

OFFICE OF THE GENERAL COUNSEL: USF REGULATIONS

NOTICE OF AMENDED REGULATION

DATE: SEPTEMBER 28, 2011

Regulation No: USF 6.0021	TITLE: Student Code of Conduct
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Summary

Florida Board of Governors Regulation 1.001 (9-16-10) provides that each Board of Trustees is authorized to promulgate university regulations in accordance with the Regulation Development Procedure adopted by the Board of Governors, (7-21-05). Such regulations must be consistent with law, and the regulations and strategic plan of the Board of Governors. The Regulation Development Procedure also requires that the University Board of Trustees periodically review existing regulations to insure they are current and consistent.

Regulation 6.0021, Student Code of Conduct, has been amended to comply with recent requirements under Title IX of the Education Amendments to update the Regulation to current law and practices. The amended regulation follows

(End of Summary)

AUTHORITY TO ADOPT/AMEND/REPEAL: Art. IX, Sec. 7, Fla. Constitution; Fla. Board of Governors Regulations 1.001.

UNIVERSITY OFFICIAL INITIATING AMENDED REGULATION:

Dr. Jennifer Meningall, Vice President, 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 CGS 301
Tampa, FL 33620-4301

USF System Regulation 6.0021, Student Code of Conduct

(1) STATEMENT OF PRINCIPLES

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 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 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 community may refer a student for an alleged violation of the Student Code of Conduct 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

USF System jurisdiction and discipline extends to conduct which occurs on USF System premises or which adversely affects the USF System community and/or the pursuit of its mission. Specifically, USF System officials may initiate disciplinary charges for conduct off campus when the behavior relates to the good name of the USF System; the integrity of the educational process; or the safety and welfare of the USF System community, either in its public personality or in respect to individuals within it; or violates state or federal law.

USF System 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 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 policies were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

(3) DEFINITIONS

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

- (b) The term “**USF System official**” means any representative of a USF System direct service organization, USF System board, committee, office or member of the USF System faculty, administration, or staff.
- (c) The term “**member of the USF System community**” includes any person who is a student, faculty member, USF System official, or any other person involved with or employed by the USF System.
- (d) The term “**USF System premises**” includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the USF System (including adjacent streets and sidewalks).
- (e) 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, 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, or who have been notified of their acceptance for admission are considered “students.”
- (f) The term “**student organization**” means any group of students recognized by the USF System 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 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.
- (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.
- (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 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 Disposition 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.

(u) Suspended Sanction: After the conclusion of all processes, The Director of the Office of Student Rights and Responsibilities or appropriate appellate officer or their designee may suspend imposition of the sanction issued with restrictions and conditions for a specific period of time or indefinitely. The Sanctions may be imposed at the sole discretion of the Director, Appellate Officer or their designee with no further appeal or review.

(4) 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.

(4.01) Theft - The unauthorized taking, misappropriation or possession of any real, personal, or intellectual property or services provided, owned or maintained by the USF System 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.

(4.02) Misuse of Property - Destruction, damage, misuse, or defacing of, or unauthorized entry into or otherwise accessing USF System buildings or property, private property and personal property, on the campus of the USF System.

(4.03) Misuse of Materials - Unauthorized accessing, removing, duplicating, photographing, and/or forging, counterfeiting, altering or misusing of any USF System material (including USF System 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.

(4.04) 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 [System Weapons Policy](#) (6-009).

(4.05) Harassment - Conduct which creates an unsafe, intimidating or hazardous situation

that interferes with the ability of a USF System student or employee to study, work, or carry out USF System functions.

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

(4.07) 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 [System Regulation \(6.0023\)](#).

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

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

- a. Interference with freedom of movement or with the right to address an audience of any member or guest of the USF System;
- b. Impeding or interference with the rights of others to enter, use or leave any USF System facility, service or scheduled activity, or carry out their normal functions or duties;
- c. Interference with academic freedom and freedom of speech of any member or guest at the USF System;
- d. Actions that disrupt, endanger, or disturb the normal functions of the USF System or the safety of a person or persons.

(4.10) 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 safety equipment.

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

(4.12) 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/herself, or others.

(4.13) 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).

