Summary of Regulation:

Florida Board of Governors (BOG) Resolution (1-7-03) provides that each board of trustees may adopt, amend or repeal regulations to implement the provisions of law conferring duties upon it. Such regulations must be adopted, amended or repealed pursuant to the Board of Governors’ Regulation Development Procedure (7-21-05) and must be consistent with law and the resolutions and strategic plan of the Board of Governors.

The Student Code of Conduct has been reviewed and is being revised to clarify the roles of participants and comply with the Board of Governors’ requirements for universities in establishing a student code of conduct (BOG 6.0105).

The proposed revised Regulation was approved by the Vice President for Student Affairs, Student Affairs Code of Conduct Workgroup and the Student Affairs Management Council. The Regulation will be placed on the ACE Workgroup Agenda, May 28, 2009 for consideration and approval by the full BOT on June 25, 2009.

Full text of the proposed regulation follows: or contact Dee Brown at USFLEGAL@ADMIN.USF.EDU.

End of Summary.

PROPOSED REGULATION:
(1) The University of South Florida system (USF system) values a community based on the principles of integrity, civility, and respect. As such, the USF system community expects students to behave in a manner that supports these principles. The Student Code of Conduct is a document, which describes behavior that is counteractive to these principles and how the USF system will hold students accountable for those inappropriate behaviors.

Students are responsible for compliance with all public laws as well as USF system university rules, policies and regulations. Students accused of a crime may be prosecuted under the appropriate jurisdiction and also disciplined under the Student Code of Conduct. The USF system University may pursue disciplinary action even if criminal justice authorities choose not to prosecute, and it may also act independently of the criminal justice process.

Any member of the USF system University community may file charges against a student for an alleged violation of the Student Code of Conduct. Such charges should be filed by filing a referral in writing with the Office of Student Rights and Responsibilities. The Office of Student Rights and Responsibilities also reserves the right to initiate or follow up any investigative leads where there is reasonable belief of possible violations of the Student Code of Conduct.

(2) Authority and Jurisdiction of the USF system University

USF system University jurisdiction and discipline extends to conduct which occurs on USF system University premises or which adversely affects the USF system University community and/or the pursuit of its mission. Specifically, USF system University officials may initiate disciplinary charges for conduct off
campus when the behavior relates to the good name of the USF system University, the integrity of the educational process, or the safety and welfare of the USF system University community, either in its public personality or in respect to individuals within it; or violates state or federal law. A student, registered organization or a person who has submitted an application for admission, housing, or any other service provided by the University which requires student status will be subject to the Student Code of Conduct for any action found in violation of the Code which occurs on University property, at University-sponsored events, or off campus under the conditions described previously.

USF system University disciplinary proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and the Student Code of Conduct without regard to the pending civil or criminal litigation in court or criminal arrest and prosecution. Proceedings under the Student Code of Conduct may be carried out prior to, simultaneously with or following civil or criminal proceedings off campus at the discretion of the Director Office of Student Rights and Responsibilities. Determinations made or sanction(s) imposed as a result of the Student Code of Conduct process shall not be subject to change because criminal charges arising out of the same facts giving rise to violation(s) of USF system University policies were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

(3) Definitions

(a) The term “USF system University” means the University of South Florida, any regional campus, or separately accredited institution affiliated with the USF system.

(b) The term “USF system University official” means any representative of a USF system University direct service organization, USF
The term “member of the USF system University community” includes any person, who is a student, faculty member, USF system University official or any other person involved with or employed by the USF system University.

The term “USF system University premises” includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the USF system University (including adjacent streets and sidewalks).

The term “student,” for the purposes of the Student Code of Conduct, includes all persons, registered organizations, or a person who has submitted an application for admission, housing, or any other service provided by the USF system, which requires student status. The term “student” includes all persons taking USF system courses at the University, either full-time or part-time, pursuing undergraduate, graduate, non-degree seeking, or professional studies. Persons who withdraw after allegedly violating the Student Code of Conduct, or who are not officially enrolled for a particular term but who have a continuing relationship with the USF system University, or who have been notified of their acceptance for admission are considered “students” as are any persons who are living in the University residence halls or any other service provided by the University which requires student status.

The term “student organization” means any group of students recognized by the USF system University as a registered organization, including fraternities and sororities.
(g) The term “Office of Student Rights and Responsibilities” or designee is the person(s)/area designated by the USF system President to be responsible for the administration of the Student Code of Conduct.

