

University of Utah

Legislative History

Interim Rule 6-400A Student Code- Student Civil Liberties Clarifications

As presented to the Senate Executive Committee August 8, 2019, and presented for the Information and Recommendations of the Academic Senate August 26, 2019.

Date enacted by the University President, and effective date: August 1, 2019

History prepared by Bob Flores, Senate Policy Liaison, for the Institutional Policy Committee.

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1. Note regarding History. Excerpt from Minutes of Academic Senate 2019-09-26:

“Interim Rule 6-400A is an example of when the University administration needs to act quickly to implement policies, rules, or other regulations. In some cases, the normal process of proposing new and revised policies will not allow compliance required by impending deadlines; this occurs in instances such as changes in local and federal laws. The current process in place, that guides action in these instances, asks the University President to enact interim regulations to address compliance issues in a timely manner.

Interim Rule 6-400A meets the August 1, 2019 deadline contained in the Student Civil Liberties Protection Act passed by the Utah Legislature last year. This Act was aimed at the member institutions of the Utah System of Higher Education (USHE) to ensure that each has protections in place that support students’ civil rights and liberties. Two provisions in the current University of Utah Student Code required modification to bring policies into compliance. These concern 1) student rights to have an attorney participate in hearings about behavioral misconduct, and 2) student rights to possess weapons while on campus, as long as the carrier meets state law regulations. This interim Rule will be replaced by a broader revision of the student code, which is currently being worked on and will be brought to the Senate at a later time this year for approval.”

Excerpt from Interim Rule 6-400A-VII: “This Interim Rule was put into effect on August 1, 2019 by University President Ruth Watkins. The Interim Rule was required in order to comply with the Student Civil Liberties Protection Act and Utah Administrative Code Rules R780-800-1 et seq. and R780-900-1 et seq. It will remain in effect until a revision of Policy 6-400 is completed incorporating the substance of this Interim Rule.”

Robert W. Payne
Deputy General Counsel

August 1, 2019

Ruth V. Watkins
President, the University of Utah
201 President's Circle
Salt Lake City, Utah 84112

RE: Interim Rule R6-400A: Student Civil Liberties Clarifications

Dear President Watkins:

As I believe you know, last year the Utah Legislature passed the Student Civil Liberties Protection Act, Utah Code Ann. §53B-27-302 (the "Act"). That Act provides protections for student civil liberties and requires the USHE institutions to update (where necessary) and record relevant institutional policies in the Utah Administrative Code. The deadline for compliance is today, August 1, 2019.

For the past year, the Board of Regents has been working with Governor's Office and the USHE institutions to determine the best process for compliance with the Act. This week, the Board of Regents filed three administrative rules with Utah Office of Administrative Rules addressing student due process rights, first amendment rights, and second amendment rights. Each of these rules attaches the relevant policies from the USHE institutions.

In reviewing and comparing our Student Code (Policy 6-400) to these draft administrative rules, it became apparent that certain clarifications are needed in our policy in order to bring that policy into alignment with Utah law and the administrative rules filed this week. Although a rewrite of the Student Code is currently underway, the timeline for completion of that rewrite is still several months away. Therefore, an interim rule is necessary to bring the current Student Code into complete alignment with the administrative rules.

Attached, please find a draft interim rule that provides the necessary clarifications to our current Student Code. We are requesting that you use your authority as President to implement this rule on an interim basis. The draft has been vetted and approved by the Office of General Counsel, the Office of the Dean of Students and Robert Flores. It will be presented as an informational matter to the Institutional Policy Committee, the Executive Committee the Senate and the Full Senate at their next meetings. We will then continue our work on the fuller rewrite of the Student Code with the goal of moving that rewrite through the approval process (including the issues clarified in the interim rule) before the end of the current academic year.

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Ruth V. Watkins
July 17, 2020
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Sincerely,

Robert W. Payne
Deputy General Counsel

Enclosure

cc: Brian Burton
Robert Flores

Interim University Rule R6-400A: Student Civil Liberties Clarifications. Revision 0. Effective date August 1, 2019.