(4.14) Sexual Harassment - [Behavior which falls into any one of sections listed below as 4.14 \(a\), \(b\), or \(c\)](#)

[\(4.14\)\(a\) Conduct which may be interpreted as unwelcome conduct of a sexual nature.](#)

[\(4.14\)\(b\) Battery/Rape/Violence - Including physical sexual acts perpetrated against a](#)

person's will or where a person is incapable of giving consent. Sexual violence includes rape, sexual assault, sexual battery, and sexual coercion. 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 type of force employed may involve physical violence, coercion or threat of harm to the victim.

(4.14)(c) Sexual Misconduct - Including ~~harassment~~ sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education experience, submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual; or such conduct is sufficiently severe or pervasive as to alter the conditions of, or have the purpose or effect of substantially interfering with, an individual's work or academic performance by creating an intimidating, hostile, or offensive working or educational environment. In addition it includes 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; or voyeurism.

(4.15)16) 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.

(4.16) 17) Gambling - Conducting or organizing any form of gambling.

(4.17) ~~18~~ Misuse 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. Specific Code of Conduct standards include 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.
- 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.
- 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.

(4.18) ~~19~~ False Information - Knowingly making a material false oral or written statement to any USF System official.

(4.19) ~~20~~ Bribery - Offering or accepting a bribe or inducement that 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.

(4.20) ~~21~~ Failure to Respond to Instructions - Failure to comply with authorized official requests (oral or in writing) from or in agreement with USF System officials acting in accordance with their assigned duties.

(4.21) ~~22~~ Violation of USF System Policy and/or Local Ordinance, State or Federal Law (as determined by the University)-Failure to adhere or abide by ~~Such~~ policies including, but ~~are~~ not limited to, all those in Section (3)(m) and local ordinance, state or federal law. Adjudication by an outside entity is not a prerequisite to a determination of responsibility by the University.

(4.22) ~~23~~ 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) STUDENT CONDUCT PROCESS AND PROCEEDINGS:

This section includes the following: 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 no 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. The 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: and any interim temporary restriction or sanction if appropriate. If the student chooses not to attend, the Conduct Officer reserves the right to have an In Absentia Review, at which point a Disposition Letter will be sent to a student.

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

The President of the USF System 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 or from participating in official USF System 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 community or preservation of USF System 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 is likely to pose an ongoing threat of disruption or interference with the normal operation of the USF System.

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 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 Emergency Hearing may be conducted in one of the following three ways at the choice of the student:

1. Acceptance of Responsibility: The student ~~may appeal the outcome of~~ take full responsibility in writing (form to be provided by OSRR) indicating that the student is electing to waive all rights to a Formal Hearing and is requesting that the conduct officer make a final determination with regard to the Provisional Suspension and the substantive charges at the time of the Emergency Hearing ~~to the Dean~~ and is accepting that determination as final with a waiver of appeal rights except as to the severity of the sanction which the student may appeal.

2. Absent a waiver or request as provided in {1.} above, The Conduct Officer will conduct the Emergency Hearing ONLY with regard to the Provisional suspension and the charges. If a student fails to appear for Students, or appropriate designee at the regional campus the Emergency Hearing, the Conduct Officer will make the determination in the student's absence. The Conduct Officer will issue Disposition Letter which will indicate the Conduct Officer's determination with regard to the Provisional Suspension and a recommended disposition to the formal charges. In addition, the Disposition letter will advise the student that he/she has the right to accept the recommended disposition or ~~separately accredited institution. The decision of the Dean for Students will be rendered~~ request a Formal Hearing within ~~ten business~~ five days of ~~the date 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.~~ Disposition Letter. If possible, the Disposition Letter will set tentative Formal Hearing Date (set no sooner than five days or longer than six weeks from the Emergency Hearing unless the student waives the review period and the conduct officer is able to schedule the hearing sooner) In the event the student fails to notify the Conduct Officer of the choice of hearing, the recommended disposition will become a final disposition. Details regarding the Formal Hearings and Appeals are referenced in (e) and (f) below. At the discretion of the Conduct Officer, any hearing may be postponed pending the gathering of additional evidence or the outcome of a

related hearing. At any time in the Provisional Suspension Process a student may accept responsibility and request and accept the sanctions as recommended by the Conduct Officer or other applicable forum.

(d) Initial Review: If the subject student(s) fails to appear for a meeting, the Conduct Officer will conduct an In Absentia Review and a determination as to the appropriate 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. In the case where the Referral has been accepted, the Disposition Letter will include the imposed formal charges, recommended dispositions, and the alternative 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 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 five days of the date of the Disposition Letter.

