



## Ohio Administrative Code

### Rule 3342-4-02.101 Operational definitions and information regarding regulations for student behavior and administration of student conduct.

Effective: January 1, 2022

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#### (A) Definitions.

(1) Accusation - formal allegation of specific conduct violation(s).

(2) Adjudication - the process by which the university conducts disciplinary meetings, hearings, or other actions, bringing matters to resolution.

(3) Administrative conversation - informal discussion with the director of student conduct (or designee) that is educational and informative in nature, and shall not result in binding decisions. An administrative conversation is considered a reasonable request.

(4) Administrative hearing - a student conduct process involving one Kent state university student hearing officer. An accused student(s), an accused student organization(s), and complainant(s), a witness(es), and investigator(s) and conduct advisor may participate for the purpose of rendering a determination of responsibility and sanctioning (if applicable); see rule 3342-4-02.1 of the Administrative Code.

(5) Appeal - the method by which due process and/or a decision can be challenged; all appeals must be submitted in writing to the office of student conduct, and may only be considered if it is in accordance with the code of student conduct procedures.

(6) Complaint - written or electronic statement or report provided from any person to the office of student conduct; not all complaints result in incident reports or adjudication through the student conduct process.

(7) Complainant - a person, persons, or student organization who submits a report alleging that a student or student organization violated university rules, regulations, or policies.



(8) Code of student conduct - document that contains and explains university rules, regulations, policies, and procedures for addressing student and student organization behavior.

(9) Conduct advisor - any person who advises a student or student organization regarding university policies or procedures; Examples of conduct advisors include but are not limited to judicial advocates, parents, attorneys, etc. A conduct advisor may not serve in any other capacity in the hearing.

(10) Conflict of interest - bias for or against complainants or respondents generally or an individual complainant or respondent specifically.

(11) Consent - an action defined as the voluntary, unambiguous and uncoerced agreement to participate in an act, the nature and full extent of which is understood by all parties. Silence or lack of resistance cannot be the sole factor in determining consent. Consent may be given verbally or nonverbally. All parties are responsible for confirming that their counterpart's consent is maintained throughout the act and is present before engaging in a new act. A person may be incapable of giving consent due to physical incapacitation, physical or mental disability, threat, coercion, the influence of drugs, or age.

(a) Coercion - when an individual unreasonably pressures another to engage in sexual activity, despite responses that the conduct is unwelcome or unwanted. Coercion includes elements of pressure, duress, cajoling, and compulsion. The pressure to participate may also be considered unreasonable when the pressuring individual is in a position of influence or authority over the other individual.

(b) Incapacitation - a state where a person lacks the capacity to reasonably appreciate the nature or extent of the situation because of their physical or mental status, developmental disability, or alcohol or drug use.

(12) Deliberation - private meeting by a student conduct hearing officer/panel/administrative hearing officer to render a determination of responsibility and sanctioning (if applicable). A student conduct convener may be present during deliberation.



- (13) Director of student conduct - staff member assigned with overseeing the office of student conduct. At regional campuses, this may be referred to by a different title, such as "student conduct coordinator."
- (14) Disciplinary probation - sanction specifying a period of time during which a student or student organization who has been found responsible for any violation is subject to immediate disciplinary suspension and/or dismissal in the event of a subsequent violation.
- (15) Disciplinary suspension - sanction of involuntary separation of a student or student organization from the university for a specific period of time (a student assigned persona non grata status effective the date of suspension).
- (16) Disciplinary dismissal - sanction of involuntary separation of a student or loss of university-recognized student organization status from the university indefinitely (a student assigned persona non grata status effective the date of dismissal).
- (17) Disciplinary record - the record of a student conduct process and its findings; all disciplinary records are considered educational records based on the Family Educational Rights and Privacy Act (FERPA).
- (18) Expunge - elimination of a student disciplinary file, or redaction of a person's name from a disciplinary file.
- (19) Hearing officer - any Kent state university faculty, staff, or student who has been appointed to a student conduct decision-making role by the director of student conduct and has been trained through the office of student conduct.
- (20) Hearing panel - a student conduct process involving at least one Kent state university faculty, staff, or student hearing officer, and a student conduct convener. An accused student(s), an accused student organization(s), and complainant (s), a witness(es), and investigator(s) and conduct advisors may participate for the purpose of rendering a determination of responsibility and sanctioning (if applicable); see rule 3342-4-02.1 of the Administrative Code.



(21) Incident report - a complaint that is reviewed by the office of student conduct and may be adjudicated through the student conduct process.

