

FLORIDA A&M UNIVERSITY BOARD OF TRUSTEES



NOTICE OF PROPOSED NEW REGULATION

DATE: June 11, 2016

REGULATION CHAPTER NO.: Chapter 2

REGULATION CHAPTER TITLE: Student Affairs

REGULATION TITLE AND NUMBER: Student Code of Conduct 2.012

SUMMARY OF REGULATION: This Regulation is being revised to clarify the violation of Sexual Misconduct. The violation has been renamed “Gender-Based Misconduct” to be more inclusive and includes terms such as Complainant, Respondent and Reporter to identify individuals involved. Additionally, the Florida Board of Governors Regulation 6.0105 was revised to clarify how cases involving gender-based misconduct violations, such as sexual assault, stalking, dating violence and domestic violence should be addressed, such as using a panel of University officials to adjudicate these matters. University Regulation 2.012 has been revised to include this information. Lastly, the Office of Judicial Affairs has been renamed the Office of Student Conduct and Conflict Resolution. This Regulation reflects this name change, deletes terms such as “judicial” and “disciplinary” and replaces them with the term “conduct” and includes additional headings for ease of reference.

AUTHORITY FOR REGULATION: Article IX, Section 7, Florida Constitution, and Board of Governors Regulation 6.0105.

UNIVERSITY OFFICIAL INITIATING THIS REGULATION: Dr. William Hudson, Jr., Vice President for Student Affairs.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION IS: Angela Alvarado Coleman, Ed.D., Associate Vice President for Student Affairs and Dean of Students, Florida A&M University, 308 Foote-Hilyer Administration Center, Tallahassee, FL 32307, Office: (850) 599-3183, Fax: (850) 561-2674, angela.coleman@famuedu, and Antoneia

L. Roe, Esquire, Associate Dean of Students and Director of Student Conduct & Conflict Resolution, Florida A&M University, 1628 S. Martin Luther King Blvd., 100 Student Union, Tallahassee, Florida 32307-3100, (850) 599-3541 voice, (850) 599-3281 voice, (850) 561-2169 fax, antoneia.roe@famuedu.edu.

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

Regulations of Florida A&M University



2.012 Student Code of Conduct

- (1) The Student Code of Conduct (“Code”) 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 (“University”) students. The responsibility to know and abide by the Code ultimately lies with the student. The Student Code of Conduct supersedes all other means of disciplining or removing students for behaviors prohibited by the University.
- (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 student judicial conduct body or officials of a violation of this Regulation, to encourage all to comply with them, and assist in their enforcement by testifying providing relevant information as witnesses when called upon to do so. Accordingly, all alleged/purported violations of the Code shall be referred to the University Judicial Conduct Officer (Director of ~~Judicial Affairs~~ Student Conduct and Conflict Resolution). Students, faculty, ~~and~~ staff, stakeholders, or other individuals with knowledge, may report violations of the Code, in writing, to the Office of ~~Judicial Affairs~~ Student Conduct and Conflict Resolution.
- (3) The University has zero tolerance for a violation of any provisions of the Code, as well as the Anti-Hazing Regulation 2.028 and Alcoholic Beverages Regulation 3.021. “Zero tolerance” means that given the factual circumstances of the alleged/purported 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) Information Briefing. If the Judicial Conduct Officer or his/her designee believes after a review of the allegations/purported violations that the allegations have information has merit, the student will be issued, in writing, an Administrative Request to Appear at an information briefing before the Judicial Conduct Officer or his/her designee. At the information briefing, the Judicial Conduct Officer or his /her designee will explain to the student the elements of due process that will be afforded.
 - (a) University ~~disciplinary~~conduct 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) With the exception of extenuating circumstances, such as the student's incarceration, ~~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 issuance of the outcome letter, the University may amend ~~it~~thes violation(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.
 - (h) The University conduct proceedings are closed to the public.

(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; or
- (f) Activities occurring off campus, including non-university related activities.

(7) **Definitions.**

- (a) Business Day - A day of normal business operation as designated by the University.
- (b) Charged Student – The student charged with violations of this Code.
- (c) 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.
- (d) Complainant - ~~Any person who submits a report alleging that a student violated this Code.~~ An individual who reportedly experienced gender-based misconduct regardless of whether the individual participates in the disclosure or review of that report by the University at any point.
- (e) Educational sanctions – Work assignments, essays, presentations, or other related educational assignments.
- (f) Expulsion – A student shall be deprived of his/her opportunity to re-enter the University. The student is permanently separated from the University.
- (g) 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.
- (h) 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.

- (i) Judicial hold - This prevents the student from conducting business at the University (i.e. any form of registration or obtaining transcripts).
- (j) Mediation - The 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~~conduct 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.
- (k) 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.
- (l) Not Responsible - 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.
- (m) Preponderance of Evidence - The information presented supports the finding that it is more likely than not that the violation occurred.
- (n) Probation – An indication that the student’s conduct violated the Code and requires the withdrawal of special privileges, participation in inter-collegiate activities, and other activities including, but not limited to, band participation. 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.
- (o) Reporter – Any person who submits a report alleging that a student has violated this Code.
- (p) Reprimand – A formal rebuke and official recognition by letter to the student of misconduct as charged by the University. The reprimand may be written or oral.
- (pq) Respondent – A student who is reported to have engaged in gender-based misconduct. The term may also include an individual whose identity is unknown and there is reason to believe that they may be a student, or the Complainant or

Reporter is a student.