(h) The term “Conduct Officer” means a USF system University official authorized to adjudicate student disciplinary cases and to impose sanctions upon any student(s) or student organization found to have violated the Student Code of Conduct. H. The Director of Student Rights and Responsibilities or his/her designee is the person(s) designated by the University President to be responsible for the administration of the Student Code of Conduct.

(i) The term “Administrative Officer” is a USF system faculty or staff member designated by the Conduct Officer, the Dean, or the designated system official, who will adjudicate the case, hearing both the student explanation of events and the information presented by the Office of Student Rights and Responsibilities.

(j) The term “complainant” means any person who submits a referral alleging that a student or organization violated the Student Code of Conduct.

J. The term “charged student” means any student accused of violating the Student Code of Conduct.

(k) The term “referral” means the written documentation provided to Office of Student Rights and Responsibilities alleging that a violation of the Student Code of Conduct may have occurred.

(l) The term “offense” means the alleged action that represents a violation of the Student Code of Conduct.
(m) The term “policy” means the written and published policies or regulations of the USF system as found in, but not limited to, the Student Code of Conduct, the residence halls, the library, regulations governing the use of technology and information systems, those regarding the Student Identification Card, and Graduate/Undergraduate Catalogs. Other policies include those related to building and classroom use, to dining services, to campus recreation, and to any regulation of the Board of Trustees.

(n) The term “days” in terms of process is defined as the normal business day and will not include Saturdays, Sundays, or legal holidays/USF system administrative holidays when the campus is closed for business.

(o) The term “will” is used in the imperative sense.

(p) The term “may” is used in the permissive sense.

(q) Notice: Whenever notice is required to be given to a student, it will be conclusively presumed that the student has been given such notice if it has been sent to the student by mail, official USF system email, or mailed to the address appearing on either the student’s current local address or permanent address on record with the USF system, at the discretion of the Office of Student Rights and Responsibilities.

(r) Administrative Hold: A hold may be placed on a student’s record at any point in the conduct process to assure compliance with sanctions or pending the resolution of conduct matters. When terms and conditions of sanctions have been satisfied and/or pending conduct matters have been resolved, the hold may be removed.

(s) Appointment Letter: A written letter to a student, which states that a referral has been made and informs the student of an opportunity for a
meeting. If the student chooses not to attend, the conduct officer reserves the right to have an In Absentia Review, at which point a Determination Letter will be sent to a student.

(t) __ Disposition letter: A written letter to a student, which states either that a referral, has been dismissed or has been accepted. In the case where the referral has been accepted, the letter will include the imposed formal charges, recommended disposition, and/or the availability of a formal hearing.

(4) III. Offenses - The commission, aiding, abetting, attempting, or inciting of any of the following actions constitutes an offense for which a student or a student organization may be subject to the student conduct process.

(a) __ (1) Theft - The unauthorized taking, misappropriation or possession of any real, personal, or intellectual property or services provided, owned or maintained by the USF system University or by any person. “Services” includes, but is not limited to, unauthorized copying of software and acts considered to be in violation of copyright laws.

(b) __ Misuse of Property Destruction, damage, misuse, or defacing of, or unauthorized entry into or otherwise accessing USF system University buildings or property, private property and personal property, on the campus of the USF system University.

(c) __ Misuse of Materials - Unauthorized accessing, removing, duplicating, photographing, and/or forging, counterfeiting, altering or misusing of any USF system material (including USF system University intellectual property), file document or record, computer records, software, data files and similar entities owned or maintained by any member of the USF system faculty, administration, staff, or student body.
(d) **Weapons, Firearms, or Explosive Devices** - The unauthorized possession, storage, use or sale of any weapon (lethal or non-lethal), firearm, or any incendiary, explosive or destructive device. This includes but is not limited to, dangerous chemicals, air soft guns, Chinese stars, paint ball guns, fireworks, swords, and ammunition. This also covers any item used as a weapon to cause actual physical harm or threaten physical harm. Please also refer to the USF Weapons Policy (6-009).

(e) **Harassment** - Conduct which creates an unsafe, intimidating or hazardous situation that interferes with the ability of a USF system University student or employee to study, work, or carry out USF system University functions.

(f) **Stalking** - To follow another person or repeatedly interact with a person so as to harass that person.

(g) **Hazing** - Hazing means any action or situation that recklessly or intentionally endangers the mental or physical health or safety of a student for the purpose of initiation, admission into, or affiliation with, an organization. Refer to USF Regulation (6.0023)

(h) **Disorderly Conduct** - Breach of peace, such as causing a disturbance or being unruly.

