University of Kentucky Regulations

Administrative Regulation 4:10

Responsible Office: President / Vice President for Student Success

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Administrative Regulation 4:10
Code of Student Conduct (Approved by the Board of Trustees)

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I. Introduction

The University of Kentucky (UK) is committed to promoting a safe, healthy, student-centered, and inclusive community. UK strives to create an environment where students can engage in academic inquiry, campus life, and develop lives of purpose and meaning. The student conduct process supports UK's goals by:

1. Promoting personal responsibility and peer accountability;
2. Encouraging students to consider the impact of their actions on themselves, their peers, and the UK Community;
3. Empowering students to address any conflict that may arise in a safe, respectful, and socially conscious manner;
4. Collaborating with the UK community with regard to student conduct matters; and
5. Educating the UK community about student rights and responsibilities related to the Code.

The student conduct process helps students learn, mature, and develop greater self-awareness while balancing the needs of the UK community. When student behavior does not model UK's values, the student conduct process is used to uphold the standards of UK.

The Code of Student Conduct (Code) promotes the core values of the UK, including integrity, respect, responsibility and accountability, and sense of community. In doing so, the Code puts into practice the UK Creed.

- I *promise* to strive for academic excellence and freedom by promoting an environment of creativity and discovery.
- I *promise* to pursue all endeavors with integrity and compete with honesty.
- I *promise* to embrace diversity and inclusion and to respect the dignity and humanity of others.
- I *promise* to contribute to my University and community through leadership and service.
- I *promise* to fulfill my commitments and remain accountable to others.

Through the Code, UK affirms the rights and responsibilities of students as part of the UK community.

II. Authority

Ultimate authority for managing student conduct is vested in the UK Board of Trustees (Board) pursuant to KRS 164.200. The Board has delegated this responsibility to the President, who has in turn delegated the management and oversight of the Code to the Vice President for Student Success. The Vice President for Student Success may delegate enforcement of this Code to the Dean of Students Office. Concerns about the management of the Code may be brought to the Dean of Students or Vice President for Student Success.

III. Definitions

A. "Attorney" means an individual who, at the student or student organization's own expense, may attend any phase of the conduct process. The attorney must be licensed to practice law in the state of Kentucky in order to participate as an attorney in the conduct process. (See also definition of "Support Person")

B. "Complainant" means a person (or their proxy) alleging a violation(s) of the Code. UK may designate a proxy Complainant or initiate the student conduct process without a formal complaint from the victim of an alleged violation of the Code.

C. "Conduct Officer" means a UK Official, who has undergone specialized training, designated by the Dean of Students to determine outcomes in the student conduct process.

D. "Formal Hearing" is a closed meeting that permits UK and the respondent and other appropriate parties to address the alleged violation and/or restorative actions with a hearing board.

E. "Hearing Board (" means a hearing panel authorized by UK to resolve alleged violations contained in this Code.

F. "Hold" means a stop on an account indicating that a student owes money or must complete a process with a particular office prior to registration or add/drop/withdrawal activity.

G. "Informal Meeting" provides the respondent with the opportunity to discuss the referral with a conduct officer, and others as deemed appropriate. The purpose of the meeting is to determine whether it is more likely than not that the respondent violated the Code, and if a violation took place, the appropriate restorative actions.

H. "Investigation Meeting" provides an opportunity for the Office of Student Conduct (OSC) to gather additional information from the respondent(s), complainant(s) and/or witness(es).

I. “Preponderance of Evidence” means that it is more likely than not (at least 50.1% certain) that the respondent is responsible for the alleged act.

J. “Respondent” means a Student or Registered Student Organization who has been formally alleged to have violated the Code.

K. “Restorative Action” means any measure given in response to a policy violation. Restorative Actions are meant to offer education, encourage self-reflection and accountability, and to deter future violations. Restorative actions may also include measures to protect the learning environment and safety of the University community. Restorative actions should be connected to the violation, tailored to meet the respondent’s developmental needs, and intended to repair the harm done.

L. “Student” means any person admitted, enrolled, or matriculating at UK while pursuing undergraduate, graduate, or professional studies, and who has not completed the program of study in which they are enrolled. Student status continues whether or not UK’s academic programs are in session. Student status includes those taking courses for credit or non-credit at UK, either full-time or part-time, in-person or virtual. . Persons also considered to be students include those who:

1. Withdraw after allegedly violating the Code;

2. Are living in the residence halls although not enrolled at UK;

3. Are serving a period of suspension;

4. Are not officially enrolled for a particular term, but have a continuing relationship with UK; or,

5. Have been notified of acceptance and have confirmed intent to attend.

M. “Student Conduct Report” means any document(s) that describes an alleged violation of the Code. Student conduct reports may include UK incident reports, investigative reports, police reports, or verbal, written, or electronic communication.

N. “Student Organization (SO)” means a group of persons who have complied with registration requirements as determined by the Office of Student Organizations and Activities in accordance with *Administrative Regulation 4:1, Registration of Student Organizations*. This includes Registered Student Organizations and Sponsored Student Organizations. Groups that are actively seeking, but have not yet been granted registered status, are also included. Groups that are actively seeking, but have not yet been granted registered status, are also included.

O. “Support Person” means an individual who may provide advice, support, or guidance to either the respondent or the complainant during the student conduct process. A support person may not represent, speak on behalf of, delay, disrupt, or otherwise interfere with the student conduct informal process. An attorney may serve as a support person; however, a support person may not be a witness, respondent, or complainant in the same case An attorney serving as a support person may participate directly in direct and cross-examination during the fact-finding portion of a formal hearing where responsibility for an alleged violation is being determined.

P. “UK Activity” means any activity, including virtual activities on or off UK property, that is aided, approved, sponsored, or supervised by UK or a SO.

Q. “University Appeals Board (UAB)” means the persons appointed by the President in accordance with *Governing Regulation XI* to consider appeals of a hearing board’s finding. On appeal, the UAB determines questions as to: 1) whether a Student or SO violated the Code; 2) specific restorative

action(s) recommended by the Hearing Board (i.e., housing contract cancellation, social suspension, disciplinary suspension, or disciplinary expulsion); or 3) interim measures imposed by the VPSS.

R. "UK Community" means the employees, students, visitors, volunteers, and members of the public.

S. "UK Official" means:

1. Any faculty member;

2. Any staff employee who acts as an academic advisor or has responsibility for students;

3. Any other individual who has administrative responsibilities, including but not limited to, deans, directors, department heads, managers, and supervisors, and resident and assistant resident directors.

T. "UK Property" means all property owned, leased, used, or controlled by UK, and includes adjacent streets and sidewalks.

U. "Witness" means a person who directly observed an incident or has direct or indirect knowledge related to an incident. Witnesses should be able to speak knowledgeably about the incident and be able to provide relevant facts to OSC.

IV. Rights of UK Students

Consistent with the federal and state Constitutions and laws, Students have the following rights:

A. Right of Free Expression

A Student has the right to engage in discussion, to exchange thought and opinion, to speak, write, or print freely on any subject, and to join associations in accordance with the guarantees of federal or state Constitutions. Freedom of expression includes the right to picket or demonstrate for a cause, provided the Student:

1. Acts in an orderly and peaceful manner;

2. Does not interfere with normal UK operations or interfere with the rights of other members of the UK community to participate in UK operations and/or activities;

Examples of action that may be considered to interfere with normal UK operations or the rights of others include, but are not limited to:

- Actions that interfere with, or obstruct the orderly conduct, processes, and functions in the classroom or other instructional setting.
- Disorderly, lewd, or indecent behavior.
- Participating in, leading, or inciting others to disrupt scheduled and/or normal campus activities, events, and programs.
- Obstruction of the free flow of pedestrian or vehicular traffic on UK premises, or at UK activities.
- Failure to comply with a directive of a University official or law enforcement officer acting within the scope of their duties.
- Failure to identify oneself to a University official or law enforcement officer when requested to do so.

