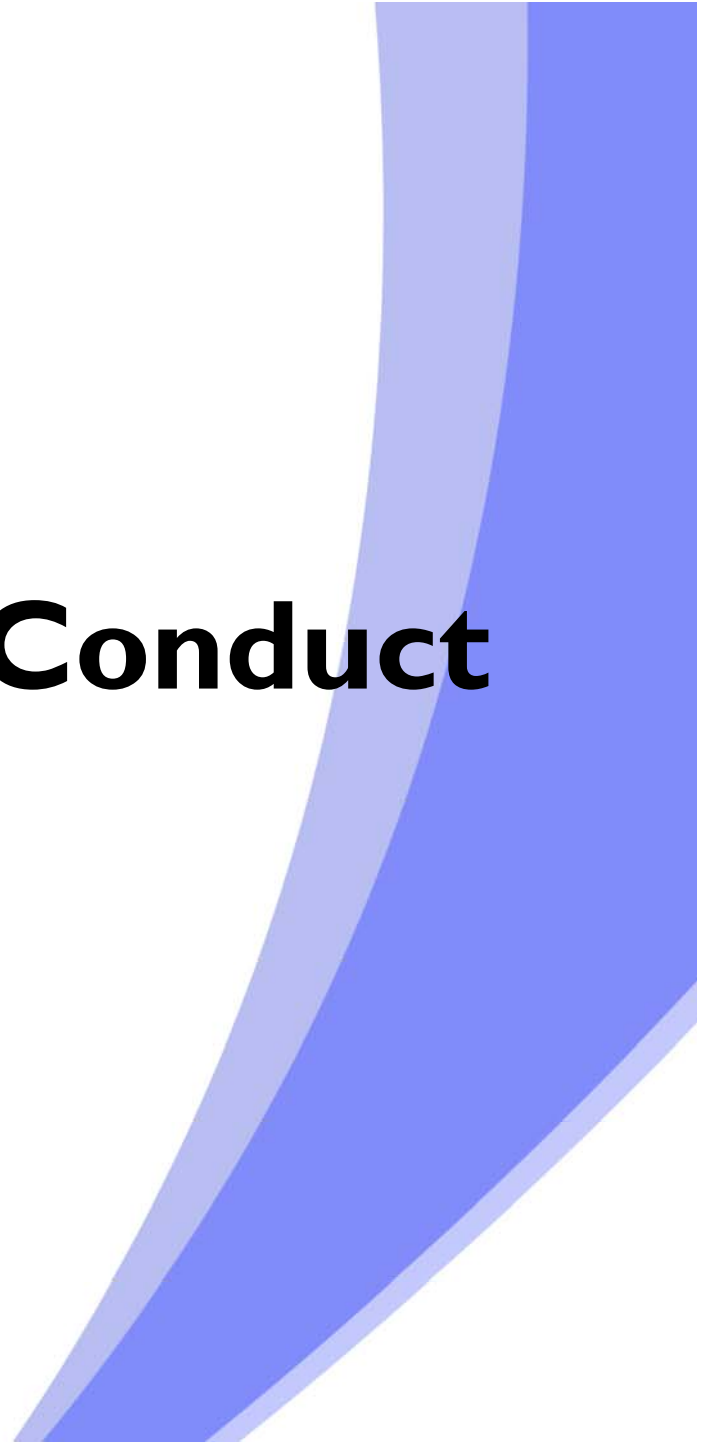
- We must all protect our students
- The University prohibits employees who receive disclosures of sexual violence from withholding the information
 - *RESPOND positively
 - *REPORT
 - *REASSURE

Who is FAMU's Title IX Coordinator

Carrie M. Gavin
674 Gamble Street
Florida A&M University
850-599-3076

Student Code of Conduct

Florida A&M University
2014 Management Seminar



Regulation 2.012(12)(q) – Sexual Misconduct Violation

Any sexual activity that occurs without the clear, knowing and voluntary consent prior to *and* during such sexual activity or that occurs when the victim is unable to give consent.

Consent

- When is an individual unable to give consent?
 - ✓ Under the influence of drugs, alcohol or other substances
 - ✓ Unconscious, asleep, ill or in shock
 - ✓ Under the age of 18
 - ✓ Known by reason of impairment, mental condition, developmental or physical disability
- It is not consent if achieved through force, threat of force or coercion
- Lack of resistance *is not* consent
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity

Types of Sexual Misconduct

- Sexual Harassment
- Non-Consensual Sexual Contact (or attempts)
 - Intentional sexual touching with any object without consent and/or by force
- Non-Consensual Sexual Intercourse (or attempts)
 - Sexual intercourse with any object without consent and/or by force
- Lewd and Lascivious Behavior
 - Unlawful sexual act with minor
- Relationship Violence
 - Includes actual or threatened physical or sexual violence or psychological and emotional abuse
 - Applies to current or former spouse, boyfriend/girlfriend or dating partner

Types of Sexual Misconduct cont'd

- Sexual Exploitation:
 - Invasion of sexual privacy
 - Non-consensual video or audio recording of sexual activity
 - Going beyond boundaries of consent
 - Engaging in voyeurism
 - Knowingly transmitting a sexually transmitted infection or HIV to another student
 - Exposing one's genitals
 - Inducing another to expose their genitals
 - Sexually based stalking and/or bullying
- Other student conduct violations may also fall under Title IX when gender-based

Victim's Rights

- Choose whether or not to file formal complaint
 - Can be filed anonymously
- Pursue criminal charges in addition to administrative remedies
- Attend entire hearing, except deliberation
- Question all witnesses
- Have an advisor of his/her choice present
- Submit victim impact statement to hearing body
- Notice of outcome of disciplinary proceeding, including sanctions
- Appeal outcome
- Disciplinary proceedings closed from public

Victim's Rights cont'd

- University will not require corroboration of victim's testimony
- University prohibits a victim's past sexual history from being admitted in its proceedings
- University will allow victim to testify in separate room from charged student
- University will not allow charged student to question victim directly and vice versa
- Modified living arrangements when the victim and alleged offender reside in same housing complex
- Administrative restraining order
- Reassignment of classes for alleged offender when victim and alleged offender attend same classes
- On-campus counseling services

Disciplinary Process

- Violations should be issued within six months of the date committed or discovered, whichever is later
 - Can be waived in sexual misconduct incidents
- Due Process requirements are outlined in Regulation 2.013
- Mediation *is not* available
- Hearings normally scheduled within 15 business days from date of charge letter
- Hearing Panel consists of three to five members (faculty, staff and students)
- Formal rules of process, procedure, rules of evidence, etc. do not apply
- Burden of proof is preponderance of evidence and on the University
- Hearing is recorded, except deliberations
- Hearing Panel's decision reached by majority vote
 - Chairperson does not vote

Sanctions

- Expulsion
- Suspension
 - Up to five years
- University/Community Service
- Disciplinary Probation
- Restitution
- Counseling Assessment
- Restriction/Loss of Privileges
 - Parking privileges, residence hall restrictions, University computer usage, etc.
- Fine
 - Can be assessed for *each* violation
- Educational Requirements
 - Essay, presentation, attendance at educational program, etc.
- No Contact Order
 - Permanent or temporary
- Any combination of the above

Contact Information

Office of Judicial Affairs

101 Student Union Building

(850) 599-3541 - phone

(850) 561-2169 - fax

antoneia.roe@famu.edu - e-mail

<http://www.famu.edu/index.cfm?judicialAffairs>

Department of Public Safety

Florida A&M University
2014 Management Seminar



Effects of Sexual Misconduct

- A Sexual Assault/Sexual Battery has more potential for creating a lasting impact upon the victim than any other crime.
- The victim of this crime often feels the personal violation and pain suffered, both physical and mental.

Complaint of Sexual Misconduct to Department of Public Safety

- The victim should be advised by the Communications Operator, upon receiving the call, not to change clothes, wash, or use the bathroom.
- The first responsibility of the initial officer is to determine immediate needs.

Complaint of Sexual Misconduct to Department of Public Safety

- Only if it is **absolutely necessary** should the victim be transported prior to the arrival of the investigator.
- The victim should be instructed to take a complete change of clothes to the hospital since the clothing worn at the time of the assault will be retained for evidence processing.

Investigation of Sexual Misconduct

- The initial officer should obtain certain necessary information pertaining to the incident to determine if a crime has been committed and obtain suspect information.
- The crime scene should be preserved and an investigator called.
- The initial officer should determine the location of the actual crime scene. It should also be determined if the victim was in a vehicle with the assailant either prior to or after the assault.
- Efforts should be made immediately to locate and secure these “other” crime scenes. Information about other scenes/vehicles should be located and secured immediately upon arrival.

Investigation of Sexual Misconduct

- While waiting for the arrival of the investigator, if family or friend is not present, the officer should stay with the victim.

Investigation of Sexual Misconduct

- The Investigator's basic responsibilities are:
 - Explain to the victim the investigative procedure, details of the medical exam, etc.
 - Transport the victim to the hospital for medical exam and treatment if necessary (after obtaining, a change of clothing for the victim).
 - Conduct a complete interview with the victim after obtaining preliminary details from initial officer.
 - Perform other related and routine investigative responsibilities.

Investigation of Sexual Misconduct

- Medical treatment should not be delayed by a lengthy interview. After the basic facts have been established, the victim should be transported to the ER.
- After Care--the victim requires a good deal of emotional support after an assault. Investigators shall make the victim aware of special services available in the university community including Rape Crisis, Victim's Advocacy, Mental Health Services and the University Counselors.

Investigation of Sexual Misconduct

- While each sexual battery case will be unique and will require its own special handling, these guidelines given should apply to any case encountered (whether victim is male or female).
- *The concern for the recovery of the victim, emotionally and physically, should always be the key driving force in a sexual battery investigation.*

Contact Information

Terrence Calloway

Chief of Police

Department of Public Safety

Suite 128

2400 Wahnish Way

Email: terrence.calloway@famu.edu

Phone: (850) 599-3526

FAMU BOT POLICIES

- 2006-04** **Purchasing Cards**
- 2006-05** **Motor Pool and Vehicle Use Policy**
- 2008-01** **University Communication/Media Policy**



Florida Agricultural & Mechanical University Board of Trustees Policy

Board of Trustees Policy Number: 2006-04	Date of Adoption: December 7, 2006 Date of Revision: April 22, 2010; June 6, 2013
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Subject	Purchasing Cards
Authority	Section 7(d), Art. IX, Fla. Const.; Board of Governors Regulations 1.001 and 18.001
Applicability	Any purchases made for University related business through the use of Purchasing Cards; any employees granted authorization for use of a Purchasing Card.

I. Policy Statement

Florida A&M University (University) sponsors a Purchasing Card (PCard) program to enable authorized employees to make business-related purchases of goods, supplies and standard (not professional) services paid for directly by the University. The PCard provides employees with a cost-effective and convenient method of purchasing, thereby reducing the volume of individual payments processed by the University to vendors; streamlining the purchase process; reducing the payment processing time and expense; and providing an alternative to personal reimbursement. Thus, the program provides the University with a cost effective, convenient and decentralized method for certain University purchases to occur.

Since the University is liable to the financial institution issuing the PCard for the charges and remits payments directly to the financial institution, all purchases made through the PCard Program must comply with:

- University regulations, policies and procedures and all applicable governmental laws and regulations.
- Any special requirements of projects supported by sponsored funds, if the purchase relates to sponsored funds.
- Any administrative policies and procedures implemented by the Vice President of Administrative and Financial Services.

II. Authority to Purchase

A. Delegation of Authority . A delegated University official is hereby authorized to purchase goods and/or services, directly from vendors, subject to the limitations contained in this policy. All PCard limits, including those for single transactions greater than \$1,000, are established at the time of approval by the PCard Administrator and the Vice President of Administrative and Financial Services.

B. Responsibility . With this delegation of authority comes the responsibility for departments to observe all University regulations, policies and procedures related to purchases and all applicable governmental laws and regulations that apply to commercial transactions via the PCard.

C. Audit . All University transactions, including those using this procedure, are subject to review by the Controller's Office as well as internal and external auditors for compliance with sound business practices, University regulations, policies and procedures, and all applicable governmental laws and regulations.

III. Criteria for Use

A. Basic Criteria . Authorized University officials are eligible to obtain a PCard provided that they:

- receive approval from the appropriate Vice President and the Vice President of Administrative and Financial Services;
- complete a training session;
- sign the necessary agreement; and,
- adhere to this policy and other University PCard Policies and Procedures as implemented by the Vice President of Administrative and Financial Services.

B. Uses Not Allowed . The PCard shall not be used to make purchases in the following circumstances:

- Personal Expenses: Personal expenses are purchases that are not made on behalf of the University or for use by the University.
- Hazardous Materials.
- Cash Advances or cash.
- Cash for returned merchandise.
- Gifts.
- Gift Cards.
- A cardholder shall not split the cost of one single item (whether goods, supplies or services) into multiple payments in order to circumvent the dollar threshold.
- Other uses as determined by the Vice President of Administrative and Financial Services.

IV. Responsibilities

A. Cardholder Responsibilities . An individual who is assigned a PCard has been granted the privilege to spend the University's funds for business-related expenses without a pre-transaction review. This privilege requires a signed

agreement by the cardholder attesting to his/her commitment and responsibility to comply with the terms and conditions of this policy, as the cardholder acts as a purchasing agent for the University and is issued a PCard associated with his or her official University duties.

The PCard cardholder is responsible for:

1. Within seven (7) calendar days of the transaction, provide sufficient documentation including original receipts and explanation of the business purpose of the purchase, in terms easily understood by an internal or external reviewer.
2. Ensuring that any expense paid by the PCard is not otherwise submitted for reimbursement or used for any inappropriate purpose.
3. Keeping his or her PCard confidential; lending the PCard is not allowed.
4. Verifying transactions for all purchases made on the PCard and ensuring transactions are correctly shown on monthly statement.
5. Adhering to all University policies and procedures governing the PCard.
6. Use of PCard for business purposes only in full compliance with University regulations, policies and procedures and all applicable governmental laws and regulations.

B. Controller's Office Responsibilities . To supplement, but not replace, the Cardholders' basic review responsibility, the Controller's Office reviews PCards each billing period. If incorrect or improper charges are found, the Controller's Office shall direct the person(s) responsible for the expenditures to correct the error. If excessive or repeated errors occur, additional training may be required or the PCard may be revoked.

B. Office of Procurement Services . Serves as the PCard Administration Office and administers the program including issuance, suspension and revocation of PCards. Review, on a sample basis, purchases to determine compliance with the University regulations, policies and procedures and all applicable governmental laws and regulations.

V. Penalties for Misuse of the PCard

Cardholders are subject to penalties for misuse of the PCard and/or failure to comply with University regulations, policies and procedures and all applicable governmental laws and regulations. Use of the PCard is a privilege based on trust. When the Cardholder signs the Cardholder Agreement, he/she acknowledges an understanding of the benefits of this privilege and an understanding of the penalties for misuse of the PCard. The failure to use the PCard in compliance with this policy, or the failure to provide sufficient documentation can result in the suspension or revocation of the PCard and possible disciplinary action including, but not limited to, employee termination, as well as the filing of criminal charges.

VI. Related Procedures

The Vice President of Administrative and Financial Services shall create administrative procedures to implement this policy.



Florida Agricultural & Mechanical University Board of Trustees Policy

Board of Trustees Policy Number: 2006-05	Date of Adoption/Revision: September 23, 2010
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Subject	Motor Pool and Vehicle Use Policy
Authority	Sections 1001.74 and 1001.75, Florida Statutes; University Regulations, Chapter 8 (Motor Pool)
Applicability	This policy pertains to all Florida A&M University (FAMU or University) owned and operated motor vehicles, all University Departments which own and operate such motor vehicles, and all University employees operating such University owned and operated vehicles.

I. Policy Statement and Purpose

This policy provides the basic guidelines regarding the acquisition, ownership and use of University owned and operated vehicles. The proper utilization of University vehicles minimizes University transportation costs and liability, and helps ensure the safeguarding of University personnel and resources. This policy seeks to provide for the safe operation of University vehicles as well as their appropriate stewardship.

- A. No University department shall purchase, lease or otherwise acquire any motor vehicle without prior written approval of the University President or the President's designee. This shall not apply to the temporary lease (less than 30 days) of a vehicle for the use of an employee to conduct normal University business where the cost does not require the use of formal competitive solicitation. If a vehicle is to be purchased with grant funds, the approval of the Vice President for Research shall also be obtained. Approval by the President or the President's designee does not relieve the department of the responsibility for complying with University purchasing rules or other laws regarding the acquisition or retention of motor vehicles.
- B. All University-owned or leased motor vehicles shall be part of the University Motor Pool. Such motor vehicles include, but are not limited to; vehicles purchased with education and general (E & G), contracts and grants (C & G) or activities and service (A & S) funds and vehicles that are donated to the University.
- C. Each University-owned or leased motor vehicle shall carry an official state license plate which is issued for each individual motor vehicle. The University logo or insignia shall be appropriately displayed on each vehicle.
- D. University-owned, leased, or rented motor vehicles shall be used only in connection with official University business and activities which officially promote the mission of the University. These motor vehicles shall be driven only by licensed drivers who are designated University Faculty, USPS, A&P, Executive Service and OPS employees. Personal use of University motor vehicles is prohibited.

