

FLORIDA A&M UNIVERSITY BOARD OF TRUSTEES



NOTICE OF PROPOSED AMENDED REGULATION

DATE: June 5, 2014

REGULATION CHAPTER NO.: Chapter 2

REGULATION CHAPTER TITLE: Student Affairs

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

SUMMARY OF REGULATION: This amended Regulation clarifies that the Student Code of Conduct supersedes all other means of disciplining students for prohibited behaviors; the timeframe for scheduling an administrative hearing begins after receipt of the student's written request; the student's right to question witnesses who testify during the administrative hearing; and the role of the advisor. Additionally, victim's rights were deleted from Regulation 2.012 and moved to this Regulation.

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

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: Dr. William Hudson, Jr., Vice President for Student Affairs, 308 Foote-Hilyer Administration Center, Tallahassee, Florida 32307-3100, (850) 599-3183 (phone), (850) 561-2674 (fax), william.hudsonjr@famuedu or Antoneia L. Roe, Esq., Director of Judicial Affairs, 101 Student Union Building, Tallahassee, Florida 32307-3100, (850) 599-3541 (phone), (850) 561-2169 (fax), antoneia.roe@famuedu.

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

Regulations of Florida A&M University



2.013 Due Process, Other Rights, and Responsibilities

- (1) The due process requirements contained below shall be applicable in all cases involving academic dishonesty and alleged violations of the Student Code of Conduct. Applicable definitions are found in Florida A&M University (“University”) Regulation 2.012, Student Code of Conduct. All definitions not included herein or in Regulation 2.012, are in accordance with definitions found in the Merriam-Webster’s dictionary located in the Office of Judicial Affairs. 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 ~~charge~~violations against him/her in sufficient detail and in sufficient time to prepare for a hearing or meeting before an appropriate committee, ~~or hearing body, as established by the University or its colleges, schools, or institutes, or before the appropriate or designated University official;~~
 - (b) The University ~~or its schools, institutes, and colleges~~ shall establish a minimum number of days in advance of the hearing or meeting to present the written notice of chargeviolations, 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 or meeting 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 receipt of a written, signed request by the student~~ notice of the charge(s), except in cases of emergency hearings;

- (d) The student and his/her advisor may inspect all of the ~~evidence~~ information that will be presented against the student at least three (3) business days before the student disciplinary hearing or meeting, except in cases of emergency hearings where the student may inspect the ~~evidence~~ information at least one (1) business day prior to the hearing. Failure of the student to request the ~~evidence~~ information 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 or meeting, except in cases of emergency hearings where the University may inspect the ~~evidence~~ information at least one (1) business day prior to the hearing;
- (e) The student may present ~~evidence~~ information on his/her own behalf during the student disciplinary hearing or meeting;
- (f) The student may hear and question adverse witnesses who testify at the hearing or meeting;
- (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 academic dishonesty or 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 during the student conduct process who may be an attorney. It is the student's responsibility to make appropriate arrangements for the advisor to attend the student conduct proceedings and the proceedings will not be delayed due to scheduling conflicts of the chosen advisor.~~ The student is responsible for presenting his or her own information; therefore advisors are not permitted to speak or participate directly in any hearing proceeding and ~~. An advisor may not act as a witness. An advisor's attempt to participate in a proceeding by speaking, presenting information or otherwise intervening in the proceeding is grounds for the advisor being required to leave. In such event, the proceeding will continue without the advisor present and the advisor's absence shall not require a delay or affect the validity of the proceedings;~~
- (i) The decision of ~~R~~esponsible or ~~N~~ot ~~R~~esponsible shall be based solely on the ~~evidence~~ information presented at ~~during the proceedings~~ hearing;
- (j) The decisions of any committee, ~~or~~ hearing body, or ~~of any designated~~ University official, shall be presented to the student in writing and within fourteen (14) business days following the ~~hearing~~ proceeding;
- (k) The student may appeal the decision of any committee, hearing body, or ~~of any designated~~ University official, within ten (10) business days to the ~~President or the President's designee~~ Dean of Students, or other designated University official, as appropriate;
- (l) The student's enrollment status will remain unchanged pending the University's final decision in the matter, except where the Vice President for Student Affairs ~~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 regarding violations of the Student Code of Conduct, the decision of the President or the President's designee Dean of Students shall be final and the student's disciplinary matter shall be disposed through a final order signed by the Vice President for Student Affairs. The final order shall include notice to the student of the right to appeal to an external judicial forum, as appropriate.
- (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) The Student Code of Conduct supersedes all other means of disciplining or removing students for behaviors prohibited by the University.
- (4) Victim Rights. Victim is defined as the person harmed by a violation of the Student Code of Conduct committed by the charged student. Victims have the following rights:
- (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 Rresponsible for the violations. 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 (3) 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 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;:
- (f) To be notified of the hearing panel's decision after the Vice President for Student Affairs has issued a final order. This will not include the sanctions the charged student is required to complete; and:
- (g) For victims of sexual misconduct violations, please refer to additional rights noted in Regulation 2.012(8)(u).

- (5) 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 as outlined above; and
- (i) The right of freedom of press and media to publish and distribute materials in accordance with the Constitutions of the United States and the State of Florida and the regulations of the University.

(46) The University encourages its students to help maintain a healthy academic climate where students can intellectually grow and develop as mature and responsible individuals. Concomitant with student rights are student responsibilities. These responsibilities include but are not limited to the following:

- (a) The responsibility of making the most of their educational opportunities by attending classes and laboratory periods on a regular basis and by completing all academic requirements, in a satisfactory manner, as stated in each course syllabus while taking advantage of the many opportunities provided in a University environment for all around personal growth, development, and maturation;
- (b) The responsibility of knowing and observing all University policies, procedures and regulations (e.g. the General Catalog of the University and Student Handbook, including the Student Code of Conduct, etc.) as well as state and federal laws and requirements;

- (c) The responsibility of taking the initiative in exercising the democratic processes to include, but not be limited to, voting and performing community or volunteer services;
- (d) The responsibility of ensuring the orderly operation of the University through appropriate conduct in and out of the classroom; and
- (e) The responsibility of assuming the consequences of one's own actions, and to avoid conduct detrimental in its effect upon fellow students and members of the University community.

Specific Authority: Article IX, section 7(c), Florida Constitution, sections 1006.60, 1006.61, 1006.62, Florida Statutes, Board of Governors Regulation 6.0105. History New October 1, 1975, Formerly 6C3-2.13, Amended September 14, 1987, Amended June 29, 2006, Amended 7-15-13; _____-14.