(i) **Disruptive Conduct** - Actions that impair, interfere with or obstruct the orderly conduct, processes and functions of the USF system University. Disruptive conduct shall include, but not be limited to, the following:

1. Interference with freedom of movement or with the right to address an audience of any member or guest of the USF system University or...
2. Impeding or interference with the rights of others to enter, use or leave any USF system University facility, service or scheduled activity, or carry out their normal functions or duties;

3. Interference with academic freedom and freedom of speech of any member or guest at the USF system University;

4. Actions that disrupt, endanger, or disturb the normal functions of the USF system University or the safety of a person or persons.

   (j) False Alarm -- Issuing a bomb threat or other warning of impending disaster without cause. Intentional misuse, disabling, or tampering with any fire alarm or fire fighting or safety equipment or falsely issuing a bomb threat or other warning of impending disaster.

   (k) Threats of Violence - An intentional threat by word or act to do violence to a person or persons.

   (l) Injurious Behavior - When one person actually and intentionally touches or strikes a person or persons against his/her will, or intentionally causes bodily harm to him/her, herself or others.

   (m) Reckless Injurious Behavior - Conduct that may be unintentional, but is with conscious disregard for its consequences to person(s) or property and results in actual or potential damage, injury, or harm to a person(s).

   (n) Sexual Battery/Rape - Sexual battery is the oral, anal or vaginal penetration by or union with a sexual organ of another or anal/vaginal penetration by another object. The act is performed against the victim's will or without her/his consent. An individual who is mentally incapacitated, asleep or physically helpless or unconscious due to alcohol or other drug consumption is considered unable to give consent. The same definition applies regardless of whether the assailant is a stranger or an acquaintance or a group of individuals.
The type of force employed may involve physical violence, coercion or threat of harm to the victim. Date or acquaintance rape is the sexual battery of an individual by someone the victim knows. Group or gang rape is the sexual battery of an individual by multiple perpetrators.

(o) **Sexual Misconduct** - Including sexual harassment and or the unwanted touching of another's sexual parts without consent; or obscene or indecent behavior which includes, but is not limited to, exposure of one's sexual organs or the display of sexual behavior that would reasonably be offensive to others; or public indecency and or voyeurism.

(p) **Misuse or Possession of Illegal Drugs** - Possession, use, sale or attempt to obtain any illegal drug. The term “drugs” includes, but is not limited to, any narcotic drug, central nervous system stimulant, hallucinogenic drug, barbiturate, or any other substance treated as such and defined by the law. Further, the unauthorized possession or use of a regulated or controlled substance, including prescription drugs and paraphernalia used for drugs is a violation. Attending class, an organizational meeting or other USF system event that is specific for an educational purpose while under the influence of drugs, as noted in this section, is a violation.

(q) **Gambling** - Conducting or organizing any form of gambling.

(r) **Misuse Violation of Alcohol** - Failure to abide by the USF system Alcohol Policy,(30-006) and all USF system protocols and policies and state and federal law regarding alcohol. The University of South Florida Alcoholic Beverages Policy establishes guidelines for the sale, service and consumption of alcoholic beverages on the campus in compliance with applicable Federal and State laws, municipal ordinances, and its concern for the health and safety of the campus community. It establishes time, place, and manner for the use of alcohol, and students should be familiar with it. Violations of that policy will be
treated as Code of Conduct violations.

Specific Code of Conduct standards related to Florida State law include the but are not limited to:

- The sale of, or intent to sell, alcohol without a proper license;
- Providing alcohol to any person who is not of legal age to possess or consume alcohol;
- Possession or consumption of alcohol by persons not of legal age. Further, the;
  - The operation of a motor vehicle by a person under the age of 21 while having a blood alcohol level of .02 or higher;
  - The operation of a motor vehicle, by an individual of any age, under the influence of alcohol;
  - The consumption of alcohol on streets according to local ordinance;
  - Public intoxication;
  - Conducting an open house party which can include, but is not limited to, an event at which minors may possess or consume alcohol;

Students are encouraged to read the USF Alcohol Policy, so they can be familiar with the expectations of the University on this regard.

- Attending class, an organizational meeting or other USF system event that is specific for an educational gain while under the influence of alcohol is a violation.

(s) (17) False Information - Knowingly making a material false oral or written statement to any USF system University official, which means any representative of a University direct service organization, university board, committee, office or member of the University faculty, administration, staff, student staff, or student body.