- E. All authorized operators of University-owned, leased, or rented motor vehicles shall carry a current, valid and appropriate driver's license.
- F. All authorized operators of University-owned, leased, or rented motor vehicles designed to transport passengers shall carry a current, valid and appropriate commercial driver's license. Only University faculty, staff, and OPS employees with a valid Class A, B, or C driver license with ENDORSEMENT 'P', can operate or transport personnel in vans designed to seat sixteen (16) or more passengers.
- G. The appropriate license class and endorsement for the specific type of vehicle shall be obtained from the University Risk Manager.
- H. All fines and penalties resulting from the failure to comply with federal, state and local laws, administrative rules and ordinances by an operator of a University vehicle are the personal responsibility of the vehicle operator. The University will assume no responsibility. Failure to comply with such regulations shall be considered improper use of the vehicle and could subject the operator to disciplinary action, up to and including termination.
- I. Failure to report an accident involving a University Vehicle as set forth herein shall be considered improper use of the vehicle and could subject the employee to disciplinary action, up to and including termination.

II. Definitions

- A. *Administrative Head* - the appropriate Vice President, Associate Vice President, Assistant Vice President, Director, Dean, Chair or Manager.
- B. *Department* - any College, School, department or equivalent unit.
- C. *Motor vehicle* - any automobile, watercraft, truck, golf-carton other vehicles designed for transportation of persons and construction vehicles or farm equipment.
- D. *Authorized University Official* – all University faculty, USPS, A&P, OPS and currently enrolled students who have been authorized to drive a University vehicle for university related business and activities.

III. Responsibilities

- A. **University President/President's Designee** – provide written approval for the acquisition of all University owned or leased motor vehicles; make temporary exceptions to vehicle assignments in the case of extraordinary circumstances; and provide written authorization for persons other than University officials, employees and students to travel in or use University-owned, leased or rented vehicles.
- B. **Plant Operations and Maintenance** – process and maintain all titles, license plates and vehicle numbers for University-owned and leased vehicles; maintain the Special

Assignment Vehicle Certification list; ensure the inspection, service and report of all University-owned and leased vehicles; receive reports of all unsafe vehicles conditions; and manage and assign all University-owned and leased vehicles in accordance with the following:

i. Motor Pool Assignment (Class A)

All University-owned or leased motor vehicles not otherwise assigned shall be considered Motor Pool vehicles. These vehicles shall be centrally controlled by the Office of Construction and Facilities Management and made available for specific trips and returned to the Motor Pool upon completion. Pool vehicles may not be driven to an employee's home, unless the employee is departing or returning from an official trip away from his/her headquarters under circumstances which make it impractical to use other means of transportation or when the employee needs the use of the vehicle after completion of the regular work day to conduct University business on the same day or before normal working hours on the next day.

ii. Limited Assignment (Class B)

The Associate Vice President for Construction and Facilities Management or designee may assign a University-owned, leased, or rented vehicle to a college or department which requires that an employee(s) have full-time use of a vehicle during regular working hours for 15 or more work days per month. The vehicle will remain parked at the assigned office overnight when not in use.

iii. Special Assignment (Class C)

With express written approval from the President or President's designee, the Associate Vice President for Construction and Facilities Management may assign University-owned, leased, or rented vehicles which may be driven to and from an employee's home when used for the purpose or under the conditions stated below:

- Perquisite -An employee is entitled to the use of a vehicle by virtue of his/her position and such is approved and authorized, in writing, as a perquisite by the President or President's designee.
- Law Enforcement -An employee is subject to special emergency calls from his/her residence for law enforcement.
- Emergency Service -An employee is subject to emergency calls from his/her home for the protection of life or property.

- C. **Administrative Head** – properly operate, use and maintain vehicles assigned to the specific department; provide a list of authorized operators to the University Risk Manager and Department of Environmental Health and Safety by June 10, for the upcoming fiscal year; obtain necessary approvals to acquire vehicles; confirm delivery and specification(s) compliance with the University Purchasing Department; verify that title and registration are appropriately processed by the department; obtain appropriate vehicle assignment from the Department of Plant Operations and Maintenance; maintain vehicle use logs; submit current vehicle information; report unsafe conditions

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to the Department of Plant Operations and Maintenance for necessary repairs and recordkeeping purposes; and distribute this Policy to all authorized operators within his/her department. day

- D. ***University Purchasing Office*** – acquire motor vehicles in accordance with applicable University regulations, policies and procedures; upon delivery of motor vehicles, inspect, in coordination with the respective department, vehicles for compliance with specifications and damage; ensure that all required documents are provided to the FAMU Department of Plant Operations and Maintenance.
- E. ***University Property Office*** – properly tag and record vehicles in the University property records; conduct annual physical inventory of all University-owned motor vehicles; provide assistance with the disposal of vehicles as surplus property in accordance with Chapter 273, Florida Statutes; and remove motor vehicles from the University property records.
- F. ***University Risk Manager*** – maintain the official list of designated operators of University-owned, leased or rented motor vehicles with a copy of their respective driver’s license; after the initial receipt of information, obtain verification of the validity of driver’s licenses and special license restrictions from the Florida Department of Highway Safety and Motor Vehicles; and conduct verifications of driver’s licenses and special license restrictions periodically during each fiscal year.
- G. ***Authorized University Official*** – The driver or operator of the University vehicle has ultimate responsibility for seeking and possessing information about driving safety and road regulations. The driver or operator must:
 1. Have a valid driver’s license.
 2. Notify his or her administrator/supervisor of any change in license status.
 3. Obtain the necessary approvals to be an Authorized University Official and complete all necessary paperwork for the use of the University Vehicle
 4. Use University vehicles for official university business and activities only.
 5. Operate a University vehicle in accordance with university regulations and applicable state laws.
 6. Assume responsibility for any and all fines or traffic violations associated with use of a University vehicle.
 7. Never release control of a University vehicle to family members, friends or others.
 8. Immediately report all accidents or vehicle damage incurred while operating a University vehicle.

IV. Vehicle Forms

- A. Service Vehicle Mileage Log (Attachment A);
- B. General Purpose Vehicle Trip Log (Attachment B); and,
- C. Operator Maintenance/Repair Checklist (Attachment C).

V. Accidents Involving University Vehicles

- A. *Accidents on Campus* – If anyone driving a University vehicle is involved in an accident on the University's campus, a report must be made immediately to the University Police.
- B. *Accidents off Campus* – If a University vehicle, including a rented vehicle, is involved in an accident off University property, the report of the accident must be made at once to the local police, sheriff, highway patrol or other jurisdictional division in accordance with law. The driver or operator shall inform Plants Operation and Maintenance, his or her supervisor and the Risk Manager of the accident, as soon as practicable, if the accident occurred in a University owned vehicle.
- C. *Rented Vehicles* - The use of rented vehicles in connection with official university business or activities is subject to the same procedures that apply to University owned vehicles if there is an accident.

VI. Related Procedures

The Associate Vice President for Construction and Facilities Management will create procedures in furtherance of this policy to govern motor pool and vehicle use activities.



Florida Agricultural & Mechanical University Board of Trustees Policy

Board of Trustees Policy Number:
2008-01

Date of Adoption/Revision:
February 12, 2008

Subject	UNIVERSITY COMMUNICATION/MEDIA POLICY
Authority	
Applicability	

I. Policy Statement and Purpose

As a public university supported with tax dollars, Florida A&M University (FAMU) has a responsibility to be open and responsive to requests for information from the public and the news media.

Faculty and staff are encouraged to give interviews to the media when asked, and to provide information on matters within their field of expertise in a timely and courteous manner. The Office of Public Relations serves as a tool to help reporters find the right person to interview for a topic. As a courtesy, however, if faculty/staff agree to participate in an interview, please contact the Office of Public Relations so we may obtain a copy of the article and keep it in our files.

If you are not experienced in handling questions from the media, or have not established a relationship with the journalist requesting information, please feel free to contact the Office of Public Relations for tips on interviewing (i.e. answering questions for print media versus broadcast) or to address any concerns.

Administrators, faculty and staff should consult with the Office of Public Relations or the Office of the General Counsel if they have questions about releasing information that may be of a sensitive nature, (for example the firing of an employee, murder investigation or sexual harassment). If you are faced with a potentially controversial situation, it is crucial that you discuss the matter with the communications staff in the Office of Public Relations before it becomes public. In instances where there is a question about the legality of releasing information, the Office of Public Relations and any other campus units receiving information requests should consult with the University's General Counsel.

a. UNIVERSITY SPOKESPERSON

President is the official spokesperson of the university. The President has designated the executive assistant to the president for Public Relations and Chief Communications Officer

as the official spokesperson in matters of weather emergencies, crisis situations and other occasions. This individual also provides the point of contact between media and university resources and provides referrals to proper sources of information within the university community.

b. PRESS RELEASES

The Office of Public Relations prepares and distributes all press releases to local, regional, and national media except releases regarding sports-related activities. The press releases range from major stories about achievements by faculty, administrators and students to public service announcements. Some stories may be distributed only to the local media depending on the subject and relevance.

c. OFFICE OF SPORTS INFORMATION

The Office of Sports Information is responsible for publicizing information regarding FAMU's intercollegiate varsity athletic teams. The office publishes all athletic publications and news releases, coordinates athletic photography, maintains statistical data on teams, maintains athletic web pages and serves as the department's contact with the NCAA and the Mid-eastern Athletic Conference. The Sports Information Director will ensure compliance with FAMU's graphic identity and technical standards, including athletic marketing and publications.

d. ADVERTISING

The Executive Assistant to the President for Public Relations and Communications or the designee must approve in advance all paid advertising (print, broadcast, billboard and radio) and student recruitment, marketing and fund-raising videos. This does not include paid ads for hiring personnel.

e. ADVERTISEMENTS BY EXTERNAL AGENCIES, BUSINESSES, ORGANIZATION

External agencies, businesses, organizations, etc. must submit a copy of the advertisement to the Office of Public Relations for approval. Authorized advertisement must display the Public Relations stamp of approval before being posted on campus or appearing in University Publications.

f. PHOTOGRAPHIC SERVICES

The university has a full-time photographer and provides photographic services for the campus. Photographic assignments for the University's programs and activities are also the responsibility of the Public Relations Office. University officials and students who desire photographs for university related activities must receive approval from the Public Relations Office. A request for photographic services form must be completed and returned to the Public Relations Office at least three days before the planned activity.

PUBLICATIONS & STYLE POLICY

II. Policy Statement and Purpose

Externally distributed publications must be reviewed by the Office of Publications to guarantee that all publications representing Florida A&M University demonstrate a consistent message and image. The publications office will review materials based upon the established printing guidelines. In general, these guidelines apply to official university Web sites, as well.

Exceptions include publications edited and produced by students, fliers or posters for events funded by student activities fees, internal office correspondence, faculty works, textbooks and materials for classroom use.

A successful identity program is dependent on the cooperation of all members of the University community; therefore, resulting in improved communications.

Official publications that offer pertinent information about Florida A&M University, its purpose, objectives, programs of instruction, public services and information for prospective students, faculty and staff are published through the Publications Office. These publications include: catalogs, schedules, reports, handbooks, manuals, brochures, recruitment materials, directories and other general information documents.

The Office of Publications is the starting point for all projects produced in the university print shop for an external audience. University Publications is charged with interpretation and control of all institutional publications involving the use of the name seal, and/or logos of the University. This responsibility is carried out primarily through a University Identity Program, which sets editorial style, typography and graphic standards, including the use of the FAMU shield and seal for all publications.

g. USE OF SEAL

The official seal of Florida A&M University is used only for formal usage, i.e., for diplomas, invitations to University functions or official University statements. The presence of the seal authenticates publications as an official document from Florida A&M University. The use of the university shield or logo, must be approved by the Office of Publications.

h. USE OF OTHER UNIVERSITY LOGOS

The University shield, "*Excellence With Caring*," institutional logos, "*Rattler*" and "*FAMU*" may be used in publications requiring a symbol of identity, such as catalogs, handbooks, brochures, programs, fliers, invitations, bookmarks, posters and paraphernalia. Generally, one logo per publication is sufficient. However, before deciding to design a publication on your own, consult with the Office of Publications.

i. REQUEST FOR UNIVERSITY LOGOS

Requests for camera-ready copies of the official and other university logos should be

made through the Office of Publications. Scanned or modified versions of Florida A&M University logos are in direct violation of university publications policy.

j. OFFICIAL FAMU COLORS

The official colors of Florida A&M University are orange and green. More specifically, the correct orange to use on any printed material is Pantone Matching System number 151 (PMS 151). The university uses Pantone Matching System number 348 (PMS 348) as its official green. Using the above specifications will insure that the University's colors are consistent.

k. UNIVERSITY LISTIING

The acceptable listings for Florida A&M University are in keeping with the national trend of reference to entities or institutions by acronym, which should not be confused with abbreviations.

Acceptable listings:

1. Florida Agricultural and Mechanical University (formal, used for invitations, letterhead, etc.)
2. Florida A&M University (most frequently used)
3. FAMU
4. A&M (with no space between characters)

Listings to avoid:

1. Florida A and M University
2. Florida Agricultural & Mechanical University
3. Florida A. and M. University
4. F.A.M.U.
5. A. & M.
6. A & M

I. OFF-CAMPUS PRINTING JOBS

Some larger jobs require that printing be done off-campus. The Office of Publications is ultimately responsible for ensuring that all publications are in line with guidelines, therefore, it is wise to consult with our office before seeking outside printing advice.

Outside printing jobs require a completed publication request form, specifications form, cost computation worksheet and required statement of cost and purpose — and other supporting documents from the Office of Publications. These forms must be submitted prior to clearance for printing/production.

It is suggested that a minimum of three price quotes from selected vendors be requested. The vendor with the lowest bid for the job is normally selected for the contract.

To proceed with printing production, a completed and signed requisition should be submitted to the Office of Publications for clearance and approval.

m. LETTERHEAD, ENVELOPES AND BUSINESS CARDS

All Florida A&M University letterhead, envelopes and business cards are standardized to provide consistent institutional identity. Once that identity has been established, the Publications Office is responsible for enforcing the visual identity.

A standard format has been established for University letterhead and envelopes. All units of the University must use only the standard format. The Office of University Publications will help prepare specifications upon request.

i. LETTERHEAD

Letterhead is not to be personalized. Business cards are the appropriate place for such personalized information. The names of departments as they appear on stationery is strictly controlled by the University. Prior approval for changes or additions must be requested through the Office of University Publications.

ii. BUSINESS CARDS

The card includes the individual's name, title, position, business address, telephone, suncom and fax numbers and e-mail address. University personnel wanting to purchase business cards should consult staff in the Office of Publications for assistance.

n. REQUIRED STATEMENTS

All publications produced by FAMU, costing in excess of \$15,000, which are not working documents (documents used in the normal routine of work including test papers, office forms, general correspondence, etc.) must contain the following statement of cost and purpose:

This public document was promulgated at a total cost of \$ _____, or \$ _____ per copy, to (state purpose of the document).

This statement should be displayed in a conspicuous manner, enclosed in a two-point box, and should be the same size as the body type of the publications. Suggestions: inside front cover, inside back cover, first page. Also the document should display on either the inside front cover, the first page, the inside back cover or the outside back cover the following: "FAMU is an Equal Opportunity/Equal Access University."

o. RESTRICTIVE PRINTING

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Devices for use in lotteries, raffles or other regulated games of chance will be produced only after appropriate written authorization has been granted and presented. Copyrighted materials need permission from the copyright holder. Clearance is granted through the Office of Publications.

Applicability	
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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**
- 10.103 Non-Discrimination Policy and Discrimination and Harassment Complaint Procedures**

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.

