

NOTICE OF PROPOSED REGULATION

Date: July 30, 2008

REGULATION TITLE:

Student Honor Code and Student Conduct Code: Resolution
Options, Procedures for Reviews and Hearings

REGULATION NO.:

6C1-4.042

SUMMARY: The various resolution options, including committee hearings and administrator hearings and reviews, are set forth for the Student Honor Code and Student Conduct Code. The resolution options for student organizations are also delineated. Basic rights for reviews and hearings with the student conduct process are: to be sent notice of charges, to be allowed the opportunity to review the materials and information against the student or organization, to be allowed the opportunity to be heard and present materials relevant to the defense, to be free from self-incrimination (in connection with conduct that is, or could be under applicable law, the subject of criminal prosecution), and to have an advisor present at reviews and hearings. At hearings, students or organizations may arrange to have witnesses and may present questions to be asked of any witness present at the hearing. Decisions are based upon a preponderance of the evidence. Information that supports faculty findings required for the ultimate decision in a student proceeding shall be the kind of information upon which reasonable persons may rely in educational proceeding. In reviews and hearings conducted by designated administrators, the administrator will determine whether the student or student organization is responsible and the sanction. In hearings conducted by a committee, the hearing body will recommend a decision and any appropriate sanctions to the Dean of Students or designee. Although rules of evidence do not apply in student conduct proceedings, the ultimate decision by the Dean or designee will not be based exclusively on hearsay that would not be admissible in a court proceeding. The general guideline for hearing student conduct cases is sixty business days from the date the case is referred to the hearing body or administrator. If the case cannot be heard within this time frame, the Director of Student Conduct and Conflict Resolution may reassign the case to a different hearing body.

AUTHORITY: BOG Resolution dated January 7, 2003.

COMMENTS CONCERNING THE PROPOSED REGULATION SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation you are commenting on.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION

IS: Rebecca J. Holt, Administrative Assistant, 123 Tigert Hall, Post Office Box 113125, University of Florida, Gainesville, Florida 32611, 352-392-1358 office, 352-392-4387 facsimile, regulations@ufl.edu.

NAME OF PERSON WHO APPROVED THE PROPOSED REGULATION: Patricia Telles-Irvin, Vice President for Student Affairs.

THE FULL TEXT OF THE PROPOSED REGULATION IS ATTACHED TO THIS NOTICE.

REGULATIONS OF
UNIVERSITY OF FLORIDA

6C1-4.042 Student Honor Code and Student Conduct Code: Resolution Options,
Procedures for Reviews and Hearings.

(1) Student Honor Code: Resolution Options.

(a) For students charged with violations of the Student Honor Code, the following are the options available to resolve the matter:

1. Regardless of college, the Faculty/Student Honor Code Resolution Process, Regulation 6C1-4.042(b), if the student is admitting responsibility, it is a first violation of the Student Honor Code and the faculty member determines the conduct alleged would not warrant probation, suspension or expulsion.

2. Health Science Center Student Conduct Committee, Regulation 6C1-4.0433, for students who are enrolled in the Health Science Center colleges.

3. College of Law Honor Committee, Regulation 6C1-4.0434, for students enrolled in the Levin College of Law.

4. Student Conduct Committee, Regulation 6C1-4.0431, for all other cases involving the Student Honor Code.

(b) Faculty/Student Honor Code Resolution Process.

1. When a student is alleged to have violated the Student Honor Code, the faculty member involved shall confirm with the Dean of Students Office that the violation would be a first violation and no circumstances require the imposition of a sanction other than a reduced or failing grade and an educational requirement specified in Regulation 6C1-4.047.

2. The faculty member will meet with the student and determine if a conduct proceeding is warranted. The faculty member may request that the department chair or other appropriate University official attend this meeting as a witness. The faculty member may impose a sanction of a written reprimand, a grade penalty on the assignment in question, a grade penalty for the course and/or an appropriate educational requirement as specified in Regulation 6C1-4.047. If a sanction is imposed, the matter is resolved when the student and faculty member reach agreement as to the sanction.

3. The student's agreement to a sanction shall constitute a waiver of all other available adjudicatory procedures or appeals.

4. The faculty member shall forward a copy of the agreement with the student's signature to the Director of Student Conduct and Conflict Resolution or designee.

5. The faculty member involved shall refer the matter to the Director of Student Conduct and Conflict Resolution or designee rather than take action if disciplinary action may be warranted and it appears that:

- a. The violation would not be a first offense;
- b. A sanction such as probation, suspension, or expulsion would be warranted; or
- c. The student does not agree to the sanction proposed by the faculty member involved.