(e) Formal Hearing: When the Conduct Officer receives the request for a Formal Hearing within the timeframe, the charged student shall be provided information about charges and pertinent information 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~~five days before the hearing, except in cases of an emergency hearing or if waived by the student.

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 within six weeks from the date of the Disposition Letter, except in special circumstances, which will be identified by the Conduct Officer. The procedure will then depend upon the choice of 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 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 business 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 50% students and 50% faculty (up to three faculty/staff members, one of whom shall be appointed chairperson, and up to 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 in writing to OSRR within three working days of notification (or in cases of an emergency nature within 24 hours of the scheduled hearing). A panel member whose impartiality is challenged by reasonable rationale will be excused. Indiscriminate impartiality challenges shall entitle the panel to proceed without regard to the challenge. If a panel member is excused, at the discretion of the OSRR, the hearing will continue as scheduled, provided there is at least one student and one faculty member on the panel. Students may not contact directly or indirectly any Board member regarding this process before, during or after the hearing.

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 Process: The charged student or the complainant/victim in specific cases as provided in this Regulation may appeal in writing the Final Decision of the Conduct Officer within five business days of the date of the letter describing the decision. The appeal must be written to the Dean ~~for~~of Students or appropriate designee at the regional campus or separately accredited institution. The Dean ~~for~~of Students may adopt, modify, or reject the recommended 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 ~~for~~of Students. The

Dean ~~for~~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.

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 ~~was~~ ~~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 ~~for~~of Students will be rendered within 10 business days of receipt of the appeal, except in extraordinary cases as determined by the Dean ~~for~~of Students. The decision made by the Dean ~~for~~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. The Conduct Officers or Chairpersons have the discretion to allocate hearing and testimony time. 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.

~~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 for 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 (referred to as “student” in this subsection)

1. Provision of Proof - The provision of proof shall be the duty of the complainant. The level of proof for a decision shall be “preponderance of the evidence,” that is, 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 by audio tape or video. Deliberations shall not be recorded. The record will be the property of the USF System. A student and his/her advisor may not record any proceeding but may request a copy of the recording if available. Records will be maintained according to our record retention schedule.

3. Review of Information - The student may review the evidence that will be presented against him/her. and the University has the right to request to review any information the student intends to present at least three (3) regular business days (excluding legal holidays) before the formal hearing. Pertinent records, exhibits and written statements may be accepted as information for consideration by the Conduct Officer or Formal Hearing forum.

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

5. Question Witnesses (Applicable to Formal Hearing) - 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 by the date and time set by the hearing officer for use in

questioning adverse witnesses provided the hearing officer determines the questions relate to the alleged incident and are appropriate to be presented to the accused at the hearing.

6. Response to 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 employees who have a potential conflict of interest are not to serve. The advisor may speak with the ~~charged~~ student but may not speak on behalf of or 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 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 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. Student Rights Throughout Conduct Process - A student shall remain eligible to attend classes and USF System 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 USF System 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~~ for use during the hearing. The OSRR shall ask the accused the questions ~~must be related~~ provided the OSRR determines the questions relate to the alleged incident ~~for consideration prior to the hearing, and that she/he feels the accused should~~ are appropriate to be asked during presented at the hearing ~~process.~~

2. Advisor: The ~~student~~ complainant may have an advisor of his/her choice present, however, USF System 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:

a. In case of alleged violent conduct, injurious behavior, and non-forcible sex offenses, and in specific cases of sexual harassment, the following additional rights shall be provided to the Complainant:

- 1) The complainant shall be notified of the available assistance within the USF System.
- 2) The complainant shall be notified of additional offices that may be contacted to request a change in residence hall or academic assignments.
- 3) The complainant shall have the right to submit an impact statement to the Conduct Officer for use during the sanctioning portion of the conduct process. ~~e.~~
- 4) 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.
- 5) Upon written request from the complainant, the Conduct Officer will inform the complainant in writing of the outcome of the conduct proceeding within ten business days from the conclusion of the hearing/appeal process (final University decision) unless extraordinary circumstances exist. In the event the alleged victim is deceased as a result of the crime or of offense, the information shall be provided, upon request, to the next of kin of the alleged victim.