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2.012 Student Code of Conduct

- (1) The Student Code of Conduct (öCodeö) applies the principles and freedoms found in University Regulation 2.013, Due Process, Other Rights, and Responsibilities, by promoting responsible freedom for all students. This Code seeks to apply the principle of responsible freedom as it guides the conduct of Florida A&M University (öUniversityö) students. The responsibility to know and abide by the Code ultimately lies with the student.
- (2) As members of the University 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 University regulations, policies, and procedures. It is incumbent upon members of the University community to notify the appropriate judicial body or officials of a violation of this Regulation, 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, stakeholders, or other individuals with knowledge, may report violations of the Code, in writing, to the Judicial Office.
- (3) The University has zero tolerance for violation of any provisions of the Code as well as the Anti-Hazing Regulation 2.028 and Alcoholic Beverages Regulation 3.021. öZero toleranceö means that given the factual circumstances of the alleged violation the charged student may be removed from University Housing and receive a penalty up to suspension or expulsion from the University.
- (4) Due process protections in accordance with University Regulation 2.013 will be appropriately accorded the charged student.
- (5) If the Judicial Officer or his/her designee believe after a review of the allegations that the allegations have merit, the student will be issued, in writing, an Administrative Request to

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

- (a) University disciplinary proceedings may be instituted against a student charged with a violation of the law that is also a violation of the Code. The University reserves the right to proceed under the Code with a hearing and the possible imposition of a sanction prior to, concurrent with, or subsequent to civil litigation, criminal arrest, and/or criminal prosecution.
 - (b) Normally, the University will proceed with an alleged violation of the Code prior to any final disposition of the Courts.
 - (c) Determinations made or sanctions imposed under the Code shall not be subject to change because criminal or civil charges arising out of the same facts giving rise to violation of University rules and regulations were dismissed, reduced, or resolved in favor of or against the charged student.
 - (d) Any admission of guilt, responsibility or statement against the student's interest made by a student at off-campus proceedings shall be conclusive for University purposes.
 - (e) A verdict of guilty, a plea of guilty, a plea of no contest (*nolo contendere*) or similar plea in a court of law by a charged student will operate as a conclusive finding that the student is "responsible" for the purpose of student conduct proceedings.
 - (f) Prior to the entry of a Recommended Order, the University may amend its charge(s) based on information obtained through an outside proceeding when that information is relevant to activity adversely affecting the University community.
 - (g) The University will cooperate fully with law enforcement agencies in any criminal prosecutions to the extent permitted by law.
- (6) **Jurisdiction.** 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

certified organizations wherever they may occur;

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

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

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

(b) Suspension from the University for a period not to exceed five (5) years which may also include restricted access to campus and/or other specified activities. The student must comply with all conditions imposed by the hearing body or University official prior to re-enrolling. Students who are suspended for more than one year will need to apply for re-admission to an ad hoc review board appointed by the President or Vice President for Student Affairs.

(c) University/Community service. The student is required to complete a specified number of hours of service to the campus or general community.

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

(e) Restitution for the loss or damage to University property.

(f) Discretionary sanctions.

(g) Counseling Assessment. The University can refer a student for an assessment at a counseling center for alcohol/drug dependence, general mental health, or other counseling issues. The student shall choose an appropriately licensed and qualified facility.

(h) Written reprimand.

- (i) Restriction/Loss of Privileges. The denial of specific University privileges including but not limited to attendance at athletic functions, restricted library use, parking privileges, University computer usage, University facilities and resources; residence hall visitation for a designated period of time, etc.
 - (j) Educational Requirements. Attendance or presentation at educational programs; interviews with appropriate officials; planning and implementing educational programs; completion of essay or project; or other educational activities.
 - (k) No Contact Order. A directive to refrain from any intentional contact, direct or indirect, with one or more designated persons or group(s) through any means including personal contact, e-mail, text messaging, telephone, social media or third parties. A No Contact Order may be temporary or permanent.
 - (l) Withholding of diplomas, transcripts, or other records.
 - (m) Mediation. Depending on the nature and severity of the alleged violation, the University Judicial Officer may recommend mediation as an alternative to formal disciplinary action. The involved parties must each agree to mediation. Mediation shall not be offered as an alternative in instances to include, but not specifically limited to: sexual misconduct, loss of life, serious bodily injuries, use of weapons, hazing and the cultivation, distribution or sale of drugs.
 - (n) Fine. A specific monetary amount ranging from \$100.00 to \$350.00, which may be included with a period of disciplinary probation.
 - (o) 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.
- (8) A charged student may request an opportunity to provide testimony to the Judicial Officer against other students who are charged with violations of the Code arising out of the same incident or circumstances, including the student's own involvement, in exchange for imposition of sanction(s) by the Judicial Officer. Under this provision, the student waives his/her right to a hearing and/or appeal. The provision of testimony against other students will be considered a mitigating factor in determining sanctions.
- (9) **Definitions.**
- (a) Expulsion ó A student shall be deprived of his/her opportunity to reenter the University. The student is permanently separated from the University.

- (b) Suspension ó Separation of the student from the University for a definite period of time. The duration of the period of suspension shall not exceed five years and shall be in direct proportion to the degree of seriousness attached to the misconduct. Readmission for suspensions exceeding one year is conditioned upon the recommendation of an ad hoc review board appointed by the President or Vice President for Student Affairs.
- (c) Probation ó An indication that the student's conduct violated the Code and requires the withdrawal of special privileges, participation in inter-collegiate activities, and others. Special privileges means the student may not be elected to office or represent the University in any other capacity during the period of probation. If the student is holding an office, he/she must vacate the office for the term of probation. The penalty of probation may also include a specified monetary fine from \$100.00 to \$350.00.
- (d) Reprimand ó A formal rebuke and official recognition by letter to the student of misconduct as charged by the University.
- (e) University/Community service ó Hours the student is required to perform in specified areas of service.
- (f) Restitution ó Compensation for loss, or damage to University property. This may be in the form of monetary or material replacement.
- (g) Educational sanctions ó Work assignments, essays, presentations or other related educational assignments.
- (h) Student - Any person admitted, enrolled, or continues to be 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. The term "student" will also refer to student clubs and organizations.
- (i) University official - Any person employed by the University, performing his/her assigned employment responsibilities.
- (j) 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.
- (k) University - The Florida A&M University whose main campus is located in Tallahassee, Florida and any of its satellite or branch campuses.
- (l) University premises - All buildings, land, facilities, and any other property owned, leased, operated, controlled or supervised by the University.

- (m) University sponsored activity - Any activity on or off campus which is initiated, aided, authorized or supervised by the University.
- (n) Hearing body - Any person or persons who have been authorized by the University to determine whether a student has violated the Code and to recommend sanctions that may be imposed when a Code violation has been committed.
- (o) Mediator - Any neutral member of the University community who has been trained in conflict resolution to assist parties in reaching a mutual agreement to resolve their differences. The Mediator shall not have personal connections with either party or have prior knowledge of the disagreement.
- (p) Club and/or organization - Any number of students who have complied with the University requirements for certification. The term "club or organization" also will refer to student.
- (q) Charged Student - The student charged with violations of this Code.
- (r) Complainant - Any person who submits a report alleging that a student violated this Code.
- (s) The word "shall" is used in the imperative sense.
- (t) The word "will" is used in the imperative sense.
- (u) The word "may" is used in the permissive sense.
- (v) The word "can" is used in the permissive sense.
- (w) Mediation - This is the actual process in which all parties voluntarily agree to meet with an impartial mediator to communicate their concerns and needs to each other and to reach their own agreement on the resolution of the case. The participants are responsible for keeping their agreement or renegotiating if necessary. In the event the participants do not agree to mediate or mediate but do not reach a full and final resolution, the case will be referred back for disciplinary action. Breach of a mediated agreement may result in a follow up mediation session or the matter may be referred back through the conduct process.
- (x) Judicial hold - This prevents the student from conducting business at the University (i.e. any form of registration or obtaining transcripts).
- (y) 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.

- (z) Preponderance of Evidence - The term "preponderance of evidence" means that evidence considered as a whole indicates the fact sought to be proved is more probable than not.
- (aa) Responsible - The term "responsible" means that the charged student has been found responsible or accepted responsibility for violating a provision(s) of the Code.
- (bb) Not responsible - The term "not responsible" means that the charged student has not been found responsible or did not accept responsibility for the alleged violation(s) of a provision(s) of the Code.
- (cc) Business Day - A day of normal business operation as designated by the University.
- (dd) All definitions not included in this Code are in accordance with definitions found in the most recent edition of Black's Law Dictionary in effect at the time of the violation of the Code.
- (10) **Amnesty.** In serious or life-threatening situations, particularly where alcohol poisoning or drug overdose is suspected or where other medical treatment is reasonably believed to be appropriate, students are asked to call 911 (or FAMU Police Department at 850-599-3256 if on campus); stay with the person needing assistance until help arrives; and be prepared to give emergency medical personnel as much information as possible including the amount and type of alcohol or substances consumed. Students who receive medical attention as a result of alcohol and/or drug use are eligible for Amnesty and may not face formal action under the Code. Students seeking medical assistance for another person while simultaneously violating the alcohol and/or drug regulation may also be eligible. Students who qualify for Amnesty are required to complete educational measures and pay any incurring costs. It is the expectation that a student uses Amnesty only once. If a student is involved in subsequent alcohol and/or drug abuse incidents, the incident will be reviewed for violation of the Code.
- (11) The Judicial Officer may defer or suspend a finding of responsibility pending completion of specific sanctions where circumstances warrant. If a student successfully completes the required sanctions, the student's conduct record may be sealed. This means that the record sealed will not appear on a student disciplinary/background check; however, the record may be considered by a hearing body or the Judicial Officer should the student commit a subsequent violation of the Code.

(12) **Violations.**

- (a) Affray is defined as the fighting of two or more students in a public or private place to the disturbance of others.
- (b) Assault and/or Battery is defined as the unlawful and intentional application of force, or attempt of such, to the person of another. This includes physically contacting another person without his/her consent and causing or intending to cause injury or imminent fear of injury.
- (c) 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/her office.
- (d) Disobeying a University Official is defined as an intentional defiance of authority. The offense includes disobeying orders of the University official or the use of contemptuous words toward the University official.
- (e) Breaking and entering is defined as the unlawful entry into a building or structure of another. The word building includes a room, classroom, office, store, or trailer. A break includes any removal of any part of the building designed to prevent entry. Opening a closed door or window or other similar fixture, or cutting out the glass or the netting of a screen, or unauthorized possession, duplication or use of keys, access cards/codes for such property is defined as breaking.
- (f) Deliberate deception is defined as the student who knowingly, with the intent to deceive, falsifies records or gives misleading information, oral or written. This includes falsifying, tampering, altering, forging, or misusing any University record or official document.
- (g) Destruction of property, including misuse or tampering with emergency equipment or systems is defined as willful and malicious defacement, damage, misuse or destruction of University property or the private property of another or emergency equipment or systems. It includes vandalizing or misusing emergency equipment for non-emergency events. This shall include but not be specifically limited to intentional misuse of 911 blue lights systems, fire alarm pull stations, fire extinguishers, heart defibrillators, and unauthorized use of emergency exit doors or intentional losses of University or private property. In addition to being subject to disciplinary action, students or student organizations responsible for such damage may be financially liable.

- (h) Hazing is defined as noted in FAMU Regulation 2.028.
- (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.
- (j) Weapons. Use and/or possession of weapons, firearms, ammunitions, explosives, knives, firecrackers, fireworks or any other instrument as a weapon is prohibited. Firecrackers or fireworks may be used only when approved by appropriate University officials.
1. *“Weapon”* means any item (including but not specifically limited to metallic knuckles, sword, any dangerous chemical or biological agent, firearm, machine gun, starter gun, BB gun, stun gun, paintball gun, Taser, archery equipment or any other object) 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.
 2. *“Fireworks”* means and includes any combustible or explosive composition or substance or combination of substances, or except as hereinafter provided, any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation. The term includes blank cartridges and toy cannons in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, roman candles, incense, dago bombs, and any fireworks containing any explosives or flammable compound or any tablets or other device containing any explosive substance. The term *“fireworks”* does not include sparklers; toy pistols, toy canes, and toy guns.
 3. The term *“sparkler”* means a device which emits showers of sparks upon burning, does not contain any explosive compounds, does not detonate or explode, is hand-held or ground-based, and cannot propel itself through the air.
- (k) Mail. The opening and removing of the mail, including electronic mail, of another person without authority is a violation of Federal law. University penalties may also be imposed for such a violation.

- (l) Felony Conviction. The student convicted of a felony by an off-campus court of competent jurisdiction may be subject to sanctions by the University.
- (m) Violations of the terms of disciplinary action imposed as a result of previous disciplinary proceedings under the provision of this Code will subject the student to additional sanctions.
- (n) Conspiracy is defined as planning with one or more individuals to commit an act or acts that violate(s) the University Code of Conduct.
- (o) Identification violations include:
1. To fail to present identification when requested by a University Law Enforcement Officer or other University official who identifies him/herself.
 2. To alter, illegally use or attempt to illegally use another's identification regardless of methodology (i.e., card, identification number, access code, etc.).
 3. The student who knowingly, with intent to deceive, allows another to use his/her student identification card, decal or other means of identification.
 4. To manufacture, distribute, deliver, sale, purchase, possess or use of false identification.
 5. Impersonation or misrepresenting the authority to act on behalf of another or the University.
- (p) Stalking:
1. Any person who willfully, maliciously, and repeatedly follows or harasses another person, including through electronic means, commits the offense of stalking.
 2. Any person who willfully, maliciously, and repeatedly follows or harasses another person, including through electronic means, and who makes a credible threat with the intent to place that person in fear of bodily injury or loss of life; or who fails to comply with an off-campus court order to cease and desist with any such conduct toward subject person or that person's property commits the offense of aggravated stalking.
- (q) Sexual Misconduct. Any sexual activity that occurs without the clear, knowing and voluntary consent prior to and during such sexual activity or that occurs when the victim is unable to give consent.

1. Inability to give consent includes but is not limited to situations where an individual is:
 - a. Under the influence of alcohol, drugs or other substances (including, but not limited to prescribed medications);
 - b. Unconscious, asleep, ill or in shock;
 - c. Under the age of 18 and therefore legally incapable of giving consent; or
 - d. Known by reason of impairment, mental condition or developmental or physical disability to be reasonably unable to give consent;
 - e. Consent is not freely given if achieved through force, threat of force or coercion. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Lack of resistance is not consent and consent can be withdrawn at any time.
2. Sexual Misconduct offenses include, but are not limited to:
 - a. *Sexual Harassment* ó any words, conduct or action of a repeated nature being directed at a male or female; including the inappropriate display of gender-based pictorial images offensive or degrading to a person of that gender, including, but not limited to sexual posters, photographs, cartoons, drawings, or other displays of sexually suggestive objects or pictures, that creates an intimidating, hostile or offensive environment that interferes with, denies or limits a person's ability to participate in or benefit from the University's programs and activities.
 - b. *Non-Consensual Sexual Contact* (or attempts to commit same) ó is any intentional sexual touching, however slight with any object by a man or woman upon a man or woman that is without consent and/or by force.
 - c. *Non-Consensual Sexual Intercourse* (or attempts to commit same) ó is any sexual intercourse however slight, with any object, by a man or woman upon a man or woman that is without consent and/or by force. Examples include, but are not specifically limited to:
 - i. Sexual contact when the person is below the statutory age of consent;
 - ii. Vaginal, anal or oral intercourse, digital penetration or penetration by an object;

- iii. Sexual contact without full and free consent given by the person, including situations where drugs and/or alcohol impair the person's ability to give full and free consent;
 - iv. Attempted or actual unwanted sexual activity, such as sexual touching or fondling an unwilling person's intimate parts (e.g., genitalia, groin, breast or buttock, or clothing covering them) or forcing an unwilling person to touch another's intimate parts;
 - v. Sexual contact when the perpetrator knows the person is unaware of the sexual contact.
- d. *Sexual Exploitation* occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the individual being exploited, and the behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not specifically limited to:
- i. Invasion of sexual privacy;
 - ii. Non-consensual video or audio recording of sexual activity;
 - iii. Going beyond the boundaries of consent (such as letting friends hide in the closet to watch you having consensual sex);
 - iv. Engaging in voyeurism;
 - v. Knowingly transmitting a sexually transmitted infection (STI) or HIV to another student;
 - vi. Exposing one's genitals in non-consensual circumstances;
 - vii. Inducing another to expose their genitals;
 - viii. Sexually-based stalking and/or bullying may also be forms of sexual exploitation.
- e. *Lewd and Lascivious Behavior* is unlawful sexual acts with minors.
- f. *Relationship Violence* occurs when one partner tries to maintain power and control over the other through actual or threatened physical or sexual violence, or psychological and emotional abuse. These acts can be directed at a spouse, ex-spouse, current or former girlfriend/boyfriend, or current or former dating partner.