(c) A student who is charged with a Student Honor Code violation by a faculty member and who does not agree to accept the faculty member's sanction or for whom the faculty resolution process is not appropriate, as stated above, shall be informed by the Director of Student Conduct and Conflict Resolution of which hearing body will hear the case: the Student Conduct Committee, the Health Science Center Student Conduct Committee or the College of

Law Honor Committee. The Director of Student Conduct and Conflict Resolution or designee may hear the case if the student accepts responsibility and the student chooses to have the Director hear the case. If a hearing body is unable to conduct a hearing within the time provided under Regulation 6C1-4.042, the Director of Student Conduct and Conflict Resolution or designee may reassign the matter to another hearing body or person pursuant to subsection 6C1-4.042(9).

(d) A student shall not be permitted to drop the class once informed of an alleged Student Honor Code violation. Any class that is dropped in violation of this restriction shall be reinstated until the charges are resolved. If the student is found not responsible for a Student Honor Code violation, the student is free to drop the class as long as the case was initiated prior to the published deadline to drop classes. A student found responsible but receiving only a penalty for the assignment in question may drop the course if the case was initiated prior to the deadline to drop classes. A student who receives a course grade penalty is not permitted to drop the class.

(2) Student Conduct Code: Resolution Options.

(a) For students charged with violations of the Student Conduct Code, the following are the options available to resolve the case:

1. Health Science Center Student Conduct Committee for cases involving violations of the Health Insurance Portability and Accountability Act (HIPAA) or Florida patient confidentiality laws under Regulation 6C1-4.0433. Where the student conduct case also involves other conduct, Regulation 6C1-4.042(5) shall apply.

2. For cases alleging violations of the Student Conduct Code involving the Department of Housing and Residence Education Community Standards or cases alleging

violations of the Student Conduct Code occurring within University housing, the options set forth in Regulation 6C1-4.0432 shall apply. Where the student conduct case also involves other conduct, Regulation 6C1-4.042(5) shall apply.

3. For other cases, the following options apply:

a. Administrative review or hearing by Student Conduct and Conflict Resolution staff, or

b. Student Conduct Committee, or that Committee's Chairperson or designee, under Regulation 6C1.4.0431.

(b) Except as provided in subsection (2)(c) below, students charged with less serious violations may choose administrative review or an administrative hearing and students charged with more serious violations will choose between an administrative or conduct committee hearing. Students who do not dispute the allegations of a more serious violation may also choose administrative review. Less serious violations are those violations which, if proven, would not result in removal from housing, suspension, or expulsion in the opinion of the Director of Student Conduct and Conflict Resolution or designee.

(c) A student who has pled guilty, been adjudicated guilty, been convicted or who has otherwise received a verdict of guilt in a criminal court of law regarding, in whole or in part, the same conduct for which the student is charged under the Student Conduct Code, may be found in violation of subsection (3)(q) of Regulation 6C1-4.041 and/or may be found responsible for other applicable violations on the basis of that plea, guilty verdict, adjudication of guilt and/or conviction. Any such student shall be afforded the opportunity to participate in an administrative review by an administrator in the office of Student Conduct and Conflict Resolution in accordance with subsection (2)3a of this regulation. Notwithstanding any other

provision of this regulation, this administrative review shall be the only applicable process to resolve such Student Conduct Code case unless the case also involves other conduct, in which event Regulation 6C1-4.042(5) shall apply.

During the administrative review, the charged student's prior plea, plea agreement, adjudication of guilt and/or conviction may be regarded by the administrator as substantial evidence of the charged student's responsibility for the alleged violation of the Student Conduct Code; however the student will also be allowed to present any mitigating facts or circumstances to the reviewing administrator who shall determine how such facts and circumstances may be presented and the weight they should be accorded. The administrator shall consider the information presented by the student in determining the student's responsibility for the alleged violation and in imposing sanctions.

(3) Expedited Hearings. Notwithstanding anything contained in this regulation to the contrary (other than 6C1-4.042(2)(c) which shall govern applicable cases), in the event a student is charged with a violation of the Student Honor Code or Student Conduct Code, which, if proven, would not warrant a penalty in excess of two semesters probation or a failing grade in the opinion of the Director of Student Conduct and Conflict Resolution or designee, and the student does not waive his or her right to a hearing before the appropriate administrator or hearing body as provided in this regulation, the hearing may be held before the chairperson of the appropriate committee, the Assistant Director of Student Conduct and Conflict Resolution, or the Director of Student Conduct and Conflict Resolution rather than before the full committee panel.

(4) Student Organizations: Resolution Options.

