

Board Regulation 6.0105, Student Conduct and Discipline, is being amended on an emergency basis to comply with the new federal regulations issued by the U.S. Department of Education implementing Title IX of the Education Amendments of 1972, as implemented in 34 CFR 106.45. The deadline for implementation of the new federal regulations is August 14, 2020, which gives rise to the necessity to adopt these amendments on an emergency basis to protect the welfare of students who may be affected by the new regulations.

Because emergency regulations are time-limited to a period of 90 days, the Board will initiate the regular regulation development process as soon as possible.

6.0105 Student Conduct and Discipline.

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record is subject to the General Records Schedule GS5 for Public Universities and Colleges.

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disciplinary proceeding. The university also has the right to review any information the accused student intends to use at least three (3) business days (excluding legal holidays) before the disciplinary proceeding.

- (e) The accused student may present information at the disciplinary proceeding that is relevant to the proceeding.
- (f) Upon request by the accused student, the complaining partyant, or other participants, the university may permit the individual

university official for official action, the university's code of conduct must specify the actions that the university official may take with respect to adopting, modifying, or rejecting the recommended decision and sanctions, or remanding the matter for a rehearing. Any differences between the recommendation arising out of the university disciplinary proceeding

(6) An accused student may be subject to discipline for conduct that violates the university code of conduct, even where that conduct occurs off-campus. The action of the university with respect to off-campus conduct shall be taken independently of any off-campus authority.

(7) Each university's code of conduct shall include a description of the rights of alleged victim(s) in the student disciplinary system. The university shall provide notice to the alleged victim(s) of their rights at least five (5) business days (excluding legal holidays) before the disciplinary proceeding is conducted. Each university is encouraged to provide support and assistance programs for alleged victim(s), as appropriate.

(8) Title IX Sexual Harassment Matters. Each university must comply with the federal regulations adopted by the U.S. Department of Education pursuant to Title IX of the Education Amendments of 1972 (the "Federal Regulations") for addressing reports and complaints of "sexual harassment" as de-3 y thf thness da( Ea005T0 s)-2 (1 ( of)c8 0 Td{otte)-2 (m)-3 (.)-1 ( T)-3 (h)1 (e)3

respond to a question posed by an advisor, the decision-maker(s) must first determine whether the question is relevant, and if not, explain the basis for disallowing the question.

- (c) Each party shall have the ability to present relevant information and witnesses in the disciplinary proceeding, the right to avoid self-incrimination, notification of the final result of the disciplinary proceeding and any subsequent changes to the final result, and the right to appeal the decision.
- (d) All information must be objectively evaluated and the decision-maker(s) must avoid credibility determinations based on a person's status as a complainant, respondent, or witness.
- (e) Information protected under a privilege recognized by state or federal law cannot be disclosed, used, or relied upon unless the person who holds the right to exercise the privilege waives the application of the privilege.
- (f) Upon request by the parties or other participants, the university may permit an individual to provide relevant information during the disciplinary proceeding in a manner that avoids direct contact with the parties or the other participants. Any hearing that is conducted virtually through technology shall enable the parties to see and hear the party or witness answering questions.

~~The following procedures are applicable to complaints arising out of an alleged violation of university prohibitions against sexual misconduct, including gender-based discrimination,~~

- ~~(c) The disciplinary proceeding shall be conducted by a university official or panel of university officials, except a university may provide for a committee or panel where students comprise at least one-half of the membership if such committee or panel is requested by the student and no objection is raised by the complainant.~~
- ~~(d) Upon request by the student, the complainant, or other participants, the university may permit an individual to provide relevant information during the disciplinary proceeding in a manner that avoids direct contact with the student, the complainant, or the other participants.~~
- ~~(e) In the event the student accepts responsibility or is found responsible, any impact statement provided by the complainant and/or victim will be considered by the university official(s) in recommending or issuing the disciplinary sanction(s). The statement may include a description of how the complainant was impacted by the conduct violation and may include a recommendation for sanctions. While the impact statement is not binding, the impact described in the statement together with the totality of the circumstances including the student's conduct record, should be considered by the university official(s) involved in recommending or determining the appropriate sanction(s).~~

(9) Each university shall, as part of its student disciplinary system, adopt and publish a regulation or policy that articulates how the university will address sexual misconduct violations other than Title IX Sexual Harassment. Universities may address sexual misconduct violations other than Title IX Sexual Harassment in accordance with either paragraph (4) or paragraph (8) of this regulation. If a university elects to use the procedures in paragraph (4), then paragraph (4)(b) shall not apply. Instead, the accused student shall be entitled to a disciplinary proceeding within the timelines established by each university and the disciplinary proceeding, at the university's discretion, shall be conducted by a university official or designee; or a committee or panel comprised of only university officials or designees; or a committee or panel where students comprise at least one-half of the membership of such committee or panel.

(10) Each university shall establish a committee, which shall include student representation, for the periodic evaluation of its student disciplinary system.

Authority: Section 7(d), Art. IX, Fla. Const., History--Formerly 6C-6.105, New 2-18-85, Amended 4-29-01, Amended and Renumbered 6-18-09, Amended 9-3-2015.