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Administrative Regulation: 5.1.3ADR

Responsible Office(s): Student Conduct
and Community Standards

Effective: October 5, 2022

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Student Code of Conduct and Disciplinary Procedures

Statement

The Office of Student Conduct and Community Standards (Office of Student Conduct or Office) at Eastern Kentucky University (University) promotes student success by upholding the Student Code of Conduct (Code of Conduct), advocating for community standards, and maintaining a fair conduct system that addresses the diverse needs of the individual and community. The Office fosters student development through the values of honesty, mutual respect, responsibility, and integrity.

In compliance with KRS 164.370, this Regulation sets forth the rules for non-academic student conduct and establishes disciplinary procedures to enforce those rules. Additionally, this Regulation provides the rules for establishing the admissibility of evidence.

Further, in compliance with KRS 164.375, this Regulation sets forth a prohibition on any activity which recklessly or intentionally endangers mental or physical health or involves the forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization, commonly known as hazing, and establishes the process and disciplinary procedures which apply.

Individuals/Entities Affected

All Students and Registered Student Organizations

Related Documents and Forms

University Policies and Documents
Student Code of Conduct
Discrimination and Harassment Policy
Academic Integrity Policy

Procedures

I. What the University Expects of Students

Students will:

- Show respect for others, themselves, and the University community;
- Take responsibility for their behavior;
- Read and understand this Regulation as well as the University Student Handbook; and.
- Act with honesty and integrity upholding the Student Code of Conduct.

II. Rights of Students and Registered Student Organizations Involved in the Student Conduct Process

A. Right of All Students

1. To be treated fairly and impartially in the student conduct process.
2. For Respondents, to be provided written notice of a formal charge for any alleged violation of the Code of Conduct or another University Policy or Regulation, as well as the specific details of the facts upon which the alleged violation is based.
3. For Respondents, to be presumed not responsible for a violation until determined otherwise; however, this presumption shall not be construed to mean that a Complainant or any witness has presented false testimony or evidence. The burden of proving a violation of the Code of Conduct is on the University.
4. To present relevant information verbally or in writing on their behalf and to otherwise participate meaningfully at any disciplinary hearing to which they are a party.
5. To know the identity of persons speaking or providing written information during any disciplinary hearing to which they are a party.

6. To ask reasonable questions or challenge, either verbally or in writing, the allegation(s), formal charge(s), or information provided during a student conduct meeting.
7. A Respondent or Complainant may have up to two (2) Support Persons present at any phase of the disciplinary process so long as such does not violate the privacy rights of another Student or substantially delay the disciplinary process. Support Persons can provide emotional or other support but cannot participate in the disciplinary process. To not speak or answer any questions during a student conduct meeting. Refusal to do so is not considered admitting responsibility for an alleged violation.
8. To request that a member of the hearing body be removed from the hearing based on a conflict of interest or bias.
9. For Respondents, to appeal any decision pursuant to this Regulation.

B. Additional Rights Afforded to Students and Registered Student Organizations for a Serious Misconduct Violation

1. Any Respondent or Complainant participating in disciplinary proceedings involving a Serious Misconduct Violation will also be provided written notice of:
 - a. The rights of the Respondent and Complainant as set forth in the Code of Conduct as well as in KRS 164.370 and other applicable law, if any; and,
 - b. The date, time, and location of each phase of the disciplinary process at least:
 - i. Three (3) business days prior to any scheduled event at which the Participant is expected to participate; and,
 - ii. Ten (10) business days prior to a disciplinary hearing.
2. A Respondent or Complainant participating in disciplinary proceedings involving a Serious Misconduct Violation will also be granted reasonable continuing access to the General Incident Reporting Form as well as all other information in the University's Administrative File, which encompasses all documents and evidence in the University's possession or control relevant to the alleged violation with the exception of privileged documents or internal memorandums the University does not intend to introduce at any hearing.
3. A Respondent or Complainant participating in disciplinary proceedings involving a Serious Misconduct Violation also will have access to the hearing recording.
4. A Respondent or Complainant participating in disciplinary proceedings involving a Serious Misconduct Violation may be represented, at the Participant's own

expense, by counsel at each material phase of the disciplinary process. Upon written notice, the University will direct all communications related to disciplinary proceedings to both counsel and the Respondent or Complainant.

III. Core Values and Behavioral Expectations

A. Code of Conduct

The following expectations and rules, hereinafter referred to as the Code of Conduct, apply to all Students, whether undergraduate, graduate, doctoral, or professional:

1. *Falsification. Knowingly falsifying one's identity, or furnishing or possessing false, falsified or forged materials, documents, accounts, records, identification, social media, or financial instruments.
2. Academic Dishonesty. Acts of academic dishonesty as outlined in the Academic Integrity Policy 4.1.3. Academic dishonesty is addressed through the process outlined in Policy 4.1.3, which may not follow the Procedures in Non-Academic Student Conduct Cases outlined below, and, to the extent this Regulation conflicts with Policy 4.1.3, Policy 4.1.3 governs.
3. Unauthorized Access/Entry. Unauthorized access to any University building (i.e. keys, cards, fobs, etc.) or services; unauthorized possession, duplication, use of means, providing access to any University building. Unauthorized entry by misuse of access privileges to University premises or unauthorized entry to or use of buildings, including trespassing, propping or unauthorized use of alarmed doors for entry into or exit from a University building.
4. Collusion. Encouraging, assisting or helping someone violate University Policy or Regulation.
5. Breach of Trust. Violations of positions of authority, whether elected, hired or appointed, within the University community.
6. Election Tampering. Tampering with the election of any Registered Student Organization.
7. *Taking of Property. Intentional and unauthorized taking of University property or the personal property of another, including goods, services and other valuables.
8. *Stolen Property. Knowingly taking or maintaining possession of stolen property.
9. IT and Acceptable Use. Violating the Acceptable Use of Information Technology Resources Policy 11.2.1. Interfering with the use of or abusing any part of University computing services or facilities.
10. Disruptive Behavior. Substantial disruption of University operations including but not limited to, obstruction of teaching, research, administration, residential living, other University activities, and/or other authorized non-University activities which occur on campus.