- (r) Responsible - The charged student has been found Responsible or accepted Responsibility for violating a provision(s) of the Code.
- (qs) Restitution – Compensation for loss, or damage to University property. This may be in the form of monetary or material replacement.
- (rt) 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~~Conduct Officer or a hearing body for violating a provision(s) of the Code.
- (su) Student - Any person admitted, enrolled, or registered for study at the University. This includes persons not officially registered or enrolled for a particular term but who are eligible to enroll or are associated with the University because he/she has not completed a course or program. The term “student” will also refer to student clubs and organizations.
- (tv) Suspension – Separation of the student from the University for a definite period of time. The duration of the period of suspension shall not exceed five (5) years and shall be in direct proportion to the degree of seriousness attached to the misconduct. Readmission for suspensions exceeding one (1) year is conditioned upon the recommendation of an ad hoc review board appointed by the President or Vice President for Student Affairs.
- (uw) University - The Florida A&M University whose main campus is located in Tallahassee, Florida and any of its satellite or branch campuses.
- (vx) University/Community service – ~~Hours the student is required to perform in~~ Specified areas of service for the benefit of the community or the University allocated to the student.
- (wy) University official - Any person employed by the University performing his/her assigned employment responsibilities.
- (xz) University premises - All buildings, land, facilities, and any other property owned, leased, operated, controlled or supervised by the University.
- (yaa) University sponsored activity - Any activity on or off campus which is initiated, aided, authorized or supervised by the University.
- (zbb) The word “Can” is used in the permissive sense.
- (aacc) The word “May” is used in the permissive sense.

- (~~bb~~dd) The word “Shall” is used in the imperative sense.
- (~~eee~~e) The word “Will” is used in the imperative sense.
- (~~ed~~ff) All definitions not included in this Code are in accordance with definitions found in the Merriam-Webster’s dictionary located in the Office of ~~Judicial Affairs~~Student Conduct and Conflict Resolution.

(8) **Violations.**

(a) Academic Dishonesty:

1. *Cheating*: using, attempting to use or giving unauthorized information or material in any academic endeavor. Cheating includes, but is not limited to, unauthorized possession and/or use of an examination, course related materials, cheat sheets, study aids or other information in an academic exercise; communication to another through written, visual, electronic or oral means; submitting the same academic work for credit more than once without the express written permission of the instructor; use of any materials or resources a faculty member has notified the student or class are prohibited.
2. *Plagiarism* may be specifically defined for the purposes of any course by the school, institute, or college involved. Unless otherwise defined, plagiarism shall include, but is not limited to, failure of the student to use another’s work without any indication of the source and in so doing, conveying or attempting to convey that the work is the student’s own; submitting a document or assignment in whole or in part that is identical or substantially identical to a document or assignment not written by the student; allowing another person to compose or rewrite an assignment or document.
3. A student who assists in any of the academic dishonesty violations mentioned above shall be considered equally as responsible as the student who accepts such assistance.
4. When the University’s schools, colleges or institutes choose to internally address academic dishonesty violations, students should consult with the academic dean, director or program coordinator in the respective school,

college, or institute for procedural information.

5. The penalties for academic dishonesty violations may 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.

(b) Alcoholic Beverages: The violation of alcoholic beverages is defined as noted in FAMU Regulation 3.021.

(c) Conspiracy: Assisting or attempting to assist another in any act(s) that violate(s) the Student Code of Conduct.

(d) Criminal Conviction: The student convicted of a criminal offense by an off-campus court of competent jurisdiction may be subject to sanctions by the University.

(e) 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.

(ef) Destruction of property: Defacement, damage, misuse or destruction of University property or services, or the private property of another. In addition to being subject to ~~disciplinary~~ disciplinary ~~conduct~~ action, students or student organizations responsible for such damage may be financially liable.

(fg) Disorderly Conduct: Behavior that disturbs the peace or undermines public safety, such as causing a disturbance or being unruly.

(gh) Disruptive Behavior: Disruption of a class, curricular or University activity; obstruction of the free flow of pedestrian or vehicular traffic on University

premises; interference with the rights of others to carry out their activities or duties at, or on behalf of the University; interference with the freedom of movement of any member or guest of the University; interference with the academic freedom and freedom of speech of any member or guest of the University; or any other act that impairs, interferes with or obstructs the mission, purposes, academic atmosphere, operations, processes, orderly conduct and/or functions of the University or the rights of other members of the University community.

- (hi) 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.
- (ij) Extortion: The act or practice of obtaining something or compelling some action by force, coercion, intimidation or threat is prohibited.
- (jk) ~~Felony or Federal Conviction: The student convicted of a felony or a federal offense by an off campus court of competent jurisdiction may be subject to sanctions by the University.~~
- (kl) Gambling: Participating, or play, in an unlawful game of chance for money or for anything of value on University premises, or at an affair sponsored by a student or student organization; to unlawfully sell, buy, barter or dispose of a ticket, ~~order~~ or any interest in a scheme of chance by whatever name on University premises or at any affair sponsored by a student or student organization; wager on a University team or organization in a competition, with a direct influence in the success of the competition.
- (lm) Gender-Based Misconduct: Encompasses a range of behaviors including, but not limited to, all forms of sexual harassment, non-consensual sexual contact, sexual exploitation, as well as other forms of misconduct such as stalking and relationship violence. Gender-based misconduct can occur between individuals who know each other, have an established relationship, have previously engaged in consensual sexual activity, and between individuals who do not know each other. Gender-based misconduct can be committed by persons of any gender identity and it can occur between people of the same or different gender.

1. Consent consists of a voluntary, clear and unambiguous agreement expressed in mutually understandable words and/or actions to engage in a particular activity. Consent must be voluntarily given and may not be valid if a person is being subjected to actions or behaviors that elicit emotional or psychological pressure, intimidation or fear.
2. Consent to past sexual activity and/or one form of sexual activity does not imply consent to future sexual activity and/or other forms of sexual activity.
3. The lack of resistance is not consent as there is no duty to fight off an individual.
4. Consent can be withdrawn by any party at any time.
5. Consent cannot be given by a person who is incapacitated. Incapacitation means that a person lacks the physical and/or mental ability to make informed, rational judgments. This may have a variety of causes, including, but not limited to, being asleep or unconscious, having consumed alcohol, drugs or other substances.
 - i. Gender-Based Misconduct offenses include, but are not limited to:
 - a) *Sexual Harassment*: Unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature if: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's education, living environment, employment, or participation in a University-related activity or University Program; (2) submission to or rejection of such conduct by an individual is used as the basis for or a factor in decisions affecting that individual's education, living environment, employment, or participation in a University-related activity; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's educational performance or creating an intimidating, hostile, offensive, or abusive environment for that individual's education, living environment, employment, or participation in a University-related activity.

