

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

DONALD DE LA HAYE,

Plaintiff,

vs.

Case No. 6:18-cv-135-ORL-22GJK

DR. JOHN C. HITT, *et al.*,

Defendants.

DEFENDANTS' REPLY IN SUPPORT OF MOTION TO DISMISS

Pursuant to this Honorable Court's Order dated May 8, 2018, Defendants ("UCF") respectfully reply to Plaintiff's Response to UCF's Motion to Dismiss as follows:

I. PLAINTIFF LACKS STANDING AS HIS ATHLETIC SCHOLARSHIP WAS YEAR-TO-YEAR

Plaintiff ignores the dispositive fact that his athletic scholarship was limited to UCF's recently concluded 2017–18 academic year. He repeats five times that UCF "promised" him a scholarship, ECF No. 47 at 5, 7, 8, 13, but UCF's alleged "promise" was explicitly conditioned on Plaintiff's "promise" to comply with NCAA Rules—and also had a fixed, one-year duration.

UCF never awarded Plaintiff a scholarship spanning four academic years. Ex. "A" at ¶ 4 (Keaton Decl.); ECF No. 1 ¶ 37; ECF No. 43 at 20 n.3, 21. His scholarship expired by its terms—or would have expired but for its cancellation—at the end of the Spring 2018 semester. What Plaintiff seeks now, therefore, is not restoration of his scholarship, but a new scholarship that he was never awarded, and to which he was never entitled: a scholarship for the 2018–19 academic year. *See Fry v. Napoleon Cnty. Sch.*, 137 S. Ct. 743, 755 (2017) ("What matters is the crux . . . of the plaintiff's complaint, setting aside any attempts at artful pleading."). For lack of entitlement to a scholarship beyond the Spring 2018 semester, Plaintiff suffers no present injury.

To establish standing to seek prospective relief against his former University, Plaintiff cites two inapposite cases from outside the Eleventh Circuit. *See* ECF No. 47 at 11–12. Neither *Flint v. Dennison*, 488 F.3d 816, 823–24 (9th Cir. 2007), nor *Shepard v. Irving*, 77 F. App’x 615, 620 (4th Cir. 2003), alters the hornbook principle that former students lack a present injury to establish standing to seek prospective equitable relief against their former schools. Instead, both cases merely hold that a student seeking to expunge disciplinary records alleges an ongoing injury sufficient to confer standing. Plaintiff does not seek to expunge disciplinary records.

Plaintiff also relies on cases holding that former students have standing to challenge their expulsion from school. *See, e.g.*, ECF No. 47 at 6 (citing *Papish v. Bd. of Curators of Univ. of Mo.*, 410 U.S. 667 (1973)). Plaintiff was not expelled, however, and could have continued and funded his studies with student loans like other non-scholarship students. Instead, he chose to stop attending classes during the Summer 2017 semester and deregistered from classes for Fall 2017 and Spring 2018 semesters. Ex. “A” at ¶ 5(B); ECF No. 43-1 ¶¶ 4-5, 8.

Hence, in framing his requested relief, Plaintiff faces an insurmountable dilemma: he either seeks a new scholarship to which he is not entitled, since by its own terms his scholarship was limited to the 2017–18 academic year, or he seeks a retroactive award of past scholarship funds—a request that runs afoul of the Eleventh Amendment. ECF No. 43 at 5–8. No matter how he couches his requested relief, Plaintiff cannot invoke federal subject matter jurisdiction over his alleged claims.

II. PLAINTIFF CANNOT DISTINGUISH THE ELEVENTH CIRCUIT’S DECISION IN *JOHNSTON*, AND THUS CANNOT AVOID THE WAIVER OF HIS CLAIMS

Plaintiff does not deny that he agreed to, then violated, the conditions of his athletic scholarship, but argues that those conditions violated the First Amendment. Yet Plaintiff cannot distinguish the Eleventh Circuit’s controlling decision in *Johnston*, which holds that a public

entity does not impose an unconstitutional condition when it acquiesces in and implements a private organization's policies. *Johnston v. Tampa Sports Auth.*, 530 F.3d 1320, 1328–29 (11th Cir. 2008).