- Misrepresenting oneself to a University official, law enforcement officer, potential employer, or other individual or entity.
- Acting as a representative of the University, any student group or student organization, or any individual without prior authorization.

3. Complies with UK regulations governing the time, place, and manner of meetings, demonstrations, and other assemblies. (See *Administrative Regulation 9:1 Regulations Governing Time, Place, and Manner of Meetings, Demonstrations, and Other Assemblies*)

Students will not be found responsible for a violation of this Code for speech protected by the First Amendment to the U.S. Constitution. UK will endeavor, however, to balance students' rights to free speech with other students' rights to be free from threats and harassment.

B. Right to be Free from Discrimination/Harassment

1. UK complies with the federal and state Constitutions, and all applicable federal and state laws, regarding nondiscrimination. Students and applicants for admission to UK, or for financial aid or scholarship, will not be discriminated against because of race, color, national origin, ethnic origin, religion, creed, age, physical or mental disability, veteran status, uniformed service, political belief, sex, sexual orientation, gender identity, gender expression, pregnancy, marital status, genetic information, social or economic status, or whether the person is a smoker or nonsmoker, as long as the person complies with UK policy concerning smoking.
(See *Governing Regulation XIV.B.1, Ethical Principles and Code of Conduct*)

2. Consistent with *Administrative Regulation 6.1, Policy on Discrimination and Harassment*, Students have the right to be free from harassment, including sexual harassment, by UK employees, and other students. For purposes of the Code, harassment means conduct so severe, pervasive, and objectively offensive that it substantially interferes with the ability of a person to work, learn, live or participate in, or benefit from services, activities, or privileges provided by UK. Sexual harassment - a form of sex discrimination - includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical actions of a sexual nature when submission to such conduct is made explicitly or implicitly a term or condition of the student's status in a course, program or activity; or is used as a basis for academic or other decisions affecting such student; or when such conduct has the purpose or effect of substantially interfering with the student's academic performance, or creates an intimidating, hostile, or offensive environment. This provision will not be used to find students responsible for violations of this Code for speech protected by the First Amendment.

C. Right to Privacy in Student Records

1. UK maintains student records in accordance with the Family Educational Rights and Privacy Act (FERPA) of 1974 and the guidelines for implementation. Directory information about a student is released at the discretion of numerous UK departments upon receipt of a specific request for such information. Information which is directory information under FERPA concerning a Student will not be released if the Student has filed a request, in writing, with the UK Registrar, stating the information is to be withheld. UK's definition of "Directory Information" can be found at: http://www.uky.edu/registrar/FERPA-privacy.

2. UK keeps a student's confidential disciplinary record separate from their academic record unless the student consents in writing to have it disclosed. Any administrative file related to a disciplinary proceeding will be maintained by OSC and include all documents and evidence in UK's possession or control relevant to the alleged violation, including documents submitted by any participant. The administrative file should not include privileged documents or internal memorandums that OSC did not present as evidence at the hearing of the matter.

3. However, the Dean of Students may disclose the student's disciplinary record without the Student's consent if required by law or the safety of people or property is involved, or if the information is required by authorized UK personnel for official use at UK. In these circumstances, only the information pertinent to the inquiry may be revealed.

4. The Dean of Students may act without the student's consent to have a statement of disciplinary suspension or disciplinary expulsion entered on the student's academic record for the duration of the disciplinary sanction, which may result in a hold on the student's account(s).

5. The Dean of Students and/or OSC may act without the student's consent to place holds on student accounts.

6. A student's record in the Counseling Center, TRACS, and/ or UHS will be kept separate and confidential, unless the Student consents in writing to have it revealed to a designated person or for a designated purpose. Without consent, no information will be revealed except to an appropriate authority and then only when there is a clear and imminent danger to an individual or others, and such information will be limited to that which is directly pertinent to the reduction of that danger.

D. Right to Privacy (Other)

1. A Student has the right to be free from unreasonable searches and seizures of person and possessions while on UK property unless said search and seizure is conducted in accordance with state and federal laws. In cases of imminent danger or when there are reasonable grounds upon which to believe it is necessary to conduct a search immediately in order to protect life or property, searches may be conducted in the presence of the Dean of Students or another University Official acting as the Dean of Students' authorized representative.

2. University Health Service medical, surgical, and mental health records and information are maintained in accordance with the Health Insurance Portability and Accountability Act (HIPAA). Health records are strictly confidential and are not released to anyone without the student's knowledge and signed authorization. Student mental health records are maintained separately in a confidential file. If it becomes apparent in the course of treatment that the student is likely to cause injury to self or others, pertinent information regarding the specific situation to this extent may be revealed for protection of the student or others, and such information will be limited to that which is directly pertinent to the reduction of that danger.

E. Right to a Free Student Press

Student publications are free to deal openly and responsibly with issues of interest and importance to the academic community. The editors have the right of editorial freedom without the prior approval of copy and will be protected against dismissal or suspension or other retribution, except for violations of law or UK regulations.

F. Rights of Students and Student Organizations (SO) Involved in the Student Conduct Process

1. To be treated fairly in the student conduct process.

2. For Respondents, to be provided written notice of any allegation or formal charge of the misconduct, as well as a description of the alleged misconduct.

3. For Respondents, to be presumed not responsible for a violation until determined otherwise. The burden of establishing a violation of the Code is on UK.

4. To review the information contained in the student conduct report, with all personally identifying information of other students removed (if appropriate), in advance of an informal meeting or formal hearing.
5. To present relevant information verbally or in writing on their behalf.

6. To have up to two (2) support persons present at a meeting throughout the student conduct process to provide emotional or other support, including an attorney.

7. To not speak or answer any question during the student conduct process. Refusal to do so is not considered admitting responsibility for an alleged violation.

8. To ask reasonable questions and challenge, either verbally or in writing, the allegation(s), formal charge(s), or information provided during an informal meeting or formal hearing.

9. To request that a member of a hearing board be removed from the hearing based on a conflict of interest or bias.

10. To know the identity of persons speaking or providing written information to a hearing board or the UAB.

11. To provide an impact statement(s) for consideration during a formal hearing or a restorative conference.

12. To have access to the recording of a formal hearing in which the student or SO is the respondent or complainant.

13. For Respondents, to appeal any decision of the hearing board to the UAB pursuant to certain sections of this Code.

V. Scope of Code

A. Academic Misconduct Decisions

Academic misconduct decisions are covered in the Rules of the University Senate.

B. Amnesty

Student health and safety are of primary concern at UK. Students who seek emergency assistance on behalf of persons experiencing drug or alcohol-related emergencies, as well as the student experiencing the emergency, may not be charged or receive restorative actions for violations of drug or alcohol-related policies in this Code. Students granted amnesty may be required to meet with OSC and complete all educational interventions, counseling, or treatment deemed necessary by OSC. Amnesty may be granted to a SO if the SO seeks assistance for a student.

Reporting students must complete the following responsible actions:

1. Call 911 or UKPD;
2. Stay with the individual needing assistance until emergency services arrive; and,
3. Cooperate with university and law enforcement, and emergency officials.

Amnesty will not be granted for other policy violations that may have occurred during the incident (i.e., possession, distribution, arson, theft, etc.).