- b) Non-Consensual Sexual Contact (or attempts to commit same):
Unwanted or unwelcome touching of a sexual nature including, but not limited to, kissing, fondling, oral sex, anal or vaginal intercourse, digital penetration or penetration by an object, or other physical sexual activity that occurs without valid consent.
- c) Sexual Exploitation: Occurs when one person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the individual being exploited, and the behavior does not otherwise constitute one of the other gender-based 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. Non-consensual distribution of photos, other images, or information of an individual's sexual activity;
 - iv. Going beyond the boundaries of consent (such as letting friends hide in the closet to watch you having consensual sex);
 - v. Engaging in voyeurism;
 - vi. Knowingly transmitting a sexually transmitted infection (STI) or HIV to another student;
 - vii. Exposing one's genitals in non-consensual circumstances;
 - viii. Inducing another to expose their genitals; or
 - ix. Prostitution of another person.
- d) Relationship Violence: Any act of violence or threatened act of violence that occurs between individuals who are or have been involved in a sexual, romantic, dating, spousal, domestic, or other intimate relationship. Relationship violence can also include psychological, sexual, economic, and emotional abuse,

when one partner tries to establish or maintain power and control over the other.

ii. Other student conduct offenses may also fall under gender-based misconduct as determined by the Office of Student Conduct and Conflict Resolution. Examples of these offenses include, but are not limited to:

a) Behavior prohibited under Regulation 10.103, Non-Discrimination Policy and Discrimination and Harassment Complaint Procedures;

b) Intimidation: Implied threats or acts that cause an unreasonable fear of harm;

c) Hazing: Refer to Regulation 2.028, Anti-hazing;

d) Retaliation in connection with allegations of gender-based misconduct; and

e) Stalking: Refer to subsection (8) (w) below.

iii. Complainant Rights:

a) While the University encourages all violations to be reported, the Complainant has the right to choose whether or not to file a formal complaint. There is also the option of filing an anonymous report. However, filing an anonymous report may limit the University's ability to issue a violation to the Respondent for the misconduct, or to address the needs of the Complainant;

b) A Complainant also has the right to file a report and request confidentiality. However, there may be circumstances based on the status or seriousness of the purported offense, that confidentiality may not be honored when the University must investigate and take action to protect the Complainant or other members of the University community. If the University is unable to honor a request for confidentiality, the Complainant will be notified;

- c) In addition to pursuing administrative/conduct remedies, the Complainant maintains the right to pursue criminal charges;
- d) The Complainant may have an advisor or support person present throughout the conduct proceedings. The advisor may be a victim advocate, attorney, friend, faculty member or family member. The advisor is not permitted to speak or participate directly in any student conduct proceeding;
- e) The University may prohibit the Complainant's past sexual history from being presented as information in University proceedings;
- f) The Complainant may attend the entire portion of the hearing at which information is received, excluding deliberations;
- g) The Complainant will receive similar and timely access to any information that will be used during the proceedings;
- h) The Complainant may submit potential relevant questions to the hearing panel chairperson prior to and during the hearing;
- i) The Complainant may present relevant information or witnesses during the hearing;
- j) The Complainant may ask relevant questions of witnesses who give statements during the hearing. All questions will be submitted in writing to and asked by the chair of the hearing panel;
- k) The Complainant may submit a written impact statement to be considered by the hearing panel if the Respondent is found Responsible but before determining sanctions. While the impact statement is not binding, the impact described in the statement, together with the totality of the circumstances, including the Respondent's conduct record, shall be considered in determining the appropriate sanction(s).

iv. Respondent and Complainant Hearing/Panel Additional Procedures:

- a) The student conduct proceeding shall be conducted by a University official or panel of university officials, except a

University may provide for a committee or panel where students comprise at least one-half of the membership if such committee or panel is requested by the Respondent and no objection is raised by the Complainant.

b) Upon request, the Complainant, Respondent and witnesses may provide relevant information in a manner that avoids direct contact with the Respondent, Complainant or witnesses; and

c) A Complainant or Respondent may not be questioned directly by the other. All questions shall be asked through the hearing panel chairperson.

v. Pending Outcome of Proceedings:

a) The Vice President for Student Affairs, Dean of Students or Director of Housing is authorized to modify living arrangements in cases where the Complainant and Respondent live in the same residential hall or complex;

b) The Vice President for Student Affairs, Dean of Students, or the University Conduct Officer is authorized to issue an immediate No Contact order, forbidding the Complainant and Respondent from all contact;

c) The Provost and/or the academic dean is authorized to establish an immediate reassignment of classes when both the Respondent and Complainant attend the same classes;

d) The University provides on-campus counseling services for students involved in reports of gender-based misconduct;

e) The University may provide additional rights and options in response to an incident;

vi. Both the Complainant and the Respondent shall be informed of the outcome of any University conduct proceeding regarding reported gender-based misconduct, the University's final determination and any sanctions;

vii. Appeal. Both the Complainant and Respondent have the right to appeal the outcome of the proceedings as outlined in Regulations 2.012(25) and 2.013(1)(i).

(n) Harassment: Verbal or written abuse (including electronic communications or internet activity), threats, intimidation, coercion and/or other conduct that endangers the health, safety, or welfare of others, or places another individual in reasonable fear of physical harm or creates a hostile environment in which others are unable to reasonably conduct or participate in work, education, research, living or other activities. Harassment also includes actions defined in Regulation 10.103.