(22) Interim action - an immediate action determined by the vice president for student affairs (or designee) that may limit a student's or student organization's specific privileges, including but not limited to no contact order(s), restriction from specific facilities or locations, cease and desist mandates, participation in student organization business or activities, suspension of student status, or loss of university-recognized student organization status, etc.; see rule 3342-4-02.1 of the Administrative Code.

(23) Law enforcement/investigator - University police services, other law enforcement agency representative, or non-law enforcement investigator (including office of compliance / Title IX representative) who may provide information resulting from an investigation.

(24) No contact order -states that a student or student organization may have no direct or indirect contact with another person, student organization, or student organization member (including by another person on behalf of the person to whom the order was issued); prohibited contact includes but is not limited to making a contact by way of personal (verbal or non-verbal), physical, phone, and/or electronic means including social media.

(25) Persona non grata - a student, student organization, or visitor who has been deemed detrimental to the university community and thus is not permitted to be present on Kent state university property or any or specified university locations.

(26) Preponderance of the evidence - the standard in determining if a student or student organization is responsible for a violation; the complainant must show that it is "more likely than not" that the alleged behavior occurred and was in violation of university rules, regulations, or policies.

(27) Recognized student organization - a group of students who go through the process outlined in rule 3342-4-11.201 of the Administrative Code and is registered (officially or as an interest group) referred to in the code of student conduct as "student organization."

(28) Report of finding - written decision that explains the outcome of a student conduct hearing, or



other action.

(29) Respondent - a student or student organization that has been accused, informally or through an incident report, of violating university rules, regulations, or policies.

(30) Retaliation. A retaliatory action is any materially adverse action taken against a person because they participated in the process for reporting against a person because they participated in the process for reporting or in an investigation regarding complaints of discrimination. A materially adverse action is one that might deter a reasonable person from participating in the process. It may include, but is not limited to, termination, discipline, and harassment, but does not include petty slights, minor annoyances, or trivial punishment.

(31) Sanction - requirements set forth upon a finding of individual / organizational acceptance of responsibility for a violation of university rules, regulations or policies through the student conduct process.

(32) Sanction hearing - a student conduct process involving an accused student(s) and a hearing officer (and student conduct convener), where the accused student(s) has, prior to this hearing, accepted responsibility for accusations, and the hearing officer renders a sanctioning decision; see paragraph (C)(4)(a) of rule 3342-4-02.1 of the Administrative Code.

(33) Student - any person who has applied to or enrolled at the university in any of its courses, programs, campuses, or offerings, including, but not limited to, cooperative programs or offerings with other institutions for whom a record is made at the university by the registrar or which is submitted to the university for admission or transfer credit; see rule 3342-1-01 of the Administrative Code.

(34) Student conduct convener - director of student conduct (or designee) responsible for logistics and procedures associated with the student conduct process; the student conduct convener may simultaneously serve as a hearing officer.

(35) Student conduct process - inclusive of all processes for students or student organizations from the time an incident report is referred to student conduct for adjudication through the conclusion of



the appeal process in accordance with university policy and this code of student conduct.

(36) University - Kent state university as established in Chapter 3341. of the Revised Code.

(37) Warning - Sanction stipulating that inappropriate behavior, if repeated, may lead to a more severe sanction.

(38) Witness - any person who has direct information regarding an alleged incident; and/or a professional with demonstrated experience (such as a licensed health care professional) in a field directly related to an element relevant to the hearing.

(B) Prohibited conduct. Students and student organizations are expected to abide by federal, state, and local laws and ordinances, as well as to adhere to all university rules and regulations contained in the university policy register. Any student or student organization found to have committed or to have attempted to commit the specified forms of misconduct is subject to sanctioning outlined in paragraph (C) of this rule. Prohibited student conduct accusations are assigned by a complainant(s) or the director of student conduct (or designee) and should include the specific of prohibited conduct the respondent is accused of violating. Adjustments to assigned prohibited conduct may be made prior to a hearing by the director of student conduct (or designee), with notice to the respondent and complainant as appropriate, in accordance with paragraph (C)(5) of rule 3342-4-02.1 of the Administrative Code. Violations include but are not limited to the following.

(1) Alcohol.

(a) Use or possession of alcoholic beverages except as expressly permitted by law, university rules, regulations, or policies.

(b) Distribution of alcoholic beverages except as expressly permitted by law and university rules, regulations, or policies.

(c) Public intoxication.