(u) (18) Bribery - Offering or accepting a bribe or inducement which would impinge upon or compromise the integrity of academic work
product, student performance, or the unbiased and professional duty of faculty and staff of the USF System University.

(v) Failure to Respond to Instructions - Failure to comply with authorized official requests (oral or in writing) from or in agreement with USF System University officials, as previously defined [(17), above], acting in accordance with their assigned duties.

(20) Violation of policies published by the University and intended to maintain order, protect the University community and safeguard property. Such policies include, but are not limited to, policies of the residence halls, of the Library, those governing the use of technology and information systems, and those regarding the Student Identification Card. Other policies that fall under the Code of Conduct are related to building and classroom use, to dining services, to Recreational Sports, and to any rule of the Board of Trustees, or any local, state, or federal law or ordinance.

(w) University Policy and/or Local Ordinance, State or Federal Law - Such policies include, but are not limited to, all those in Section (3)(l) and Local Ordinance, State or Federal Law.

(x) Violation of Probation - Failure to abide by the conditions of probation which resulted from previous behavior that was deemed unacceptable at the University level.

(5) IV. Student Conduct Process and Proceedings: This section is divided into five subsections as follows: Receipt of Referral, Provisional Suspension, Initial Review, Formal Hearing, and Appeal Rights.

(a) Receipt of Referral:

A referral should be made to the Office of Student Rights and Responsibilities within a reasonable time following the discovery of the alleged
violation and in no event later than six months after the discovery, except in extraordinary cases. A referral may be initiated by a student, faculty member, University Police personnel, staff member, office personnel or interested party to the USF system University.

2. The Director of the Office of Student Rights and Responsibilities or his/her designee acts as the Student Conduct Officer. The Dean for Students may appoint faculty/staff members to serve as alternate conduct officers in appropriate cases and maintain a list of individuals for this purpose.

3. Request for Additional/Prior Incident Reports: The Student Conduct Officer may request information concerning prior misconduct of the student from the University Police and other appropriate persons or offices.

(b) Appointment Letter: A written letter to a student, which states that a referral has been made and informs student of an opportunity for a meeting. If the student chooses not to attend, the Conduct Officer reserves the right to have an In Absentia Review, at which point a Determination Letter will be sent to a student.

(c) Provisional Suspension Process: In certain circumstances, at any time, the USF system University may immediately impose a provisional suspension as follows:

The President of the USF system University or the Office of Student Rights and Responsibilities or his/her designee, will have the authority to immediately suspend a student from the USF system University or from participating in official USF system University functions, programs, intercollegiate competitions, and other student activities.

A Provisional Suspension may be imposed to ensure the safety and well-being of members of the USF system University community or preservation of
USF system University property; to ensure the student’s own physical or emotional safety and well being; or when the student’s continued presence or use of privilege at the USF system University is likely to pose an ongoing threat of disruption or interference with the normal operation of the USF system University.

The Provisional Suspension may be imposed by the President or the Office of Student Rights & Responsibilities upon notice of the alleged conduct.

Students issued a Provisional Suspension from the USF system University will be provided an Emergency Hearing within five days from the date of suspension with the appropriate Conduct Officer. The Conduct Officer may impose any sanction as appropriate or may continue the Provisional Suspension and delay a final determination pending the outcome of a criminal case, civil case, or other fact gathering body.

The student may appeal the outcome of the Emergency Hearing to the Dean for Students, or appropriate designee at the regional campus or separately accredited institution. The decision of the Dean for Students will be rendered within ten business class days of receipt of the written appeal, except in extraordinary cases as determined by the Dean for Students, and is the final decision of the USF system University.

**Initial Review**: The Student Conduct Officer as designated above will begin an Initial Review of the complaint and will normally request, within six class days of the Receipt of Referral, a meeting with the subject student(s) to determine whether relevant evidence exists and if there is a reasonable basis for believing the University’s Student Code of Conduct was violated.

If the subject student(s) do not respond or fails to appear for a meeting, the Conduct Officer will conduct an In Absentia review and a determination as to the appropriate sanction levied. Notice charges to be filed will be made. A
Disposition Letter will be provided to the absent student(s) and all hearing and appeal rights will be explained.

If the subject student(s) appears, an Initial Review will be made by the Conduct Officer. The Conduct Officer will conclude the review within six weeks of Receipt of the Referral, unless an extension is necessary as determined and documented by the Conduct Officer.