~~(m)~~ Hazing: Hazing is defined as noted in FAMU Regulation 2.028.

~~(p)~~ Identification violations include:

1. Failure to present identification when requested by a University Law Enforcement Officer or other University official who identifies him/herself.
2. Alteration, illegal 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 student or any individual to use his/her student identification card, identification number, decal or other means of identification.
4. To manufacture, distribute, deliver, ~~sell~~, purchase, possess, or use of false identification.
5. Impersonation or misrepresenting the authority to act on behalf of another or the University.

~~(e)~~ 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.

~~(r)~~ Misuse 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~~ defamatory messages or material; or
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.

(qs) Misuse of Safety Equipment: Vandalizing or misusing emergency equipment for non-emergency events, which includes but is not specifically limited to intentional misuse of 911, blue lights systems, fire alarm pull stations, fire extinguishers, smoke detectors, or heart defibrillators; unauthorized use of emergency exit doors; false report of an explosive or incendiary device; causing or attempting to cause a fire or explosion; failure to evacuate during a fire alarm on the University's premises or at any University activity.

(#t) Noncompliance with a University Official's Directive: Failure to comply with oral or written instruction from a University official (i.e. faculty, staff, administration, residence hall staff, law enforcement officer) acting within the scope of his/her job duties or the use of contemptuous words toward the University official.

(su) Obstruction of the Student Conduct System, including but not limited to:

1. Failure to obey the notice from the University ~~Judicial~~ Conduct Officer to appear for an information briefing or hearing as part of the student conduct system;
2. Falsification, distortion, or misrepresentation of information before a hearing body, hearing officer, or a staff member of the Office of ~~Judicial Affairs~~ Student Conduct and Conflict Resolution during a student conduct

meeting;

3. Disruption or interference with the orderly conduct of an administrative hearing;
4. Attempting to discourage an individual's proper participation in, or use of, the student conduct system;
5. Attempting to influence the impartiality of a member of a hearing body prior to, during, and/or after an administrative hearing;
6. Harassment, verbal or physical, and/or intimidation of a member of the hearing body, hearing officer, Judicial Affairs Student Conduct and Conflict Resolution staff, reporter or a witness prior to, during, and/or after an administrative hearing; or
7. Influencing or attempting to influence another person to commit an abuse of the student conduct system.

(tv) Providing False Information and/or Falsification of University Records: The student who falsifies records or gives misleading information, verbal or written. This includes falsifying, tampering, altering, forging, withholding of required information, or misusing any University record or official document.

~~(u) Sexual Gender Based 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. Encompasses a range of behaviors including, but not limited to, all forms of sexual harassment, non-consensual sexual contact, sexual exploitation, as well as other forms of misconduct such as stalking and relationship violence. Gender-based misconduct can occur between individuals who know each other, have an established relationship, have previously engaged in consensual sexual activity, and between individuals who do not know each other. Gender based misconduct can be committed by persons of any gender identity and it can occur between people of the same or different gender.~~

~~Consent consists of an outward demonstration (a voluntary, clear and unambiguous agreement expressed in mutually understandable words and/or actions) clearly indicating that an individual has freely chosen to engage in sexual to engage in a particular activity.~~

~~Consent must be voluntarily given and may not be valid if a person is being subjected to actions or behaviors that elicit emotional or psychological pressure, intimidation or fear. Consent to past sexual activity and/or one form of sexual activity does not imply consent to future sexual activity and/or other forms of sexual activity.~~

~~Consent is not silence or the lack of resistance is not consent as there is no duty to fight off a sexual aggressor.~~

~~Consent can be withdrawn by any party at any time.~~

~~Consent cannot be given by a person who is incapacitated. Incapacitation means that a person lacks the physical and/or mental ability to make informed, rational judgments. This may have a variety of causes, including, but not limited to, being asleep or unconscious, having consumed alcohol, drugs or other substances.~~

Inability to give consent includes but is not limited to situations where an individual is:

~~Under the influence of alcohol, drugs or other substances (including, but not limited to prescribed medications);~~

~~Unconscious, asleep, ill or in shock;~~

~~Under the age of 18 and therefore legally incapable of giving consent; or~~

~~Known by reason of impairment, mental condition or developmental or physical disability to be reasonably unable to give consent;~~

~~i. Sexual Gender Based Misconduct offenses include, but are not limited to:~~

~~*Sexual Harassment:* 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. Unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature if: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's education, living environment, employment, or participation in a University related activity or University Program; (2) submission to or rejection of such conduct by an individual is used as the basis for or a factor in decisions affecting that individual's education,~~

~~living environment, employment, or participation in a University related activity; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's educational performance or creating an intimidating, hostile, offensive, or abusive environment for that individual's education, living environment, employment, or participation in a University related activity.~~

~~Non-Consensual Sexual Contact (or attempts to commit same):~~ 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. Unwanted or unwelcome touching of a sexual nature including, but not limited to, kissing, fondling, oral sex, anal or vaginal intercourse, digital penetration or penetration by an object, or other physical sexual activity that occurs without valid consent.

~~Non-Consensual Sexual Intercourse (or attempts to commit same):~~ 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:

~~Sexual contact when the person is below the statutory age of consent;~~

~~Vaginal, anal or oral intercourse, digital penetration or penetration by an object;~~

~~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;~~

~~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; or~~

~~Sexual contact when the perpetrator knows the person is unaware of the sexual contact.~~

~~Sexual Exploitation:~~ Occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own anyone's 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 gender based misconduct offenses.