11. *Rioting. Causing, inciting or participating in any disturbance that presents a clear and present danger to self or others, causes physical harm to others, or damage and/or destruction of property.
12. Trademark. Unauthorized use or misuse of University or organizational names and images. See Intellectual Property Policy 4.4.2 for more information.
13. *Damage and Destruction. Intentional, reckless and/or unauthorized damage to or destruction of University property or the personal property of another.
14. Gambling. Gambling, including but not limited to raffles, lotteries, sports pools and online betting activities, as prohibited by the laws of the Commonwealth of Kentucky. See KRS Chapter 158.
15. *Weapons. Unless expressly exempt by Policy 9.3.2, all persons are prohibited from possessing Deadly Weapons and Dangerous Materials/Instruments including, but not limited to, tasers/stun guns, pellet guns, BB guns, airsoft guns, paintball guns and firearms, explosives, fireworks or other deadly weapons or look-alike or replica weapons on all property owned, leased, or controlled by the University. Specifically, Weapons are prohibited in, for example, all classrooms; laboratories; residence halls; clinics; office buildings; performance halls; athletics and recreation facilities; farms, forests and other natural areas; parking lots and structures; University owned, leased or controlled vehicles; and, all outdoor areas of the campus, including extended campuses and all other property now or hereafter owned, leased, or controlled by the University or any unit of the University. This provision applies equally to all persons whether or not they possess lawfully issued licenses or permits pursuant to KRS 237.110.
16. Tobacco. Smoking or tobacco use in any area of campus, to include vaping or electronic cigarettes.
17. *Fire Safety. Violation of local, state, federal or campus fire policies including, but not limited to:
 - a. Intentionally or recklessly causing or attempting to cause a fire on University or personal property;
 - b. Failure to evacuate a University-controlled building during a fire alarm;
 - c. Improper use of University fire safety equipment; and/or,
 - d. Tampering with or improperly engaging a fire alarm or fire detection/control equipment while on University property. Such action may result in a local fine in addition to University Sanctions.
18. Ineligible Association. Pledging or associating with a Registered Student Organization without having met eligibility requirements established by the University or organization.
19. Wheeled Devices. Skateboards, roller blades, roller skates, bicycles and similar wheeled devices are not permitted to be operated inside University buildings or residence halls or on tennis courts. Hover-boards are prohibited on campus. Additionally, skateboards and other wheeled items may not be ridden on railings, curbs, benches, or any such fixtures that may be damaged by these activities,

and individuals may be liable for damage to University property caused by these activities.

20. Retaliatory Actions. Any intentional, adverse action taken by a responding individual or allied third party against an individual participating or supporting someone participating in a protected activity under this Code.
21. Abuse of Conduct Process. Abuse or interference with, or failure to comply in, University processes including conduct and academic integrity hearings including, but not limited to:
 - a. Falsification, distortion, or misrepresentation of information;
 - b. Failure to provide, destroying or concealing information during an investigation of an alleged Policy or Regulation violation;
 - c. Attempting to discourage an individual's proper participation in, or use of, the campus conduct system;
 - d. Verbal or physical harassment and/or intimidation of a member of a campus conduct body prior to, during, and/or following a campus conduct proceeding;
 - e. Failure to comply with the Sanction(s) imposed by the campus conduct system; and/or,
 - f. Influencing, or attempting to influence, another person to commit an abuse of the campus conduct system.
22. *Harm to Persons. Intentionally or recklessly causing or attempting to cause physical harm or endangering the health or safety of any person.
23. *Threatening Behaviors:
 - a. Threat: Written or verbal conduct that causes a reasonable expectation of injury to the health or safety of any person or damage to any property; and/or
 - b. Intimidation: Intimidation defined as implied threats or acts that cause a reasonable fear of harm in another.
24. *Harassment. Defined as repeated and/or severe aggressive behaviors that intimidate or intentionally harm or control another person physically or emotionally, and are not protected by freedom of expression.
25. *Hazing. Defined as an act that endangers the mental or physical health or safety of a Student and/or that destroys or removes public or private property for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. Participation or cooperation by the person(s) being hazed does not excuse the violation. Failing to intervene to prevent and/or failing to discourage and/or failing to report those acts may also violate this provision. See Section V. below for more information.
26. *Intimate Partner/Relationship Violence. Violence or abuse by a person in an intimate relationship with another. Intimate Partner/Relationship Violence is addressed through the process outlined in Policy 1.4.1, which may not follow the Procedures in Non-Academic Student Conduct Cases outlined below, and, to the extent this Regulation conflicts with Policy 1.4.1, Policy 1.4.1 governs.

27. *Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. Stalking is addressed through the process outlined in Policy 1.4.1, which may not follow the Procedures in Non-Academic Student Conduct Cases outlined below, and, to the extent this Regulation conflicts with Policy 1.4.1, Policy 1.4.1 governs.
28. *Sexual Misconduct. Includes, but is not limited to, sexual harassment, non-consensual sexual contact, non-consensual sexual intercourse, sexual exploitation, and/or other sexually based behavior included in Policy 1.4.1. Sexual Misconduct is addressed through the process outlined in Policy 1.4.1, which may not follow the Procedures in Non-Academic Student Conduct Cases outlined below, and, to the extent this Regulation conflicts with Policy 1.4.1, Policy 1.4.1 governs.
29. *Public Exposure. Includes deliberately and publicly exposing one's intimate body parts; urinating and/or defecating; and/or, engaged in sex acts. Public Exposure is addressed through the process outlined in Policy 1.4.1, which may not follow the Procedures in Non-Academic Student Conduct Cases outlined below, and, to the extent this Regulation conflicts with Policy 1.4.1, Policy 1.4.1 governs.
30. Alcohol. Use, possession, or distribution of alcoholic beverages, except as expressly permitted by law and the University/College's Alcohol Policy 9.1.1, and includes but is not limited to exhibiting behavior under the influence of alcohol that unreasonably disrupts others in the vicinity or that endangers self, others, or property.
31. *Drugs. Use, possession, or distribution of illegal drugs and other controlled substances or drug paraphernalia, except as expressly permitted by law, including but not limited to exhibiting behavior under the influence of drugs that unreasonably disrupts others in the vicinity or that endangers self, others, or property.
32. *Prescription or Over-the-Counter Medications. Abuse, misuse, sale, or distribution of prescription or over-the-counter medications.
33. Failure to Comply. Failure to comply with the reasonable directives of University employee or law enforcement officers during the performance of their duties and/or failure to identify oneself to these persons when requested to do so. This includes but is not limited to any public health protocols and expectations.
34. Arrest. Failure of any Student to accurately report an off-campus arrest by any law enforcement agency for any crime to the Office of Student Conduct within three (3) business days of release.
35. *Sex Offender Registration. Failure to self-report as a registered sex offender within five (5) business days of classes starting. See Policy 8.3.5 for more information.