Plaintiff asserts that UCF is a “member” of the NCAA, while the Tampa Sports Authority in *Johnston* was not a member of the NFL. But the Eleventh Circuit made no distinction between membership and non-membership organizations. To give the distinction relevance, Plaintiff asserts for the first time that, as a member of the NCAA, UCF played a “major role” in formulating the NCAA Rules that it applied to Plaintiff. But the Complaint does not allege that UCF played *any* role in formulating the NCAA Rules. Plaintiff cannot avoid dismissal through the unpled, unsupported, and implausible assertion that UCF played a “major role” in formulating the NCAA’s amateurism rules. *Johnston* controls, and Plaintiff waived his claims.¹

III. PLAINTIFF HAS NO FUNDAMENTAL CONSTITUTIONAL RIGHT IN HIS ATHLETIC SCHOLARSHIP, AND THUS HAS NO SUBSTANTIVE DUE PROCESS CLAIM

Plaintiff does not cite a single case finding a fundamental right to scholarship funds under the substantive due process clause. Indeed, Plaintiff does not discuss fundamental rights at all—an essential part of a substantive due process claim. Instead, Plaintiff relies on two *procedural* due process cases, and one case in which the court did not decide whether a fundamental right giving rise to a substantive due process claim existed. *See* ECF No. 47 at 4, 19. Plaintiff cannot

¹ Plaintiff argues that “UCF was the sole decision maker regarding [his] place on the football team and his receipt of an athletics scholarship,” and that “the NCAA, a voluntary, nongovernmental organization, had no authority or control over UCF’s actions.” ECF No. 47 at 3. Plaintiff’s own Complaint acknowledges, however, that UCF’s actions were taken to enforce or implement NCAA Rules. *See, e.g.*, ECF No. 30 ¶ (“NCAA rules broadly prohibit student expression”); *id.* ¶ 32 (“UCF determined that [Plaintiff] violated the NCAA Rule”); *id.* ¶ 41 (“The policies, practices, or customs of UCF, as implementing the NCAA Rules by Defendants, are overly broad”); *id.* at 11-12 (seeking a declaration that UCF’s policies, practices, or customs of relying on the NCAA Rule . . . violates [Plaintiff’s] right to freedom of speech and due process”); *id.* at 12 (seeking an injunction prohibiting “UCF . . . from enforcing the NCAA Policy against De La Haye”). UCF’s role is indistinguishable from that of the Tampa Sports Authority’s in *Johnston*. Like the plaintiff in *Johnston*, Plaintiff has failed to state a claim.

establish that he had a fundamental right in his athletic scholarship, and therefore cannot sustain a viable substantive due process claim. *See Davenport by Davenport v. Randolph Cty. Bd. of Educ.*, 730 F.2d 1395, 1398 (11th Cir. 1984) (“This court has held that the privilege of participating in interscholastic activities must be deemed to fall outside the protection of due process.”) (citation and internal marks omitted); *Heike v. Guevara*, 519 F. App’x 911, 925 (6th Cir. 2013) (“[D]isappointment and frustration with a coach’s conduct do not, without more, entitle a player to legal relief.”).

IV. PLAINTIFF’S RESPONSE CONTAINS MISLEADING ASSERTIONS OF FACT

In his Declaration, Plaintiff represents that, “I never received written notice that I was kicked off the team or that UCF had rescinded my scholarship. No one at UCF informed me that I had a right to contest this decision. ECF No. 47-1 at 5 ¶ 18. However, on August 11, 2017, UCF’s Office of Student Financial Assistance sent an official email to Plaintiff’s student email account with the subject line of “UCF—Student Financial Assistance—Athletic Scholarship Cancellation,” which was successfully delivered. Ex. “A” at ¶¶ 3, 5(A). This email notified Plaintiff that in “accordance with [NCAA] Division I Bylaw 15 . . . , this letter serves as official notification that your 2017-2018 Athletics Scholarship is cancelled according to the terms of your Athletic Aid Agreement,” and explained his right to appeal, which he never filed. *Id.*, ¶ 4.²