~~Examples of sexual exploitation include, but are not specifically limited to:~~

~~Invasion of sexual privacy;~~

~~Non-consensual video or audio recording of sexual activity;~~

~~Non-consensual distribution of photos, other images, or information of an individual's sexual activity;~~

~~Going beyond the boundaries of consent (such as letting friends hide in the closet to watch you having consensual sex);~~

~~Engaging in voyeurism;~~

~~Knowingly transmitting a sexually transmitted infection (STI) or HIV to another student;~~

~~Exposing one's genitals in non-consensual circumstances;~~

~~Inducing another to expose their genitals;~~

~~Prostitution of another person or~~

~~Sexually based stalking and/or bullying may also be forms of sexual exploitation.~~

~~*Lewd and Lascivious Behavior:* Unlawful sexual acts with minors.~~

~~*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. Any act of violence or threatened act of violence that occurs between individuals who are or have been involved in a sexual, romantic, dating, spousal, domestic, or other intimate relationship. Relationship violence can also include psychological, sexual, economic, and emotional abuse, when one partner tries to establish or maintain power and control over the other.~~

~~Other student conduct offenses that will may also fall under sexualgender-based misconduct as determined by the Office of Student Conduct and Conflict Resolution. Examples of these offenses include, but areis not limited to: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;~~

~~Behavior prohibited under Regulation 10.103, Non-Discrimination Policy and Discrimination and Harassment Complaint Procedures;~~

~~b. Intimidation: Implied threats or acts that cause an unreasonable fear of harm;~~

~~c. Hazing: Refer to Regulation 2.028, Anti-hazing;~~

~~Repeated and/or severe aggressive behavior likely to intimidate or intentionally harm, control or diminish another person, physically or mentally;~~

~~Violence between those in an intimate relationship to each other;~~

~~d. Retaliation in connection with allegations of gender-based misconduct; and~~

~~Stalking: Refer to subsection (8) (v) below.~~

~~*Victim/Survivor*Complainant Rights:~~

~~While the University encourages all violations to be reported, the victim/survivorComplainant has the right to choose whether or not to file a formal complaint. There is also the option of filing an anonymous report. However, filing an anonymous report may limit the University's ability to issue a violation to the alleged offending student Respondent for the misconduct, or to address the needs of the victim/ survivorComplainant;~~

~~A victim/survivorComplainant also has the right to file a report and request confidentiality.~~

~~However, there may be circumstances based on the status or seriousness of the alleged purported offense, that confidentiality may not be honored when the University must investigate and take action to protect the victim/survivorComplainant or other members of the University community. If the University is unable to honor a request for confidentiality, the victim/survivorComplainant will be notified;~~

~~In addition to pursuing administrative/judicialconduct remedies, the victim/survivorComplainant maintains the right to pursue criminal charges;~~

~~The victim/survivorComplainant may have an advisor or support person present during the hearing. The advisor may be a victim advocate, attorney, friend, faculty member or family member. The advisor is not permitted to speak or participate directly in any student conduct proceeding;~~

~~The University will not require the corroboration of the victim/survivor's testimony;~~

~~The University will prohibit the victim/survivorComplainant's past sexual history from being admitted as testimony presented as information in University proceedings;~~

~~The Victim/survivorecomplainant may attend the entire portion of the hearing at which information is received, excluding deliberations;~~

~~The victim/survivorComplainant will receive similar and timely access to any information that will be used during the proceedings;~~

~~The victim/survivorComplainant may submit potential relevant questions to the hearing panel chairperson prior to and during the hearing;~~

~~The victim/survivor/Complainant may present relevant information or witnesses during the hearing;~~

~~The victim/survivor/Complainant may ask relevant questions of witnesses who give statements during the hearing. All questions will be submitted in writing to and asked by the chair of the hearing panel;~~

~~The Complainant may submit a written impact statement to be considered by the hearing panel if the Respondent is found Responsible but before determining sanctions. While the impact statement is not binding, the impact described in the statement, together with the totality of the circumstances, including the Respondent's conduct record, shall be considered in determining the appropriate sanction(s).~~

~~5. Respondent and Complainant Hearing/Panel Additional Procedures:~~

~~The student conduct proceeding shall be conducted by a University official or panel of university officials, except a University may provide for a committee or panel where students comprise at least one-half of the membership if such committee or panel is requested by the Respondent/student and no objection is raised by the Complainant. —~~

~~Upon request, Tthe victim/survivor/Complainant, Respondent and witnesses may 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/survivor/provide relevant information in a manner that avoids direct contact with the Respondent, Complainant or witnesses; and~~

~~A victim/survivor/Complainant or Respondent may not be questioned directly by the charged student. All questions shall be asked through the hearing panel chairperson.;~~

~~6The victim/survivor/Complainant may submit a written victim/survivor impact statement to be considered by the hearing panel if the charged student/Respondent is found Responsible but before determining sanctions. While the impact statement is not binding, the impact described in the statement, together with the totality of the circumstances including the Respondent's conduct record, shall be considered in determining the appropriate sanction(s).;~~

~~_____ Pending Outcome of Proceedings:~~

- ~~a. _____ The Vice President for Student Affairs, Dean of Students or Director of Housing is authorized to modify living arrangements in cases where the Complainant and Respondent live in the same residential hall or complex;~~
- ~~b. _____ The Vice President for Student Affairs, Dean of Students, or the University Conduct Officer is authorized to issue an immediate administrative restraining order, forbidding the Complainant and Respondent from all contact;~~
- ~~c. _____ The Provost and/or the academic dean is authorized to establish an immediate reassignment of classes when both the Respondent and Complainant attend the same classes;~~
- ~~d. _____ The University provides on-campus counseling services for students involved in reports of gender-based misconduct;~~
- ~~e. _____ The University may provide additional rights and options in response to an incident;~~

~~7The Vice President for Student Affairs, Dean of Students or Director of Housing is authorized to modify living arrangements in cases where the victim/survivorComplainant and alleged offenderRespondent live in the same housingresidential hall or complex;~~

~~The Vice President for Student Affairs, Dean of Students, or the University JudicialConduct Officer is authorized to issue an immediate administrative restraining order, forbidding the alleged offenderRespondent from all contact with the victim/survivor;~~