36. Other Policies. Violating other published University Policies, Regulations, and/or rules, including all Residence Hall policies and the Residential Community Guide.
37. Health and Safety. Creation of health and/or safety hazards (e.g., dangerous pranks; hanging out of or climbing from/on/in windows, balconies, roofs; etc.).
38. Violations of Law. Evidence of violation(s) of local, state, or federal laws substantiated through the University's conduct process.

The University considers the behavior described above as inappropriate for the University community and in opposition to the core values set forth in this document. Any Student found to have committed or to have attempted to commit the above misconduct is subject to the Sanctions outlined in Section IV, paragraph H.

All paragraphs designated by the asterisk (*) shall be considered Serious Misconduct Violations at intake and may be heard by the Student Disciplinary Council, who may issue sanctions up to and including suspension or expulsion from the University and/or eviction from University housing.

Charges other than those identified above as Serious Misconduct Violations that are egregious and/or frequent may also, at the discretion of the Office of Student Conduct and Community Standards, be designated as Serious Misconduct Violations, heard by the Student Disciplinary Council, and result in suspension or expulsion from the University and/or eviction from University housing.

B. Medical Amnesty

When a Student finds themselves or another Student's safety at risk due to the use of alcohol or other drugs, they should contact emergency responders immediately for medical assistance. Formal disciplinary action for violations of paragraphs 30, 31, and/or 32 of the Code of Conduct will not be enforced provided the involved Students do as follows:

1. Request emergency medical attention for themselves or for someone else who reasonably appears to be in need of medical assistance due to alcohol or other drug consumption;
2. Provide their own full name to responding University employees and emergency responders;
3. Provide any other relevant information requested by the responding University employees that is known to such person;
4. Remain with, or is, the individual who reasonably appears to be in need of medical assistance due to alcohol or drug consumption until professional emergency medical assistance is provided; and,
5. Cooperate with emergency medical assistance personnel and law enforcement officers.

Students granted amnesty will be required to participate in an educational follow-up process with the University or meet other conditions in order to avoid creation of a student conduct record. Parents may be notified of the incident. Repeated incidents by an individual may result in an elevated response from the University. Violation of other regulations such as vandalism, disrupting the peace, or sexual misconduct may still apply.

C. Scope of Code of Conduct

The University's jurisdiction for application of the Student Code of Conduct shall be limited to conduct which occurs on University Premises; the off-campus conduct of Students in direct connection with any credit-bearing experiences, including, but not limited to, internships, field trips, study abroad, or student teaching; any activity supporting pursuit of a degree, including, but not limited to, research at another institution or a professional practice assignment; any activity related to an athletic or other extracurricular activity as a representative of the University; or, conduct which adversely affects the University Community and its pursuit of its objectives.

IV. Procedures in Non-Academic Student Conduct Cases

The following procedures are designed to provide fair and unbiased management of the Code of Conduct. These procedures do not, however, apply to cases involving Policy 1.4.1, Discrimination and Harassment or Policy 4.1.3, Academic Integrity.

A. Reporting Code of Conduct Violations

1. Any person may report violation(s) of the Code of Conduct, either by a Student or Registered Student Organization. To do so, written reports should be submitted to the Office of Student Conduct. Reported Students and Registered Student Organizations retain all rights and privileges of a Student or Registered Student Organization in good standing unless Interim Measures are issued, as detailed further below in paragraph B., and until determined to be in violation of the Code of Conduct.
2. Reports of harassment and/or discrimination should be made directly to the Office of Institutional Equity. See Policy 1.4.1, Discrimination and Harassment.
3. Reports of criminal behavior (e.g., harm to persons, damage or destruction, drugs, sexual assault, stalking, dating violence, etc.) should be reported to the University's Police Department or to other appropriate law enforcement in the location where the reported criminal activity occurred. Reports may also be made to the Office of Student Conduct, the Office of Institutional Equity, and/or another University department or official, where appropriate.

Because the standard of proof required in criminal law is different from the standard of proof required in the Code of Conduct and University Policy or Regulation, the result of any criminal investigation does not influence the student conduct process. A criminal investigation may supplement but will not take the place of a University investigation. To that end, the University will not wait for the conclusion of a criminal investigation to begin conducting its own investigation, issue interim measures, or instigate any portion of the student conduct process.

B. Interim Measures

1. Interim Measures may be determined and imposed by the Dean of Students, or designee, in consultation with the Office of Student Conduct when a Student or Registered Student Organization presents a clear and present danger to themselves or to another member of the University Community. Such Interim Measures are meant to be temporary, to address immediate emergencies, and to preserve the safety of the community.
2. Upon issuance of any Interim Measure, the Dean of Students, or designee, will notify the Respondent in writing within twenty-four (24) hours, including the reasons for the Interim Measure and right to a hearing, and provide the Respondent a chance to waive the Interim Measure hearing.
3. Unless waived by the Respondent, an Interim Measure hearing will be held within three (3) business days following written notice 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 the Interim Measure is appropriate to mitigate that risk.
4. The Interim Measures hearing officer shall be selected by the Office of Student Conduct and Community Standards from the pool of members that may make up the Student Disciplinary Council.
5. At the Interim Measures hearing, the Respondent has the right to be represented by counsel.
6. Waiver of an Interim Measures hearing does not constitute an admission of guilt or a waiver of any additional rights afforded in this Regulation or by law.
7. The Interim Measure remains in effect during the hearing process unless otherwise stated. If the Interim Measure is upheld at the hearing, the Interim Measure remains in place until the issuance of a final order in the matter.