Amnesty does not apply to a student and/or SO who supplied or otherwise made available the alcohol (if the student who needs assistance is under 21 years of age) or other drug to the student needing medical assistance or if the incident results in serious injury or death. The student experiencing the medical emergency may still qualify for amnesty.

The health and safety of every student at UK is of utmost importance. The University recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The University strongly encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault to a UK official. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to UK officials or law enforcement will not be found responsible for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

The policy applies only to the Code and does not in any way prohibit law enforcement agencies within their jurisdictions from enforcing the laws enacted by the Commonwealth of Kentucky. KRS 218A.133; KRS 244.992.

The decision to grant amnesty to a student or student organization will be evaluated on a case-by-case basis at the discretion of the Dean of Students or their designee. Students or SOs may be required to complete educational interventions in order to receive amnesty. In cases requiring educational interventions, amnesty will be granted following the completion of the intervention(s). Educational interventions in amnesty cases are not restorative actions and the student or student organization would not incur financial cost to complete the intervention. Cases in which amnesty was granted would not be a part of the student or SO's reportable disciplinary record.

C. Attempted Violations

In situations where a student attempts to engage in action that would violate the Code, but fails to do so, UK may charge a student with a violation of the Code.

D. Being in the Presence of Code Violations

In some circumstances, a student who is present while other students violate the Code and does not report the violation may also be charged with a Code violation.

E. Guests and Visitors

A student may be held accountable for the behavior of their guests or visitors on UK property. Guests and visitors of UK may also initiate referrals for potential violations of the Code committed by students against them.

F. Instructional Setting Behavior

The primary responsibility for managing the instructional setting rests with the instructor. Students who engage in conduct that results in disruption of an instructional setting may be directed by the instructor to leave the class for the remainder of the instructional setting period. A student conduct meeting as outlined in this Code must precede longer separations from an instructional setting. Disruptive instructional setting behavior is any behavior that, in the judgment of the instructor, substantially interferes with the conduct of an instructional setting, including but not limited to:

1. Persistent late arrivals or leaving early in a manner that disrupts the regular flow of the instructional setting;

2. Talking while the instructor or other students are talking or speaking in an instructional setting without first obtaining recognition and permission to speak; or

3. Use of electronic equipment such as cell phones, computers, etc., in a manner that disrupts the class or when such equipment is prohibited by the instructor as part of the course syllabus.

G. Location

The Code applies to behavior that occurs on or off UK property. The Code applies at off-campus facilities of SO, at UK activities, and at non-UK activities. The Code applies at all UK locations, including where UK is extended to distance education, such as education abroad, service trips, experiential learning opportunities, and athletic, club sport, and other group travel. The Code may also be applied to behavior conducted online, via e-mail or through electronic mediums in cases where the behavior is not protected by freedom of expression. UK does not regularly search for online information for potential violations of this Code but may take action if such information is brought to the attention of the OSC.

H. Placement of Holds

A disciplinary hold on a student's record may be applied without a student's consent or knowledge when a student:

1. Is not presently enrolled at UK and a conduct meeting or hearing is pending;

2. Has failed to respond to UK officials during the student conduct process;

3. Has a pending conduct case that must be resolved prior to graduation;

4. Has failed to complete restorative actions by the assigned deadlines;

5. Is suspended or expelled from UK; or

6. Presents behavior that puts self or the UK community at risk.

I. Reporting Restrictions

There is no time limitation on reporting of violations. Those who are aware of an alleged violation(s) of the Code are encouraged to report it promptly to the OSC or UK Police Department (UKPD) if applicable.

J. Student Organizations (SO)

The Code applies to both individual students and SOs (See *Administrative Regulation 4:1, Registration and Recognition of Student Organizations*). The following standards will be considered when deciding whether conduct is associated with an SO:

1. The conduct is endorsed by the SO or any of its officers ("endorsed by" includes, but is not limited to, the following: active or passive consent or support, having prior knowledge that the conduct was likely to occur, or helping to plan, advertise, or promote the conduct);

2. The conduct is committed during the course of an activity paid for by the SO, or paid for as a result of one or more members of the SO contributing personal funds in lieu of organizational funds to support the activity or conduct in question;

3. The conduct occurred on property owned, controlled, rented, leased, or used by the SO or any of its members for an organizational event;

4. The purpose of the activity was related to initiation, admission into, affiliation with, or as a condition for continued membership in the SO;

5. Non-members of the SO learned of the activity through members, advertisements, or communications associated with the SO, or otherwise formed a reasonable belief that the conduct or activity was affiliated with or endorsed by the SO;

6. Members of the SO attempted to conceal the activity or protect other members who were involved; or

7. One or more officer(s) of the SO had prior knowledge or reasonably should have known that the conduct would take place.

K. Timing

Each Student is responsible for their conduct from the time of admission at UK through the actual awarding of a degree. The Code applies to these times, including times when UK is not conducting classes. UK may impose discipline for violations that occur before the degree is awarded but which are not discovered until after the degree is awarded. If a student withdraws while a student conduct matter is pending, the student conduct matter must be resolved prior to reenrollment.

L. University Housing Policies

1. Misconduct by students living in UK owned or controlled residence halls, houses, and apartments is typically addressed by University Housing. The standards and regulations for UK owned or controlled residential facilities are contained in the written rental agreement between the student and UK and in the University Housing Community Standards (UHCS). University Housing investigates alleged violations of the rules and regulations outlined in the Housing & Dining Contract. Management of such cases is conducted in accordance with established and published procedures. A compilation of all rules established under the Housing & Dining Contract is available to all residents of the facility to which such rules apply.

2. If the behavior or conduct that occurs in UK owned or controlled housing poses a health or safety risk to self or others or may result in disciplinary suspension or dismissal from UK, or termination of residence in campus housing, the case will be referred directly to OSC. In cases where the alleged violation of the Housing & Dining Contract may constitute a violation of the provisions of the Code, University Housing will refer the case to the Office of Student Conduct.

VI. Standards of Conduct

Students and SOs are responsible for modeling behavior that represents UK's core values and are expected to conduct themselves as responsible members of the UK community. Students and SOs are subject to restorative actions for violations of laws, and published UK policies, rules, and regulations. The following conduct is prohibited:

A. Abuse of the Student Conduct Process

Abuse of the student conduct process includes, but is not limited to:

1. Falsifying or misrepresenting information;

2. Disrupting the orderly conduct of an informal meeting or formal hearing or UAB meeting;

3. Preventing or attempting to prevent an individual's proper participation in, or use of, the student conduct process, which includes, but is not limited to retaliation against any participant of the conduct process, harassment, intimidation, threats and/or adverse actions. Individuals who encourage others to retaliate on their behalf may also be found responsible for retaliation;

4. Influencing the neutrality of a member of a hearing board or UAB prior to or during the course of a student conduct proceeding;

5. Harassing (verbal or physical) or intimidating an individual involved in the student conduct process, including, but not limited to: member of a hearing board or UAB, complainants, or support person(s), prior to, during, or after a student conduct code proceeding;

6. Failing to comply with the restorative action(s) imposed by an assigned deadline; or

7. Influencing another person to commit an abuse of the student conduct system.

B. Bullying and Cyberbullying

Bullying, including cyberbullying, is repeated or hostile behaviors that a reasonable person would find intimidating or that would harm or distress another person, but fall short of being harassment. This provision will not be used to discipline students for speech protected by the First Amendment.

C. Collusion

Collusion is any action or inaction with another one or more individual(s) to intentionally violate the Code.