~~The Provost and/or the academic dean is authorized to establish an immediate reassignment of classes for the alleged offender when both alleged offenderthe Respondent and victim/survivorComplainant attend the same classes;~~

~~The University provides on-campus counseling services to victims/survivorsfor students involved in-of gender-based misconduct;~~

~~The University may provide additional rights and options in response to an incident;~~

~~The University will close the proceedings from the public as provided in all other disciplinaryconduct proceedings;~~

~~_____ Both the Cvictim/survivorecomplainant and the Rcharged studentrespondent shall be informed of the outcome of any University disciplinaryconduct proceeding brought~~

~~alleging regarding reported sexualgender based misconduct, the University's final determination and any sanctions;~~

~~8. Appeal. Both the Cvictim/survivorcomplainant and Rcharged studentrespondent have the right to appeal the outcome of the proceedings as outlined in Regulations 2.012(24) and 2.013(1)(k).~~

(vw) Stalking:

- ~~1. Repeated following, contacting, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or any other action, device, or method that of another person, failure to comply with an off campus court order to cease and desist/no contact order or other inappropriate pursuit (including through electronic means or internet activity) to the extent that it places a person in reasonable fear for his/her physical or emotional welfare; or~~
2. Behavior that is intentional and repeated, or meant to be done in humor or in jest, that results in the intimidation, injury or distress of another individual physically, mentally, or socially. The behavior may be physical, written, visual, electronic or verbal.
3. Stalking also includes actions defined in Regulation 10.103.

(wx) Theft: Unauthorized use or possession of, taking or attempting to take, the property or services of another. The property or services may be personal or public.

(xy) Unauthorized Use of Facilities and Grounds: Unauthorized access or entry or attempted entry into any University building or facility or the property of another; misuse or unauthorized use of classroom or laboratory facilities; abusing grounds or building structures, including but not limited to ramps, rails, stair sets, and entryways by means of skating, scootering, recreational cycling or other recreational activities or devices; unauthorized possession, duplication or use of keys, access cards/codes for any such property.

(yz) Violation of Residence Hall Policies: Violation(s) of any Department of Housing and Residential Life policy, rule, or regulation.

(zaa) Violations of the terms of ~~disciplinaryconduct~~ action imposed as a result of previous ~~disciplinaryconduct~~ proceedings under the provisions of this Code will subject the student to additional sanctions.

(aab) Violation of University Intellectual Property: Misuse or unauthorized use of the

University's name, brand, acronym, logo, seal, symbols, marks, mascot, monogram, or other graphic identity symbol.

(bbcc) **Violent Behavior:** Conduct causing physical harm or injury; endangering the health, safety, or welfare of another or oneself; conduct causing severe emotional distress, or endangering one's own health or safety; any threat, attempt or offer to cause physical harm or severe emotional distress to another.

(eedd) **Weapons:** Use and/or possession of weapons, firearms, ammunitions, explosives, knives, firecrackers, fireworks or any other instrument as a weapon is prohibited, except as provided by law. 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.

(9) **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 or additional violations may be issued. Sanctions include one or more of the following, unless otherwise expressly provided:

- (a) 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.
- (b) Discretionary sanctions. ~~Disciplinary a~~Action not specifically set out but deemed proper by a majority of the hearing body or the University ~~Judicial~~Judicial ~~Conduct~~ Officer.
- (c) Educational Requirements. Attendance or presentation at educational programs; interviews with appropriate officials; planning and implementing educational programs; completion of an essay or project; or other educational activities.
- (d) Expulsion from the University. The student is permanently deprived of his/her opportunity to continue at the University in any status.
- (e) Fine. A specific monetary amount ranging from \$100.00 to \$350.00, which may be included with a period of ~~disciplinary~~disciplinary ~~conduct~~ probation. A fine may be issued for each individual violation or as an aggregate amount.
- (f) Mediation. Depending on the nature and severity of the alleged violation, the University ~~Judicial~~Judicial ~~Conduct~~ Officer may recommend mediation as an alternative to formal ~~disciplinary~~disciplinary ~~conduct~~ 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~~sexual ~~gender-based~~gender-based misconduct, loss of life, serious bodily injuries, use of weapons, hazing and the cultivation, distribution, or sale of drugs.
- (g) No Contact Order. A directive to refrain from any 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.
- (h) Probation. Probation for a specified period which shall not exceed 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.

- (i) Reprimand. Correspondence which notifies the student that his/her behavior did not meet University standards. The reprimand may be oral or written.
 - (j) Restitution for the loss or damage to University property.
 - (k) 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.
 - (l) 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.
 - (m) University/Community service. The student is required to complete a specified number of hours of service to the campus or general community.
 - (n) Withholding of diplomas, transcripts, or other records.
 - (o) Any combination of the foregoing that the majority of the hearing body, hearing officer or the University ~~Judicial~~Conduct Officer may, under the circumstances, consider fair and appropriate.
- (10) 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.
- (11) **Notice.** The written notice of the violation(s) to the charged student should proceed the actual hearing date, or information briefing with the charged student, no less than five (5) business days, except in an emergency. ~~Students who have a change of address must file a change of address form at the Office of the University Registrar and/or via iRattler.~~ All notices, decisions and outcomes of judicialconduct matters connected with the disciplinaryconduct process will be e-mailed to the student's University provided e-mail address. This method shall constitute proper notification to the charged student.
- ~~or~~At the discretion of the Conduct Officer, correspondence may be sent 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, correspondence will be mailed to the student's permanent address. Students who have a change of address must file a change of address form at the Office of the University Registrar and/or via iRattler. ~~This method shall constitute proper notification to the charged student.~~

- (12) **Time Limit.** The time limit for issuing a violation against a student should be done within six (6) months ~~from~~ the date the violation was committed or discovered, whichever is later. The University ~~Judicial~~Conduct Officer may exercise professional discretion when applying the time limit for issuing a violation against a student when there are circumstances that warrant a waiver of the six (6) months' time limit. Circumstances that may warrant a waiver include but are not specifically limited to: stalking, ~~sexual~~gender-based misconduct, or relationship violence; requests from law enforcement not to take action; or concern for the safety of students, University employees or other witnesses.