(d) Violation of residence hall policies pertaining to alcohol.



(2) Animals. Possession or accompaniment of animals in any university building at any time.

Exceptions include service animals, assistance animals, authorized laboratory animals, allowable pets within specific residence services guidelines, and any other applicable university rules, regulations, and policies.

(3) Complicity. Presence during any violation of university rules, regulations, or policies in such a way as to condone support, or encourage that (attempted or carried out) violation.

(4) Computer/information technology misuse. Not in accordance with Chapter 3342-9-01 of the Administrative Code, including but not limited to:

(a) Use of computing facilities, computing equipment, software or networks to harass or defame any other person, create or knowingly propagate a virus, hacking, password cracking, unauthorized viewing of others files, willful modification of hardware and software installations, unauthorized monitoring, spamming, private commercial purposes, improper web publishing, or breach of electronic information security.

(b) Violation of the Digital Millennium Copyright Act of 1998.

(5) Controlled substances. Use, possession, sale or distribution of narcotics, controlled substances, and/or related paraphernalia except as expressly permitted by law, university rules or regulations.

(6) Destruction/misuse of property.

(a) Destroying, defacing, tampering with, materially altering or otherwise damaging property not one's own. This includes but is not limited to doors, windows, elevators, swipe card mechanisms, restroom equipment, vending machines, university vehicles, computer equipment, classroom equipment, etc.

(b) Creating a condition that endangers or threatens property not one's own.

(7) Discrimination. Action based on race, color, religion, gender, sex, sexual orientation, national



origin, ancestry, disability, genetic information, age, and military or veteran status that limits the group or individual's ability to participate in the university's educational and employment opportunities. See rule 3342-5-16.1 of the Administrative Code.

(8) Disorderly conduct. Actions that are disorderly, lewd, or indecent; and/or breach of peace; and/or aiding, abetting, and/or procuring another person to breach the peace or obstruct teaching, research, administration, or university activities or functions.

(9) Fire safety.

(a) Tampering with, or misuse of, fire alarms and/or firefighting equipment, including but not limited to: fire extinguishers, fire hoses, heat and smoke detectors, sprinkler systems, or other safety devices.

(b) Possession of flammable items, including but not limited to: candles, incense, or other items which maintain a purpose of being used in a flammable way.

(c) Arson. Causing a fire or explosion, or unauthorized use of any potential incendiary device / equipment.

(10) Gambling. Gaming or betting for money or other possessions on university property or in any university operated or managed facility in violation of university rules, regulations, and policies.

(11) Gender based discrimination. All persons are protected from unlawful discrimination.

(a) Pregnancy. Unlawful gender discrimination includes, discrimination based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions.

(b) Gender identity. Regardless of an individual's actual or perceived sexual orientation, discrimination and harassment based on a person's gender identity, or non-conformity to stereotypes associated with a particular gender, is prohibited. This includes discrimination based on an individual's transgender identity.



(12) General safety. Failure to conform to university safety regulations, including, but not limited to, health/safety regulations issued by the president (or designee), residence halls policies outlined in the hallways handbook and campus laboratory guidelines.

(13) Harassment.

(a) Threatening or intimidating a person creating a rational fear within that person.

(b) Engaging in unwanted conduct or repeatedly committing acts directed at another person that would disrupt the educational process.

(c) Creating a condition that endangers or threatens the health, safety or welfare of another person.

(d) Physically restraining or detaining another person, or removing any person from any place where the individual is authorized to remain.

(14) Hazing. Doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization or any act to continue or reinstate membership in or affiliation with any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person, including coercing another to consume alcohol or a drug of abuse, as defined in section 3719.011 of the Revised Code. This applies to any act, intended or carried out, whether or not the act is voluntarily agreed upon; see rule 3342-4-07 of the Administrative Code..

(15) Impaired driving. Operating a motor vehicle while under the influence of controlled substances and/or alcohol.

(16) Misrepresentation. Knowingly distorting or altering the truth for personal (or student organization) gain or favor, including but not limited to: falsification of admissions application, possessing false identification, or falsification of documents provided to university faculty or staff.

(17) Physical violence. Punching, slapping, kicking, or otherwise striking any person(s); and/or other conduct which threatens or endangers the health, safety, and/or welfare of any person.



(18) Reasonable request. Failure to comply with a reasonable request of an official(s) carrying out assigned duties and responsibilities, including but not limited to a person instructing a class, a librarian or designee in a library, a law enforcement officer, or a residence services staff member.