3. Other student conduct offenses that will fall under Title IX when gender-based:
 - a. Threatening or causing physical harm, extreme verbal abuse or other conduct which threatens or endangers the health or safety of a person;
 - b. Discrimination - Refer to Regulation 10.103, Non-Discrimination Policy and Discrimination and Harassment Complaint Procedures;
 - c. Intimidation ó implied threats or acts that cause an unreasonable fear of harm;
 - d. Hazing ó Refer to Regulation 2.028, Anti-hazing;
 - e. Bullying ó repeated and/or severe aggressive behavior likely to intimidate or intentionally harm, control or diminish another person, physically or mentally;
 - f. Violence between those in an intimate relationship to each other;
 - g. Stalking ó Refer to subsection (12)(p) above;

4. *Victim Rights*

- a. While the University encourages all violations to be reported, the victim has the right to choose whether or not to file a formal complaint. There is also the option of filing an anonymous report. However, there may be circumstances based on the status or seriousness of the alleged offense, when the University must investigate and take action to protect the victim or other members of the University community;
- b. In addition to pursuing administrative/judicial remedies, the victim maintains the right to pursue criminal charges;
- c. To not require the corroboration of the victim's testimony;
- d. To prohibit the victim's past sexual history from being admitted as testimony in University proceedings;
- e. To allow the victim to submit to the Hearing Body during the penalty phase a victim impact statement;
- f. To authorize the Vice President for Student Affairs or Associate Vice President for Student Affairs or Director of Housing to modify living arrangements in cases where the victim and alleged offender live in the same housing complex;

- g. To authorize the Vice President for Student Affairs, Associate Vice President for Student Affairs, or the University Judicial Officer to issue an immediate administrative restraining order, forbidding the alleged offender from all contact with the victim;
- h. To authorize the Provost and/or the academic deans to establish an immediate reassignment of classes for the alleged offender when both alleged offender and victim attend the same classes;
- i. To provide on-campus counseling services to victims of sexual assault;
- j. To close the proceedings from the public as provided in all other disciplinary proceedings;
- k. At the request of the victim in cases involving sexual misconduct, physical violence or stalking charges, to permit the victim to testify in a separate room from the charged student as long as this does not interfere with the charged student's right to question the victim;
- l. Both the victim and the charged student shall be informed of the outcome of any University disciplinary proceeding brought alleging a sex offense, the University's final determination and any sanctions.

(r) 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 school, institute, or college involved. Unless otherwise defined, plagiarism shall include failure to use quotation marks or other conventional markings around material quoted from any source. Plagiarism shall also include paraphrasing a specific passage from a specific source without indicating accurately what that source is. Plagiarism shall further include letting another person compose or rewrite a written assignment.

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

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

5. The penalties for academic honesty violations shall include: reprimand, reduction of grade; denial of academic credit; invalidation of university credit or of the degree based upon such credit; probation; suspension; 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.

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

1. Unauthorized access, entry or use of a University's or another's computer, computer system, network, software, password, account or data;

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

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

4. Theft or unauthorized use of intellectual property;

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

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

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

8. Use of computing facilities and resources to send obscene or abusive

messages or material;

9. Use of computing facilities or resources to interfere with the work of another student, faculty/staff, University official or the normal operation of the University computing system.

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

1. Failure to obey the notice from the University Judicial Officer to appear for an information briefing or hearing as part of the student judicial system.

2. Falsification, distortion, or misrepresentation of information before a hearing body or a staff member of the Office of Judicial Affairs during an information briefing.

3. Disruption or interference with the orderly conduct of a judicial hearing.

4. Attempting to discourage an individual's proper participation in, or use of, the student judicial system.

5. Attempting to influence the impartiality of a member of a hearing body prior to, during, and/or after a judicial hearing.

6. Harassment, verbal or physical, and/or intimidation of a member of the hearing body, Judicial Affairs staff or a witness prior to, during, and/or after a judicial hearing.

7. Influencing or attempting to influence another person to commit an abuse of the student judicial system.

(u) Demonstrations/Riots. 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.

(v) Traffic. Obstruction of the free flow of pedestrian or vehicular traffic on University premises is prohibited.

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

- (x) Alcoholic Beverages. The violation of alcoholic beverages is defined as noted in FAMU Regulation 3.021.
 - (y) 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 is prohibited.
 - (z) Extortion. The act or practice of obtaining something or compelling some action by force, coercion, intimidation or threat is prohibited.
 - (aa) 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.
- (13) **Time Limit.** The time limit for filing a charge against a student for violation of the Code should be filed within six months 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 six months from the date of discovery. Circumstances that may warrant a waiver include but are not specifically limited to: stalking, sexual misconduct, or relationship violence, in which the delay may be related to issues of victimization; requests from law enforcement not to take action or concern for the safety of witnesses. The written notice of the charge of violation to the charged student should proceed the actual hearing date or information briefing with the charged student by no less than four business days, except in an emergency. A hearing shall normally be scheduled within fifteen business days of the date of the notice of the charge of violation to the charged student, unless the charged student and the Judicial Officer or his/her designee agrees 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 are not specifically limited to: unavailability of witnesses, illness, 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 charged student or from the University attorney.
- (14) **Summary Suspension/Expulsion.** The University may summarily suspend or expel any

student or group of students, pending a hearing at a later date if requested, under the following circumstances:

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

(15) **Other University Boards.**

- (a) Violation of residence hall policies and procedures are punishable under the Code. Violation of the Visitation Policy as found in the Residence Life Handbook shall carry either an arrest for trespassing, suspension or probation and removal from residing in University housing facilities.
- (b) University Housing Conduct Boards may conduct informal hearings regarding cases arising in University housing where the charged student is a resident of University housing. University Housing Hearing Officers include the Director, Associate and Assistant Directors and designees.
- (c) Matters involving a club and/or organization may be referred to the Organization Review Board Committee by the Dean of Students and Director of Judicial Affairs/University Judicial Officer.

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

(17) 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.

(18) **Postponement.** A student charged with a violation of the Student Code of Conduct, regardless of which judicial body may hear the matter, may request to have the hearing

postponed and 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 recommended by the University Judicial Officer to the Vice President for Student Affairs, who shall make a determination. 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/her making a decision to postpone the hearing.

- (19) Students are required to carry a Florida A&M University picture identification card at all times. Failure to do so, may subject them to reasonable detention by appropriate University authorities.
- (20) In addition to the right of University officials to enter a student's room in University housing pursuant to the terms of the Housing 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.
- (21) **Informal Disposition.** In the event a student charged with an offense wishes to waive, in writing, his/her right to a hearing and/or an appeal of a hearing to the appropriate official or hearing body, including external judicial or administrative forums, bodies or entities, and the University Judicial Officer wishes to accept jurisdiction, the University Judicial Officer may make a determination of facts and, if the student is found responsible for the offense, make a recommendation of sanction(s). 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) business days from the date of signing the waiver to rescind, in writing, his/her waiver and request a hearing. In the absence of a rescission of waiver, the student shall be informed in writing of the decision of his/her case within ten (10) business days from the date of the waiver. Should the student elect to proceed under this provision and fails to complete the process, a judicial hold may be placed on the student's account.
- (22) **Student Supreme Court.** When a student is charged with a violation, which in the

opinion of the University Judicial Officer, if proven, would not warrant a penalty in excess of probation, the University Judicial Officer may channel the case to the Student Government Association Supreme Court.

- (23) 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.
- (24) **Appeals.** Decisions of the Student Supreme Court pursuant to subsection (22) above, Residence Life informal hearing panels and administrative hearing panels are appealed to the Associate Vice President for Student Affairs. At the conclusion of the appeal process, the decision of the President or the Vice President for Student Affairs shall be final, and made known via a final order.
- (a) The student has ten (10) business days from the date of the written notification of the decision by the hearing body to make his/her appeal in writing and file same with the Office of the Dean of Students.
- (b) The written appeal must specify reason(s) why consideration should be granted and should only deal with matters of record, procedure, testimony and/or evidence.
- (c) No student's final penalty shall begin to run until all University appeals are exhausted or denied, except as specified under subsections (14) and (16) above.
- (25) **Record.** A digital recording of each hearing will be made by the Chairperson and preserved. Retention of the record is subject to the General Records Schedule GS5 for universities and community colleges. Deliberations shall not be recorded. During the appeal period, the charged student, with or without the company of legal counsel, and/or advisor, and/or parent with the written authorization of the charged 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 recording by employment of a stenographer. 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 charged student and the President or Vice President for Student Affairs or his/her designee.
- (26) **Emergency Hearings.** 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 (14) and (16) above. The chairperson of the committee, who may be an academic dean or director, shall be appointed by the President or Vice President for Student Affairs. Unless an ad hoc committee is appointed, the matter shall ordinarily be heard by the hearing body (panel) and chaired by a staff member of the Judicial Affairs Office.

- (a) The student shall have five business days from the date of the notice to request in writing an emergency hearing at which the student may show cause why his or her continued presence on the University campus is not a threat pursuant to subsections (14) and/or (16) of the Code.
 - (b) The emergency hearing shall be held within five business days of receipt of the written request from the student for an emergency hearing. The emergency hearing shall not abrogate the right of the student to request in writing a regular (non-emergency) hearing on the merits of the case, i.e., whether the student committed the alleged offense or offenses under the Code. The written request from the student for a regular (non-emergency) hearing on the merits of the case must also comply with the specified time period for requesting a regular (non-emergency) hearing as stated in the notice to the student which normally is ten (10) business days. Should a student timely request both an emergency and regular hearing, the Judicial Officer may combine the hearings into one proceeding. If the hearings are combined, the timeframes for an emergency hearing shall govern.
 - (c) If the student fails to timely request in writing a regular (non-emergency) hearing on the merits of the case, the Judicial Officer in his/her sole discretion may accept a written request from the student to proceed with informal disposition. The written request must be submitted within ten (10) business days following the emergency hearing. Should the student fail to submit a timely request for informal disposition, the Judicial Officer shall make a determination of facts and appropriate sanction(s).
The student shall not have a right to appeal under this provision.
- (27) The hearing body, ad hoc committee or University Judicial Officer shall afford the charged student with due process as, provided by FAMU Regulation 2.013, and/or Board of Governors Regulation 6.0105(c). The regulations or codes implementing the due process provisions as well as other matters referenced in said rules but not included herein shall be

printed in the student handbook, the FANG, under the section entitled "Student Rights, Responsibilities and Code of Conduct."

- (28) **Notice.** 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 iRattler. All notices, decisions and outcomes of judicial matters connected with the disciplinary process will be mailed to the student's last known local address as filed with the Registrar's Office and/or via iRattler or sent via e-mail to the student's University provided e-mail address or permanent address if no local address is on file. This method shall constitute proper notification to the charged student.
- (29) **Hearing Guidelines.** 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, charged student and his/her advisor, if any, shall be allowed to attend the entire portion of the hearing at which information is received, excluding deliberation. No other person shall be permitted to attend.
 - (c) In judicial hearings involving more than one charged student, the University Judicial Officer or the chairperson, in his or her discretion, may permit the hearing concerning each student to be conducted separately or jointly. Information received during a hearing arising out of the same circumstances may be used.
 - (d) The Complainant and the charged 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 charged student are responsible for presenting his or her own information, therefore advisors are not permitted to speak or participate directly in any hearing before a judicial hearing body. An advisor may not serve as a witness. 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 business days prior to the hearing date.
 - (e) The Complainant and the charged student may arrange for witnesses to present pertinent information to the hearing body. The University will try to arrange the

attendance of possible witnesses who are members of the University community, if reasonably possible and who are identified by the Complainant and/or the charged student at least three business days prior to the judicial hearing. Witnesses will provide information to and answer questions from the hearing body and the charged student. No witness may be compelled to provide self-incriminating information. Witness statements may be provided to the hearing body and are entitled to be given the same weight by the hearing body as live witness testimony. A written statement is not a violation of the due process rights of the charged student, as the charged student has the opportunity to review and respond to the written statement and may offer evidence to rebut the witness statement and other evidence presented at the hearing.

- (f) If the charged student fails to appear at the hearing after being properly notified or fails to cooperate in the hearing process, the hearing body may hear the case on the basis of evidence accumulated as a result of witnesses and shall notify the charged student of the decision. In the absence of the charged student, the plea of not responsible shall be entered on the student's behalf by the chairperson of the hearing body.
- (g) A charged student may request only one postponement of a judicial hearing by contacting in writing the University Judicial Officer at least three business days prior to the hearing. Postponement of the hearing shall be at the discretion of the University Judicial Officer or his/her designee.
- (h) Witnesses shall not serve as advisors at any judicial hearing. At the time of the hearing, an automatic postponement shall be granted if the composition requirements of the hearing body are not met.
- (i) If any member of the hearing body feels that he or she had previous contact with the case or with the students involved so that a fair judgment cannot be rendered, the member must request that he or she not serve for the hearing. The charged 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 charged student is responsible or not responsible for violating the Code.

- (j) A charged student may be diverted from the disciplinary process or hearing if prior to or during the disciplinary process or hearing, it is determined by Associate Vice President for Student Affairs/Dean of Students pursuant to Sections (6-13) of University Regulation 2.007, Voluntary and Involuntary Withdrawal, that the charged student has a mental disorder and the objectionable behavior appears to be a result of the mental disorder.
- (k) Pertinent records, exhibits, and written statements may be accepted as information for consideration at the discretion of the chairperson of the hearing body.
- (l) All procedural questions are subject to the final decision of the chairperson of the hearing body.
- (m) After the portion of the judicial hearing concludes in which all pertinent information has been received, the hearing body shall determine by a majority vote whether the charged student is responsible or not responsible for violating each section of the Code which the charged student is charged. The chairperson of the hearing body cannot vote. Prior records of student conduct action and witness/complainant impact statements are considered by the hearing body only in the sanctioning phase of deliberations.
- (n) Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court proceedings, are not used in judicial hearings.
- (o) The burden of proof in all judicial hearings shall be on the complainant. 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, charged 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 four to six (4-6) persons, depending upon the nature of the violation. At least one-half of the membership must be students.

- (r) The above guidelines for conducting a judicial hearing are not exhaustive. Therefore, the University Judicial Officer may adopt additional guidelines for the conduct of judicial hearings that are not inconsistent with the provisions of this Code. Such procedural guidelines must be approved by the Vice President for Student Affairs or his/her designee and must be in writing and made available to the charged student and all witnesses at least three business days prior to the hearing.
- (30) **Victim Rights.** Victim is defined as the person harmed by a violation of the Code by the charged student. Victims of violations of the Code have the following rights in accordance with all federal and state laws:
- (a) To have an advisor of the alleged victim's choice accompany him/her when presenting information to the hearing body and to any other relevant meetings held throughout the disciplinary process.
 - (b) To submit a victim impact statement to the hearing body. This information may be used only in the sanctioning phase of deliberations, if the charged student is found responsible for the violations/charges. If the charged 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 business days prior to the hearing. The University Judicial Officer will decide whether the questions are relevant and should be presented at the hearing.
 - (e) To be present throughout the hearings, or portions thereof, at the discretion of the University Judicial Officer.
 - (f) To have personal property returned to him/her 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 Public Safety.

- (g) To be notified of the outcome, including both the decisions and the sanctions of the disciplinary process.
 - (h) For victims of sexual misconduct, refer to additional rights noted under subsection (12) (q) above.
- (31) Unless specifically stated otherwise herein, the provisions of this Code should be read and interpreted broadly, and are not intended to define misconduct in exhaustive terms. The Judicial Affairs Office may adopt internal operating procedures which are consistent with this Code. In instances where there may be conflict between the internal procedures and the Code, the Code shall supersede.
- (32) **Review of Code.** The Student Code of Conduct shall be reviewed on a biennial basis under the direction of the Director of Judicial Affairs who shall appoint a committee, with student representation, to evaluate the Code and make recommendations, if any, for amendments or revisions.

Specific Authority: Article IX, section 7, Florida Constitution, sections 1006.60, 1006.61, 1006.62, 1006.63, Florida Statutes, Board of Governors Regulation 6.0105. History—New October 1, 1975, Repromulgated March 8, 1976, Amended August 6, 1978, Amended December 22, 1983, Amended September 14, 1987, January 26, 2004, Amended June 29, 2006, Amended July 15, 2013.