C. Initial Review

1. Upon receipt of a report, the Office of Student Conduct will open a case and conduct an initial review to determine if there is enough information to support an alleged violation of the Code of Conduct and, if so, which violations may have occurred.
2. If the Office of Student Conduct determines a report lacks merit or, even if true, would not violate the Code of Conduct or another University Policy or Regulation, the case will be dismissed without prejudice. Additional report(s) may always be filed that could result in a case being reopened.
3. A case also may be dismissed without prejudice by the Office of Student Conduct if it is determined, at any point in the conduct process, that sufficient information does not exist to prove an alleged violation.

D. Notice and Administrative Measures

1. If an initial review determines that a violation of the Code of Conduct may have occurred, the Office of Student Conduct will notify the Respondent via a Notice of Alleged Code Violation (Notice). The Notice will include written notice of a formal charge for any alleged violation of the Code of Conduct or another University Policy, as well as the specific details of the facts upon which the alleged violation is based.
2. Any Respondent or Complainant participating in disciplinary proceedings involving a Serious Misconduct Violation will also be provided Notice of:
 - a. The rights of the Respondent and Complainant as set forth in the Code of Conduct as well as in KRS 164.370 and other applicable law, if any; and,
 - b. The date, time, and location of each phase of the disciplinary process at least:
 - i. Three (3) business days prior to any scheduled event at which the Participant is expected to participate; and,
 - ii. Ten (10) business days prior to a disciplinary hearing.
3. Notices will be sent to the official University email address(es) but also may be sent by other available means. For Registered Student Organizations, the Notice will be emailed to the organization's primary representative, typically the President, on file with the Office of Student Life. Failure to read and comply with the Notice is not grounds for appeal.
4. The Office of Student Conduct schedules meetings and formal hearings, which can only be rescheduled for good cause as determined by the Office of Student

Conduct. Prior to any student conduct meeting or hearing, the Respondent or Complainant may contact the Office of Student Conduct to arrange an opportunity to review all information relevant to the allegations.

5. Respondents, including Registered Student Organizations, can review the information contained in the Reporting Form, with all personally identifying information of other Students removed (if appropriate), in advance of any meeting or hearing.
6. Any Respondent who is charged with a Serious Misconduct Violation will be granted reasonable continuing access to the University's Administrative File. All evidence the University or another Participant intends to introduce at a disciplinary hearing will be submitted to the Administrative File at least three (3) business days prior to such hearing. When evidence is submitted less than three (3) business days prior, all Participants will be immediately notified and such evidence will only be admissible at the hearing at the discretion of the hearing body.

E. Investigation

1. A Respondent, Complainant, and/or any witness may be asked to appear at an investigative meeting with the Office of Student Conduct to discuss the report or gather additional information.
2. The Office of Student Conduct reserves the right to convene an investigative committee to conduct meetings with Respondents, Complainants, and/or witnesses as well as to gather evidence.
3. Upon the conclusion of the investigation for matters involving Serious Misconduct Violations, an Investigative Report will be completed by the Office of Student Conduct or the investigative committee, if any, that summarizes the investigative process, witnesses, and evidence.

F. Hearings Before a Judicial Hearing Officer

1. Respondents not charged with a Serious Misconduct Violation may be provided an individual meeting with a judicial hearing officer to resolve the allegations. Office of Student Conduct staff, University Housing staff, and other University officials as designated by the Office of Student Conduct may serve as judicial hearing officers.
2. In the event an individual meeting is provided, such will be in the form of a closed meeting that permits the Respondent to discuss the matter with a judicial hearing officer. During the meeting, the referral is discussed as is whether it is more likely

than not that a violation of the Code of Conduct or other University Policy or Regulation has occurred.

3. If sufficient information does not exist to prove an alleged violation by a preponderance of the evidence, the judicial hearing officer will dismiss the case.
4. If sufficient information exists to prove an alleged violation by a preponderance of the evidence, the judicial hearing officer will determine responsibility and an appropriate Sanction, which are outlined in paragraph H. below, and issue a decision letter within five (5) business days of the hearing.
5. Within five (5) business days of the date of the decision letter, the Respondent may:
 - a. Accept responsibility and, thereafter, fulfill the Sanction imposed; or,
 - b. Appeal pursuant to paragraph I. below.
6. A Respondent or Complainant may have up to two (2) Support Persons present at any phase of the disciplinary process, excluding deliberations, so long as such does not violate the privacy rights of another Student or substantially delay the disciplinary process. Support Persons can provide emotional or other support but cannot participate in the disciplinary process.

G. Hearings Before the Student Disciplinary Council

1. Where charges involve a Serious Misconduct Violation, the case will be heard by the Student Disciplinary Council (SDC) with the purpose of arriving at a fair and just decision. Hearings before the SDC are closed meetings that permit the Complainant, including the University, and Respondent to address the alleged violation. If the Complainant or Respondent does not appear for the hearing, the hearing may proceed without them being present.
2. A Respondent or Complainant participating in disciplinary proceedings involving a Serious Misconduct Violation may have up to two (2) Support Persons present at any phase of the disciplinary process, excluding deliberations, so long as such does not violate the privacy rights of another Student or substantially delay the disciplinary process. Support Persons can provide emotional or other support but cannot participate in the disciplinary process.
3. A Respondent or Complainant participating in disciplinary proceedings involving a Serious Misconduct Violation may be represented, at the Participant's own expense, by counsel at each material phase of the disciplinary process, excluding deliberations. Upon written notice, the University will direct all communications related to disciplinary proceedings to both counsel and the Respondent or Complainant.