I. Purpose and Scope

Purpose: The purpose of this Interim Rule is to align certain sections of Policy 6-400 (Student Code) with the requirements of Regents Rules R780-800—Student Due Process and R780-900—Weapons on Campus. This Interim Rule will be replaced during the 2019/2020 academic year with a more comprehensive revision of Policy 6-400 currently underway.

Scope: This Interim Rule applies for all persons and in all contexts governed by the relevant provisions of Policy 6-400 described here.

II. Definitions.

The definitions of terms in Policy 6-400 apply for purposes of this Interim Rule, including the terms “Student,” “Behavioral Misconduct,” and “Professional Misconduct.”

III. Rule

A. Notice

A student involved in a proceeding for Behavioral Misconduct (Section III) and/or Professional Misconduct (Section VI) under Policy 6-400, in which the alleged misconduct could result in imposition of a sanction of dismissal or a suspension greater than ten (10) days, shall receive notice of the allegations against them prior to being interviewed about the alleged misconduct. The notice shall inform the student of their right to have an advisor throughout the process and that the advisor may be an attorney.

B. Right to Active Participation of Advisor During Formal Disciplinary Hearings

A student involved in a formal adjudicatory hearing for Behavioral Misconduct (Section III) and/or Professional Misconduct (Section VI), under Policy 6-400, in which the alleged misconduct could result in imposition of a sanction of dismissal or a suspension greater than ten (10) days, may have their advisor (including an attorney) participate in, and advocate on their behalf, during the hearing.

C. Firearms Possession or Use

It shall not be a violation of Policy 6-400 Section III-A-7 (Standards of Behavior—possession or use of firearm) for a student to possess or use a firearm on University premises or at University activities unless such possession or use violates Utah law governing such possession or use.

[Note: Parts IV-VII of this Regulation (and all other University Regulations) are Regulations Resource Information – the contents of which are not approved by the Academic Senate or Board of Trustees, and are to be updated from time to time as determined appropriate by the cognizant Policy Officer and the Institutional Policy Committee, as per [Policy 1-001](#) and [Rule 1-001](#).]

IV. **Policies, Procedures, Guidelines, forms and other related resources**

Policy 6-400 Code of Student Rights and Responsibilities.

V. References

- A. [Utah Code Ann. §53B-27-302](#): Student Civil Liberties Protection Act
- B. [Utah Administrative Code Rule R780-800-1](#) et seq: Student Due Process
- C. [Utah Administrative Code Rule R780-900-1](#) et seq.: Weapons on Campus

VI. Contacts:

The designated contact officials for this Regulation are:

- A. Policy Officer: Sr. Vice President for Academic Affairs and Sr. Vice President for Health Sciences. Vice President for Student Affairs
- B. Policy Owner (primary contact person for questions and advice): Dean of Students

These officials are designated by the University President or delegee, with assistance of the Institutional Policy Committee, to have the following roles and authority, as provided in University Rule 1-001:

"A 'Policy Officer' will be assigned by the President for each University Policy, and will typically be someone at the executive level of the University (i.e., the President and his/her Cabinet Officers). The assigned Policy Officer is authorized to allow exceptions to the Policy in appropriate cases... ."

"The Policy Officer will identify an "Owner" for each Policy. The Policy Owner is an expert on the Policy topic who may respond to questions about, and provide interpretation of the Policy; and will typically be someone reporting to an executive level position (as defined above), but may be any other person to whom the President or a Vice President has delegated such authority for a specified area of University operations. The Owner has primary responsibility for maintaining the relevant portions of the Regulations Library... [and] bears the responsibility for determining which reference materials are helpful in understanding the meaning and requirements of particular Policies... ." University Rule 1-001-III-B & E

- VII. History: This Interim Rule was put into effect on August 1, 2019 by University President Ruth Watkins. The Interim Rule was required in order to comply with the Student Civil Liberties Protection Act and Utah Administrative Code Rules R780-800-1 et seq. and R780-900-1 et seq. It will remain in effect until a revision of Policy 6-400 is completed incorporating the substance of this Interim Rule.