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 alleged violations of the Student Code of Conduct. Applicable definitions are found in Florida A&M University (öUniversityö) Regulation 2.012, Student Code of Conduct. Due process as applied by the University and its schools, institutes, 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 schools, institutes, and colleges shall establish a minimum number of days in advance of the hearing to present the written notice of charges, but in no case will this notice be less than five (5) business days, except in cases of emergency hearings as specified below;
 - (c) The student shall be entitled to a prompt hearing before an appropriate committee or hearing body, as established by the University or its colleges, schools or institutes; or the student shall have the option to request resolution of the matter by an appropriate official designated by the University or its colleges, schools or institutes. The hearing shall normally be scheduled within fifteen (15) business days from the date of notice of the charge(s), except in cases of emergency hearings;

- (d) The student and his/her advisor may inspect all of the evidence that will be presented against the student at least three (3) business days before the student disciplinary hearing, except in cases of emergency hearings where the student may inspect the evidence at least one (1) business day prior to the hearing. Failure of the student to request the evidence in sufficient time for the University to comply with the three (3) business day timeframe shall constitute a waiver of the time requirement. 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 disciplinary hearing, except in cases of emergency hearings where the University may inspect the evidence at least one (1) business day prior to the hearing;
- (e) The student may present evidence on his/her own behalf;
- (f) The student may hear and question adverse witnesses;
- (g) The student shall not be forced to present testimony which would be self-incriminating; however, the University and/or its colleges, schools, and institutes is not required to postpone the proceedings pending the outcome of a criminal or other outside proceeding. The University disciplinary proceeding is designed to address student behavior; therefore, alleged violations of the Student Code of Conduct will be addressed independently of any penalty imposed by a judicial or administrative body;
- (h) The student may, at his/her own expense and initiative, have an advisor of the student's choice present at the hearing. The advisor may be an attorney. The student is responsible for presenting his or her own information; therefore advisors are not permitted to speak or participate directly in any hearing. An advisor may not act as a witness;
- (i) The decision of responsible or not responsible 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 (14) business days following the hearing;
 - (k) The student may appeal the decision of any committee, hearing body, or of any University official, within ten (10) business days to the President or the President's designee, as appropriate;
 - (l) The student's enrollment 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, other students, or the University and/or its employees is involved. If a student's privileges are temporarily revoked as described in this paragraph, but the student is subsequently found not responsible for the violations, the University will:
 - 1. Correct any record of the change in enrollment status in the student's permanent records and reports in a manner compliant with state and federal laws; and
 - 2. Refund to the student a pro rata portion of any charges for tuition and out-of-state fees, as appropriate, if the temporary revocation or suspension of the student's ability to attend classes lasts for more than ten (10) business days.
 - (m) At the conclusion of the appeals process, the decision of the President or the President's designee shall be final. The final order shall include notice to the student of the right to appeal to an external judicial forum, as appropriate.
- (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) 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 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;
 - (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 regulations, policy, and procedures of the University and the respective clubs and organizations;
 - (h) The right of due process; 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.
- (4) 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, 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.

Regulations of Florida A&M University



2.028 Anti-hazing.

(1) Florida Agricultural and Mechanical University (University) strictly prohibits any student(s), group(s) of students, or student organization(s) affiliated with the University from engaging in any form(s) of hazing activities. Moreover, the University has zero tolerance for violation of any provisions of the Anti-hazing Regulation 2.028. "Zero tolerance" means that given the factual circumstances of the alleged violation, the charged student may be removed from University Housing and receive a penalty up to suspension or expulsion from the University.

- (a) Due process protections in accordance with University Regulation 2.013 will be appropriately accorded the charged student.
- (b) "Student" is given the same meaning herein as it is defined in the Student Code of Conduct, Regulation 2.012.
- (c) "Engaging" is defined herein and prohibited by this Regulation as anyone who (i) perpetrates hazing activities by planning and/or executing the hazing activities; (ii) is the object of or consents to hazing activities; or (iii) observes or has knowledge of hazing activities and fails to report the incident within twenty-four (24) hours as required.
- (d) This Regulation is incorporated into University Regulation 2.012.

(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.

(a) It shall not be a defense that the consent of the victim to participate was obtained, the conduct or activity 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 was not done as a condition of membership to a University organization.

(3) Any student found in violation of this Regulation from conduct occurring on-campus or off-campus will be subject to appropriate sanctions by the University, which may include but is not limited to: the imposition of fines; withholding of grade(s), transcripts and/or diplomas pending payment of fines or compliance with the Student Code of Conduct, Regulation 2.012; the imposition of counseling, probation, suspension, or expulsion of said person(s) or organization(s), the rescission of certification for the University organization(s); and/or removal from University Housing.

(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 the criminal laws

of the State of Florida, including but not limited to such criminal penalties prescribed in section 1006.63, Florida Statutes, for penalties imposed in civil proceedings or for violation of any other University Regulation(s) to which the charged student(s) may be subject.

(5) All University certified organizations are required to include in their by-laws an anti-hazing section fully incorporating this Regulation. A copy of the by-laws shall be kept on file in the Office of Student Activities. Advisors and each member of a University certified 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 at (850) 599-3256 or www.stophazingatfamu.com within twenty-four (24) hours of gaining such knowledge or receiving information. Any person who fails to report any activity of hazing shall be in direct violation of this regulation.

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

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

Specific Authority: Article IX, Section 7(c), Florida Constitution 001.74(4), FS. Law Implemented 1001.74(10)(d), (e), 1006.60, 1006.61, 1006.62, 1006.63 FS. History—New 4-3-83, Formerly Rule 6C3-2.028, Amended 1-26-04, 5-9-12. Amended 7-15-13.

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, _____.

FAMU OGC ADVISORIES

- 11-02 Contract Procedures**
- 13-01 Subpoenas, Summons, Court Orders, and Other Written Requests for Information**
- 2013-01 Risk Management Advisory and Procedures**



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: _____



FLORIDA A&M UNIVERSITY OFFICE OF THE GENERAL COUNSEL ADVISORY

OGC ADVISORY NO. 13-01		INITIAL ISSUANCE DATE: 02/05/13	
ATTACHMENT(S): n/a		REVISION DATE(S):	
TO:	Leadership Team, Deans, Directors, and Division Heads (Associates and Assistants)		
FROM:	Avery D. McKnight, Vice President and General Counsel, Legal Affairs		
SUBJECT:	Subpoenas, Summons, Court Orders, and Other Written Requests for Information		

Purpose:

Florida A&M University (FAMU or University) is occasionally named as a defendant in a lawsuit or as a respondent in an administrative proceeding or other complaint process. To protect the University from legal or monetary liability, it is essential that all subpoenas, summons, court orders, and other written requests for information are timely provided to the correct University personnel. Therefore, it is important that the community, as well as members of the University, know where to deliver subpoenas, summons, court orders, and other written requests for information.

General Information:

After a complaint is filed in court or with an administrative tribunal, the plaintiff or complaining party must provide the University with notice of the complaint by serving a copy of the complaint upon the University. This action is called service of process and may be accomplished by hand-delivery by a process server or by e-mail by an attorney. A complaint is a document that generally sets forth the allegations in the case and is filed with a court or administrative tribunal to commence legal action. A summons is an order to appear in court. A complaint and summons require a response from the University within a specified time frame. It is the policy of the University to serve subpoenas, summons, court documents, and other written requests for information according to the procedure outlined below. A subpoena is court order commanding a person to appear or produce documents.

Procedure:

If process is not served on the Office of General Counsel (OGC), the following procedures must be followed as quickly as possible:

Court Orders, Summons, or Complaints

For lawsuits filed against the FAMU Board of Trustees or FAMU, service must be upon the Chair of the Board of Trustees at 1601 S. Martin Luther King Jr. Blvd., 400 Lee Hall, Tallahassee, FL 32307, telephone number (850) 599-3225. In the absence of the Chair of the Board of Trustees,

process is to be served on the President of the University at 1601 S. Martin Luther King Jr. Blvd., 400 Lee Hall, Tallahassee, FL 32307, telephone number (850) 599-3225. In the absence of the President, service must be upon an attorney in the OGC at 1601 S. Martin Luther King Jr. Blvd., 300 Lee Hall, Tallahassee, FL 32307, telephone number (850) 599-3591.

Process for lawsuits against individuals is to be served on the named individual. If the individual is being sued for actions taken in the course and within the scope of their employment by the University, then service is upon an attorney in the OGC.

Subpoenas

Employee records ¶

- A subpoena for employee records should be served upon the Office of Human Resources at 1700 Lee Hall Drive, 211 FHAC, Tallahassee, FL 32307, telephone (850) 599-3611.

Student records ¶

- Subpoenas for student records should be sent to the Office of the University Registrar at 1700 Lee Hall Drive, 112 FHAC, Tallahassee, FL 32307, telephone (850) 599-3115.

Garnishments

Garnishments are to be served on the Office of Payroll Accounting at 1700 Lee Hall Drive, 201 FHAC, Tallahassee, FL 32307, telephone (850) 412-2960.

Public Records

Public records requests should be made to the Office of Communications at 1601 S. Martin Luther King Jr. Blvd., 103 Lee Hall, Tallahassee, FL 32307, telephone (850) 412-5211.

Bankruptcy

Student bankruptcy ¶

- Information regarding a student bankruptcy should be sent to the Controller's Office at 1700 Lee Hall Drive, 201 FHAC, Tallahassee, FL 32307, telephone (850) 561-2949.

Employee bankruptcy ¶

- All information should be sent to the Office of Payroll Accounting at 1700 Lee Hall Drive, 201 FHAC, Tallahassee, FL 32307, telephone (850) 412-2960.

Vendor Bankruptcy ¶

- Information regarding a vendor bankruptcy should be sent to the Office of Procurement Services at 2380 Wahnish Way, Suite 214, Tallahassee, FL 32307, telephone (850) 599-3203.

Written Communications

All other letters, correspondence, or other communications from lawyers or court officials should be forwarded to the OGC for review.



FLORIDA A&M UNIVERSITY

RISK MANAGEMENT ADVISORY and PROCEDURES

RISK MANAGEMENT ADVISORY NO. 2013-01		INITIAL ISSUANCE DATE: 03/01/13
ATTACHMENT(S): n/a		REVISION DATE(S):
TO:	President, Vice President for Administrative and Financial Services, Vice President for Student Affairs, Associate Vice President and Dean of Students, Controller, Director of Facilities Planning and Construction, Director of Housing, Director of Property Records	
THROUGH:	Avery D. McKnight, Vice President and General Counsel, Legal Affairs	
FROM:	James Jacoby, Risk Manager	
SUBJECT:	Computing and Reporting Insurable Values	

Purpose:

Effective immediately, insurable values and actual cash values for university buildings, other structures, building contents, rental values, and improvements will be reviewed and computed consistent with the operating procedures set forth below. Such procedures also include a formal process for the computation of insurable values, the frequency of the computation, and the addition and removal of assets from the computation. The FAMU Risk Manager has the responsibility to maintain the certificates of coverage and the relevant data needed to calculate the buildings insurable values and contents. Annually, or as needed, the FAMU Risk Manager will compute insurable values for university buildings requiring property, content and/or rental value coverage.

Procedures:

Obtaining Insurance Coverage for a New Building:

1. The Director of Facilities Planning must provide all appropriate documents to the Risk Manager thirty (30) days prior to substantial completion including building documents, Certificate of Occupancy, life safety systems, content purchases, and GPS coordinates.
2. The Risk Manager's computation must be reviewed and approved by the Controller.
3. Upon substantial completion, the Risk Manager will report the information to the Department of Financial Services (DFS) utilizing the DFS online reporting form, which will be used to report insurable values for buildings, other structures, and improvements consistent with DFS guidelines.
4. The Risk Manager will document the submittal and the DFS supplied confirmation number.
5. The Risk Manager will email DFS regarding the addition of the new building and ask for verification of receipt.
6. Once the endorsement is received from DFS, the Risk Manager will verify that the building details and the coverage are correct.
7. Any discrepancies will be reported to DFS for correction.

8. The Risk Manager will place a copy of the endorsement in the Property Schedule file and maintain electronic versions of the documents.

Obtaining Insurance Coverage for a Renovated Building:

1. The Director of Facilities Planning must provide all documents to the Risk Manager thirty (30) days prior to substantial completion including building documents, Certificate of Occupancy, life safety systems, content purchases, and GPS coordinates.
2. Upon locating the building in the Property Schedule file, the Risk Manager will update the information as needed per DFS guidelines.
3. The Risk Manager reports the changes to DFS using DFS appropriate reporting form.
4. The Risk Manager will email DFS regarding the requested changes and ask for verification of receipt.
5. The Risk Manager will document the submittal provided to DFS.
6. DFS will provide a new endorsement with the building updates.
7. The Risk Manager will verify all requested changes are complete and accurate.
8. Any discrepancies will be reported to DFS for correction.
9. The Risk Manager will place a copy of the endorsement in the Property Schedule file and maintain electronic versions of the documents.

Deleting a Building from Insurance Coverage:

1. The Director of Facilities Planning must provide the Risk Manager with written notification thirty (30) days prior to the removal of the building including the building number and physical address.
2. The Risk Manager will provide written notification to DFS requesting the deletion.
3. The Risk Manager will document the submittal provided to DFS.
4. DFS will provide a new updated endorsement for the deleted building.
5. Any discrepancies will be reported to DFS for correction.
6. The Risk Manager will place a copy of the endorsement in the Property Schedule file and maintain electronic versions of the documents.

Obtaining Content Coverage for Buildings:

1. The Director of Property Records must provide the Risk Manager with a report addressing all property additions and deletions for owned contents. The report will provide the building number, physical address, and the total content values per location. The report is due annually on May 1st, sixty (60) days prior to the end of the fiscal year.
2. The Risk Manager will provide written notification to DFS requesting coverage as needed.
3. The Risk Manager will document the submittal provided to DFS.
4. Any discrepancies will be reported to DFS for correction.
5. The Risk Manager will place a copy of the endorsement(s) in the Property Schedule file and maintain electronic versions of the documents.

Obtaining Rental Coverage for Housing:

1. The Director of Housing must provide the Risk Manager with a report addressing rental values for each housing location. The report will provide the building name, number, and physical address. The report is due annually on May 1st, sixty (60) days prior to the end of the fiscal year.
2. The Risk Manager will provide written notification to the DFS requesting coverage as needed.
3. The Risk Manager will document the submittal provided to DFS.
4. Any discrepancies will be reported to DFS for correction.
5. The Risk Manager will place a copy of the endorsement(s) in the Property Schedule file and maintain electronic versions of the documents.

Annual Review of the Property Schedule:

1. The Risk Manager will review and update the Property Schedule annually.
2. Unless superseded by a method required by DFS, the computation of insurable values shall include the use historical data, BOG Data, RS Means, and FAMU construction cost data as variables. The formula for calculating the insurable values shall be documented with the calculations.
3. The Risk Manager's computation, including asset additions and disposals, must be reviewed and approved by the Controller.
4. The Risk Manager will submit the annual revision to DFS prior to the end of the Fiscal Year.
5. The Risk Manager will document the submittal provided to DFS.
6. Any discrepancies will be reported to DFS for correction.
7. The Risk Manager will place a copy of the Property Schedule file and maintain electronic versions of the supporting documents.

For further information regarding these procedures, please contact the Risk Manager.

ADDITIONAL INFORMATION

- 1. Florida Carry First DCA Opinion**
- 2. Recruitment, Selection and Employment Procedures October 1, 2013 Memorandum**
- 3. FAMU Non-Discrimination Policy Statement**
- 4. FAMU Drug-Free Workplace Policy**
- 5. Title IX Requirements for Responses to Student-Victims of Sexual Misconduct**
- 6. Links to FAMU Collective Bargaining Agreements**

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

FLORIDA CARRY, INC., and
ALEXANDRIA LAINEZ,

Appellants,

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

v.

CASE NO. 1D12-2174

UNIVERSITY OF NORTH FLORIDA,
JOHN DELANEY,

Appellees.

Opinion filed December 10, 2013.

An appeal from the Circuit Court for Duval County.

L. P. Haddock, Judge.

Eric J. Friday, Lyman T. Fletcher, and Michael R. Phillips of Fletcher & Phillips,
Jacksonville, for Appellants.

Paul R. Regensdorf, George E. Schulz, Jr., and Ben Z. Williamson of Holland &
Knight, LLP, Jacksonville, for Appellees.

EN BANC

ROBERTS, J.

The appellants, Florida Carry, Inc., and Alexandria Lainez, appeal a final order denying their motion for temporary injunction and a final order granting the motion to dismiss of the appellees, University of North Florida (UNF) and John

Delaney. At issue in this case is whether a state university may prohibit the carrying of a securely encased firearm within a motor vehicle that is parked in a university campus parking lot. We hold that the legislature has not delegated its authority under the Florida Constitution to regulate the manner of bearing arms to the state universities and reverse the orders on appeal.

Facts and Procedural History

Section 14.0080P of the policies and regulations adopted by UNF bans the storage of any “weapon or destructive device,” as defined by section 790.001, Florida Statutes (2011), in a vehicle located on UNF property. Section 790.001(6), Florida Statutes (2011), includes firearms in the definition of “weapon or destructive device.” As provided in Section 5.0010R(J) of the Student Conduct Code, UNF may impose sanctions, including suspension and expulsion, upon a student who violates the regulation. In addition, section 5.0010R(J) specifically authorizes a referral to law enforcement for criminal prosecution stating that a student, resident, or commuter found in violation of the regulation “will be subject to arrest and/or discipline in accordance with Florida State Statute and the Student Conduct Code.”