4. Attendance of any other individual at the hearing is at the discretion of the Student Disciplinary Council.
5. Hearings involving more than one (1) Respondent may be conducted either separately or jointly. Joint hearings will only be conducted at the discretion of the Office of Student Conduct and upon agreement of the Respondents as demonstrated through the execution of an appropriate waiver under the Family Educational Rights and Privacy Act (FERPA).
6. Strict rules of evidence shall not apply during the hearing; however, the admissibility of evidence shall generally conform with KRS 13B.090 and Kentucky Rules of Evidence 412. The burden of proving a violation of the Code of Conduct is on the University. The Respondent is presumed to be not responsible until determined otherwise. The Student Disciplinary Council's determination will be based on the preponderance of the evidence standard, which means that it is more likely than not (i.e., at least 50.1% certain) that the Respondent is responsible for the alleged act.
7. The order of presentation of the hearing is at the discretion of the SDC but will normally follow the steps indicated below:
 - a. Introductions and reading of alleged violations;
 - b. Opening statement by the Complainant, including the University;
 - c. Opening statement by the Respondent;
 - d. Presentation of witnesses and information by the Complainant, including the University;
 - e. Presentation of witnesses and information by the Respondent;
 - f. Questions from the SDC;
 - g. Closing statement by the Respondent;
 - h. Closing statement by the Complainant, including the University;
 - i. Closed session deliberation by the SDC; and,
 - j. Decision of responsibility and Sanctions, if any, rendered by the SDC.
8. The University and all Participants will submit a list of all witnesses to the Administrative File maintained by the University at least three (3) business days prior to the disciplinary hearing. When an additional witness is submitted less than three (3) business days prior, all Participants will be immediately notified and such witness will only be admissible at the hearing at the discretion of the Chair of the SDC, who will act as hearing officer.
9. During the presentation of information and witnesses, the party presenting the information or witnesses will be able to ask initial questions followed by questions from the other party and, subsequently, the hearing body. The Chair of the SDC will act as hearing officer and, accordingly, retains the discretion to determine

whether any information, witness, or question is relevant to the proceedings and to exclude anything deemed irrelevant.

10. A Respondent's questions for a Complainant who is a Student must be submitted through and asked by the Chair of the SDC, acting as hearing officer thereof. When the Chair of the SDC declines to ask any submitted question, the Chair will provide the specific rationale for excluding such and grant the Respondent the opportunity to cure any objection thereto and resubmit a revised question. A Respondent shall also be afforded the opportunity to submit follow-up questions.
11. All hearings, with the exception of the hearing body's deliberation, will be recorded, either by audio or video recording or, alternatively, by a written transcript at the University's discretion. The record created is property of the University and shall become part of the Administrative File.
12. During the closed deliberation session, the hearing body will meet to decide whether or not the Respondent is responsible for violating the Code of Conduct by a preponderance of the evidence:
 - a. If the Respondent is found responsible for violating the Code of Conduct, the SDC will determine Sanctions, taking into consideration the violation at hand, the welfare of the University community, and any prior disciplinary record of the Respondent; or,
 - b. If the Respondent is not found responsible, the SDC will determine that no action be taken and that the case be dismissed.
13. Within seven (7) business days following a hearing, unless circumstances exist that warrant delay, the Respondent will receive a written outcome at least via the Student's University email address and through other available means, if necessary. The written outcome must describe the rationale for the decision and any Sanction.
14. A Respondent may appeal the written outcome as outlined by paragraph I. below. Failure to timely appeal will result in the written outcome serving as the final order in the matter.
15. The Administrative File will be maintained by the University permanently when the Sanction is expulsion and, for all other sanctions, for the latter of the following:
 - a. Three (3) years after the Respondent's graduation date or last date of attendance; or,
 - b. Three (3) years after all Sanctions have been met.

H. Sanctions

Judicial hearing officers and the Student Disciplinary Council have the authority to impose Sanctions on Students or Registered Student Organizations who are found to have violated the Code of Conduct. Such Sanctions shall bear a reasonable relation to the nature of the violation and, in determining possible Sanctions, judicial hearing officers and the Student Disciplinary Council shall consider the violation at hand, the welfare of the University community, and any prior disciplinary record of the Respondent. The following are examples of Sanctions:

1. Administrative Referral. Mandatory referral to another campus office/department to address concerns regarding a particular behavior or need.
2. Administrative Hold. A disciplinary hold may be placed on a Student's record when a Student:
 - a. Is not presently enrolled at the University and a conduct matter is pending;
 - b. Has a pending conduct matter that must be resolved prior to graduation;
 - c. Has failed to complete Sanctions by the assigned deadline(s);
 - d. Is suspended or expelled from the University; or,
 - e. Presents behavior that puts the University community at risk.
3. Alcohol/Substance Abuse Assessment. A Student may be referred to an appropriate provider for an assessment to identify alcohol and/or substance misuse/abuse risk factors, likelihood, and potential recommendations for treatment.
4. Disciplinary Probation Status. Carries a moderate warning, and in some cases a restriction of specified privileges or extracurricular institutional activities, other than those necessary or required for courses (e.g., libraries, lectures, work-study), for a specified period of time.
5. Educational Sanction. An educational sanction refers to attendance or participation in a prearranged class, program, or activity. Educational sanctions are designed to address a particular behavior, topic, or issue by educating the Student or Registered Student Organization on their responsibilities to abide by the Code of Conduct and learn from the violation in an educational way.
6. Election of Withdrawal. When the violation is one that indicates possible suspension or expulsion, the Respondent may elect to voluntarily withdraw from the University without appearing before the Student Disciplinary Council. The accused Student or Registered Student Organization shall sign a statement indicating that they have been advised of their rights to a hearing but instead intend to withdraw from the University on their own accord.
7. Eviction. Permanent, forced removal from University Housing, a classroom, or other University Premises. Removal from housing due to a violation of the Code of Conduct can only be imposed by the SDC following the hearing procedures outlined in paragraph G. above. Nothing here shall prevent eviction when a breach of the housing contract between the Student and the University has occurred, and evictions from housing due to contract breach are outside the scope of this Policy and not bound to the procedures outlined herein.

8. Expulsion. Permanent, forced withdrawal from the University. This sanction can only be imposed by the Student Disciplinary Council following the hearing procedures outlined in paragraph G. above.
9. Housing Relocation. Mandated relocation to a different housing assignment.
10. Loss of Visitation Privileges. Period of time where a Student loses all visitation privileges. During loss of visitation privileges the Student is not allowed to check visitors into their residence hall, and they are not allowed to be checked into the residence hall of any other Student.
11. Parental Notification. FERPA permits the University to notify a Student's parent(s) if: (a) the Student is under the age of twenty-one (21) and has violated any law or University Policy or Regulation related to alcohol or controlled substances or (b) 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.
12. Reprimand. Official written notice to the Student or Registered Student Organization found responsible for a violation of the Code of Conduct or University Policy. The reprimand warns that any further such actions may result in a more severe sanction.
13. Restitution. A measure intended to compensate for the loss, damage, or injury caused by the Student or Registered Student Organization. This action may take the form of appropriate service, monetary compensation, or material replacement.
14. Service Work. Mandated service to the University or a designated community agency to be completed within a specified time frame.
15. Suspension. Forced withdrawal from the University for a specific period of time or until stated conditions have been met as determined by the Student Disciplinary Council. A Registered Student Organization receiving this sanction will not be recognized by the University and, accordingly, will not receive designated privileges. This sanction can only be imposed by the Student Disciplinary Council following the hearing procedures outlined in paragraph G. above.
16. University Probation. Status which carries a severe warning that any further violation of the Code of Conduct or University Policy or Regulation may result in the Student or Registered Student Organization being required to appear before the Student Disciplinary Council for consideration of suspension, expulsion, or eviction from housing.