D. Damage and Destruction

Damage and destruction is intentionally or negligently damaging, destroying, defacing, or altering UK property, public property or private property of another person.

E. Discrimination

Discrimination is any action or behavior that results in negative or different treatment of an individual based upon race, color, national origin, ethnic origin, religion, creed, age, physical or mental disability, veteran status, uniformed service, political belief, sex, sexual orientation, gender identity, gender expression, pregnancy, marital status, genetic information, social or economic status, or whether the person is a smoker or nonsmoker, as long as the person complies with University policy concerning smoking. (See *Administrative Regulation 6:1, Policy on Discrimination and Harassment*)

F. Harassment

Harassment is unwelcome conduct that is so severe, pervasive, and objectively offensive that it substantially interferes with the ability of a person to work, learn, live or participate in, or benefit from services, activities, or privileges provided by UK. This provision will not be used to discipline students

for speech protected by the First Amendment. (See *Administrative Regulation 6:1, Policy on Discrimination and Harassment*)

G. Disruptive Behavior

Disruptive behavior is any conduct that disrupts any teaching, research, administrative, disciplinary, or other UK activities. Disruptive behavior may occur at functions on or off campus, or at other authorized non-UK activities when the conduct occurs on UK Premises.

H. Failure to Comply

Failure to comply is deliberate noncompliance with directions of UK officials or UK law enforcement officers acting in performance of their duties, including failure to properly identify oneself to these persons when requested to do so.

I. Falsification

Falsification includes using, providing, or having false, falsified, or forged materials, documents, accounts, records, identification, or financial instruments.

J. Financial Irresponsibility

Financial irresponsibility is having recurring lapsed financial over-obligation and nonpayment of debts to UK.

K. Violation of UK Fire Safety Policies

Violations of UK fire safety policies include, but are not limited to:

1. Failing to evacuate during a fire alarm;
2. Falsely reporting a fire-related emergency;
3. Tampering with or improperly engaging a fire alarm, smoke detector, emergency exit signs, or sprinkler system;
4. Improper use or possession of fire safety equipment; or
5. Intentionally or recklessly causing a fire, regardless of whether or not it damages UK or personal property or causes injury to any member of the UK community.

L. Harm and Threat of Harm

Harm and threat of harm includes physical abuse, verbal abuse, threats, intimidation, harassment, force, or other conduct that causes injury or a reasonable expectation of injury to the physical or mental health or safety of another person.

M. Hazing

Hazing is any activity that violates *Administrative Regulation 6:10, UK Hazing Policy*.

N. Misuse of Intellectual Property

Misuse of intellectual property includes the unapproved download, creation, sale, transfer, access, reproduction or distribution of trademarks, copyrighted material, or patented inventions. Unapproved materials may include, but are not limited to audio, video, research materials, or course materials provided by the instructor, such as the instructor's notes or PowerPoint presentations, handouts, tests, outlines, and similar materials. (See *Administrative Regulation 7:6, Intellectual Property Disposition*)

O. Invasion of Privacy

Invasion of privacy is using or attempting to use electronic or other devices to make and/or distribute a photographic, audio, or video record of any person without their prior knowledge or consent when such a recording is likely to cause injury or distress.

P. Misuse of Alcohol

Misuse of alcohol is using, possessing, or providing alcoholic beverages in violation of *Administrative Regulation 6:4, University Alcohol Policy*. Alcoholic beverages may not, in any circumstance, be used by, possessed by, or given to any person under twenty-one (21) years of age, except as permitted by law.

Q. Misuse of Drugs

Misuse of drugs is using, possessing, manufacturing, or distributing Cannabis, heroin, narcotics, or other controlled substances except as permitted by law.

R. Misuse of UK Information Technology Resources (UK IT)

Misuse of UK IT is any activity that violates *Administrative Regulation 10:1, Policy Governing Access to and Use of University Information Technology Resources*.

S. Misuse of Tobacco

Misuse of tobacco is using any tobacco or other related products on UK Property in violation of *Administrative Regulation 6:5, Tobacco Policy*.

T. Public Exposure

Public exposure is intentionally exposing private or intimate parts of the body in a lewd manner when the action may be readily observed by others.

U. Public Intoxication

Public intoxication is intoxication due to use of alcohol or a controlled substance as defined by KRS 222.202 or KRS 525.100.

V. Sexual Misconduct

Sexual misconduct includes any activity that violates *Administrative Regulation 6:2, Policy and Procedures for Addressing and Resolving Allegations of Sexual Harassment Under Title IX and other Forms of Sexual Misconduct*. Allegations of sexual misconduct are managed under the procedures contained in *AR 6:2.*

UK expects and requires students who initiate sexual activity to acquire affirmative consent before engaging in said activity. UK defines affirmative consent as a clear and voluntary expression of willingness, permission, or agreement to engage in specific sexual activity throughout a sexual

encounter. It is the responsibility of each person involved in the sexual activity to ensure that they have the affirmative consent of the other to engage in the sexual activity. Consent cannot be inferred from the absence of a "no;" consent, verbal or otherwise, must be obtained. Consent cannot be granted by an individual who:

1. Is incapacitated as defined by AR 6:2;

2. Has been compelled by force or threat of force; or

3. Is coerced by supervisory or disciplinary authority.

W. Unapproved Access

Unapproved access includes the unapproved possession, duplication, or use of keys or access cards to any UK property or unapproved entry to or use of UK property, property affiliated with UK, or property or space of other UK students.

X. Unapproved Fundraising, Sales, or Soliciting

Unapproved fundraising, sales, or solicitation includes fundraising or soliciting on UK property without approval and in violation of *Governing Regulation I, The University of Kentucky*)

Y. Unapproved Possession of Deadly Weapons

Unapproved possession of deadly weapons is possessing deadly weapons on UK property in violation of *Administrative Regulation 6:6, Policy on Deadly Weapons*.

Z. Unapproved Possession of Property

Unapproved possession of property is knowingly taking or possessing UK property, public property, or the personal property of another without permission. Unapproved possession includes having stolen property where the student knows or should have known it was stolen.

AA. Violations of Law or other UK Policies

Violations of law or other UK policies includes any conduct or activity that violates a federal, state, or local law, or other UK policy.

BB. Failure to Follow Health and Safety Guidelines

A student or SO may face discipline under the Code for failing to follow health and safety guidelines announced by the University. These guidelines are based upon guidance from the Center for Disease Control and Prevention (CDC) and input from UK administration. As knowledge related to health and safety issues evolves the guidelines may change over time. Up to date information related to the guidelines will be provided by UK.

VII. Restorative Actions

The following restorative actions may be imposed upon any student or SO found responsible for a violation of the Code. More than one restorative action may be imposed for any single Code violation.

A. Administrative Referral

An administrative referral is a mandatory referral to another campus office/department to address concerns regarding a particular behavior or need. For example, a student or SO may be referred to another UK office or off-campus resource for additional assessment, support or recommendations. Other offices that a student or SO may be referred to include offices that support academics, wellbeing, career readiness, belonging, and campus involvement.

B. Cancellation of Housing Contract

Cancellation of housing contract is a permanent separation of the student or SO from facilities maintained by the Office of Housing and Residence Life, Office of Fraternity and Sorority Life, and/or Auxiliary Services. Students or SOs dismissed from these facilities may not be eligible for readmission into any facilities maintained by UK. Cancellation of the housing contract may be temporary or permanent.

C. Conduct Probation

Conduct Probation is a designated period of time in which a student or SO is not considered in good standing with UK. Subsequent policy violations may result in more severe restorative actions, up to and including disciplinary suspension or expulsion from UK.

