

NOTICE OF PROPOSED REGULATION AMENDMENT

Date: February 20, 2013

REGULATION TITLE:

Student Honor Code and Student Conduct Code; Reviews and Appeals

REGULATION NO.:

4.048

SUMMARY: The changes clarify the appeal processes under the Student Honor Code and Student Conduct Code and codify both existing practices and victim rights consistent with a recent Department of Education guidance. An appeal process is provided for all accused students, student organizations and alleged victims that participated in an administrative review, administrative hearing, or committee hearing. The reviewing authorities are set forth as are the grounds for appeal and the appeal processes to be followed. The appeal of an accused student or student organization will be shared with the alleged victim, if any, who will be allowed to respond; the appeal of an alleged victim will be shared with the accused who will be allowed to respond. If the reviewing authority requests a meeting in conduct cases involving both an accused student (or student organization) and an alleged victim, the reviewing authority shall provide an opportunity for both participants to meet individually with the reviewing authority.

AUTHORITY: BOG Regulation 1.001.

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, Senior 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: Dave Kratzer, Vice President for Student Affairs

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

REGULATIONS OF
UNIVERSITY OF FLORIDA

~~6C1~~4.048 Student Honor Code and Student Conduct Code: Reviews and Appeals.

(1) Reviews.

(a) The Student Conduct Committee, Greek Conduct Committee and the Health Science Center Student Conduct Committee make a recommendation to the Dean of Students or designee concerning a decision and sanctions to be imposed, if any. The College of Law Honor Committee makes a recommendation to the Review Board, as defined in [University of Florida Regulation ~~6C1~~4.0434](#), concerning a decision and sanctions to be imposed, if any.

(b) If the Dean of Students or designee determines that a decision was not based upon evidence presented to the hearing body, or the decision did not comply with the requirements of law or applicable University regulations, the decision may be rejected and/or the case may be re-heard. The Dean of Students or designee will state the reasons for the rejection of the decision. In any case, the Dean of Students or designee may accept, modify or reject the recommended sanction. The Dean of Students or designee must state the reasons for any modification or rejection of the recommended sanction.

(c) The Dean of Students or designee may reject his or her prior decision or sanctions and may reopen the case for further proceedings in the following circumstances:

1. The Dean of Students or designee is subsequently presented with information, testimony, facts or other evidence from a criminal or civil proceeding relevant to the University proceeding and/or decision made by the Dean of Students or designee based on the [University proceeding](#); and

2. This information, testimony, facts or other evidence was not available to the University at the time of the University proceeding.

Decisions or sanctions imposed under the Student Conduct Code shall not be rejected solely on the basis of an adjudication of not guilty, an acquittal, a dismissal, a reduction of charges or other finding in favor of the student in a criminal or civil proceeding.

(2) Appeals. After a decision has been made and in accordance with the criteria and procedures set forth in University of Florida Regulations 4.031-4.035 and 4.042, each and every accused student, accused student organization, and alleged victim that participated in an administrative review, administrative hearing, or committee hearing may submit one appeal request to the appropriate University reviewing authority as outlined below.

(a) Appeals shall be directed to the appropriate reviewing authority as follows:

1. Appeals of decisions made by Housing and Residence Education professional staff and graduate hall directors should be directed to the Assistant Director of Residence Life and Education for Conduct and Community Standards or designee.

2. Appeals of decisions made by the Assistant Director of Residence Life and Education for Conduct and Community Standards or designee should be directed to the Assistant Dean of Students and Director of Student Conduct and Conflict Resolution or designee.

3.(a) Appeals of d~~Decisions made by the Assistant Dean of Students and Director of Student Conduct and Conflict Resolution or designee should be directed may be appealed~~to the Dean of Students or designee. Decisions made by the Coordinator of Residential Judicial Programs may be appealed to the Director of Student Conduct and Conflict Resolution.

4. Appeals of d~~Decisions made by the Dean of Students or designee, in cases other than decisions resulting from an appeal to the Dean or designee from another hearing authority~~

should be directed, ~~may be appealed~~ to the Vice President for Student Affairs or designee.

(b) All a~~Appeals to the Director of Student Conduct and Conflict Resolution, Dean of Students and the Vice President for Student Affairs (hereinafter "reviewing authority"), as set forth above,~~ must be ~~filed~~ in writing and submitted to ~~filed with~~ the appropriate reviewing authority within ten (10) business days from the date of the decision letter. ~~In addition, contact must be made with the reviewing authority within ten (10) business days from the date of the decision letter for the purpose of scheduling an appointment, unless otherwise agreed upon in writing by the student and the reviewing authority. The actual appointment must be scheduled within ten (10) business days of filing the appeal unless otherwise approved by the reviewing authority. If the student fails to appear for the appointment, the reviewing authority will make a decision based on the written material.~~

(c) The reviewing authority may decide the appeal on the written submission alone, or, if the reviewing authority believes additional information is necessary, the reviewing authority may request a meeting with the person making the appeal. When the reviewing authority requests a meeting in conduct cases involving both an accused student (or student organization) and an alleged victim, the reviewing authority shall provide an opportunity for both participants to meet individually with the reviewing authority. During the meeting(s), the accused student, student organization and alleged victim may have one support person present, but that support person may not speak on behalf of the accused student, student organization or alleged victim. The failure or refusal to meet with the reviewing authority upon the authority's request or invitation shall not affect or constrain the ability of the reviewing authority to issue a decision. Participants who fail to respond to a request or invitation to meet within five (5) business days after the reviewing authority makes the request or invitation shall be deemed to have refused the

request or invitation and the decision may be rendered by the reviewing authority without further delay. Similarly, the reviewing authority need not delay the decision if a participant fails to attend a meeting at its scheduled time.

(ee) The basis for filing an appeal is limited to one or more of the following grounds:

1. The student's or student organization's rights were violated in the hearing process in a manner which materially affected the outcome of the case.

2. New relevant material evidence or information has been provided that could not have been discovered at the time of the hearing. This basis for appeal is not available when a student fails to attend a hearing after receiving proper notice.

3. The information presented did not support the decision by a preponderance of the evidence (more likely than not) standard. In cases where an accused student (or student organization) is found not responsible and the alleged victim participated in the underlying case, that alleged victim may appeal on the grounds that the preponderance standard was met. ~~or~~

4. The sanction(s) imposed were not appropriate for the violation, taking into account both prior misconduct and mitigating circumstances.

(f) If the underlying case involved an alleged victim, the accused student or accused student organization's appeal will be shared with the alleged victim. The victim is given the opportunity to write a response, which will be considered by the reviewing authority. If the alleged victim submits the appeal, it is shared with the accused and the accused has the opportunity to write a response, which will be considered by the reviewing authority.

(gd) The decision on the appeal should be made within ten (10) business days following receipt of all written submissions and completion of any meetings. ~~the meeting with the student~~ except in exceptional circumstances. The decision of the reviewing ~~appeal~~ authority

shall be the final decision of the University and no further appeals are allowed. The reviewing appeal authority may remand the case for a new hearing or may accept, modify ~~(without increasing the sanction)~~, or reject/vacate the decision or sanction imposed, and shall state the reasons.

(3) Disciplinary sanctions which may result in limits being placed on extracurricular activities and/or registration will take effect immediately. However, once an appeal is requested, the sanctions will be stayed and will not take effect until the appeal process has been completed. If no appeal is requested, the final action with respect to the above will take effect immediately.

Specific Authority: BOG Regulation 1.001 ~~Resolution dated January 7, 2003.~~

History: New 9-24-08. Formerly, 6C1-4.016, Amended_____.