At the conclusion of the Initial Review, the Conduct Officer will issue a Disposition Letter, which will indicate either that the Referral has been dismissed or that the Referral has been accepted and a disposition of. In the matter required. All Referrals will be documented and case where the result of Referral has been accepted, the Initial Review kept for reference. The Disposition Letter will include the determination, the details of the referral and the violations alleged, and explain imposed formal charges, recommended dispositions, and the alternative dispositions procedures that may be available, which will be one or more of the following:

- **Acceptance of Responsibility**: The charged student will have the option to accept responsibility and agree to the imposition of proposed sanctions.

- **Formal Hearing**: There are two choices of forum for the Formal Hearing: (a) a hearing before an Administrative Officer, which includes a specific waiver of a hearing before a University Conduct Board or (b) a hearing before a University Conduct Board, which would then include a specific waiver of a hearing before an Administrative Officer. This choice must be made and submitted in writing within 10 class days of the date of the Disposition Letter.

(e) **Formal Hearing**: If the charged student elects to have When the Conduct Officer receives the request for a Formal Hearing, he/she must do so,
designating the choice of forum as either a hearing before an Administrative Officer or University Conduct Review Board, by notifying the Conduct Officer in writing within 10 class days from the date of the Determination Letter. Upon notice to the Conduct Officer of the election of the Formal Hearing the timeframe, the charged student shall be provided information about the charges or and pertinent information that has been provided to the Conduct Officer that may be needed to prepare for the hearing. Such information shall be provided to the student no less than three days before the hearing, except in cases of an emergency hearing.

The student will be notified by telephone or email concerning the availability of the documents. The outcomes of the hearings held by the Administrative Officer or the University Conduct Board are recommendations to the Conduct Officer. The Conduct Officer will render the Final Decision within five days of receipt of the recommendation. Any differences between the recommendation and the final decision, and the reasons, will be presented to the student in writing. The Formal Hearing will take place no more than within six weeks from the date of the Determination Disposition Letter, except in special circumstances, which will be identified by the Student Conduct Officer. The procedure will then depend upon the choice of Full Hearing forum chosen by the charged student as follows:

1. **Administrative Officer** - If the student chooses a hearing before an Administrative Officer, an individual appointed by the Director of the Office of Student Rights and Responsibilities will conduct such hearing. The charged student shall be notified of the person appointed to hear his/her case and shall have the opportunity to challenge the impartiality of that individual within three working days of notification. An Administrative Officer whose impartiality is challenged by reasonable rationale will be excused. Indiscriminate challenges are not permitted.
2. **University Conduct Board** - A student who chooses a hearing before a University Conduct Board will be heard by a panel composed of three faculty/staff members, one of whom shall be appointed chairperson, and three students. The panel members will be selected from a bank of faculty/staff and students. The charged student shall be notified of the persons selected to hear his/her case and shall have the right to challenge the impartiality of any panel member within three working days of notification. A panel member challenged for whose impartiality may be challenged by reasonable rationale will be excused. However, indiscriminate impartiality challenges shall entitle the panel to proceed without regard to the challenge.

Any board member not present for the presentation of testimony at the hearing may not further participate. A quorum for the hearing shall consist of a simple majority of the panel. However, the charged student has the right to choose to proceed or to request that the hearing be rescheduled if the conduct board present does not consist of 50% faculty/staff and 50% students. After the hearing, the board will reach its decision in executive session. A simple majority of the quorum is required for decision.

(f) **Appeal Rights - Hearing on Appeal** - Appeal Process: The charged student may appeal in writing the Final Decision of the University Conduct Board or Administrative Officer Conduct Officer within five class business days of the date of the letter describing the decision. The appeal must be written to the Dean of Students or appropriate designee at the regional campus or separately accredited institution. The Dean of Students may impose, adopt, modify, or reject the sanction recommended at the hearing or any other sanction decisions and/or sanctions for the Formal Hearing. The record of the initial hearing may be considered on appeal as well as any new information that comes to the attention of the Dean of Students. The Dean of Students is authorized to contact any participants in the initial hearing for clarification and the student is entitled access to the record when appealing. The decision of the Dean for Students will be rendered within ten class days of receipt of the appeal.
1. **Basis of Appeal:** Except as required to explain the basis of new information, an appeal shall be limited to a review of the verbatim record of the Formal Hearing and supporting documents for one or more of the following purposes:

   a. To determine whether the Formal Hearing was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures giving the complaining party a reasonable opportunity to prepare and to present information that the Student Code was violated, and giving the Accused Student a reasonable opportunity to prepare and to present a response to those allegations. Deviations from designated procedures will not be a basis for sustaining an appeal unless significant prejudice results.

   b. To determine whether the sanction(s) imposed were appropriate for the violation of the Student Code, which the student was found to have committed.

   c. To consider new information, sufficient to alter a decision or other relevant facts not brought out in the original hearing, because such information and/or facts were not known to the person appealing at the time of the original Formal Hearing. Outcomes of criminal or civil cases have no bearing in any aspect of the process, including the appeal.