6) The complainant in specific sexual harassment cases may appeal the decision of the Conduct Officer through the established appeal process in this Regulation.

b. In cases of sexual harassment/battery/assault the complainant has the following additional rights:

1) OSRR, as the designated Deputy Title IX Officer, will provide to the complainant information regarding efforts to address sexual harassment on campus, the alternative forms of reporting available and the name and address of the University Title IX Officer.

2) In cases of sexual assault the complainant shall be provided an opportunity to provide information or present evidence to the conduct officer or hearing board to be considered in determinations and sanctions. Depending on the type of hearing or review, this may be a written statement, a verbal representation or active participation in a hearing.

3) The complainant shall be notified in writing of the sanction imposed when it relates to the harassed student.

c. In sexual battery/assault cases the complainant may have the right to elect a review or appeal of the final University decision; and the appeal process granted to the accused as set forth in the Appeal Process section of this Regulation will be provided to the complainant at that time.

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

(a) **Warning Letter**—An official notice that states that if there is a repeated violation of policy, rules or regulations, the student can expect additional conduct sanctions.

(b) **Probation** - An official sanction places the student's enrollment dependent 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 activities as specified by the Conduct Officer or as regulated by other USF System departments.

(c) **Restrictions** - Conditions imposed on a student that would specifically dictate and limit future presence on campus and participation in USF System activities. The restrictions involved will be clearly identified and may include but are not limited to a USF System order forbidding the offender from all contact with the victim. Restrictions may also apply to denial of operating a motorized vehicle (including golf carts) on campus, access and use of USF System services, and presence in certain buildings or locations on campus.

(d) **Restitution** - A payment for injury or damage.

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

(f) **Suspension** - Termination of a student's privilege to attend the USF System 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).

(g) **Expulsion** - Permanent termination of a student's privilege to attend the USF System. 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).

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

(i) [Deferred Suspension – Suspension imposed at a definite future date or time.](#)

(j) Alcohol and Substance Use Sanction Guidelines [which may be obtained at OSRR \(or on line on their website at <http://www.sa.usf.edu/srr/page.asp?id=69>\) or through the appropriate Student Affairs office at the campus or institution of the USF System.](#)

- ~~1. First Level Alcohol and Substance Use Accountability~~
- ~~12. Probation – one year~~
- ~~13. Parental Notification (may be implemented depending on the severity or nature of the first accountability)~~
- ~~14. Educational Program Referral~~
- ~~15. Educational Program Fee (\$50 or \$75 depending on program)~~
- ~~2a. Second Level Alcohol Accountability~~
- ~~16. Deferred Suspension~~

- ~~17. — Deferred Cancellation of USF System Housing Contract~~
- ~~18. — Restriction from residence halls~~
- ~~19. — Parental Notification~~
- ~~20. — Educational Program Referral~~
- ~~21. — Educational Program Fee (\$75)~~

- ~~2b. — Second Level Substance Use Accountability~~
- ~~22. — Deferred Suspension~~
- ~~23. — Cancellation of USF System Housing Contract~~
- ~~24. — Restriction from residence halls~~
- ~~25. — Parental Notification~~
- ~~26. — Educational Program Referral~~
- ~~27. — Educational Program Fee (\$75)~~

- ~~3. — Third Level Accountability~~
 - ~~i. — Indefinite Suspension~~
 - ~~ii. — Restriction from all USF System campuses~~
 - ~~iii. — Parental Notification~~

(8) Parental Notification

The USF 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 in compliance with the request of the Florida Board of Education. _Parental Notification permits the USF System 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 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 a USF System Official. _These guidelines do not preclude Parental Notification for other policy violations that may endanger the health, safety and wellbeing of a student or other individuals in the USF System 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) Discipline Records and Retention Policy - The following applies to individual student disciplinary records.

(a) Maintenance of Records

1. Student discipline records are maintained 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 requesting conduct information about a current or former USF 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 insure that the information cannot be traced to any individual or any discipline case.

(10) Regional Campuses - The foregoing applies to all campuses of the USF 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 institutions.

(11) 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: Art. IX, Sec. 7, Fla. Constitution. Fla. Board of Governors; Regulations 1.001, 6.0105; Sections 1006.50, 60, 61, 62, 63, Florida Statutes. History—New 9-23-85, Formerly 6C4-6.021, Amended 5-27-92, 7-26-92, 12-2-92, 12-29-94, 4-11-99, 9-27-05, Formerly 6C4-6.0021; F.A.C., Amended 6-5-08, 6-25-09, 9-22-11.