The facts of this case are undisputed. Lainez, a student enrolled at UNF, and Florida Carry, Inc., an organization of gun owners of which Lainez is a member, filed a lawsuit to challenge UNF’s regulation. The complaint alleged that Lainez

desires to carry a firearm while traveling to and from school as a lawful method of self-defense and that she wishes to store the firearm in her vehicle while on campus. The complaint argued that UNF had no authority to adopt the regulation in question because the Florida legislature had expressly preempted the entire field of firearms regulation in section 790.33(1), Florida Statutes (2011). The complaint sought an award of damages or, in the alternative, a statutory fine, a declaration that UNF's regulation was invalid, and an injunction prohibiting the enforcement of the regulation. The appellants also sought a temporary injunction during the pendency of the case to prevent the enforcement of any UNF rules or regulations regarding the otherwise lawful possession of a weapon or firearm in a vehicle and to prevent the punishment of any student for the same.

The appellees moved to dismiss the complaint, arguing that UNF was authorized to regulate firearms possession and storage on school property in accordance with section 790.115, Florida Statutes (2011). UNF maintained that the regulation was authorized under section 790.115(2)(a)3., Florida Statutes (2011), which provides that firearms may not be possessed on school property except when securely encased in a vehicle, but that "school districts" may adopt policies to waive the secure encasement exception. The appellants countered that UNF was not a "school district;" therefore, it was not authorized to waive the exception and prohibit firearms in vehicles on its campus.

After hearings on the motions, the trial court denied the appellants' motion for temporary injunction and granted the appellees' motion to dismiss. The trial court reasoned that applying the appellants' definition of "school district" to section 790.115 would permit only public schools to regulate firearms on their property and frustrate the clearly expressed intent of the legislature to cover all schools as the term "school" was broadly defined in section 790.115(2)(a).

On appeal, the appellants argue: (1) that the legislature clearly intended to preempt regulation of firearms by any other agency or subdivision of the state; (2) that the legislature has determined it is lawful to carry a weapon or firearm securely encased in a vehicle and that right should be liberally construed; and (3) that the legislature has not granted any affirmative authority to UNF to waive the secure encasement provision in section 790.115(2)(a)3. We agree with the appellants' arguments.

Prior to oral argument, this court, through the three-judge panel, ordered the parties to be prepared to address the following questions:

1. Does a state university have independent authority under Article IX, section 7 of the Florida Constitution as interpreted in [Graham v. Haridopolos, 108 So. 3d 597 (Fla. 2013),] and [NAACP, Inc. v. Florida Board of Regents, 876 So. 2d 636 (Fla. 1st DCA 2004)], to adopt a noncriminal policy or regulation concerning the possession of firearms on campus, irrespective of any right it may have under section 790.115(2)(a)3., Florida Statutes, to waive the exception that would allow a student to possess a firearm in a vehicle?

2. Does the University of North Florida qualify as a "local or state

government” such that its policies and regulations could be preempted by section 790.33, Florida Statutes?

3. Does the provision of the student handbook at issue in this case qualify as an “ordinance,” “rule,” or “administrative regulation” within the meaning of section 790.33, Florida Statutes?

The panel then requested supplemental briefing from the parties on the questions above.

Analysis

I. Section 790.115, Florida Statutes

We first emphasize that the only legal question presented, argued, and decided by the trial court was whether section 790.115 allowed UNF to prohibit a student, who was otherwise lawfully able to possess a firearm, from keeping said firearm securely encased in her vehicle in a campus parking lot. In its answer brief before this court, UNF advanced only its views regarding the interpretation of section 790.115.

The legislature has provided that a person shall not possess a firearm on school property unless part of a school-sponsored event. See § 790.115(2)(a), Fla. Stat. (2011). This section defines “school” broadly to encompass preschool and elementary through secondary schools as well as career centers and post-secondary schools, whether public or private. See id. Importantly, the legislature also provided exceptions to this general prohibition. See §§ 790.115(2)(a)1.-3., Fla. Stat. (2011). Namely, that a person may carry a firearm in a vehicle pursuant to

section 790.25(5), Florida Statutes (2011), which provides that a firearm may be kept in a private conveyance as long as it is securely encased. The provisions of section 790.25 authorizing the carrying of securely encased firearms in private conveyances as well as other lawful carrying of firearms “shall be liberally construed to carry out the declaration of policy herein and in favor of the constitutional right to keep and bear arms for lawful purposes.” § 790.25(4), Fla. Stat. (2011).

While it provides an exception to the general prohibition, section 790.115(2)(a)3. also contains a waiver provision providing that “school districts may adopt written and published policies that waive the exception in this subparagraph for purposes of student and campus parking privileges.” §790.115(2)(a)3., Fla. Stat. (2011). The statute clearly grants *school districts* the power to waive the exception – not colleges or universities. UNF attempted to exercise this waiver in adopting the operative regulation; however, UNF is not a “school district.” Section 790.115 only uses the term “school district” once; outside of subsection 790.115(2)(a)3., the statute uses the word “school” alone. UNF, as a public post-secondary school, falls within the definition of a “school” in section 790.115(2)(a), but that does not mean that it also falls within the definition of “school district,” a term that is not defined in section 790.115.

Where the legislature has not defined the words used in a statute, the

language should be given its “plain and ordinary meaning.” See Sch. Bd. of Palm Beach Cnty. v. Survivors Charter Sch., Inc., 3 So. 3d 1220, 1233 (Fla. 2009) (quoting Fla. Birth-Related Neurological Injury Comp. Ass’n v. Fla. Div. of Admin. Hearings, 686 So. 2d 1349, 1354 (Fla. 1997)). The appellees contend that the legislature intended “school districts” to be interpreted broadly to include a state university board of trustees. Such a construction is contrary to the plain and ordinary meaning of “school district” as it is used in the Florida Constitution and statutes.

Article IX, section 4, of the Florida Constitution provides:

(a) Each county shall constitute a school district. . . . In each school district there shall be a school board composed of five or more members chosen by vote of the electors in a nonpartisan election for appropriately staggered terms of four years, as provided by law.

(b) The school board shall operate, control and supervise all free public schools within the school district and determine the rate of school district taxes within the limits prescribed herein. . . .

Florida’s K-20 Education Code, Chapters 1000-1013, Florida Statutes (2011), sets forth the governing structure of Florida’s various educational entities. Significantly here, School District Governance (Chapter 1001, Part II, Florida Statutes (2011)) is separate, by statute, from State Universities (Chapter 1001, Part IV, Florida Statutes (2011)). The provisions concerning School District Governance provide that each county constitutes a school district, that the district school system shall include all public schools in that district under the direction of

district school officials, and that the district school board “shall operate, control, and supervise all free public schools in their respective district.” See §§ 1001.31-1001.33, Fla. Stat. (2011). In contrast, the state university system is organized and governed differently than the public district school system. The state university system is operated and regulated by the state board of governors, and each university within the system is operated by a board of trustees under the powers and duties granted by the board of governors. See Art IX, sec. 7(c)-(d), Fla. Const.; Ch. 1001, Part IV, Fla. Stat. (2011). Thus, by law, “school districts” are distinct legal entities that do not operate and control state universities.

Also significant here, the term “school district” is only used in subsection 790.115(2)(a)3. while the rest of section 790.115 simply uses the term “school.” Where the legislature includes wording in one section of a statute and not in another, it is presumed to have been intentionally excluded. See Bd. of Trs. of Fla. State Univ. v. Esposito, 991 So. 2d 924, 926 (Fla. 1st DCA 2008) (quoting L.K. v. Dep’t of Juvenile Justice, 917 So. 2d 919, 921 (Fla. 1st DCA 2005)). The judiciary cannot extend the terms of an unambiguous statute beyond its express terms or reasonable and obvious implications under Florida’s strict separation of powers delineated in article II, section three, of the Florida Constitution. See Davila v. State, 75 So. 3d 192, 196 (Fla. 2011). Even when the court determines the legislature intended something not expressed in the wording, the judiciary lacks the

authority under organic law to depart from the plain meaning of an unambiguous statute. See Johnson v. Gulf Cnty., 26 So. 3d 33, 41 (Fla. 1st DCA 2009) (quoting Forsythe v. Longboat Key Beach Erosion Control Dist., 604 So. 2d 452, 454 (Fla. 1992)). Thus here, it must be presumed that the legislature intended to grant the power to issue waivers solely to “school districts” not individual “schools.”

This court is almost in full agreement that UNF does not qualify as a “school district” under section 790.115; therefore, UNF does not have the authority to waive itself out of the requirements of section 790.25, which gives Lainez the right to carry a securely encased firearm in her vehicle. Where we differ is in our consideration of the constitutional issue raised by the original panel.

II. The Dissent

The dissent implicitly concedes that statutory interpretation of section 790.115 would require reversal. However, the dissent bypasses any error in the trial court’s legal analysis of section 790.115(2)(a)3. and suggests affirmance under the authority granted to the UNF Board of Trustees by the board of governors under article IX, section 7. We respectfully disagree. Whatever the scope of authority granted to the universities under article IX, section 7, it does not encompass a university regulation that prohibits the carrying of a securely encased firearm within a vehicle parked in a university parking lot.

Section 790.33, Florida Statutes

The legislature's primacy in firearms regulation derives directly from the Florida Constitution. Article I, Section 8(a), of the Florida Constitution provides:

The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed, except that the manner of bearing arms may be regulated by law.

The phrase "by law" indicates that the regulation of the state right to keep and bear arms is assigned to the legislature and must be enacted by statute. Cf. Grapeland Heights Civic Ass'n v. City of Miami, 267 So. 2d 321, 324 (Fla. 1972) (considering the enactment clause language of article III, section 6, of the Florida Constitution and interpreting the constitutional term "law" in the phrase "authorized by law" to mean an enactment by the legislature not by a city commission or any other political body). Indeed, the legislature has reserved for itself the whole field of firearms regulation in section 790.33(1), which provides:

(1) Preemption.--Except as expressly provided by the State Constitution or general law, the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or any administrative regulations or rules adopted by local or state government relating thereto. Any such existing ordinances, rules, or regulations are hereby declared null and void.

Previously, this statute only explicitly preempted the regulation of firearms by local government. See Pelt v. State, Dept. of Transp., 664 So. 2d 320, 321 (Fla.

1st DCA 1995), *rev. denied*, 671 So. 2d 788 (Fla. 1996). However, in October 2011, the legislature added the phrase “any administrative regulations or rules adopted by local or state government” to emphasize and reiterate that the regulation of firearms was solely within the purview of the legislature and not within the jurisdiction of local governments or agencies of the state government using their rulemaking power. See ch. 2011-109, § 1, Laws of Fla. “It is presumed that in adopting an amendment, the legislature intends to *change* the meaning of a statute unless a contrary intention is clearly expressed.” Equity Corp. Holdings, Inc. v. Dep’t of Banking & Fin., Div. of Fin., 772 So. 2d 588, 590 (Fla. 1st DCA 2000). As such, we must interpret the statute to preempt the regulation of the right to bear arms from state governmental entities as well as local government. To rule otherwise and permit a state agency to enact rules or policies restricting the right to bear arms without a specific legislative delegation would render the 2011 amendment superfluous.¹

Evidence of the legislature’s intent to preempt the entire field of firearm regulation is located in subsection 790.33(4)(e), which provides that section 790.33(1) does not prohibit the Florida Fish and Wildlife Conservation Commission (FWCC) from regulating the use of firearms as a method of taking

¹ Whether the legislature has the authority to delegate, in part, the exclusive authority to enact regulations regarding the right to keep and bear arms was not argued in this case, and we need not consider it to decide this case.

wildlife and from regulating shooting ranges. Like state universities, the FWCC derives its authority from the Florida Constitution. See Art. IV, § 9, Fla. Const. If, in implementing the exclusive constitutional authority to regulate firearms in section 790.33 the legislature did not intend to preempt such constitutional agencies in the first place, it would have been completely unnecessary to exempt the FWCC, a constitutional agency. In other words, subsection 790.33(4)(e) would be superfluous if the dissent's analysis were correct. It follows logically then that section 790.33 must be read to preempt even those state agencies deriving their authority directly from the Florida Constitution. See Hechtman v. Nations Title Ins. of N.Y., 840 So. 2d 993, 996 (Fla. 2003) (“It is an elementary principle of statutory construction that significance and effect must be given to every word, phrase, sentence, and part of the statute if possible, and words in a statute should not be construed as mere surplusage.”).

Like the FWCC, state universities qualify as state agencies. See § 1001.705(1)(d), Fla. Stat. (2011) (defining a state university as an agency of the state that belongs to and is a part of the executive branch of state government). University boards of trustees are also part of the executive branch of state government. See § 1001.71(3), Fla. Stat. (2011). While universities may be excluded from the definition of an agency in regard to particular statutes, section 790.33 contains no such exclusion. Absent this specific exclusion in the statute at

hand, universities must qualify as part of “state government.” The regulation adopted by UNF in this case qualifies as an administrative rule “adopted by local or state government,” which the legislature has expressly preempted. See § 790.33(1), Fla. Stat. (2011).

Article IX, Section 7

The dissent suggests affirmance under the tipsy coachman doctrine and posits that state universities have the independent authority under article IX, section 7, to implement the regulation at issue even in the face of a statutory provision that provides otherwise. The dissent interprets the scope of the university’s authority broadly enough to encompass the regulation at issue, which it characterizes as merely regulating the conduct of students exercising the privilege to enroll in UNF. Interpreting the board of governors’ authority in article IX, section 7, so broadly in this instance conflicts with the right to keep and bear arms in article I, section 8(a). Thus, we must interpret the scope of authority in article IX, section 7, in a manner that gives effect to both provisions. See *Askew v. Game & Fresh Water Fish Comm’n*, 336 So. 2d 556, 560 (Fla. 1976) (recognizing that constitutional provisions should be considered in light of the Constitution as a whole, thus favoring an interpretation that gives effect to every part).

An inquiry into the scope of the board of governors’ authority must first

begin with an examination of the actual language of the constitutional provision. See Caribbean Conservation Corp. v. Fla. Fish & Wildlife Conservation Comm'n, 838 So. 2d 492, 501 (Fla. 2003) (quoting Fla. Soc'y of Ophthalmology v. Fla. Optometric Ass'n, 489 So. 2d 1118, 1119 (Fla. 1986)). This court endeavors to construe constitutional provisions consistent with the intent of the framers and the voters. Id.

In November 2002, the voters approved Amendment 11, which had been proposed by initiative petition. The amendment created article IX, section 7, and established the board of governors of the state university system as a corporate body that “shall operate, regulate, control, and be fully responsible for the management of the whole university system.” Art. IX, § 7(d), Fla. Const. The board’s responsibilities include, but are not limited to:

[D]efining the distinctive mission of each constituent university and its articulation with free public schools and community colleges, ensuring the well-planned coordination and operation of the system, and avoiding wasteful duplication of facilities or programs.

Id.

Section 7(d) also provides that the board’s “management shall be subject to the powers of the legislature to appropriate for the expenditure of funds, and the board shall account for such expenditures as provided by law.” Id.

The scope of the board’s authority has been interpreted in various decisions from this court and the supreme court. While these decisions have interpreted the

board's scope of authority broadly, it is notable that the areas at issue all concerned matters directly related to education. See Fla. Pub. Employees Council 79, AFSCME, AFL-CIO v. Pub. Employees Relations Comm'n, 871 So. 2d 270 (Fla. 1st DCA 2004) (personnel); NAACP, Inc. v. Fla. Bd. of Regents, 876 So. 2d 636 (Fla. 1st DCA 2004) (admission criteria); Decker v. Univ. of W. Fla., 85 So. 3d 571 (Fla. 1st DCA 2012) (student discipline sanctions for cheating). Most recently in Graham v. Haridopolos, 75 So. 3d 315 (Fla. 1st DCA 2011), this court determined that the board's authority did not include the power to set and appropriate tuition and fees. That decision was affirmed by the supreme court in Graham v. Haridopolos, 108 So. 3d 597, 604 (Fla. 2013), which recognized that the language of article IX, section 7, did not plainly transfer to the board the legislature's control over tuition and fees, but instead granted the board the responsibility to "operate," "regulate," "control," and "be fully responsible for the management of the whole university system." Employing the canon of construction *esjusedem generis* to construe the meaning of "operate, regulate, control, and be fully responsible for the management of the whole university system," the supreme court reasoned that the listed responsibilities in article IX, section 7, included responsibilities that were "executive and administrative in nature." Id. at 605. The supreme court determined that the ability to set and appropriate for the expenditure of tuition and fees was of a wholly different nature

and, therefore, was not included with the meaning of the authority vested in article IX, section 7(d). Id.

While the Haridopolos decisions were based, in part, on the express language in article IX, section 7(d), the discussion of the board's scope of authority is instructive here. We likewise interpret the board's authority in article IX, section 7, to encompass responsibilities that are "executive and administrative" in nature. See id. Regulating a citizen's right to keep and bear arms is of a wholly different nature. Thus, we respectfully disagree with the dissent's argument that the constitutional language in article IX, section 7, contemplated giving the board (and therefore UNF) plenary authority to enact the regulation at issue, which would deprive students attending UNF of their constitutional right to bear arms as provided by organic law and legislative enactment.