Moreover, while Plaintiff suggests that UCF flatly denied his proposal to demonetize certain videos, provided him no written notice, and forced him within three days to find

² UCF’s student handbook provides that “[e]ach student is responsible for reviewing the rules and regulations of the University and for abiding by them,” and that “[i]t is critical that students maintain and regularly check their ‘preferred’ e-mail account for official announcements and notifications. Communications mailed to a student’s ‘preferred’ email address are considered official notice. The university does not accept responsibility if official communication fails to reach a student who has not notified the university of a change of e-mail or mailing address.” Ex. “A” at ¶ 7.

“alternative housing,” ECF No. 47-1 at ¶¶ 14–20, Plaintiff conveniently ignores the fact that UCF prepared and submitted a comprehensive appeal to the NCAA on his behalf, requesting the following relief:

UCF requests that the Division I Legislative Relief Committee grant Donald De La Haye a waiver of Bylaw 12.4.4 Self-Employment requirements. Specifically, we are asking that the committee waive the normal application of the legislation and permit Mr. De La Haye to be eligible for competition in Fall 2017, while still being allowed to continue his YouTube business venture, continue to post non-monetized videos, and be able to retain his revenue from his non- student-athlete related videos. This will enable De La Haye to pursue both his passions and not have to choose one over the other.

Ex. “A” at ¶ 6.

Although the NCAA declined to grant a blanket waiver, it was willing to allow Plaintiff to keep his monetized YouTube account if he would “remove the videos on the account that reference his status as a student-athlete or depict his football skills or ability” (the “athlete-related videos”). ECF No. 47-1 at 9. Rather than simply create a separate non-monetized YouTube account for athlete-related videos, Plaintiff insisted on keeping all videos—monetized and demonetized—on the same YouTube account, which the NCAA denied. *Id.* at 10.

V. CONCLUSION

Plaintiff made a fully informed business decision to walk away from his athletic scholarship and render himself ineligible under NCAA Rules—rules that he had promised to observe. Plaintiff cannot now rewrite history and portray himself as the victim of arbitrary action by UCF.

WHEREFORE, Defendants respectfully request this Honorable Court to render an Order granting UCF’s motion to dismiss.

Respectfully submitted this 18th day of May, 2018.

/s/ **Richard E. Mitchell**
Richard E. Mitchell, ESQ.

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Counsel for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of May, 2018, I electronically filed the foregoing with the Clerk of the Court via CM/ECF, which will send a notice of electronic filing to all registered users.

/s/ **Richard E. Mitchell**
Richard E. Mitchell, Esq.
GrayRobinson, P.A.

EXHIBIT “A”

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

DONALD DE LA HAYE,

Plaintiff,

v.

Case No. 6:18-cv-135-ORL-22GJK

DR. JOHN C. HITT, *et al.*,

Defendants.

DECLARATION OF ALICIA KEATON

1. My name is Alicia Keaton. I am over the age of eighteen and competent to execute this Declaration. I serve as the Director of the Office of Student Financial Assistance at the University of Central Florida.

2. This Declaration is based on UCF's business records that were: (i) made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person or persons having knowledge of those matters; (ii) kept in the ordinary course of UCF's regularly conducted activities; and (iii) made as a regular practice in the course of UCF's regularly conducted activities.

3. On August 11, 2017, UCF's Office of Student Financial Assistance sent an official email to Mr. De La Haye's student email account (delahayedonald@knights.ucf.edu) notifying him that in "accordance with the National Collegiate Athletic Association (NCAA) Division I Bylaw 15 (and all applicable subsections), this letter serves as official notification that your 2017-2018 Athletics Scholarship is cancelled according to the terms of your Athletic Aid Agreement." A true and correct copy of UCF's August 11th email to Mr. De La Haye is attached as Exhibit 1.

Exhibit "A"

4. UCF's August 11th email also notified Mr. De La Haye of his right to appeal the cancellation of his athletic scholarship, which he never filed, and only referenced the 2017-2018 academic year because his scholarship was on a year-to-year basis subject to his continuing compliance with the governing rules of UCF and the NCAA, and the head football coach's discretion. UCF did not award Mr. De La Haye an athletic scholarship spanning four academic years.