2. **Decisions:** The decision made by the Dean of Students will be rendered within 10 business days of receipt of the appeal, except in extraordinary cases as determined by the Dean of Students. The decision made by the Dean of Students is considered final. If an appeal is not upheld, the matter shall be considered final and binding upon all involved. The final appellate decisions resulting in a suspension or expulsion of a student may be appealed by the
student to an external judicial forum, i.e. Florida Second District Court of Appeal.

(6) General Principles Applicable to Initial Review, Formal Hearing, and Appeal:

Unless otherwise specified all proceedings will be closed to spectators. No irrelevant information should be discussed or considered in the proceeding. At the conclusion of the appeals process, the decision of the Dean of Students or the appropriate designee shall be final. The final appellate decisions resulting in a suspension or expulsion of a student may be appealed by the student to an external judicial forum, i.e. Florida Second District Court of Appeal.

(a) Rights of Charged Student

1. Provision of Proof - The provision of proof shall be the duty of the complainant. The level of proof for a decision shall be “substantial” preponderance of the evidence,” that is, whether it is reasonable to conclude from the evidence/information submitted it is more likely than not that the student did commit the violation(s) for which he or she has been charged, and shall not be the strict criminal law standard of proof beyond a reasonable doubt.

2. Record - All Formal Hearing proceedings shall be recorded in writing. All proceedings may be by audio tape or video. Deliberations shall not be recorded at. The record will be the discretion property of the presiding official or at the request of the University of the student South Florida system. A student and his/her advisor may not record any proceeding but may request a copy of the tape recording if available. Records will be maintained according to our record retention schedule.
3. **Review of Evidence—Information** - The student may review the evidence that will be presented against him/her. Pertinent records, exhibits and written statements may be accepted as information for consideration by the Conduct Officer or Formal Hearing forum.

4. **Present Evidence—Presentation of Information** - The student may present evidence on his/her own behalf.

5. **Question Witnesses (Applicable to Formal Hearings)** - The student may hear adverse witnesses, except in the certain cases of violent misconduct. In all instances, the student may submit questions to the hearing officer for use in questioning adverse witnesses.

6. **Response to Evidence—Presented Information** - The student shall not be forced to present testimony or respond to particular questions.

7. **Advisor** - The student may have an advisor of his/her choice present, however, **USF system University** employees who have a potential conflict of interest are not to serve. The advisor may speak with the charged student but may not speak for the charged student, act as attorney, nor otherwise participate. It is the student’s responsibility to make appropriate arrangements for travel, costs and attendance for the advisor. The proceedings shall not be delayed due to scheduling conflicts of the chosen advisor. The advisor may be present to advise the student but shall not speak for or present the case for the student or otherwise participate directly in the proceeding.

8. **Decision Based on Evidence—Presented Information** - The decision shall be based solely on the evidence presented, including any file
referencing prior misconduct or meetings with the charged student in the custody of the Office of Student Rights and Responsibilities.

9. **Decision in Writing** - Hearing decisions of the University Conduct Board or Administrative Officer, including findings of fact and a determination of sanction, if any, shall be presented to the student in writing within ten class business days following the hearing.

10. **Enrollment Status** - The student’s enrollment status will remain unchanged pending final decision, except in cases of Provisional Suspension, as considered above.

11. **Failure to Appear** - If a student against whom charges have been made fails to appear for any proceeding, the matter may be resolved in his/her absence.

12. **(c) Student Rights Throughout Conduct Process** - A student shall remain eligible to attend classes and university activities pending the USF system’s final decision in the conduct proceeding. However, in cases where the president or president’s designee determines that the health, safety, or welfare of the student or the USF system community is involved, a student’s privileges within the USF system, including the ability to attend classes or engage in university activities, may be suspended on an interim basis. If a student’s privileges are temporarily revoked as described in this paragraph, but the student is subsequently found not responsible for the violation, the USF system must:

   a. 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
b. 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 school days.