~~The written notice of the violation(s) to the charged student should proceed the actual hearing date or information briefing with the charged student by no less than five (5) business days, except in an emergency.~~ A hearing shall normally be scheduled within fifteen (15) business days from receipt of the student's written, signed request for such, unless the charged student and the ~~Judicial~~Conduct Officer or his/her designee agrees in writing to a later hearing date or 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; no contact order issued by a court; an on-going related law enforcement investigation; University closures and/or breaks between semesters; failure to meet composition requirements for the administrative hearing panel; and written requests for continuance from the charged student or from the University attorney.~~

- (13) **Administrative Request to Appear.** A student who fails to respond to an Administrative Request to Appear within four (4) business days shall be placed on judicial hold and/or prohibited from attending classes and participating in extra-curricular activities until compliance with the Administrative Request to Appear is effected.

- (14) **Information.** A charged student may request an opportunity to provide information to the

~~Judicial~~Conduct 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~~Conduct Officer. Under this provision, the student waives his/her right to a hearing. The provision of information against other students will be considered a mitigating factor in determining sanctions.

- (15) **Alternative to a Finding of Responsibility.** The ~~Judicial~~Conduct 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~~conduct/background check; however, the record may be considered by a hearing body or the ~~Judicial~~Conduct Officer should the student commit a subsequent violation of the Code.
- (16) **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(s) of the Code.
- (17) **Scheduling of Hearing.** A hearing shall normally be scheduled within fifteen (15) business days from receipt of the student's written, signed request for such, unless the charged student and the Conduct Officer or his/her designee agrees in writing to a later hearing date or 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; no contact order issued by a court; an on-going related law enforcement investigation; University closures and/or breaks between semesters; failure to meet composition requirements for the administrative hearing panel; and written requests for continuance from the charged student or from the University attorney.

(187) **Postponement.** A student charged with a violation of the Student Code of Conduct, regardless of which ~~judicial~~hearing body may hear the matter, may request to have the hearing postponed for no more than sixty (60) business days and such postponement may be granted provided the student requests it in writing and agrees to accept the imposition of probation, suspension, or expulsion~~or withdraws from the University voluntarily,~~ depending upon the gravity of the offense. Such probation, suspension, or expulsion~~withdrawal~~ will be recommended by the University ~~Judicial~~Conduct 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 or expelled prior to his/her making a decision to postpone the hearing.

(198) **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.

(2019) **Summary Suspension/Expulsion for Criminal Conviction.** The 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.

(210) **University's Right to Enter Housing.** 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.

(221) **Emergency Hearings and Administrative Hearings.**

(a) **Emergency Hearings.** The 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 (198) and (2049) above. The chairperson of the committee, who may be an academic dean or director, shall be appointed by the 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 of Student Conduct and Conflict Resolution.

(a) 1. The student shall have five (5) 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 (198) and/or (2049) of the Code.

(b) 2. The emergency hearing shall be held within five (5) business days of receipt of the written, signed request from the student for an emergency hearing. ~~The emergency hearing shall not abrogate the right of the student to request in writing an Administrative (non-emergency) hearing on the merits of the case, i.e., whether the student committed the alleged offense or offenses under the 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 an Administrative (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 administrative non-emergency regular hearing (see Section 221(b) below, Administrative (non-emergency) hearings), the Judicial Conduct Officer, at

his/her discretion, may combine the hearings into one proceeding. If the hearings are combined, the timeframes for an emergency hearing shall govern.

3. If the student fails to timely request in writing an Administrative (non-emergency) hearing on the merits of the case, the Conduct Officer in his/her sole discretion may accept a written request from the student to proceed with informal disposition. Informal disposition is explained in the section (23) found below. The written request must be submitted within ten (10) business days following the emergency hearing. Should the student fail to submit a timely request for informal disposition, the University will adopt the allegations as the findings, find the student responsible for the alleged violations, and render sanctions accordingly. The student shall not have a right to appeal the merits of the allegations under this provision; however, the student may appeal the sanctions imposed.

4. In accordance with Regulation 2.012(224)(a), above, if a student does not provide a written request an emergency hearing within the five (5) business days from the date of the notice of suspension or expulsion, the student will have waived the opportunity to the emergency hearing; and therefore, the student shall remain suspended or expelled until he or she requests an administrative hearing on the merits of the alleged violations, the administrative hearing is held, and sanctions are rendered. If the student fails to request in writing an administrative hearing pursuant to Regulation 2.012(224)(b), within the ten (10) business days from the date of the notice, the student waives the opportunity to the administrative hearing, and waives the right to contest the facts alleged against him or her. The University shall then adopt the allegations as the findings, find the student responsible for the alleged violations, and render sanctions, which may include the suspension or expulsion.

(b) Administrative (Non-Emergency) Hearings.

1. An administrative (non-emergency) hearing is 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 an administrative (non-emergency) hearing which is ten (10) business days. This information is also provided in the notice to the student. At the discretion of the Conduct Officer, extenuating circumstances may be taken into consideration with regard to the ten (10) business day time limit such as a student's incarceration.

2. If the student does not provide a written request to the University for an administrative (non-emergency) hearing, the student waives the opportunity to the hearing and further, waives the right to contest the facts alleged against him or her. The University shall then adopt the allegations as the findings, find the student responsible for the alleged violations, and administer sanctions appropriately. (e) — If the student fails to timely request in writing an Administrative (non-emergency) hearing on the merits of the case, the JudicialConduct 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 JudicialConduct Officer shall make a determination of facts and appropriate sanction(s). The student shall not have a right to appeal under this provision.