5. UCF's business records confirm that:

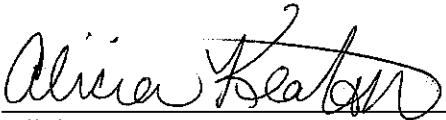
- A. The August 11th email was successfully delivered that day to Mr. De La Haye's student email account (delahayedonald@knights.ucf.edu), which was listed as his preferred e-mail account for official announcements and notifications;
- B. Mr. De La Haye stopped attending his classes during the Summer 2017 semester; and
- C. Mr. De La Haye did not apply to UCF for student financial aid for the Fall 2017 semester or any other semester.

6. Attached as Exhibit 2 is a true and correct copy of the "Legislative Relief Waiver" request that UCF submitted to the NCAA on behalf of Mr. De La Haye.

7. Attached as Exhibit 3 are true and correct copies of excerpt pages from the UCF's "The Golden Rule Student Handbook" for the 2017-2018 academic year.

VERIFICATION

Pursuant to 28 U.S.C. § 1746, I verify under penalty of perjury that my statements in this Declaration are true and correct.


Alicia Keaton
As Director of UCF's Office of Student
Financial Assistance

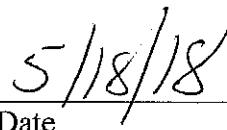

Date

EXHIBIT “1”

UCF- Student Financial Assistance- Athletic Scholarship Cancellation

Student Financial Assistance

Fri 8/11/2017 2:28 PM

To:delahayedonald@knights.ucf.edu <delahayedonald@knights.ucf.edu>;

0 1 attachments (172 KB)

Athletic Grant-In-Aid Scholarship Appeal and Hearing Process.pdf;

August 11, 2017

RE: Football Scholarship

Dear Donald De La Haye:

The University of Central Florida Athletics Association (UCFAA) has notified the University of Central Florida Office of Student Financial Assistance (SFA) that you have rendered yourself ineligible to participate as a Division I student-athlete, and as a result, forfeited your athletic scholarship for the 2017-18 academic year.

In accordance with the National Collegiate Athletic Association (NCAA) Division I Bylaw 15 (and all applicable subsections), this letter serves as official notification that your 2017-2018 Athletics Scholarship is cancelled according to the terms of your Athletic Aid Agreement. Attached you will find a copy of SFA's policy and procedures for conducting the required appeal/hearing.

If you wish to appeal, you must request the appeal within 10 business days of the date on this letter. Please notify SFA by submitting a written statement to include your rationale for the appeal and all supporting documentation, no later than August 24, 2017 to sfascholarships@ucf.edu. The UCF Scholarship Committee will review your appeal, This committee, organized by SFA, is comprised of members of the university community. It is not affiliated with the UCFAA.

Should you wish to appeal in-person, you must inform our office by August 24, 2017 via email – sfascholarships@ucf.edu. An email notification will be sent to your Knights email informing you of the date, time, and location of the committee's next scheduled meeting.

After the committee reviews all of the evidence, they will either render a decision or request additional documentation. Within 3 – 5 business days from the date of the meeting, our office will notify you and UCFAA, in writing, of the committee's decision.

Should you have any questions regarding this correspondence or the appeals process, do not hesitate to contact our office at (407) 823-5729.

Sincerely,

Alicia Keaton, Director
Office of Student Financial Assistance

UCF Stands for Opportunity

Please be sure to check the myUCF Bulletin Boards and your TO DO List.

UNIVERSITY OF CENTRAL FLORIDA
Office of Student Financial Assistance
Millican Hall, Suite 107
Orlando, FL 32816-0113
<http://finaid.ucf.edu/>

UCF Stands for Opportunity

This message is intended for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the Office of Student Financial Assistance immediately.