(b) Rights of the Complainant/ Victim

1. Presentation of Information - The complainant shall have the right to submit a list of questions to the Office of Student Rights and Responsibilities. Those questions must be related to the alleged incident for consideration prior to the hearing, and that she/he feels the accused should be asked during the hearing process.

2. Advisor - The complainant may have an advisor of his/her choice present, however, USF system University employees who have a potential conflict of interest are not to serve. The advisor may speak with the charged student but may not speak for the charged student, act as attorney, nor otherwise participate. It is the student’s responsibility to make appropriate arrangements for travel, costs and attendance for the advisor. The proceedings shall not be delayed due to scheduling conflicts of the chosen advisor. The advisor may be present to advise the student but shall not speak for or present the case for the student or otherwise participate directly in the proceeding.

3. Specific Offenses - In cases of alleged violent or conduct, injurious behavior, and non forcible sex offenses the following additional rights pertain:

   a. The complainant shall be entitled to notified of the available assistance and advice of a person designated by within the USF system University with substantial knowledge of the USF student conduct process.
b. The complainant shall have the right to submit an impact statement to the Student Conduct Officer for use during the sanctioning portion of the conduct process.

c. The complainant shall have the right to be present during all fact-gathering aspects of the hearing, notwithstanding the fact that the complainant is to be called as a witness. In extraordinary cases, alternate arrangements may be made for the complainant to participate in the hearing without being present in the same room.

d. The Student Conduct Officer will inform the complainant, whenever appropriate, in writing of the outcome of the conduct proceeding within ten business days from the conclusion of the hearing/appeal process unless extraordinary circumstances exist.

(7) VI: Sanctions - Any of the following sanctions may be imposed on a student or a student organization:

(a) Expulsion - Permanent termination of a student’s privilege to attend the University. This may include a restrictive order that would exclude the person from campus. In cases where the student resides on campus, the student will be given reasonable time to vacate the residence halls, (i.e., 24 to 48 hours).

(b) Suspension - Termination of a student’s privilege to attend the University for an indefinite or a specified period of time. This may include a restrictive order that would exclude the person from campus. In cases where the student resides on campus, the student will be given reasonable time to vacate the residence halls (i.e., 24 to 48 hours).
(c) **Probation** - An official warning that sanction places the student’s enrollment dependents upon the maintenance of satisfactory citizenship during the period of probation. When probation is imposed as a sanction, the student should be advised of the consequences of violation of probation. Any student placed on conduct probation may be restricted from participating in certain USF system University-sanctioned positions of leadership during period of probation activities as specified by the Conduct Officer or as regulated by other USF system departments.

(d) **Restrictions** - Conditions imposed on a student that would specifically dictate and limit future presence on campus and participation in USF system University-related activities. The restrictions involved will be clearly identified and may include but are not limited to a requirement to remain on campus or in rooms during specified periods of time or a University restraining order forbidding the offender from all contact with the victim. Restrictions may also apply to denial of the privilege to operate a motorized vehicle (including golf carts) on campus, participation in certain activities/events/organizations, access and use of USF system University services, and presence in certain buildings or locations on campus.

(e) **Restitution** - A payment for injury to an innocent party in cases involving theft, destruction of property, or deception.

(f) **Financial Aid Impacts** - A restriction on or revocation of financial aid where appropriate pursuant to law or NCAA policy.

(g) **Other Appropriate Sanctions** - such as mandated community service, fines, educational programs (payment of associated fees), and written assignments.

(h) **Alcohol and Substance Use Sanction Guidelines**

1. **First-Level Alcohol and Substance Use Accountability**
   - Probation -- one year
• Parental Notification (may be implemented depending on the severity or nature of the first accountability)
  • Educational Program Referral
  • Educational Program Fee ($50 or $75 depending on program)

2a. Second Level Alcohol Accountability
• Deferred Suspension
• Deferred Cancellation of USF system Housing Contract
• Restriction from residence halls
• Parental Notification
• Educational Program Referral
• Educational Program Fee ($75)

2b. Second Level Substance Use Accountability
• Deferred Suspension
• Cancellation of USF system Housing Contract
• Restriction from residence halls
• Parental Notification
• Educational Program Referral
• Educational Program Fee ($75)

3. Third Level Accountability
• Indefinite Suspension
• Restriction from all USF system campuses
• Parental Notification

(8) VII.—Parental Notification Policy

The University of South Florida system is committed to the success of its students both inside and outside of the classroom. Therefore, it is our goal to maximize students’ learning and development, and promote their health, safety and welfare. In this regard, the USF system has implemented a Parental
Notification policy in compliance with the request of the Florida Board of Education. The Parental Notification policy permits the USF system University the right to inform parents or guardians when their dependent student, under the age of 21, has been found in violation of the USF system University’s alcohol and substance abuse policy.