I. Appeals

1. Appeals from an Order of a Judicial Hearing Officer:
 - a. Within five (5) business days of the date of the decision letter, a Respondent may submit a written appeal (i.e., handwritten, typed, or emailed) to the appeals officer indicated in the decision letter, which will be either:
 - i. The hearing officer's direct supervisor, or designee; or

- ii. When the hearing officer was a Housing staff member or other University official as designated by the Office of Student Conduct, a staff member within the Office of Student Conduct.
 - b. The appeal is not a new hearing, but rather a review of the process and of the original hearing. Accordingly, an appeal only may be made on one or more of the following justifiable grounds:
 - i. Whether deviations in procedures, if any, were significantly prejudicial (i.e., would alter the outcome of the hearing). In such cases, the appeal will focus on whether the hearing was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures providing the University a reasonable opportunity to prepare and present information regarding the alleged Code of Conduct violations, and providing the Respondent a reasonable opportunity to prepare and present a response to those allegations;
 - ii. Whether Sanctions imposed were appropriate in light of the nature of the violation; and/or,
 - iii. Whether additional, pertinent information not presented to the hearing officer and not known to the Respondent at the time of the hearing would have altered the decision letter.
 - c. The appeals officer may uphold, overturn, or modify the decision letter and will notify the Respondent of the results of the appeal in writing within five (5) business days of receipt of the appeal.
 - d. This shall be the only appeal afforded, and the appeal officer's decision is binding on the Respondent.
- 2. Appeals from an Order of the Student Disciplinary Council:
 - a. A Respondent may appeal an order of the Student Disciplinary Council by submitting a request to appeal in writing (i.e., handwritten, typed, or emailed) to the Office of Student Conduct within five (5) business days of the Student Disciplinary Committee's written outcome. The Office of Student Conduct will be given an opportunity to respond in writing to any appeal received and will have three (3) business days of receiving the appeal to do so.
 - b. The appeal is not a new hearing, but rather a review of the process and of the original hearing. Accordingly, an appeal only may be made on one or more of the following justifiable grounds:

- i. Whether deviations in procedures, if any, were significantly prejudicial (i.e., would alter the outcome of the hearing). In such cases, the appeal will focus on whether the hearing was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures providing the University a reasonable opportunity to prepare and present information regarding the alleged Code of Conduct violations, and providing the Respondent a reasonable opportunity to prepare and present a response to those allegations;
 - ii. Whether Sanctions imposed were appropriate in light of the nature of the violation; and/or,
 - iii. Whether additional, pertinent information not presented to the SDC and not known to the Respondent at the time of the hearing would have altered the written outcome.
- c. Appeals from the Student Disciplinary Committee will be heard by the University Appeals Committee. The University Appeals Committee is composed of three (3) members selected from a pool of trained faculty and staff. This committee has the authority to do one (1) of the following:
 - i. Uphold the findings and recommendations of the SDC; or,
 - ii. Remand the case back to the SDC. However, an appeal can only be remanded due to procedural error or new information:
 - 1. For issues of procedural error, a new SDC will be appointed and convened to reconsider the referral; and/or,
 - 2. For issues of new information, the previous SDC will be reconvened and instructed to resume the hearing to reconsider the referral in light of the new information.
- d. The University Appeals Committee will consider the following on appeal:
 - i. The Administrative File, including the recording or transcript of the hearing;
 - ii. The written outcome of the hearing body;
 - iii. The Respondent's written appeal; and,
 - iv. Any written response timely submitted by the Office of Student Conduct.
- e. Within five (5) business days of receipt of the appeal, the Respondent will be notified in writing of the decision of the University Appeals Committee. The decision of the University Appeals Committee is a final order and binding upon all involved.

- f. In accordance with KRS 164.370, a Respondent has the right to appeal the final order issued by the University Appeals Committee in accordance with KRS 13B.140.

V. Statement on Hazing and Other Forms of Organizational Misconduct

A. Introduction

The University is concerned about the emotional, psychological, and physical health and well-being of its Students. Any form of Hazing by individuals or groups is unacceptable and is in direct conflict with institutional values related to the rights and dignity of Students, all of whom have the right to belong to groups without risk of danger or humiliation. Consent to Hazing is never a defense to a violation of this statement.

All Kentucky colleges and universities are required by KRS 164.375 to adopt policy statements regarding hazing activities, and, as required by statute, this statement applies to the conduct of Students, Registered Student Organizations, faculty and staff, as well as visitors and other licensees and guests on campus. This statement applies to incidents on or off the University's campus.

The intent is to set forth the University's position regarding Hazing and to fulfill the statutory directive. The University believes that new and existing members of groups and teams can expect to participate in educational and enjoyable activities that build teamwork and camaraderie among all members of the group. Such activities are intended to create a sense of identity and commitment within a group and are generally acceptable and encouraged. However, Students should never be subject to any form of hazing by either an individual or a group.

B. Criteria

There are two primary conditions that create a Hazing dynamic:

1. New members often wish to be accepted, either formally or informally, into any group, and will submit to Hazing in order to be included. However, consent to be hazed does not excuse Hazing. Students have died or have been seriously injured as a result of participating in activities to which they have "consented." The psychological pull to be accepted is so strong that hazing victims cannot be expected to resist Hazing, even if the Hazing is presented as optional. That this pull can be so coercive should make this need to prohibit this conduct, to any degree, undeniably clear.
2. Any activity that places new or existing members in a subservient position to experienced members creates an unhealthy and unsafe power dynamic in which control has been yielded to the experienced member. New or existing members in any organization may expect to be trained, oriented, or indoctrinated, but

membership in any group that puts a new or existing member in a lesser role, unrelated to the original conditions for membership or mission of the group, is inappropriate and unfair to the new or existing members. Any activities of membership should be equally shared among experienced and new members in order to eliminate any possible elements of Hazing or the perception of Hazing.