(a) A student may be held accountable as an individual under the Student Honor

Code or the Student Conduct Code for his or her conduct, whether acting in an individual capacity or as a member of a student organization or other non-University group.

(b) For a student organization charged with a violation of the Student Honor Code or the Student Conduct Code, the following are options available to resolve the case:

1. Hearing before the Greek Conduct Committee for all cases involving a fraternity or sorority chapter that is a member of the Inter-fraternity Council, the Panhellenic Council, the National Pan-Hellenic Council or the Multicultural Greek Council, under Regulation 6C1-4.0435.

2. All other student organizations will be referred to the Student Conduct Committee for a hearing.

3. Notwithstanding any other provision of this regulation, student organizations that do not dispute the charges may request administrative review by the Director of Student Conduct and Conflict Resolution or designee. The availability of such administrative review will be at the discretion of the Director.

(c) The following criteria will be used to determine if a student organization is to be held collectively responsible for the actions or omissions of individuals when the actions or omissions result in a violation of the Student Honor Code or the Student Conduct Code by those associated with the student organization:

1. The action or omission resulting in the violation has received the tacit or overt consent or encouragement of the student organization or any leader, officer or spokesperson of the student organization;

2. The student organization or any leader, officer or spokesperson of the student organization failed to take responsible precautions against the action or omission resulting in the conduct violation; or

3. Members or other agents of the student organization are in a position to (and do) appear to act on behalf or with authority of the organization.

(5) Conflict of jurisdiction. In the event that a matter involving student or student organization conduct may be within the jurisdiction of more than one review or hearing authority or body and/or process, the Director of Student Conduct and Conflict Resolution or designee shall determine which review or hearing authority shall hear or review the matter.

(6) Nature of Conduct Proceedings and Basic Rights.

(a) The purpose and context of the student conduct process and sanctions imposed, including but not limited to reviews and hearings hereunder, are educational and not adversarial in nature. Thus, staff involved in student conduct proceedings, whether involving individual students or student organizations, may perform various functions in the proceedings. For example, without limitation, the Director of Student Conduct and Conflict Resolution or designee may provide the notice of charges, provide information to a hearing body, and act as the administrative liaison and advisor to the hearing body. Further, in hearings conducted under the Student Honor Code or the Student Conduct Code, rules of procedure and evidence such as are applied in civil or criminal court do not apply.

(b) The basic rights accorded to students and student organizations in conduct proceedings, whether through an administrative review or a hearing conducted by an administrator or a hearing body, are:

1. To be given notice of the charges. A student or student organization who is charged with a Student Honor Code violation to be heard by the Student Conduct Committee or the Health Science Center Student Conduct Committee or is charged with a Student Conduct Code violation shall be given notice of charges and procedures for requesting a hearing. Any notice under this regulation is deemed given if it is hand delivered to the student, sent to the student's local address in the Registrar's records or permanent address if no local address is listed, or sent to the student's official University of Florida email address. For student organizations, the notice shall be deemed given if it is hand delivered to the student who is the last known president of the organization as reflected in the Office of Student Activities' records, sent to the local address of the student who is the last known president of the organization as that address is reflected in the Registrar's records or permanent address if no local address is listed, or sent to the student's official University email address. The student or student organization shall be given an opportunity to schedule an informational meeting with the Director of Student Conduct and Conflict Resolution or designee at a time and place feasible to and determined by the Director. Failure of the student or student organization to take this opportunity to meet shall not require a delay or affect the validity of the proceeding which, in such event, shall be arranged and the type of proceeding shall be determined by the Director or designee

a. Except for emergency cases, the notice shall be issued at least ten (10) business days prior to the date of the review or hearing unless the notice period is waived in writing by the charged student or student organization.

b. In the event the student or student organization fails to appear at the review or hearing pursuant to the notice issued, such failure shall not require a delay or affect the validity of the proceeding. In such event, the administrator designated to review or hear the case or the

hearing body shall conduct the proceeding in the student's or student organization's absence, and the reviewing or hearing administrator or body will make a decision based on the information made available at the proceeding.

2. To be given the opportunity to review the materials, information and other evidence against the student or student organization at a time and place feasible to and determined by the Director of Student Conduct and Conflict Resolution or designee. The student or student organization has the responsibility to check the relevant file in Student Conduct and Dispute Resolution (through 3 days) before the hearing. The failure of the student or student organization to review such materials, information and other evidence when given such opportunity shall not require a delay or affect the validity of the proceedings. Information that is not available or is omitted prior to (3 days before) the hearing or review without bad faith may be presented for the first time at the hearing or review. In such event, if the student or student organization or the University requests a suspension, the proceeding will be suspended for a minimum of three days.