EXHIBIT “2”



July 11, 2017

NCAA Membership Services
 Division I Legislative Relief Committee
 P.O. Box 6222
 Indianapolis, IN 46206-622

Dear Division I Legislative Relief Committee Members:

Please accept this electronic correspondence as a request for a Legislative Relief Waiver for the relief of NCAA Bylaws 12.4.4, 12.5.2.1, 12.1.2, and 12.5.1.3.

I. Involved Bylaw(s)

12.1.2 Amateur Status. An individual loses amateur status and thus shall not be eligible for intercollegiate competition in a particular sport if the individual: (a) uses his or her athletics skill (directly or indirectly) for pay in any form in that sport [...].

12.4.4 Self-Employment. A student-athlete may establish his or her own business, provided the student-athlete's name, photograph, appearance or athletics reputation are not used to promote the business.

12.5.1.3 Continuation of Modeling and Other Non-athletically Related Promotional Activities After Enrollment. If an individual accepts remuneration for or permits the use of his or her name or picture to advertise or promote the sale or use of a commercial product or service prior to enrollment in a member institution, continued remuneration for the use of the individual's name or picture [...].

12.5.2.1 Advertisements and Promotions. After Becoming a Student-Athlete. After becoming a student-athlete, an individual shall not be eligible for participation in intercollegiate athletics if the individual: (a) Accepts any remuneration for or permits the use of his or her name or picture to advertise, recommend or promote directly the sale or use of a commercial product or service [...].

II. Request

To waive the normal application of the self-employment legislation, Bylaw 12.4.4, and permit Donald De La Haye (NCAA ID: 1310524342) to continue to be self-employed and conduct his online YouTube business while still being eligible to compete, practice, and receive athletics related aid for the duration of his five-year clock.

III. Facts: Background Information, Chronology, & Mitigating Factors

In summary, the circumstances surrounding this case are as follows:

A. Background Information.

1. The individual involved in this case is Donald De La Haye, a football student-athlete, who began his initial full-time enrollment at UCF, Fall 2015 ([refer to Attachment 1 – SAs Transcript](#)).
2. Prior to his enrollment at UCF, he (Mr. De La Hay) was recording, editing, and creating videos featuring stories of his life and other things of interest. He has always had a

passion for film and creating his own videos. He attributes this to his father, a fellow amateur filmmaker ([refer to Attachment 2 – SA’s Personal Statement](#)).

3. Mr. De La Haye began making his first videos when he was 12 years old. In high school, he developed his talent and began posting his work online. He has even made it part of his educational pursuits and career plans. Currently, his major is pre-marketing and he intends to minor in film.
4. Upon enrolling at UCF, Fall 2015, he created his own YouTube account, Deestroying ([refer to Attachment 3 – Deestroying ~ Video Posting History](#)). On May 7, 2017, he began the process of monetizing his YouTube account. On May 9, 2017, the process was completed and his account was officially monetized. Prior to this date, his account had never been monetized. As of July 3, 2017, his YouTube account has accrued an estimated \$3,782.98 ([refer to Attachment 4 – Deestroying ~ Account Earning Summary](#)).
5. Mr. De La Haye, as of July 5, 2017, had not received any money from his YouTube account. Instead, his account continues to increase in value based on the number of viewers that watch the videos that are posted to the account. Unfortunately, per the YouTube user agreement, he cannot refuse payment now that the account is set-up ([refer to Attachment 5 – Google AdSense Terms of Service](#)). Any money that is tied to the account will be disbursed to him in one of two ways. He can request disbursements based on a set dollar amount of his choice, or he can close the account. If he closes the account, any funds tied to the account will automatically be disbursed to him directly.
6. In order to remedy this situation, Mr. De La Haye has agreed to donate a portion of the funds to a charity of his choice. Specifically, funds generated from videos that used his athletics reputation, he will donate to the charity. In addition, he agrees to remove these specific videos from his account but would like to post them to an un-monetized account in which he will not use them for financial benefit throughout the remainder of his eligibility.