D. Disciplinary Expulsion

Disciplinary Expulsion is permanent separation of the Student from UK.

E. Disciplinary Suspension

Disciplinary Suspension is the separation of the Student from UK for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified. Student status remains during the period of disciplinary suspension.

F. Educational Action

An educational action is a measure intended to educate the student or members of the SO on their responsibilities to abide by the Code and learn from the violation in an educational way. Examples of educational actions include but are not limited to writing reflective or research papers, attending educational activities or substance education workshops, completing a prescribed number of community service hours, undergoing a counseling assessment, or taking community education classes.

G. Informal Warning

An informal warning is an oral or written warning to the student or SO found responsible for a violation of the Code when the circumstances and severity of actions do not warrant the development of an official student conduct record. No official record of an informal warning is maintained as part of the student's or SO's disciplinary record.

H. Interim Measures

Interim measures are conditions or restrictions that may be placed on a student or student organization alleged to have violated the Code. Interim measures do not represent a finding that there has been a violation of the Code. They may be in place for a specific period or until the case is concluded. Interim measures may include but are not limited to the following: social suspension, interim suspension, housing relocation or suspension, or no contact orders. Interim measures provided to the complainant or respondent will remain confidential to the extent that maintaining such confidentiality would not

impair the ability of the University to provide the supportive measure. Interim measures may be imposed to:

1. Ensure the safety and well-being of members of the UK community or preserve UK property;

2. Ensure the Student's own physical or emotional safety and well-being; or

3. Ensure that normal operations of UK are not disrupted.

I. Interim Suspension

In certain circumstances, the VPSS may impose an interim suspension from UK property, educational opportunities, or extracurricular activities, upon receiving a complaint and prior to the completion of the student conduct process.

J. Official Warning

An official warning is a written notice to the student or SO found responsible for a violation of the Code or UK policy. A record of an official warning is maintained as part of the student's or SO's disciplinary record.

K. Parental Notification

FERPA permits UK to notify a student's parents if:

1. The Student is under the age of twenty-one (21) and has violated any law or UK policy related to alcohol or controlled substances; or

2. The Student is considered a threat to themselves or to others, or there is a need to protect the health and safety of the Student.

L. Residency Hall Probation

Residence Hall Probation is a designated period of time in which a student or members of a SO that is housed in facilities maintained by the Office of Housing and Residence Life, Office of Fraternity and Sorority Life, and/or Auxiliary Services. are not considered in good standing with the University Housing. Subsequent policy violations may result in more severe restorative actions.

M. Restitution

Restitution is a measure intended to compensate for the loss, damage, or injury caused by the student or members of SOs. This action may take the form of appropriate service, monetary compensation, or material replacement.

N. Revocation of Admission and/or Degree

Admission to, or a degree awarded from, UK may be revoked for fraud, misrepresentation, or other violation of UK standards in gaining admission or obtaining the degree, or for other serious violations committed by a student prior to graduation. A recommended action of revocation of a degree will be referred to the Board of Trustees for final action. (See KRS 164.240)

Note: Revocation of admission or a degree under this Code is a separate and distinct action from sanctions that may be imposed under the UK Senate Rules for academic misconduct, (e.g., cheating, plagiarism, etc.)

O. Revocation of Student Organization (SO) Status

Revocation of SO status is a designated period of time in which an SO is not recognized by UK and does not receive designated privileges defined by *Administrative Regulation 4:1, Registration and Recognition of Student Organizations*.

P. Social Suspension

Social Suspension is the loss of specified UK privileges or extracurricular institutional activities for a designated period of time, except for attendance in classes in which officially enrolled and privileges that are necessary or required (e.g., libraries, extracurricular lectures, work-study). This applies to both students and SOs.

Q. Suspension of Housing Contract

Suspension of housing contract is the separation of the student or members of an SO from facilities maintained by the Office of Housing and Residence Life, Office of Fraternity and Sorority Life, and/or Auxiliary Services for a temporary or definite period of time, after which the SO is eligible to return. Conditions for readmission may be specified. Subsequent policy violations may result in cancellation of housing contracts.

R. Withholding Degree

UK may withhold awarding a degree otherwise earned until the completion of the student conduct process, including the completion of all restorative actions imposed, if any.

VIII. Code Interpretation, Revision, Procedures

A. Interpretation

Any question of interpretation or application of the Code will be referred to the General Counsel for final determination.

B. Review and Revision

The Code will be reviewed at least every five (5) years under the direction of the VPSS. Final action of the Board of Trustee is required to amend the Code.

C. Procedures

The President, with the advice of the VPSS, is authorized to develop and adopt procedures for the management of the Code. (See Appendix)

References and Related Materials

KRS 164.200, Regulations for University – Physical Training and Discipline of Students
KRS 164.370, Definitions -- Code for student conduct -- Disciplinary procedures and hearing for alleged violation -- Final order of suspension or expulsion of students -- Right to appeal.
KRS 218A.133, Exemption from Prosecution for Possession of Controlled Substance or Drug Paraphernalia if Seeking Assistance with Drug Overdose

KRS 222.202, Offenses of Alcohol Intoxication or Drinking Alcoholic Beverages in a Public Place
KRS 244.992, Medical Amnesty for Persons Reporting an Alcohol Overdose
KRS 525.100, Riot, Disorderly Conduct, and Related Offenses
KRS 244.992, Medical Amnesty for Persons Reporting an Alcohol Overdose
GR XIV, Ethical Principles and Code of Conduct
AR 4:1, Registration of Student Organizations
AR 6:1, Policy on Discrimination and Harassment
AR 6:2, Policy and Procedures for Addressing and Resolving Allegations of Sexual Harassment Under Title IX and other Forms of Sexual
AR 6:4, University Alcohol Policy
AR 6:5, Tobacco Policy
AR 6:6, Policy on Deadly Weapons
AR 6:10, University Hazing Policy
AR 10:1, Policy Governing Access to and Use of University Information Technology Resources
UK Fire Safety Policies

Revision History

8/16/1989, 7/1/2005, 6/8/2010, 6/24/2016, 8/14/2020 (Interim Regulation), 6/10/2022 (Updated Titles), 6/16/2023

For questions, contact: Office of Legal Counsel

Appendix
NON-ACADEMIC STUDENT CONDUCT PROCEDURES

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I. INTRODUCTION

These procedures are designed to provide fair and unbiased management of the Code of Student Conduct (Code). The procedures outlined below cover the standards of conduct as described in the Code.

These procedures **do not apply** to cases involving *Administrative Regulation 6:2, Policy and Procedures for Addressing and Resolving Allegations of Sexual Harassment Under Title IX and other Forms of Sexual Misconduct* **or** *Administrative Regulation 6:2, Policy and Procedures for Addressing and Resolving Allegations of Sexual Harassment Under Title IX and other Forms of Sexual Misconduct*. Reports of harassment or discrimination should be made directly to the Office of Institutional Equity and Equal Opportunity. (See *Administrative Regulation 6:1, Policy on Discrimination and Harassment*). Of note, while the Office of Student Conduct (OSC) does not investigate or adjudicate violations of AR 6.1, upon completion of the same, any restorative action plans will be determined by OSC. Reports of sexual assault, stalking, dating violence, or domestic violence should be reported to UK Police or other appropriate law enforcement unit in the location where the violation occurred, the Violence Intervention and Prevention Center (VIP), the Dean of Students Office, the UK Title IX Coordinator (located in the Office of Institutional Equity and Equal Opportunity), or to any UK official. (See *Administrative Regulation 6:2, Policy and Procedures for Addressing and Resolving Allegations of Sexual Harassment Under Title IX and other Forms of Sexual Misconduct*).