Furthermore, in our view, reading the grant of authority in article IX, section 7, to allow the university to regulate the lawful possession of firearms would have caused this amendment to fail its ballot title and summary review in the supreme court pursuant to section 101.161, Florida Statutes, and article V, section 3(b)(10), of the Florida Constitution. The ballot title and summary to Amendment 11 presented to the voters at the 2002 general election read:

Ballot title: Local trustees and statewide governing board to manage Florida's university system.

Ballot summary: A local board of trustees shall administer each state

university. Each board shall have thirteen members dedicated to excellence in teaching, research, and service to community. A statewide governing board of seventeen members shall be responsible for the coordinated and accountable operation of the whole university system. Wasteful duplication of facilities or programs is to be avoided. Provides procedures for selection and confirmation of board members, including one student and one faculty representative per board.

In re Advisory Op. to the Atty. Gen. ex rel. Local Trs., 819 So. 2d 725, 727-28 (Fla. 2002).

In its review of this ballot title and summary, the supreme court held that the proposed amendment did “not substantially affect or alter any [other] provision in the state constitution.” Id. at 732. If a constitutional amendment by initiative seeks to “amend multiple sections of the constitution . . . [it] should identify the articles or sections of the constitution substantially affected.” Fine v. Firestone, 448 So. 2d 984, 989 (Fla. 1984). There was nothing in either the text of Amendment 11 or the ballot title or summary to indicate in any way that the amendment to article IX, section 7, would give the board of governors the authority to override the provisions of article I, section 8, providing that the legislature alone has the authority to regulate the manner of bearing arms. Had it done so, the public would have been alerted that Amendment 11 could have diminished the people’s fundamental right to bear arms, a right that has been zealously guarded and protected, as noted by Judge Makar in his concurrence. In essence, to adopt the dissent’s view we would allow Amendment 11 to “fly under

false colors.” See Armstrong v. Harris, 773 So. 2d 7, 16-18 (Fla. 2000).

The dissent maintains that the regulation at issue is a condition on the exercise of a “privilege” rather than a restriction on a fundamental constitutional right. Its analysis thus characterizes the regulation at issue as noncriminal. However, by waiving the secure encasement exception under section 790.115, the regulation here purports to subject a person with a firearm securely encased in his or her vehicle to a potential third-degree felony charge for a violation. See § 790.115(2)(c)1., Fla. Stat. (2011).

The dissent also argues that the university has the power to regulate otherwise lawful activities in the context of student conduct, i.e., consuming alcohol in a classroom or smoking in a dorm room. While true in certain contexts, restricting recreational activities is a far cry from restricting a fundamental, constitutional right to keep and bear arms for self-defense. We recognize that section 1001.706(7)(b), Florida Statutes (2011), gives the board of governors the authority to restrict the use of firearms, food, tobacco, and alcoholic beverages, among other things. However, this provision must be read *in pari materia* with section 790.115. If the issue in this case involved the right of a student to carry a firearm in the classroom or at a sporting event, our analysis would be different. There are certain places where firearms can be legally prohibited, but the legislature has recognized that a citizen who is going to be in one of these places

should be able to keep a firearm securely encased within his or her vehicle.

In regulating the manner of bearing arms, the legislature has attempted to balance this fundamental right with the safety of Florida citizens. This balance can be seen in the “guns-at-work” statute, section 790.251, Florida Statutes (2011),² which provides, in part,

(3) Legislative intent; findings.--This act is intended to codify the long-standing legislative policy of the state that individual citizens have a constitutional right to keep and bear arms, that they have a constitutional right to possess and keep legally owned firearms within their motor vehicles for self-defense and other lawful purposes, and that these rights are not abrogated by virtue of a citizen becoming a customer, employee, or invitee of a business entity. It is the finding of the Legislature that a citizen's lawful possession, transportation, and secure keeping of firearms and ammunition within his or her motor vehicle is essential to the exercise of the fundamental constitutional right to keep and bear arms and the constitutional right of self-defense. The Legislature finds that protecting and preserving these rights is essential to the exercise of freedom and individual responsibility. The Legislature further finds that no citizen can or should be required to waive or abrogate his or her right to possess and securely keep firearms and ammunition locked within his or her motor vehicle by virtue of becoming a customer, employee, or invitee of any employer or business establishment within the state, unless specifically required by state or federal law.

² In Florida Retail Federation v. Attorney General of Florida, 576 F. Supp. 2d 1301, 1302 (N.D. Fla. 2008), the Northern District held section 790.251 unconstitutional in part because the court found it irrationally compelled some businesses, but not others, to allow a customer to secure a gun in a vehicle. However, the opinion recognized that the state may compel a business to allow a gun to be secured in a vehicle in a parking lot and upheld the statute to the extent it compelled a business to allow a worker with a concealed weapons permit to secure a gun in a vehicle in a parking lot. Thus, the legislative intent contained within the statute remains relevant for our purposes here.

Section 790.115 strikes a similar balance when it prohibits firearms from school property except when securely encased within a vehicle pursuant to section 790.25(5).

III. The Concurrences

All of the concurring judges agree with the interpretation of section 790.115 above. Understandably, some of the concurring judges are wary of weighing in on the constitutional issue raised by the dissent. However, a concurrence that does not address the constitutional arguments put forth by the dissent results in an implicit ruling that the authority of the board of governors is not as expansive as the dissent reads it in article IX, section 7.

The procedural posture of this case requires that this court address the constitutional issue. The original panel asked the parties to be prepared to speak on the application of article IX, section 7, in oral argument and then required briefing on the issue. The dissent is entitled to make a “tipsy coachman” argument in order to affirm. If the dissent were correct that article IX, section 7, gives the board of governors independent authority to regulate securely encased firearms within vehicles despite a statute requiring a contrary result, then neither section 1001.706(7)(b), Florida Statutes, nor the provisions of chapter 120 governing how agencies receive their rule-making authority would limit the board of governors and the board of trustees. See In re Advisory Op. of the Governor, 334 So. 2d 561

(Fla. 1976). The board of governors has, after all, delegated the responsibility for “campus safety” to the various boards of trustees.³ Such a delegation would be a sufficient grant of power to enact the regulation at issue, which clearly relates to campus safety, regardless of whether one believes disarming students actually makes university campuses more or less safe. Furthermore, any argument that UNF’s regulation fails because it did not have authority delegated by the board of governors constitutes a “tipsy coachman” reversal – a jurisprudential device unknown in the law. See Advanced Chiropractic & Rehab. Ctr. Corp. v. United Auto. Ins. Co., 103 So. 3d 866, 869 (Fla. 4th DCA 2012) (citing State v. Baez, 894 So. 2d 115, 121 (Fla. 2004) (Pariente, C.J., dissenting)).

IV. Conclusion

In conclusion, the trial court incorrectly construed the meaning of “school district” in section 790.115. While school districts may adopt a waiver disallowing securely encased firearms in vehicles parked on campuses under their authority, neither UNF nor the UNF Board of Trustees qualifies as a school district under section 790.115(2)(a)3. The legislature has preempted UNF from independently regulating firearms. As such, section 14.0080P of the UNF policies and regulations, to the extent it prohibits possession of securely encased firearms in

³ Board of Governors Regulation 1.001(3)(l) provides that the university boards of trustees are responsible for “campus safety and emergency preparedness, to include safety and security measures for university personnel, students, and campus visitors.”

motor vehicles, is illegal and unenforceable. For these reasons, we reverse and remand for disposition consistent with this opinion.

REVERSED and REMANDED.

LEWIS, C.J., WOLF, BENTON, THOMAS, ROWE, SWANSON, and MAKAR, JJ., concur.

BENTON, J., concurs in an opinion in which WOLF, J., joins.

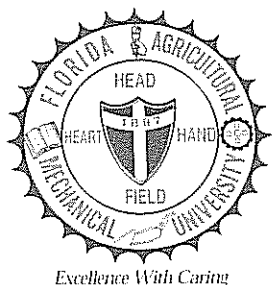
WETHERELL, J., concurs in an opinion in which MARSTILLER, RAY, and OSTERHAUS, JJ., join.

SWANSON, J., concurs with opinion.

MAKAR, J., concurs in an opinion in which OSTERHAUS, J., joins in PART II.

OSTERHAUS, J., concurs in an opinion in which WETHERELL, MARSTILLER, RAY, and MAKAR, JJ., join.

PADOVANO, J., dissents in an opinion in which VAN NORTWICK, and CLARK, JJ., join.



Florida Agricultural and Mechanical University

TALLAHASSEE, FLORIDA 32307-3100

OFFICE OF THE PRESIDENT

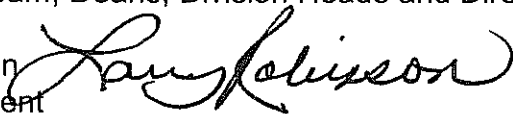
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MEMORANDUM

TO: Leadership Team, Deans, Division Heads and Directors

FROM: Larry Robinson 
Interim President

SUBJECT: Recruitment, Selection and Employment Procedures

DATE: October 16, 2013

Attached are copies of Florida A&M University Board of Trustees Regulations 10.105 and 10.131, with regards to recruitment, selection, employment, and background screening and fingerprinting. You are highly encouraged to ensure that these established procedures are followed.

It is vitally imperative that appropriate personnel actions be followed in the hiring of University employees and in certifying employees for payroll to avoid any potential or actual adverse audit exceptions. In that regard, please also verify educational qualifications and credentials, work experience, and perform any and all appropriate background and references checks prior to extending job offers or approving individuals for employment. Such verification is vital to further reduce the University's exposure to possible litigation including claims of negligent hiring or supervision. In addition, adequate background screening will shield the University from an unnecessary negative impact on its reputation and brand, and additional costs associated with separating a "bad hire" from employment.

If you have any specific questions regarding these matters, please feel free to contact Mr. Avery McKnight, Vice President for Legal Affairs and General Counsel, or Mrs. Sherrye Earst, Interim Assistant Vice President, Human Resources. In advance, thank you for your continued cooperation and faithful commitment to "Excellence with Caring."

Enclosures

**Regulations of
Florida A&M University**



10.105 Recruitment, Selection and Employment of University Faculty, Administrative and Professional, Executive Service, University Support Personnel System and Other Personal Services Employees.

(1) Generally.

(a) The Office of Human Resources (Human Resources) is responsible for the recruitment, examination, screening and selection for referral of all applicants for positions with the University. Human Resources shall make available to departments or units only those applicants who appear to meet the minimum qualifications for a vacancy and any special qualifications specific to the vacant position as outlined by the hiring department or unit. Educational qualifications and credentials, work experience, background check, fingerprinting and references must be verified as part of the job offering.

(b) Any person providing false or misleading information in order to meet the qualifications for a position shall be immediately dismissed for the position, if the person has been hired; or, the person shall be disqualified from any further consideration for the position in question.

(c) The President, or the President's designee, shall establish sanctions for the willful falsifications or willful nondisclosures related to job qualifications or responsibilities. The discipline imposed shall be based upon the circumstances.

(2) Announcement of Vacant Positions.

Human Resources will review and authorize job vacancy announcements and distribute such announcements to reach as diverse an applicant group as possible in accordance with all University policies.

(a) The University will announce all Faculty, A&P and USPS position vacancies for a minimum of seven (7) calendar days. The President, or the President's designee, will determine which positions have special advertising requirements to meet the

University Affirmative Action Plan or Equity Accountability Plan. The University President or designee may waive the announcement of a position when a waiver is in the best interest of the University.

(b) All applicants must meet the minimum qualifications listed in the University's class specifications and the additional competencies required for the specific position, unless a waiver has been requested and approved by the Office of Human Resources. The applicant must have education, training, and experience deemed to be equivalent and appropriate for a waiver to be approved. The applicant must also meet any occupational requirements or special qualifications established for the position. The University will determine the required level of education, training, and experience appropriate for a specific position.

(c) An applicant's consideration will be discontinued when it is determined that the applicant does not meet the minimum requirements, has falsified or failed to complete an application accurately, has an unsatisfactory employment record, has a criminal history related to the position for which the applicant has applied, or which may jeopardize the safety of students, faculty, staff, or the safekeeping of confidential records and university accounts.

(d) Any person who has been convicted of a felony involving the sale of or trafficking in, or conspiracy to sell or traffic in, a controlled substance as described in Chapter 893, F.S., is disqualified from employment unless conditions outlined in Section 775.16, F.S., are met. Failure to disclose such conviction is cause for dismissal.

(e) Employees hired into positions requiring random drug testing are subject to dismissal upon the return of positive test results.

(f) The University seeks to ensure the spoken English language competence of all prospective and current Faculty involved in classroom instruction, other than courses conducted primarily in a foreign language.

(3) Appointments.

(a) The President or President's designee shall have the authority to:

(1) Authorize and establish positions within the employee group classifications of Faculty, A & P and USPS. However, no position shall be filled until it has been

authorized and classified.

- (2) Hire Faculty, A & P and USPS employees in accordance with these provisions;
- (3) Assign Administrative and Professional positions to an appropriate pay range;
and
- (4) Reclassify current authorized and established positions.

(b) The offer of employment to a Faculty, Executive Service, A & P, or USPS employee shall be made by the President or President's designee.

(a) Appointments to the Executive Service, however, shall be made only by the President. The offer of employment to Faculty and A & P employees shall be made by means of a contract or appointment document, and conditioned on the return of a duly executed copy of the contract or written acceptance of the appointment by a specified date.

(b) Employees appointed to the Executive Service shall not have tenure and no expectation of appointment beyond a 60 days notice period. Executive Service positions shall be policy-making at the executive level and report directly to the President.

(c) OPS employees may be appointed to meet temporary or non-permanent employment needs. OPS employees have no right, interest or expectancy of continued employment. OPS employees shall not be assigned to a specific classification other than exempt (salaried) or non-exempt (hourly).

(d) The President or President's designee may for the best interest of the University, and at any time, assign a faculty to other institutional assignment(s). This change in assignment will take place only after consultation with the employee and the departments or other affected units. Regardless of the change in assignment, however, the University is committed to compensate the employee. Change in assignments in conjunction with a nonreappointment shall be made pursuant to Regulation 10.207.

(e) No appointment shall create any right, interest, or expectancy of continued employment. At any time during any appointment, faculty, A & P, and Executive Service employees may be non-renewed upon written notice in compliance with these regulations and consistent with any relevant collective bargaining agreement.

(4) Appointment Modifiers.

The University shall use the following appointment modifiers, which define the conditions of an employee's appointment. Such appointment modifiers apply to the appointment of a qualified employee unless otherwise stated. Appointments shall be made only to positions that have been established in accordance with the University's Classification Plan.

- a. Regular - A continuing appointment or an original temporary appointment, which may be followed by a continuing appointment. The appointment modifier is not included in the title.
- b. Acting/Interim - A limited time appointment to a position primarily assigned administrative duties until a regular appointment is made.
- c. Adjunct - An appointment paid from OPS. Adjunct appointments may not be for more than 50% of the time throughout an academic year or full-time for more than twenty-six weeks of a fiscal year, unless approved by the President. Such appointments are for temporary or part-time employment and the term of employment is only for the period specified in the offer.
- d. Permanent – The status earned in a class after successful completion of the designated probationary period where applicable.
- e. Visiting - An appointment of a person as a faculty member who have distinguished professional qualifications, when either the person or the position is not expected to be available for more than a limited period of time. No person shall be appointed to be visiting position beyond four (4) years.
- f. Joint - An appointment when the person is regularly participating in the teaching and/or graduate supervision responsibilities of more than one academic department/unit.
- g. Research - An appointment when the person is engaged primarily in research.
- h. Clinical - An appointment in conjunction with a professional position in a hospital or other clinical environment.
- i. Courtesy - An unpaid appointment which may include special academic privileges such as voting in departmental affairs. Persons appointed with this status may or may not be otherwise affiliated with the University.
- j. Honorary/Honoris Causa - An unpaid appointment of an individual having

distinction and honor in his/her field, but who does not possess the normal requirements for the position.

- k. Emeritus - An honorary title which may be conferred at retirement in recognition of distinguished service.
- l. Affiliate - An appointment when a person participates in some functions of other academic departments/units.
- m. Joint College - An appointment to a college/unit administered jointly by more than one university. Although appointed and employed by only one of the participating universities, each person so designated is considered an employee of the other participating universities for purposes of carrying out the teaching, research, and service responsibilities of the college/unit.
- n. Phased Retirement - An appointment under the provisions of the Phased Retirement Program.
- o. Regular - A continuing appointment after successful completion of the designated probationary period for the class.
- p. Probationary - An appointment to a position in a class for the designated period, where the employee meets the minimum qualifications for the position.
- q. Temporary - An appointment to provide a nonpermanent assignment to a vacant position; to replace an employee on leave, temporarily promoted or reassigned; or to overlap one employee with another for training purposes.
- r. Time-limited - An appointment to a position funded by contract and grant, auxiliaries, or local funds, as appropriate, for a particular project, enterprise, or specified period. Such designation must be made to the position at the time of recruitment. A time-limited position shall have the same rights as a position with a regular appointment modifier, except such position shall not have rights provided for layoff and recall.