B. Mitigating Factors

1. *History of making and posting videos prior to collegiate enrollment.* De La Haye was recording, editing, and posting film well before his enrollment as a student-athlete at UCF.
2. *The student-athletes business is tied to his educational interest & career plans.* De La Haye is pursuing a career in social media marketing and film.
3. *Limited nexus to his status or fame as a student-athlete.* De La Haye acquired his YouTube following in great extent because of his creativity and talent in filmmaking rather than any acquired fame as a student-athlete. The nature of his position as a kick-off specialist is not one in and of itself, which garners much attention.
4. *The Student-Athlete has not collected or received any money.* De La Haye has yet to receive any funds for the videos posted on YouTube.
5. *The student-athlete cannot refuse receipt of the funds or if received, return the funds.* Mr. De La Haye is willing to decline receipt of funds for the videos that include details about him being a student-athlete at UCF. However, due to the logistics of YouTube and its partner AdSense, even if the account were terminated, the funds would still be deposited into De La Haye’s account within 90 days.

6. Remuneration is at the same standard rate as all other monetized YouTube page creators. YouTube and AdSense remunerate at a standard rate using a sophisticated formula that calculates views, advertisement, and viewer involvement with ads to determine the revenue earned for each channel. As a result, De La Haye would be compensated at the same standard rate as all YouTube account holders.
7. Student-Athlete Inadvertently Misunderstood the NCAA Legislation Regarding Use of his Name, Picture, and Likeness. Mr. De La Haye mistakenly believed that it was permissible for him to use his name, picture, and likeness in his videos since this is something that he had been doing prior to his collegiate enrollment and because its work related to his major.
8. Previously approved NCAA Case Precedents. This waiver submission is a case of the first impression and because of that has no case precedent that it can fully be compared to. However, UCF did find some previous cases to be beneficial from an analogous standpoint. The outcome of the following Legislative Relief Waivers, though different factually, they are still beneficial in reviewing based on the rationale and analogous applications: Cases 729007, 558551, and 847108.

C. Chronology.

1. Prior to May 9, 2017 – Mr. De La Haye did not monetize a YouTube account for which he could receive pay for posting videos that included himself.
2. May 9, 2017 – Mr. De La Haye monetized his YouTube account, Deestroying, allowing him to accrue money through views and ad share revenues.
3. May 31, 2017 – The Athletics Compliance Office (ACO) became aware of the student-athletes YouTube account and determined that there were posts and videos that may violate NCAA rules. ACO contacted the student-athlete to schedule a date and time to meet with him.
4. June 9, 2017 – An ACO staff member met with Mr. De La Haye and informed him that his videos may be in violation of NCAA legislation. In addition, told him that they would have to conduct research as to determine if a violation did or did not occur. In addition, he was instructed to not withdraw any money from the account.
5. June 12, 2017 – UCF initiated its investigation.
6. June 20, 2017 – Mr. De La Haye was interviewed. During this meeting, he disclosed all of his Deestroying account information (e.g., how money had accrued, when the account was monetized, how many videos he had posted).
7. June 23, 2017 – UCF had a follow-up meeting with Mr. De La Haye. During this meeting, he expressed that he was willing to donate money received to a charity of his choice.
8. July 5, 2017 – Mr. De La Haye provides the compliance office with documentation of his earnings through July 3, 2017.

IV. Summary

In summary, UCF is requesting on the behalf of Mr. De La Haye the following:

1. Continuation of Self-Employment. Allow him to continue to create and post videos for his monetized YouTube account with the understanding that these videos will no longer have a nexus to Mr. De La Haye's reputation as a student-athlete.
2. Continuation of non-monetized football/biographical videos. Allow him to create and post videos on a separate non-monetized channel, that use his reputation as a student-athlete as long as this channel does not cross promote Mr. De La Haye's other posts or his revenue generating channels.
3. Ability to retain earnings from non-student-athlete related videos. To permit him to retain his already accrued revenue that was based on videos that did not include any material related to his reputation as a student-athlete, but would be similar in content to the videos that Mr. De La Haye would be allowed to create, post, and generate revenue from while participating as a student-athlete.