Procedures for complaints regarding violations of *AR 6:2* can be found at: http://www.uky.edu/regs/Administrative/ar6.2.htm.

II. INITIATING THE STUDENT CONDUCT PROCESS

A. Reports and Investigations

1. The OSC accepts reports of alleged Code violations from any person. All referrals must be submitted in writing through the Incident Reporting Form. The referral should contain as much information as possible to enable UK to address the complaint.

2. Upon receipt of a report, a conduct officer assigned to the case by the Director will conduct an investigation to determine if there is enough information to support an alleged violation of the Code and, if so, which violations occurred.

3. The conduct officer may ask the complainant, respondent, and/or witnesses to appear at an investigative meeting to discuss the report or gather additional information.

4. If the conduct officer decides the report lacks merit, the report will be dismissed. Appropriate parties will typically be informed in writing within ten (10) business days of the dismissal or a timeline for determining the merit of the complaint. In certain circumstances (breaks in the semester, size and scope of the investigation, etc.) the conduct officer may conduct an investigation lasting longer than ten (10) business days. In these circumstances, the results of the investigation, and any subsequent action, will be communicated to the appropriate party(ies).

5. Violations of the Code also may be violations of the law. UK strongly encourages complainants to make reports to both local law enforcement agencies and UK. Because the standard of proof required in criminal law is different from the standard of proof required in the Code and UK policy, a criminal investigation will not take the place of a UK investigation. However, any evidence revealed in the criminal investigation may be used to supplement OSC's investigation.

6. UK will not wait for the conclusion of a criminal investigation to begin conducting its own investigation or to take interim measures to protect UK or any member of the UK community or when necessary to initiate hearing procedures as outlined below. Interim measures include but are not limited to: social suspension, interim suspension, housing relocation or suspension, or no contact orders. Interim measures provided to the complainant or respondent will remain confidential to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measure.

7. When a report could result in suspension, expulsion, or revocation of SO status, or when a restorative conference is inappropriate, the conduct officer may send the report directly to a hearing board for a formal hearing. In that event, the conduct officer will contact the student to explain the formal hearing process and procedures.

B. Notice and Administrative Measures

1. If a determination is made that a violation of the Code has occurred, the conduct officer will notify the respondent via a notice of alleged code violation (notice). The notice will be sent to the respondent's official UK email address no less than three (3) business days prior to a scheduled informal meeting and will include: 1) a summary of the complaint; 2) the alleged policy violations: 3) the Code; 4) rights of students and SOs involved in the student conduct process; and (5) the date, time, and location of the informal meeting.

2. For SOs, the notice will be emailed to the organization's primary representative (typically the President on file with the Office of Student Organizations and Activities).

3. For a formal hearing, the written notice will be sent to the respondent's official UK email address no less than ten (10) business days prior to the formal hearing.

4. The time and date of the informal meeting or formal hearing is determined by each party's class schedule and the availability of the conduct officer, hearing board members, and witnesses. An informal meeting or formal hearing will only be rescheduled for good cause as determined by the conduct officer.

5. Prior to any informal meeting or formal hearing, the respondent and complainant may contact the OSC to arrange to review all information relevant to the allegations.

6. Failure to read and comply with the notice is not grounds for an appeal. If a student or SO fails to attend an informal meeting or formal hearing, a decision regarding the alleged policy violation(s) and subsequent imposed restorative actions may be made in the absence of the student or SO.

7. If the student retains an attorney, the student must notify the conduct officer one (1) business day prior to any scheduled investigative or informal meeting. The student must notify the conduct officer in writing three (3) business days prior to a formal hearing.

8. A student must complete a FERPA form for all support persons in attendance, including attorneys, prior to an investigation meeting, informal meeting, or formal hearing.

III. INTERIM MEASURES

A. Interim Measures

In certain circumstances, the VPSS may impose reasonable interim measures, including but not limited to, making adjustments in student housing arrangements, imposing conditions of no-contact between the respondent and complainant, temporarily suspending a student, or banning a student from UK property, educational opportunities, and/or extracurricular activities, upon receiving a complaint and prior to the completion of the student conduct process. An interim measure may be imposed to:

1. Ensure the safety and well-being of members of the UK community or preserve UK property;

2. Ensure the student's own physical or emotional safety and well-being; or

3. Ensure that normal operations of UK are not disrupted.

B. Notice of Interim Measure

1. Upon taking such action, the VPSS or their designee will:

a. Within 24 hours of the interim measure, provide written notice to the student. The written notice will include the reasons for the interim measure and the right to an interim measure hearing; and

b. Immediately notify the chair of the University Appeals Board (UAB) of the interim measure.

2. An interim measure hearing will be held within three (3) business days of the written notice, unless otherwise waived by the respondent. A respondent's waiver of a right to a hearing does not constitute an admission of responsibility

C. Interim Measure Hearing

The purpose of the interim measure hearing is to determine whether there is substantial evidence that the respondent poses a risk to the physical safety of a member of the campus community and that interim measure is appropriate to mitigate that risk. At the interim measure hearing, a respondent has the right to be represented by an attorney. The hearings will be conducted in accordance with KRS 164.370. Interim measure hearings will be conducted by the UAB Chair and two (2) members of the UAB chosen by the chair.

IV. INFORMAL RESOLUTION OPTIONS

A. Informal Meeting

1. Respondents may be provided with an informal meeting to resolve the allegations. Informal meetings provide the respondent with an opportunity to discuss the referral with the conduct officer and others as appropriate. Upon the conclusion of the meeting, the conduct officer will determine whether the preponderance of the evidence was met that the respondent violated the Code. Informal meetings are closed.

2. The respondent may be assisted by up to two (2) support persons of their choice and at their own expense. Support persons are not permitted to speak or to participate directly in the informal meeting. A student should select a support person(s) whose schedule allows attendance at the scheduled date and time for the meeting. Delays of a meeting are not normally allowed because of the scheduling conflicts of a support person. When an attorney will serve as a support person, the student must notify the conduct officer at least one (1) business day prior to the scheduled meeting date. If at any time the conduct officer determines there is not sufficient information to support an alleged violation, the conduct officer may dismiss the referral.

3. If the conduct officer determines sufficient information does exist to support the preponderance of the evidence for an alleged violation, and the respondent ***accepts responsibility*** for the alleged violation, the conduct officer and the respondent will discuss restorative actions. The respondent can either:

    c. Agree to fulfill the restorative action as discussed in the informal meeting;

    d. Disagree with the proposed restorative action(s) and, if appropriate, request a restorative conference (see below); or

    e. Disagree with the proposed restorative action(s) and request a formal hearing on the issue of appropriate restorative action(s) only.

4. An agreement by the student as to either responsibility or the restorative action(s) reached during the informal meeting may not be appealed.

5. If the conduct officer determines sufficient information does exist to support the preponderance of the evidence for an alleged violation, and the respondent ***does not accept responsibility***, the case will be referred for a formal hearing.

6. In cases where the Office of Institutional Equity and Equal Opportunity has determined that a violation of *Administrative Regulation 6:1: Policy on Discrimination and Harassment* has occurred, the case will be referred to OSC to implement restorative action(s). If the student does not agree with the recommended restorative action(s), the case will be referred for a formal hearing to determine only the restorative action(s).

B. Alternate Dispute Resolution

At any time, the conduct officer may also recommend that the parties explore alternative dispute resolution, including but not limited to restorative justice opportunities and mediation, rather than continuing under these procedures.