3. While it would be impossible to list all behaviors that could be deemed to be Hazing, Hazing behaviors include but are not limited to the following:
 - a. Any physical act of violence expected of, or inflicted upon, another;
 - b. Any physical activity expected of, or inflicted upon, another, including calisthenics;
 - c. Pressure or coercion of another to consume any legal or illegal substance;
 - d. Making available unlawful substances;
 - e. Excessive fatigue or sleep deprivation as a result of any activities;
 - f. Forced exposure to the weather;
 - g. Kidnapping, forced road trips, and/or abandonment;
 - h. Required carrying of or possessing of a specific item or items;
 - i. Servitude (expecting a new member to do the tasks of an experienced member);
 - j. Costuming and alteration of appearance;
 - k. Line-ups and berating;
 - l. Coerced lewd conduct;
 - m. Degrading games, activities or public stunts;
 - n. Interference with academic pursuits;
 - o. Violation of University Policy or Regulation;
 - p. Assignment of illegal and unlawful activities; and/or,
 - q. Forced consumption of drugs or alcohol.

C. Other Forms of Organizational Misconduct

In addition to Hazing, the University oversees other forms of organizational misconduct by Registered Student Organizations. All Registered Student Organizations are expected to comply with all policies and procedures of the University, including but not limited to the Code of Conduct as well as additional terms specified within the Registered Student Organizations Manual and within other directives published by the University's Office of Student Life.

Registered Student Organizations are collectively responsible for any action committed by their members on behalf of the organization that violates the Code of Conduct, University Policy, directives, or Regulations. This applies to on campus incidents, but also to off campus behaviors that may affect the University community. Disciplinary action against Registered Student Organizations is separate from action taken against individuals.

D. Factors Used in Attributing Fault

The following criteria is used to determine whether the offense was committed by the organization or by one or more individuals:

1. Knowledge of the incident by the executive board or leadership, including if they had reasonably should have known;
2. Whether members and/or alumni were acting on behalf of the organization or otherwise permitted, encouraged, aided or assisted in the incident;
3. Whether the incident occurred at events sponsored by the organization, in their facilities, or as part of an activity/assignment voted on by the organization and/or otherwise approved by the organization;
4. Whether that incident was committed by members attending a function representing the organization;
5. Failure of the organization to implement preventative measures where it is reasonably foreseeable that a violation would occur;
6. Use of organization funding or funding by an individual or members in the name of the organization; and/or,
7. Members and/or officers fail to report the incident to appropriate University authorities.

E. Reinstatement of Registered Student Organizations

A Registered Student Organization (RSO) that receives a sanction of suspension shall have the opportunity to seek reinstatement at Eastern Kentucky University after the required period of suspension has lapsed. To seek reinstatement, an RSO must first satisfy all requirements as outlined by the disciplinary sanctions. A currently enrolled student who desires to represent the RSO may then contact the Office of Student Conduct and Community Standards to begin the process to petition for reinstatement.

Reinstatement will be based on the written responses contained in the petition, adherence to the terms of suspension, and input from other relevant departments at the University. The outcome is subject to no further appeal. If the petition for reinstatement is denied, the RSO may petition for reinstatement again the next academic semester or at a later date in the future. The Office of Student Conduct and Community Standards will only consider one (1) reinstatement petition by the RSO per academic semester.

The RSO must have complied with the terms of their suspension. Noncompliance can include, but is not limited to, hosting events or meetings (on or off campus), conducting recruitment, or producing materials/marketing. Reports of non-compliance of the suspension terms will be reviewed during reinstatement proceedings and may affect/jeopardize the RSO's ability to be reinstated.

Even where an RSO satisfies all requirements as outlined by the disciplinary sanctions and submits the required Reinstatement Petition, the Director of Student Conduct and Community Standards, or designee, has the discretion to grant or deny the petition. This may happen, for example, if the submission does not adequately explain how the RSO will ensure that the violation of the Policy(ies) or Regulation(s) that led to the organization's suspension will not occur again.

Reinstatement Petition contents include:

- A. The mission statement of the RSO, which must be compatible with the mission of the Eastern Kentucky University;
- B. A detailed plan on how the RSO will prevent organizational misconduct, specifically the behaviors that led to the suspension;
- C. The educational opportunities that will be offered or required by the RSO;
- D. Requirements for members of the RSO;
- E. Support that will be provided by nationals, advisors, and alumni board;
- F. The RSO's risk management plan;
- G. A detailed explanation as to the steps taken by the RSO to assure that all violations are addressed and no longer a part of the culture; and,
- H. Identify in sequential implementation order the corrective steps addressing the RSO's recruitment/intake efforts, new member education process, and the degree of adherence to inter/national regulations and policies.

The Office of Student Conduct and Community Standards may establish additional requirements for reinstatement beyond the standard requirements listed above. Additionally, an RSO approved for reinstatement must follow all guidelines and requirements as outlined by the Office of Student Life and First Year Experience. The RSO will not be considered active and eligible for full reinstatement until these requirements are satisfied, as determined by the Office of Student Conduct and Community Standards.

VI. University Housing

1. The standards and regulations for University residential living are contained in the written rental agreement between the Student and the University and in the Residential Community Guide. University Housing and Residence Life investigates alleged violations of the rules and regulations outlined in the rental agreement. Management of such cases is conducted in accordance with

established and published procedures. A compilation of all rules established under the rental agreement is available to all residents of the facility to which such rules apply.

2. In cases where an alleged violation of the rental agreement could also constitute a violation of the provisions of the Code of Conduct, University Housing may refer the case to the Office of Student Conduct.
3. If the behavior or conduct of a Respondent has the potential to be deemed a Serious Misconduct Violation, Housing will refer the case directly to the Office of Student Conduct.