(5) Probationary Period for A&P and USPS employees.

(a) The initial appointment for of a new employee to an A&P or a USPS position shall be for a probationary period of six (6) months, with the exception of employees in law enforcement positions who shall serve an initial twelve (12) month probationary period. During this probationary period, the appointment may be terminated at any time without any

requirements of notice and without any rights of appeal or access to any complaint procedure as provided in these regulations.

(b) Probationary employees are not eligible to apply for promotion or transfer until they have been employed continuously for 180 days.

Specific Authority 1001.74(4)FS. Law Implemented 1001.74(4), (19, 1001.75(3) FS.
History: New 5-6-82, Amended 7-15-87, 6-27-96, 12-1-05, _____.

**Regulations of
Florida A&M University**



10.131 Employee Background Screening and Fingerprinting.

(1) Purpose of Intent

The purpose of this regulation is to specify the protocols and responsibilities of Florida A&M University (University) in conducting security checks/screening on job candidates to whom an offer of employment has been extended for positions of special trust or responsibility or positions located in safety sensitive areas. Security background checks/screenings involving current employees and volunteers are also addressed. This regulation supplements the employment and education verification process performed in support of the University's hiring process.

(2) Statement of Policy

(a) Security background checks/screenings will be conducted on all job candidates to whom an offer of employment has been made for positions of special trust or responsibility or positions located in safety sensitive areas whose duties may include one or more of the following:

1. Working with children/minors (National Child Protection Act 1993 as amended). A child/minor is defined as any person under the age of 18 in accordance with Section 827.01, Florida Statutes;
2. Access to cash, credit card numbers and/or demand deposits;
3. Access to campus buildings, including residences as a result of being assigned building master keys;
4. Access to surplus property;
5. Ability to complete final processing of payroll or payroll corrections, investments, security access transactions or purchase orders;
6. Ability to process a payment, print or distribute checks;
7. Ability to update, prepare, generate or enter a transaction that will result in one of the following: refund, wire transfer, automatic clearing house transaction, vendor add/change or vendor address change; or
8. Ability to access underlying codes/processing protocol supporting the University's Enterprise Information Technology (EIT) systems applications or complete final processing of EIT security access transactions.

The post-offer, pre-employment background check/screening will include:

1. Name and Address Verification
 2. Social Security Number Verification
 3. Potential Criminal History via Fingerprinting Search (state and/or national).
- (b) A security background check/screening shall also apply to employees in designated positions of special trust or responsibility or positions located in safety sensitive areas and accepted volunteers in positions whose duties may include one or more of the duties specified in section (2)(a) 1.- 8. above.
- (c) A security background check/screening to verify that the candidate possesses a valid driver's license and verify the candidate's driving history will be performed on candidates offered positions whose duties include, but are not limited to operating licensed motor vehicles owned by the University at least one or more times per week. Drivers license/driving record checks will be performed annually at the discretion of University management.
- (d) If the security background check/screening reveals that an applicant has pled nolo contendere (no contest) to, or been convicted of, a first-degree misdemeanor or a felony, or adverse driving history where applicable, the following factors will be considered to determine whether the convictions are grounds for denying or continuing employment or acceptance as a volunteer:
1. The nature and gravity of the offense(s) for which convicted;
 2. The time period that has lapsed since the conviction;
 3. The nature of the position being considered; and
 4. Falsification of employment and personnel-related documents.
- (e) A security background check/screening may be conducted on a current employee if University management has reason to believe an employee falsified his or her employment application and/or other personnel-related documents; if the employee occupies a position of special trust or responsibility or positions located in safety sensitive areas and a security background check/screening was not conducted at the time of hire; or for other justifiable reasons. Except for ongoing police investigations, the Office of Human Resources will be responsible for conducting any security background checks/screenings on current employees. Should a security background check/screening reveal any felony or first degree misdemeanor convictions not previously divulged by an employee/volunteer, the Office of Human Resources will consult with the appropriate hiring authority regarding the individual's continued employment.
- (f) Current employees and volunteers shall notify University management of any felony or first degree misdemeanor to which they have pled nolo contendere or guilty or are convicted of, or if applicable to their position, if their driver's license is

suspended subsequent to their employment or volunteer work with the University. Such notification must be made within three (3) working days of the conviction or driver's license suspension. Factors identified in paragraph (2)(d) above will be considered in determining the individual's continued employment.

- (g) This regulation applies to all employees and volunteers in positions of special trust or responsibility or positions located in safety sensitive areas provided, however, that its application is subject to the terms and conditions of any existing applicable collective bargaining agreements.

(3) Procedures

- (a) The Office of Human Resources will coordinate all employee and volunteer security background checks and screening activities, with the exception of those required for the Florida A&M University Department of Public Safety.
- (b) When any hiring authority submits a Position Vacancy Announcement (PVA) to the Office of Human Resources, the PVA will specify whether a driver's license/records check is to be completed in addition to name, address and social security number verification and potential criminal history check/screening.
- (c) All advertisements for positions will inform applicants of the security background checks/screenings required. The requirement to undergo a security background check/screening will be contained in the official position description.
- (d) Costs for any security background checks or additional screenings will be incurred by the hiring authority, candidate, employee or volunteer.
- (e) Post offer, pre-employment employees will sign a release form which allows the Office of Human Resources to conduct a background check/screening and review the results. Employment is contingent upon the results of the background check/screening.
- (f) Upon acceptance of OPS employees or volunteers into a program or department, the department utilizing the OPS employee or volunteer will be responsible for notifying the Office of Human Resources of any circumstances pertaining to their duties that require a security background check/screening as noted in paragraph (2)(b) above. The OPS employee or volunteer will be referred to the Office of Human Resources to facilitate the appropriate security background check/screening. Each will sign a release form and the security check/screening processing will begin.
- (g) If a candidate or volunteer begins working in the position prior to receipt of the background check/screening results, the hiring authority shall inform the candidate/volunteer that continued employment or acceptance is contingent upon the results.

- (h) Results of all background checks/screening will be kept confidential and will be disclosed only to the extent necessary to administer and enforce this regulation or pursuant to applicable federal and state law.
- (i) If results are of concern, the Office of Human Resources will evaluate the information in conjunction with the Office of the General Counsel and consult with the hiring authority. If the employee, candidate or volunteer is not to continue employment or volunteering with the University, the Office of Human Resources will notify the appropriate hiring authority.
- (j) Prior to making an offer of employment for positions of special trust or responsibility or positions located in safety sensitive areas involving law enforcement positions, the Florida A&M University Department of Public Safety will complete and obtain results from background checks/screenings with specific criteria set forth by Criminal Justice Standards and Training Commission (CJSTC) and enforced by Florida Department of Law Enforcement (FDLE) in accordance with Florida Statutes, on candidates being considered for employment in said department. Records of those results will be retained in the University's Department of Public Safety. All other records will be kept in a separate, secured file in the Office of Human Resources.

Specific Authority Board of Governors Regulation Development Procedure Dated July 21, 2005. Law Implemented Article IX, Florida Constitution, Board of Governors Resolution Adopted January 7, 2003, Chapters 435, Chapter 943 and Section 827.01, Florida Statutes History-New 8-12 -08.



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Florida Agricultural and Mechanical University

TALLAHASSEE, FLORIDA 32307

EQUAL OPPORTUNITY PROGRAMS

TELEPHONE: (850) 599-3076
FAX: (850) 561-2997
TDD: (850) 561-2998

FLORIDA A&M UNIVERSITY NON-DISCRIMINATION POLICY STATEMENT

It is the policy of Florida A & M University that each member of the University community is permitted to work or attend class in an environment free from any form of discrimination including race, religion, color, age, disability, sex, sexual harassment, marital status, national origin, and veteran status as prohibited by state and federal statutes. This commitment applies to all areas affecting students, employees, applicants for admission and applicants for employment. It is also relevant to the University's selection of contractors, suppliers of goods and services, and any employment conditions and practices.

Questions concerning this policy and procedures for filing complaints under the policy should be directed to Mrs. Carrie Gavin (EOP Director/University Title IX Coordinator), located in the Office of Equal Opportunity Programs. Please also see University Regulation 10.103 Non-Discrimination Policy and Discrimination and Harassment Complaint Procedures, and University Regulation 10.112 Consensual Relationships.


The Affirmative Action Plan/Program for *Minorities and Women* is available for review ONLY at the Office of Equal Opportunity Programs by anyone, upon request, during regular business hours (Monday through Friday, 8am-5pm).

The Affirmative Action Plan/Program for *Veterans and Persons with Disabilities* is available for review by anyone, upon request, during regular business hours (Monday through Friday, 8am-5pm) at the following locations:

Office of Human Resources
211 Foote-Hilyer Administration Bldg.
Florida A&M University
Tallahassee FL, 32307
(850) 599-3611

Office of Equal Opportunity Programs
674 Gamble Street
Florida A&M University
Tallahassee FL, 32307
(850) 599-3076; TDD (850) 561-2998

Copies of the affirmative action plans will be provided pursuant to Chapter 119 of the Florida Statutes.

Signed: 
Larry Robinson, Interim President
Florida A&M University

Revised February 5, 2013



**FLORIDA A&M UNIVERSITY
DRUG-FREE WORKPLACE POLICY**

Florida A&M University (FAMU) is committed to providing a campus environment free from the presence of illegal drugs to ensure employees are afforded the opportunity to maximize their levels of productivity and reach their desired levels of success. FAMU prohibits in and on FAMU owned or controlled property or off-campus while acting as a representative of FAMU, the unlawful manufacture, alteration, distribution, dispensation, possession or use of alcohol and/or illegal drugs, and the unlawful possession and/or use of a controlled substance or "designer drug" regulated under Chapter 893, Florida Statutes unless dispensed and used pursuant to a prescription or otherwise authorized by law. No employee is to report to work or any other University activity while under the influence of alcohol or illegal drugs.

Any FAMU employee determined to have violated this policy shall be subject to disciplinary action including, but not limited to termination, evaluation/treatment for a drug and/or alcohol use disorder, or other appropriate action in accordance with applicable collective bargaining agreements or FAMU Board of Trustees regulations, policies, and procedures. Disciplinary action by FAMU does not preclude the possibility of criminal charges against the employee. Similarly, the filing of criminal charges does not preclude action by the University.

Federal law requires an employee to notify their immediate supervisor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction. The Division of Research must notify any federal contracting agency within ten (10) days of having received notice that an employee engaged in the performance of such contract or grant has had a criminal drug statute conviction for a violation occurring in the workplace.



LARRY ROBINSON
INTERIM PRESIDENT

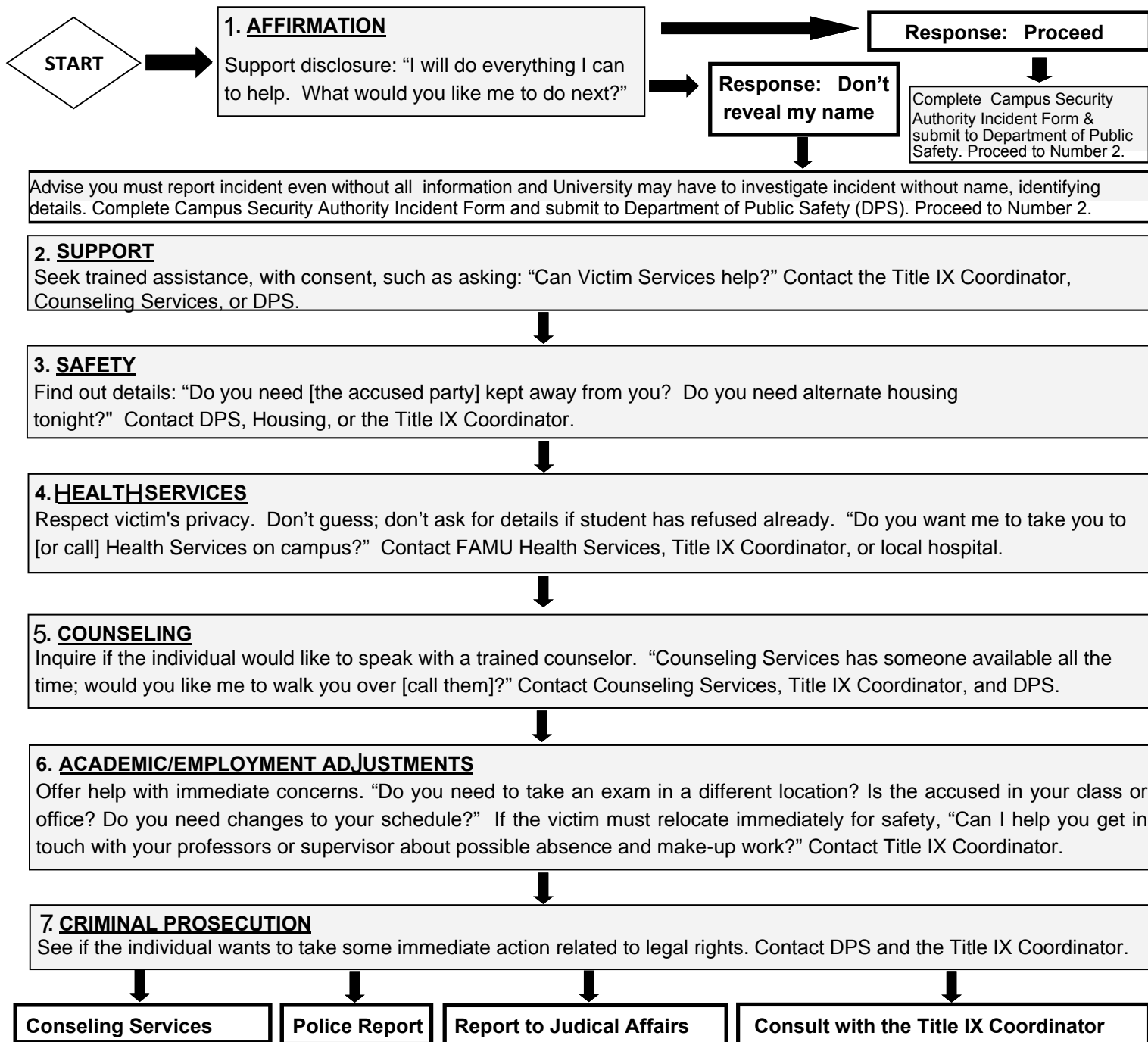
7/16/13
DATE

FLORIDA A&M UNIVERSITY

Requirements for Responses to Student/Employee Victims of Sexual Misconduct

Applies to: FAMU faculty, staff, administrators, and athletic personnel who receive information that a student or employee has experienced sexual misconduct including sexual harassment or violence.

ACTION REQUIRED: HELP STUDENT ACCESS SEVEN RESOURCES



For victim assistance or reporting sexual misconduct, please contact the following as appropriate:

1. FAMU Counseling Services: (850) 599-3145
2. Office of Judicial Affairs: (850) 599-3541 or (850) 599-3542
3. Department of Public Safety: (850) 599-3256, Tallahassee Police Department: (850) 891-4200 or 911 in an emergency
4. Title IX Coordinator: (850) 599-3076
5. FAMU Health Services: (850) 599-3777, Tallahassee Memorial Hospital: (850) 431-0901, or Capital Regional Medical Center: (850) 325-5000



FLORIDA A&M UNIVERSITY
Collective Bargaining Agreements

UNITED FACULTY OF FLORIDA (UFF)

Navigation:

www.famu.edu > Administration > Academic Affairs > Faculty Resources

<http://www.famu.edu/AcademicAffairs/FAMU%20-%20UFF%202010-2013%20Collective%20Bargaining%20Agreement.pdf>

**UNITED FACULTY OF FLORIDA – FAMU CHAPTER
DEVELOPMENT RESEARCH SCHOOL**

Navigation:

www.famu.edu > Administration > Academic Affairs > Faculty Resources

<http://www.famu.edu/AcademicAffairs/2012-2015%20FAMU-DRS%20Collective%20Bargaining%20Agreement.pdf>

**AMERICAN FEDERATION OF STATE COUNTY AND MUNICIPAL EMPLOYEES
(AFSCME)**

Navigation:

www.famu.edu > Administration > Administrative and Financial Affairs >
Human Resources > Employee Relations

<http://www.famu.edu/hr/2010-2013%20AFSCME%20Collective%20Bargaining%20Agreement.pdf>

**THE FLORIDA POLICE BENEVOLENT ASSOCIATION LAW ENFORCEMENT
BARGAINING UNIT
(PBA)**

www.famu.edu > Administration > Administrative and Financial Affairs >
Human Resources > Employee Relations

<http://www.famu.edu/hr/Police%20Bargaining%20Agreement.pdf>