C. Restorative Conference

1. A restorative conference provides an opportunity for interaction between the respondent and any harmed party or complainant, but also may involve the UK community in the decision-making process. Restorative conferences provide everyone with a voice in the process and allow for collaboration in deciding what is to be done about the incident in question. Community participants may be anyone in the UK community concerned about the behavior.

2. Participation in a restorative conference is voluntary and all parties must willingly agree to attend. The respondent must have previously accepted responsibility for the behavior in question in order for a restorative conference to occur. Restorative conferences may or may not result in additional restorative actions, depending on the outcome of the conference.

3. If a resolution is not met through the restorative conference, the student conduct process will resume, and a formal hearing will be scheduled to determine restorative actions.

V. FORMAL RESOLUTION

A. Formal Hearings

If an informal resolution is not reached, or in cases where the conduct officer referred the matter because potential outcomes include disciplinary suspension, disciplinary expulsion, cancellation/suspension of housing contract, or revocation of SO status the case will be scheduled for a formal hearing. Formal hearings are closed meetings that permit UK, the respondent, and other appropriate parties to address the alleged violation and/or restorative actions with a hearing board. Only individuals with a legitimate role in the hearing process are permitted to attend or participate in a hearing. The hearing board will determine if an individual has a legitimate role in the hearing process. A representative from the Office of Legal Counsel will be present for formal hearings where any student or SO has an attorney present. An attorney is not required. If attending with an attorney, the student or SO must notify OSC in writing at least three (3) business days in advance.

B. Hearing Boards

The Office of the VPSS solicits student and employee volunteers from the UK community to serve on Hearing Boards. When a student conduct matter is referred to a hearing board for a formal hearing, the Associate Dean of Students will determine which hearing board will address the allegation(s). The Associate Dean of Students will determine the appropriate hearing board based on the nature of the allegation(s), whether the allegation(s) is grounds for disciplinary suspension or disciplinary expulsion, whether the allegation(s) is grounds for revocation of SO status, and other relevant factors. The notice of hearing will include the individuals selected for the hearing board.

1. UK Community Member Hearing Board

   a. The UK Community Hearing Board is a three (3) person hearing board composed of individuals selected by the Associate Dean of Students from the employees, and students as follows:

      i. One (1) faculty employee;

      ii. One (1) staff employee; and

      iii. One (1) undergraduate, graduate, or professional student in good disciplinary standing and enrolled full-time. Students appointed to the UK Community Member Hearing Board are selected by an application and interview process. A student

member must be a full-time student in good disciplinary standing with a cumulative grade point average of 2.5 or above and classified as a sophomore or above.

b. Members serve one-year (1-year) terms, which may be renewed. The Associate Dean of Students will designate one (1) member of the UK Community Member Hearing Board as chair each time the hearing board is convened. The chair is a voting member of the hearing board and cannot be a student.

2. Student Organization (SO) Hearing Board

a. The SO Hearing Board is a five (5) person hearing board composed of undergraduate, graduate, or professional students selected by an application and interview process overseen by the OSC. All members must be full-time students in good disciplinary standing with a cumulative grade point average of 2.5 or above, classified as a sophomore or above, and must be a current member of at least one (1) SO. All members serve one-year (1-year) terms, which may be renewed for one (1) additional year.

b. Whether the SO Hearing Board will address the allegation(s) is ultimately determined by the Associate Dean of Students. The SO Hearing Board is generally reserved for lower-level incidents of misconduct.

c. The Associate Dean of Students will appoint one (1) member of the SO Hearing Board as chair each time this board is convened. The chair is a voting member of the hearing board.

C. Hearing Procedures

Hearings must be conducted by a hearing board according to the following procedures:

1. A party may request that a member(s) of a hearing board be excluded from the hearing based on a conflict of interest or bias. The request to exclude a member of a hearing board must be made in writing via email to the Associate Dean of Students at least five (5) business days prior to the scheduled hearing. Requests must state the exact nature of the request and reason(s) the requestor believes the hearing board member cannot be impartial. The Associate Dean of Students will decide if the hearing board member should be excluded, and if so, assign a new hearing board member. The Associate Dean of Students will notify the parties accordingly. The complainant, respondent, and their support person(s) if any, are allowed to attend the entire portion of the hearing during which the hearing board receives information (excluding deliberations). Admission of any other individual to the hearing is at the discretion of the chair of the hearing board.

2. A party may request to postpone the hearing for reasonable cause. Absent unforeseen circumstances, a written request must be submitted to the Associate Dean of Students, which includes the reason for the request, no later than two (2) days prior to the scheduled hearing. The Associate Dean of Students, in consultation with the chair, may accept or deny the request after considering the nature of the request and the incident at hand.

3. At the discretion of the Associate Dean of Students, in hearings involving more than one (1) respondent the hearings concerning each respondent may be conducted either separately or jointly. Joint hearings will only be conducted upon agreement of the respondents and upon execution of an appropriate FERPA waiver.

4. The burden of proving a violation of the Code is on UK. The respondent is presumed to be not responsible until determined otherwise.

5. The Hearing Board's determination will be made based on the preponderance of evidence standard.

6. The respondent, or their attorney, is responsible for presenting their own information at the hearing. If the respondent chooses not to participate, or fails to appear before a hearing board, the hearing board may review the available information and make a determination in the respondent's absence.

7. Within seven (7) business days of the hearing, OSC will provide a hearing packet to the complainant(s), the respondent, and the hearing board, including but not limited to:

    a. The student conduct report;

    b. A written summary detailing the meetings with interested parties;

    c. A written summary of the available information; and

    d. The reason the case is before the hearing board.

8. The conduct officer responsible for the case will appear at the hearing to explain the student conduct report and respond to questions from the hearing board and/or the Office of Legal Counsel.

9. The complainant and respondent will have opportunities to present information to the hearing board, and the hearing board will have ample opportunity to address all interested parties. After the hearing board has completed its examination, a representative from the Office of Legal Counsel will also have an opportunity to address interested parties, as will attorneys for the complainant and respondent.

10. The Complainant and the respondent may be assisted by up to two (2) support person(s) of their choice and at their own expense. Support persons are not permitted to speak or to participate directly in the hearing. A student should select a support person(s) whose schedule allows attendance at the scheduled date and time for the hearing. Delays of a hearing are not normally allowed to accommodate the scheduling conflicts of a support person. When an attorney will serve as a support person, the student must notify OSC at least three (3) business days prior to the scheduled hearing date.

11. The OSC is responsible for assisting the hearing board in arranging for witnesses who are members of the UK community to present information during the hearing when reasonably possible. Arranging for the attendance of witnesses who are not members of the UK community is the responsibility of the party who seeks the witness' testimony. All witnesses must be disclosed within three (3) business days of the hearing. Witnesses participate in a hearing to provide information to and answer questions regarding the personal knowledge they have of the incident at hand.

12. At the discretion of the chair, the hearing board may accept pertinent records, exhibits, and written statements (including student impact statements) as information for consideration by the hearing board. The complainant and respondent will have reasonable, continuing access to the

administrative file seven (7) business days prior to a disciplinary hearing. Any documents or tangible evidence that a party intends to produce must be disclosed within three (3) business days of a disciplinary hearing. A party should bring a total of six copies: three (3) copies for hearing board; one (1) copy for the other party; one (1) copy for the representative from the Office of Legal Counsel; and one (1) copy for the disciplinary file. In the instance that the formal hearing is held virtually, the chair will be responsible for displaying those document(s) to all parties.

13. Any witnesses, documents, or tangible evidence that is submitted less than three (3) days prior to the hearing will only be admissible upon the discretion of the chair.