(232) Informal Disposition. In the event a student charged with an offense wishes to waive, in writing, his/her right to an emergency and non-emergency hearing and the University JudicialConduct Officer wishes to accept jurisdiction, the University JudicialConduct Officer may make a determination of facts and, if the student is found Responsible for the offense, make a determination of sanction(s). The student's written waiver shall be obtained after being given an explanation of the violations against him/her and of his/her rights to a hearing 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 fourteen (14) 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. If the University Conduct Officer finds the student is responsible and sanctions are imposed, the student shall not have a right to appeal the merits of the allegations under this provision; however, the student may appeal the sanctions imposed.

(243) 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) Matters involving incidents arising in University Housing and Residential Life may be referred to the University Housing Judicial Appeal Committee by the Dean of Students or University ~~Judicial~~Conduct Officer where the charged student is a resident of University Housing. Appeal Committee members may include the Director, Associate and Assistant Directors or designees.
- (c) Matters involving a club and/or organization may be referred to the Clubs and Organization Review Board by the Dean of Students or Director of ~~Judicial Affairs/University Judicial Officer~~Student Conduct and Conflict Resolution.
- (d) Student Supreme Court. When a student is charged with a violation, which in the opinion of the University ~~Judicial~~Conduct Officer, would not warrant a penalty in excess of probation, the University ~~Judicial~~Conduct Officer may refer the case to the Student Government Association Supreme Court.
- (e) In the event the violation is within the jurisdiction of more than one primary hearing body, the University ~~Judicial~~Conduct Officer shall determine which primary hearing body shall hear the violation.

(254) Appeals. Decisions of the Student Supreme Court pursuant to subsection (243)(d) above, Residence Life conduct boards, Clubs and Organizations Review Board, University ~~Judicial~~Conduct Officer and administrative hearing panels are appealed to the Dean of Students or other designated University official. At the conclusion of the appeals process, the decision of the Dean of Students, or other designated University official, shall be final, and the student's ~~disciplinary~~conduct matter shall be disposed through a final order signed by the Vice President for Student Affairs.

- (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 information presented during the hearing.

(c) No student's final penalty shall begin to run until all University appeals are exhausted or denied, except as specified under subsections (198) and (204) above.

(265) **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~~Judicial Conduct 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 certified court reporting agency. The recording will be provided by the University directly to the court reporting agency, who will be required to return the recording directly to the University. 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 recording shall be made available to the charged student and the Dean of Students.

(276) The hearing body, ad hoc committee or University ~~Judicial~~Judicial Conduct 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 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."

(287) **Hearing Guidelines.** ~~Disciplinary~~Disciplinary Student conduct 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~~conduct hearings involving more than one charged student, the University ~~Judicial~~Conduct 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~~has the right to be assisted by an advisor they choose, at their own expense and initiative. The advisor may be an attorney. The ~~Complainant and/or the~~ charged student ~~are~~is responsible for presenting his or her own information, therefore advisors are not permitted to speak or participate directly in any hearing before a ~~judicial~~conduct 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~~Conduct Officer or the chairperson of the hearing body, the name, mailing or email address, and phone number of his/her advisor at least three (3) 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 (3) business days prior to the ~~judicial~~conduct hearing. Witnesses will provide relevant 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 information to rebut the witness statement and other information 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 information accumulated as a result of witnesses and shall notify the charged student of the decision. In the absence of the charged student, ~~the plea~~ response of Not Responsible shall be entered on the student's behalf by the chairperson of the hearing body. Also refer to Obstruction of the Student Conduct System, Section 8.(su).

- (g) A charged student may request only one postponement of a ~~judicial~~conduct hearing by contacting in writing the University ~~Judicial~~Conduct Officer at least three (3) business days prior to the hearing. Postponement of the hearing shall be at the discretion of the University ~~Judicial~~Conduct Officer or his/her designee.
- (h) Witnesses shall not serve as advisors at any ~~judicial~~conduct hearing.
- (i) At the time of the hearing, an automatic postponement shall be granted if the composition requirements of the hearing body are not met.
- (j) 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.
- (k) A charged student may be diverted from the ~~disciplinary~~conduct process or hearing if prior to or during the ~~disciplinary~~conduct process or hearing, it is determined by the Dean of Students pursuant to University Regulation 2.007, Voluntary and Involuntary Withdrawal, that the charged student has a mental ~~disorder~~health issue and the objectionable behavior appears to be a result of the mental ~~disorder~~health issue.
- (l) Pertinent records, exhibits, and written statements may be accepted as information for consideration at the discretion of the chairperson of the hearing body.

- (m) All procedural questions are subject to the final decision of the chairperson of the hearing body.
- (n) After the portion of the ~~judicial~~conduct 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 for 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 if the student has been found Responsible and during~~in~~ the sanctioning phase of deliberations.
- (o) 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~~conduct hearings.
- (p) The burden of proof in all ~~judicial~~conduct hearings shall be on the ~~Complainant~~University. A “preponderance of evidence” shall constitute the ~~burden~~standard of proof standard in all ~~judicial~~conduct hearings.
- (q) The University ~~Judicial~~Conduct 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, Respondent, or any other participant~~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, telephonically or other means.
- (r) The ~~disciplinary~~conduct 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.
- (s) The above guidelines for conducting a ~~judicial~~conduct hearing are not exhaustive. Therefore, the University ~~Judicial~~Conduct 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 (3) business days prior to the

hearing.

(298) 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 of Student Conduct and Conflict Resolution 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.

(3029) **Review of Code.** The Student Code of Conduct shall be reviewed on a biennial basis under the direction of the Director of ~~Judicial Affairs~~ Student Conduct and Conflict Resolution 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, Amended March 6, 2014, Amended July 7, 2014, Amended _____, 2016.