(19) Recording privacy. Using electronic or other means to make an audio, video, or photographic record of any person in a location where there is a reasonable expectation of privacy, without the person's prior knowledge and written consent. The storing, sharing, and/or distributing of such unauthorized records by any means are prohibited. This includes but is not limited to: taking video or photographic images in showers/locker rooms, residence hall rooms, and restrooms.

(20) Residence hall policies. Failure to comply with residence hall policies outlined in the hallways handbook, including but not limited to escort, room capacity, restroom, quiet/courtesy hours, improper room change, illegal appliances, and visitation.

(21) Sexual harassment. Conduct of the basis of sex that satisfied one or more of the following: unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity.

(a) Sexual assault, which includes the following:

(i) Rape (except statutory rape). The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

(ii) Sodomy. Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

(iii) Sexual assault with an object. To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.



- (iv) Fondling. The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
- (b) Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- (c) Domestic violence. Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- (d) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.
- (22) Smoking and tobacco use. Failure to comply with smoking and tobacco prohibitions in accordance with rule 3342-5-21 of the Administrative Code.
- (23) Student conduct process. Non-compliance with or misuse of the student conduct process, including but not limited to:
- (a) Falsification, distortion, or misrepresentation of information before a student conduct hearing officer, hearing panel, or convener.
- (b) Disruption or interference with the orderly procedures of a student conduct hearing.



- (c) Attempting to discourage an individual's or student organization's proper participation in, or use of, the student conduct process.
- (d) Attempting to influence the impartiality of, or to intimidate, participants in the student conduct process prior to, and/or during the course of, a student conduct proceeding.
- (e) Retaliation against any individual who participates in a complaint of a violation described in this policy.
- (f) Failure to comply with the sanctions(s) imposed under the code of student conduct.
- (24) Theft. Using, taking, and/or possessing property or services that are knowingly not one's own (or owned by a student organization) and/or without permission of the owner.
- (25) Trespassing/unauthorized entry. Knowingly entering or remaining in a building, office, residence hall room or any other properties at any time without appropriate permission or authorization.
- (26) University grounds.
  - (a) Use of university space and grounds by an organization or person without reservation of the space or proper authorization.
  - (b) Operation or use of bicycles, skateboards, rollerblades, or other recreational items in any university building or facility; on any artificial or specially prepared surface including but not limited to tennis courts, running tracks and basketball courts; on a sidewalk, walkway, steps, or a stairway that duly interferes with pedestrian traffic and/or demonstrates a lack of necessary caution regarding pedestrian right-of-way; in a reckless or unsafe manner on university grounds.
- (27) University rules. Violation of university rules, regulations, or policies.
- (28) Weapons.



(a) Possession, storage, or use of firearms, explosives, other weapons, or dangerous chemicals on or in any Kent state university property, facility, or event; unless authorized by an appropriate university official or permitted by a university policy. This includes but is not limited to ammunition, brass knuckles, fireworks, airsoft guns, bb guns, paintball guns, pellet guns, pistols, rifles, shotguns, taser / stun guns, nun chucks, swords, etc. Any object not mentioned in this rule that is used to intimidate, threaten or harm may be considered a weapon.

(b) Possession, storage, or use of firearms, explosives, other weapons, or dangerous chemicals off campus that are prohibited by law.

(C) Sanctions. Sanctions are designed to be educational, restorative, and preventative. Sanctions may include but are not limited to:

- (1) Alcohol, drug, and/or other education course;
- (2) Community service;
- (3) Counseling referral;
- (4) Disciplinary dismissal;
- (5) Disciplinary probation;
- (6) Disciplinary suspension;
- (7) Educational workshop;
- (8) Letter of apology / reflection paper;
- (9) Monetary fine (maximum two hundred dollars);
- (10) No contact order;



(11) Persona non grata (PNG) status (campus access restriction);

(12) Residence hall restriction and/or room/hall changes;

(13) Revocation of student organization recognition;

(14) Restitution for damages;

(15) Warning; and/or

(16) Other as deemed appropriate.

(D) Upstanding bystanders. A bystander is a person present at an event but not participating in it. Kent state university encourages proactive action such as seeking medical assistance when a student's health or safety may be in jeopardy including when danger arises due to use of alcohol, other drugs, acts of violence including gender/sexual harassment, vandalism, and behaviors that are intended to harm or demean people and the community. Being aware of an incident occurring, interpreting the incident as an emergency, taking responsibility to act, and attempting to help are all characteristics of being an upstanding bystander.