14. The OSC will make reasonable accommodations to address concerns for the personal safety, well-being, or fears of confrontation of the complainant(s), respondent(s), or other witness(es) during the hearing. Accommodations include providing separate facilities, or permitting participation by telephone, video conferencing, or other appropriate means as determined by the judgment of the Associate Dean of Students.

15. The respondent and/or complainant may cross examine all parties personally or through their attorney(s), except for the cross-examination of a student who is the complainant. (see #16 Below) The chair reserves the right to ask the questioning party to repeat a question, reword a question, or preclude a question from being asked due to redundancy or relevancy.

16. The cross-examination of a student who is a victim or the complainant that is personally conducted by a respondent requires the respondent to submit the questions to the chair. The chair will ask all relevant questions to the student during the hearing, state the specific rationale for excluding any question, and grant the questioning party the right to amend or restate a question that has been excluded by the chair, and to submit follow up questions to the chair to be read to the appropriate party. Cross-examination also may be restricted as required by Title IX or other applicable federal law.

17. The chair is responsible for maintaining order and determining the sequence of events during a hearing. The chair may direct any person who fails to comply with procedures during the hearing or disrupts/obstructs the hearing to leave the hearing.

18. The Chair is responsible for making final decisions on all procedure or evidence questions, but may consult with the conduct officer or other appropriate UK official before making a final decision.

19. If respondent has not accepted responsibility, after receiving all pertinent information, the hearing board will determine whether the preponderance of the evidence was met that respondent has violated the Code. If the hearing board determines the respondent violated the Code, the chair will provide a written rationale for the decision and recommend appropriate restorative actions to the Dean of Students. If the hearing board determines the Respondent did not violate the Code , the chair will provide a written rationale for the decision and recommend to the Dean that the student be found not responsible, no actions be taken, and the case is dismissed.

20. If Respondent has previously accepted responsibility, after receiving all pertinent information, the hearing board will recommend restorative actions to the Dean of Students. The chair will provide a written recommendation of any restorative actions and the rationale for the

recommendation to the Dean of Students

21. The hearing board may reconvene a hearing at a later time or date to collect additional information before making a final determination regarding the outcome of any hearing, including recommended restorative actions.

22. The decision and restorative action(s) are ultimately determined and imposed by the Dean of Students; however, the Dean of Students must consider the recommendation of the hearing board in determining responsibility for the alleged policy violation and imposing restorative actions. The Dean of Students is not limited to the decision or restorative actions recommended by the hearing board and can accept, modify, or reject the recommended decision and, if applicable, restorative actions. The Dean of Students will provide a written outcome to the respondent via the student's UK email address no more than seven (7) business days following a hearing, unless circumstances exist that would delay issuance of the written outcome. The written outcome must describe the rationale for the decision and any restorative actions imposed. If the complainant participates in the formal hearing, they will be notified with a written outcome within seven (7) business days following a hearing.

23. All hearings will be recorded, with the exception of the deliberation portion. The record is the property of UK. The administrative file will not include privileged documents or internal memorandums that the institution does not intend to introduce as evidence at any hearing on the matter. Unless otherwise specified under federal law, UK will maintain the administrative file permanently if a violation results in disciplinary expulsion, disciplinary suspension and/ or revocation of SO status. In all other cases, the file will be maintained:

    a. For three (3) years after the respondent's graduation or last date of attendance; or

    b. For three (3) years after all restorative actions have been met.

VI. APPEALS TO THE UNIVERSITY APPEALS BOARD (UAB)

A. Appeal

1. A respondent has the right to appeal to the UAB, if after a hearing on the matter, a violation results in a final order of social suspension, disciplinary suspension of a respondent for three (3) or more days or disciplinary expulsion of a respondent from the institution or cancellation/suspension of housing contract of a respondent, or revocation of SO status. The disciplinary procedures will prescribe the manner and the mode of procedure on appeal. The decision of the UAB is a final order. (See *Governing Regulation XI*).

2. A respondent, complainant, and their support persons have the right to review the administrative file, including any recording of the hearing, in preparation for filing an appeal.

3. The written appeal must be submitted to the chair of the UAB within ten (10) business days of the receipt of the decision rendered by the hearing board. Untimely appeals will not be considered

B. Jurisdiction

The UAB has appellate jurisdiction over non-academic student conduct cases. The appeal is not a new hearing, but rather a review of the original hearing. The appeal is limited to the following issues:

1. Whether deviations in procedures were significantly prejudicial (i.e., would alter the outcome of the hearing). In such cases, the UAB will determine whether the hearing was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures providing UK a reasonable opportunity to prepare and to present information regarding the alleged Code violation, and providing the respondent a reasonable opportunity to prepare and to present a response to those allegations.

2. Whether the restorative actions imposed (i.e., social suspension, disciplinary suspension, disciplinary expulsion, cancellation/suspension of housing contract, or revocation of SO status) were appropriate for the violation.

3. Whether new information, or other relevant facts not presented at the hearing, would have altered the outcome of the hearing and if such information and/or facts were not known to the person appealing at the time of the original hearing.

C. Notification of Appeal

If the respondent files an appeal, the chair of the UAB will notify the OSC of the appeal and provide the OSC an opportunity to file a response. If the Office of Student Conduct files a response to the appeal, the response must be filed within five (5) business days of being notified of the appeal.

D. Appeal Record

In considering an appeal, the UAB will conduct a review of the existing documentary and verbatim record, including but not limited to:

1. The hearing packet;

2. The written recommendations of the hearing board;

3. The recording or transcript of the formal hearing;

4. The letter of appeal; and

5. Written response from OSC, if any.

E. UAB Decision

Upon review of all of the information, the UAB chair and two (2) members of the UAB chosen by the chair, have the authority to do one (1) of the following:

1. Uphold the findings and recommendations made by the hearing board;

2. In the cases of social suspension, disciplinary suspension, disciplinary expulsion, cancellation/suspension of housing contract, or revocation of SO status, modify the restorative actions; or

3. Remand the case back to a hearing board.

F. Remanded Cases

An appeal can only be remanded to a hearing board due to procedural error or new information.

1. For issues of procedural error, the Associate Dean of Students will appoint a new hearing board to reconsider the referral; or

2. For issues of new information, the Associate Dean of Students will instruct the original hearing board to resume the hearing.

G. UAB Decision

The UAB chair will communicate the outcome to the respondent, the Associate Dean of Students, the Dean of Students, and when appropriate, the complainant. The decision of the UAB is final and binding upon all involved.

VII. PROCEDURES FOR NONPAYMENT OF FINANCIAL OBLIGATIONS

A. UK expects each student to be financially responsible and not be delinquent in financial obligations to UK or to any department or division thereof.

B. An office or a department of UK, with previous approval of the Executive Vice President for Finance and Administration, will notify a student twice of any unmet financial obligation owed to it. If not paid within sixty (60) business days, from date due, the office or department will notify Student Account Services that the student is delinquent.

C. Once notified, Student Account Services will review the account and when appropriate notify the Registrar to not allow the Student to register, transfer credits, be readmitted to UK, or receive the graduation diploma which certifies degree earned until the Student Account Services notifies the Registrar that the obligation has been met or until the statute of limitations on collection applies.

D. If there is a dispute as to whether or not a student is legally liable for a financial obligation asserted by the UK, and the student challenges such obligation by contacting the Office of the Executive Vice President for Finance and Administration in writing within seven (7) business days of receipt of a notice of financial delinquency, then the actions with respect to registration will not apply until final resolution of the dispute.