In non-emergency situations, parents of dependent students, under the age of 21, may be notified in writing, at the discretion of the Office of Student Rights and Responsibilities. However, in emergency situations, parents may be notified by an immediate phone call from the Director of Student Rights and Responsibilities or the Dean for Students, a USF system Official. These guidelines do not preclude Parental Notification for other policy violations that may endanger the health, safety and well being of a student or other individuals in the USF system University community. In addition, Parental Notification may occur in health and safety emergencies, regardless of the student’s age or dependent status.

Students, whose parents are to be notified under these guidelines, will be informed before such notification occurs and given an opportunity to initiate contact with their parents if and when possible.

(9) VII. Discipline Records and Retention Policy - the following applies to individual student disciplinary records.

(a) Maintenance of Records

1. Student discipline records are maintained in a locked file in the Office of Student Rights and Responsibilities.
2. All discipline records in all formats (paper, computer, audio, etc.) will be destroyed in accordance with the current discipline records and retention policy.

3. The Office of Student Rights and Responsibilities maintains all student discipline records in accordance with the Family Education Rights and Privacy Act (FERPA). Student Rights and Responsibilities will abide by all laws requiring confidentiality and privacy with regard to the student conduct process. This confidentiality extends to all Student Rights and Responsibilities staff, including the University Conduct Board and individual Conduct Officers. In cases involving alleged violent misconduct or injurious behavior Student Rights and Responsibilities will inform the victim, whenever appropriate, of the outcome of the conduct proceeding.

4. A student may choose to sign a release form granting Student Rights and Responsibilities staff permission to discuss information related to his/her disciplinary file with any individual that he/she designates. This form is available in the Office of Student Rights and Responsibilities.

5. Any educational institution or other agency requesting conduct information about a current or former University of South Florida system student is required to submit the request in writing. If a non-educational agency is requesting information, those requests must include the signature of the student granting the release of information related to his/her disciplinary record.

(b) Destruction of Records

1. Records resulting in a discipline sanction of expulsion or suspension from the USF system will be permanently maintained in the Office of Student Rights and Responsibilities.
2. All other discipline records are maintained for a period of five years from the first date of matriculation or until one year after graduation, whichever date is the later. In the event that a student matriculates, but does not graduate, the Office of Student Rights and Responsibilities will retain the record for five years from the last date of attendance.

3. No personally identifiable record(s) will be kept after a record has been designated for destruction. Statistical data will be maintained but all information that would identify an individual is removed.

4. All paper records will be destroyed by shredding or other similar process. Computer files will be modified in a manner so that only statistical data that cannot identify an individual is kept. Non-paper information (i.e. audio recordings) will be destroyed in a manner that will insur that the information cannot be traced to any individual or any discipline case.

(10) VIII. Regional Campuses - The foregoing applies to all campuses of the University of South Florida system; however, non-substantive procedural modifications to reflect the particular circumstances of each regional campus or separately accredited institution are permitted. Information concerning these procedures is available through the student affairs office at those regional campuses or separately accredited institution.

(11) IX. Review of Student Code of Conduct - A student conduct advisory group, a committee consisting of faculty/ staff and students appointed by the Vice President for Student Affairs shall periodically evaluate the Student Code of Conduct.
AUTHORITY TO AMEND REGULATION: Art. IX, Sec. 7, Fla. Constitution and Resolutions issued by the FL Board of Governors.

UNIVERSITY OFFICIAL INITIATING PROPOSED AMENDMENTS TO REGULATION(S): Dr. Jennifer Meningall, Vice President of Student Affairs.

WRITTEN COMMENTS CONCERNING THIS PROPOSED REGULATION MAY BE SUBMITTED WITHIN 14 DAYS AFTER THE POSTING DATE OF THIS NOTICE TO:

Dee Brown, Agency Clerk
Office of the General Counsel
University of South Florida System
4202 East Fowler Avenue, Suite ADM 250
Tampa, FL 33620-6250
Phone: (813) 974-7150; FAX: 813-974-5236; E-MAIL: USFLEGAL@ADMIN.USF.EDU