V. Conclusion.

UCF requests that the Division I Legislative Relief Committee grant Donald De La Haye a waiver of Bylaw 12.4.4 Self-Employment requirements. Specifically, we are asking that the committee waive the normal application of the legislation and permit Mr. De La Haye to be eligible for competition in Fall 2017, while still being allowed to continue his YouTube business venture, continue to post non-monetized videos, and be able to retain his revenue from his non-student-athlete related videos. This will enable De La Haye to pursue both his passions and not have to choose one over the other.

Thanks for your consideration pertaining to this matter. We look forward to your response.

Sincerely,



Nicole Harvey, Sr. Associate Athletic Director

Attachments:

- *Attachment 1 – SA's Transcript*
- *Attachment 2 – SA's Personal Statement*
- *Attachment 3 – Destroying ~ Video Posting History*
- *Attachment 4 – Destroying ~ Account Earning Summary*
- *Attachment 5 – Google AdSense Terms of Service*

EXHIBIT “3”

UNIVERSITY OF CENTRAL FLORIDA

THE GOLDEN RULE

2017-2018
STUDENT HANDBOOK



- (g) Fair and impartial proceeding. These matters shall include, but not be limited to:
 - 1. Disciplinary proceedings involving an alleged violation of academic and nonacademic rules.
 - 2. Refunds and charges. The status of a student charged with a violation of University rules shall not be affected pending final disposition of the charges except in the case of administrative action (a/k/a interim action). For specific procedures and rights of students during the student conduct review process, see later section entitled "Student Conduct Review Process."
- (h) Confidentiality of student records. Each University office and agency which generates, collects, and disseminates information on students must follow the guidelines for confidentiality of those records in their possession. For further information see "Student Record Guidelines."

2. Student Responsibilities

A student at the University is deemed to have given their consent to the policies of the University and the Florida Board of Governors and to the laws of the State of Florida.

Each student is responsible for reviewing the rules and regulations of the University and for abiding by them.

3. Definitions

- (a) The term "Academic Integrity Panel" is comprised of one faculty and one staff/faculty member and two students selected from the Student Conduct Board. Members of this panel will receive annual training on how to conduct an investigation related to academic misconduct.
- (b) The term "Advisor" or "Support Person" refers to any individual who provides support, guidance or advice to a party involved in a Title IX investigation or Student Conduct Review Process. The Advisor or Support Person of the involved party's choice may assist and/or accompany the party throughout the investigative process and Student Conduct Review Process. This person shall not speak for, or present the information on behalf of the party who requested the Advisor or Support Person's attendance.
- (c) The term "Clery Act" refers to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. The Clery Act is a federal law that requires institutions of higher education to provide current and prospective students and employees, the public, and the federal government with crime statistics and information about campus crime prevention programs and policies. Among other crimes, the Clery Act requires that colleges and universities report forcible sex

- Athlete's height and weight.

All other student information will be released in accordance with FERPA; in most cases this requires the student's prior written and signed consent. The University extends to students the opportunity to withhold any or all information, including "directory information." To do this, students must complete the "Directory Disclosure/ Release Authorization" form available at the Registrar's Office (MH 161) or online at <http://registrar.ucf.edu>, requesting that this information be withheld. The Golden Rule outlines the University procedures for confidentiality. For additional information describing FERPA policy, enter the Department of Education Family Policy Compliance Office website at <http://www.ed.gov/offices/OM/fpcos/>.

(2) Student Communication Responsibility Policy

- (a) To communicate in a more expedient manner, UCF uses e-mail as the primary means of notifying students of important university business and information dealing with registration, deadlines, financial assistance, scholarships, tuition and fees, etc.
- (b) To avoid missing important communications from the university, students must ensure that the university has an up-to-date "preferred" e-mail address, as well as both a permanent and mailing (local) address.
- (c) It is critical that students maintain and regularly check their "preferred" e-mail account for official announcements and notifications. Communications mailed to a student's "preferred" email address are considered official notice. The university does not accept responsibility if official communication fails to reach a student who has not notified the university of a change of e-mail or mailing address.
- (d) Please ensure that your e-mail address, as well as your permanent and mailing (local) address and telephone number are current with the university at all times.

Students can update their contact information on the web at:

<http://my.ucf.edu>