VII. Reporting on Disciplinary Proceedings

1. In accordance with KRS 164.372, the University will report on disciplinary proceedings, by November 1, 2023 and by November 1 every five (5) years thereafter, on a prominent location on the University's website and by filing with the Interim Joint Committee on Education.
2. The report will be prepared by the Office of Student Conduct and, as required by state law, will include the total number of disciplinary proceedings, including formal investigations, for violations of the Code of Conduct during the reporting period and, of those, the total number that resulted in:
 - a. A dismissal prior to a hearing;
 - b. A negotiated resolution prior to a hearing;
 - c. A hearing;
 - d. A dismissal following a hearing;
 - e. Suspension;
 - f. Expulsion;
 - g. Termination of residence;
 - h. An appeal to the governing board or its designee; and,
 - i. An appeal from a final decision of the governing board or its designee.
3. For each data point, the University also will provide:
 - a. A summary of the basic demographics of any Student subject to the disciplinary proceedings, including but not limited to race, gender, whether the Student resided in campus housing at the time the violation occurred, and the approximate number of credit hours earned;
 - b. The specific rule(s) in the Code of Conduct the Student violated;
 - c. The general source of the initial information (e.g., another student, faculty, staff, community member, or law enforcement); and,
 - d. The percentage of Students that were subject to disciplinary proceedings and represented by an attorney licensed to practice law in Kentucky.

4. Notwithstanding the above, KRS 164.372, permits the University to seek an exemption to this reporting requirement by petitioning the Kentucky Attorney General.

Definitions

These definitions apply to terms as they are used in this Regulation.

Administrative File	Includes the initial conduct report as well as all documents and evidence in the University's possession or control relevant to the alleged violation and the University's investigation thereof, including but not limited to exculpatory evidence, documents submitted by any Participant, and the hearing transcript or recording. The Administrative File does not include privileged documents or internal memorandums that the University does not intend to introduce as evidence at any hearing in the matter.
Complainant	Any person, including but not limited to a Student, or their proxy who has alleged a violation of the Code of Conduct. The University may initiate disciplinary proceedings against a Student or Registered Student Organization without a formal complaint from the victim of an alleged violation of the Code of Conduct.
General Incident Reporting Form	Any document that describes an alleged violation of the Code of Conduct, including but not limited to University incident reports, investigative reports, police reports, or verbal, written, or electronic communication.
Hazing	Any reckless or intentional act, occurring on or off campus, that produces physical, mental, or emotional pain, discomfort, humiliation, embarrassment, or ridicule directed toward other students or groups (regardless of their willingness to participate), that is required or expected of new members and which is not related to the mission of the team, group, or organization. This includes any activity, whether it is presented as optional or required, that places any member in a position of servitude as a condition of membership or continuing membership.
Interim Measures	The temporary application of any Sanction prior to the investigation and finding reaching a conclusion in a conduct matter, which may include, but are not limited to, denial of access to certain facilities, no contact orders, removal from housing, and relocation in housing.

Participant	A Respondent or Complainant participating in a disciplinary matter.
Registered Student Organization	Any organization that operates under <u>Policy 5.1.2, Student Organizations</u> as either a Sponsored Student Organization or, alternatively, as a Voluntarily-Affiliated Student Organization.
Respondent	A Student or Registered Student Organization alleged to have violated the Code of Conduct.
Sanctions	An educational or disciplinary measure given in response to a Code of Conduct violation by a Student or Registered Student Organization. Possible Sanctions issued by the University are outlined in Section IV, paragraph H. of this Regulation.
Serious Misconduct Violation	A violation of the Code of Conduct for which the possible sanctions include suspension or expulsion from the University and/or eviction from University housing.
Student	Any person who is enrolled at the University and who has not completed a program of study in which they are enrolled. Student status continues whether or not the University's academic programs are in session. Student status includes those taking courses for credit or non-credit at the University, either full-time or part-time, while pursuing undergraduate, graduate, or professional studies.
Student Disciplinary Council	The hearing body authorized to resolve alleged Serious Misconduct Violations.
Support Person	An individual who may attend an informal meeting or formal hearing to provide advice, support, or guidance to either the Respondent or Complainant participating in disciplinary proceedings involving a Serious Misconduct Violation. A Support Person may not represent or speak on behalf of a Participant and may not delay, disrupt, or otherwise interfere with a student conduct meeting or hearing. An attorney may serve as a Support Person, although the attorney's participation would be limited to the role of Support Person as described herein.
University Community	Employees, Students, visitors, volunteers, and, potentially, members of the public.

Responsibilities

Housing and Residence Life

Staff in Housing and Residence Life will, as needed, act as judicial hearing officers to hear and resolve, in accordance with this Regulation, Code of Conduct violations not constituting Serious Misconduct Violations.

Registered Student Organization

Registered Student Organizations (RSOs) are expected to comply with this Regulation as well as terms and policies specified within the RSO Manual published by and other directives of the Office of Student Life. RSOs are collectively responsible for any action committed by their members on behalf of the organization that violates this Regulation or other applicable University policies or directives.

Student Disciplinary Council

The Student Disciplinary Council (SDC) will hear and resolve all alleged Serious Misconduct Violations in accordance with this Regulation.

Students

Students will: (1) Show respect for others, themselves, and the University community; (2) Take responsibility for their behavior; (3) Read and understand this Regulation as well as the University Student Handbook; and, (4) Act with honesty and integrity upholding the Student Code of Conduct.

Office of Student Conduct and Community Standards

The Office of Student Conduct and Community Standards will: (1) Provide information to all students relating to the Code of Conduct and this Regulation; (2) Adjudicate all reports of alleged violations of the Code of Conduct in a consistent manner; (3) Facilitate due process rights set forth by the this Regulation and applicable law; and, (4) Conduct fair and impartial hearings.

University Appeals Committee

The University Appeals Committee will hear and resolve all appeals from the Student Disciplinary Council in accordance with this Regulation.

Violations of the Policy

Violations of this Regulation will be handled through the applicable processes outlined herein.

Interpreting Authority

The Office of University Counsel shall be the Interpreting Authority of this Regulation.

Policy Adoption Review and Approval

Policy Issued

<u>Date</u>	<u>Entity</u>	<u>Action</u>
October 5, 2022	President	Approved