3. To be given the opportunity to be heard and present materials relevant to the student's or student organization's defense at a time and place feasible to and determined by the Director of Student Conduct and Conflict Resolution or designee. The failure of the student or student organization to take advantage of such opportunity shall not require a delay or affect the validity of the proceedings.

4. To be free from compulsory self-incrimination in connection with conduct that is, or could be under applicable law, the subject of a criminal prosecution. The student's or student organization's choice not to speak or present evidence shall not require a delay or affect the validity of the proceedings.

5. To be allowed to have an advisor present at an administrative review or hearing at the student's or student organization's own expense and initiative. It is the student's or organization's responsibility to identify an advisor and make appropriate arrangements for him or her to attend the proceeding. The advisor may advise the student or student organization but shall not speak for or present the case for the student or student organization or otherwise participate directly in the proceeding. An advisor's attempt to participate in a review or hearing by speaking, presenting information or otherwise intervening in the proceeding is grounds for the advisor being required to leave. In such event, the hearing or review will continue without the advisor present, and the advisor's absence shall not require a delay or affect the validity of the proceedings. Failure of the advisor to attend a review or hearing also shall not require a delay or affect the validity of the proceedings.

(7) Additional Procedures for Hearings and Reviews.

(a) The charged student or student organization may arrange at its cost and initiative to have witnesses at a hearing. The failure to call a witness or the failure of any witness to appear shall not require a delay or affect the validity of the proceedings. Information provided by a witness who is not called or does not appear at the hearing may be considered in the process if the administrator or hearing body determines the information to be reliable as provided in 6C1-4.042(8). The charged student or student organization shall have the right (i) to address any information provided in the hearing record by any witness who is present or not present at the hearing. (ii) to provide information on the veracity of a witness who is present or whose information is presented at the hearing, and (iii) to present questions to be asked of any witness who is present at the hearing by the administrator conducting the hearing or the chair of the hearing body. Regulations 6C1-4.051 shall also apply.

(b) A good faith attempt will be made to record hearings before hearing bodies.

However, recording failures shall not require a delay or affect the validity of the proceedings and the hearing body chair or designee may prepare a written summary of the hearing.

(c) A conduct hearing is an opportunity for a student to challenge the content of the student's educational record and is closed unless the charged student requests an open hearing a minimum of five (5) working days before the hearing and all student witnesses agree in writing.

(8) Decisions in student conduct proceedings, whether under the Student Conduct Code or Student Honor Code shall be based upon a preponderance of the evidence (more likely than not) standard. The rules of evidence and procedure that apply in a court proceeding do not apply to student conduct proceedings. Information (including hearsay) that supports factual findings required for the ultimate decision in a student conduct proceeding shall be the kind of information upon which a reasonable person would rely in educational proceedings.

(9) In reviews and hearings conducted by administrators, the administrator will determine whether the student or student organization is responsible and shall determine which sanction or sanctions should be imposed in accordance with Regulation 6C1-4.047. In hearings conducted by a committee, the hearing body will recommend a decision and any appropriate sanction or sanctions to the Dean of Students or designee. Although the rules of evidence do not apply, the ultimate decision by the Dean or designee in a student conduct matter will not be based exclusively on hearsay that would not be admissible in a court proceeding. Written notice of the decision and any sanction(s) to be imposed shall be provided by the Dean of Students or designee to the charged student or student organization.

(10) The general guideline for the timing for conducting a review or hearing in student or student organization Student Conduct Code or Honor Code cases is sixty (60) business days

from the date the case is referred to the hearing or reviewing body or person. If the sixty (60) days has not expired at the conclusion of the fall or spring semester or the process begins by notice of the allegation given during a summer term, and any primary individual in the case (including without limitation the charged student, any victim, or any witness) is unavailable for a review or hearing, the running of the sixty (60) day period may be tolled by the Director of the Student Conduct and Conflict Resolution or designee until the first day of class for the following fall or spring semester. In the event the hearing or reviewing committee or administrator is unable to conduct the hearing or review within this time frame, then, if the Director of Student Conduct and Conflict Resolution or designee deems it reasonable and feasible to reassign the case after consulting with the hearing or reviewing committee or administrator, the Director or designee may reassign the case to a different hearing body or hearing or reviewing administrator for a timely resolution. The Director or designee shall notify the student in writing whether or not the case will be reassigned. The charged student or student organization may appeal the Director's or designee's decision to reassign or not to reassign the case, in writing, to the Dean of Students or designee within five (5) business days after being notified of the decision. The decision of the Dean of Students or designee shall be final.

Specific Authority: BOG Resolution dated January 7, 2003.

History: New _____, Formerly 6C1-4.022.