



## Ohio Administrative Code

### Rule 3342-4-02.1 Administrative policy and procedures regarding regulations for student behavior and administration of student conduct.

Effective: January 1, 2022

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(A) Purpose. Paragraph (F)(1) of rule 3342-4-02 of the Administrative Code authorizes the vice president for student affairs to establish administrative procedures as necessary to fulfill the intent of this rule. The senior vice president for student affairs has may delegated the responsibility to manage the student conduct process to the director of student conduct.

(1) It is the responsibility of the director of student conduct to determine if referrals should be assigned to conduct hearings; provide student conduct hearings and officers with technical advice, training, and clerical support; establish procedures to ensure an ongoing evaluation of student conduct rules; collect and maintain all records of formal disciplinary action; establish means to inform all members of the university community of student conduct policies and issues; and serve as a consultant to students and staff in the administration of the student conduct process. This policy establishes procedural directions and is subject to change by action of the senior vice president for student affairs. The procedures are intended to assure proper implementation of the policy regarding administration of student conduct.

(2) The director of student conduct (or designee) is responsible for a review of information contained in an incident report, and reserves the right to add, adjust, or remove accusations prior to issuing a notice of hearing (which includes an incident report and pending accusations) for any case.

(3) After reviewing the information contained in an incident report, the director of student conduct (or designee) shall assign the appropriate process for resolution, including but not limited to a sanction hearing, hearing panel, administrative conversation, administrative hearing, or referral to alternative conflict resolution.

(4) The senior vice president for student affairs (or designee) may uphold, alter or reverse any student conduct decision.

(B) Student rights and procedural standards.



(1) The university shall provide respondents and complainants (either of who may be a student or members of a student organization) the following rights:

(a) For the respondent to be sent a written notice of accusations including the identity of the complainant(s).

Complainants name(s) may not be forwarded if the office of compliance and equal opportunity and affirmative action suggests a potential detrimental risk as a result of doing so.

(b) To be notified of the scheduled hearing in writing at least forty-eight hours in advance of the hearing.

Respondents and complainants may waive this right if an earlier hearing date is agreed upon by the respondent and complainant and scheduled through the office of student conduct.

(c) To have a person or persons of their choice (not to exceed a total of two) accompany a respondent or complainant throughout the disciplinary process (individually referred to as a "conduct advisor").

(d) To participate in person or, upon request, have a logistical accommodation to participate outside of the hearing room (when necessary and/or requested in advance), during the entire proceeding except as per paragraph (C) of this rule.

(e) To be given an opportunity to present evidence, including witnesses on the student's or student organization's behalf.

(f) To question the respondent/complainant, witnesses, and investigators.

(g) To be informed of the outcome of the hearing in writing.

(h) To appeal, as defined in the code of student conduct and paragraph (D) of this rule.

(2) In addition to paragraphs (B)(1) of this rule, complainants of accusations including, but not



limited to, sexual harassment, harassment, and physical violence maintain the following rights:

(a) Indirect questioning may be conducted at the discretion student conduct convener or administrative hearing officer, verbally or in writing, supplying questions to the student conduct convener.

(b) To submit a "victim impact statement" in writing for consideration by the hearing panel or administrative hearing officer if the accused is found in violation of the code of student conduct.

(3) Multiple complaints regarding the same incident shall be administered in the order they are received, and at the discretion of the director of student conduct (or designee).

(C) Procedures for student conduct hearings.

(1) Student conduct hearings are administrative procedures and do not follow the specific steps, methods, or standards of proof or evidence used in civil or criminal courts.

(2) Any member of the university community may file an incident report accusing a student or student organization (respondent) of violating the code of student conduct. Incident reports may be submitted to the director of student conduct (or designee) in writing. The director of student conduct (or designee) will determine if the allegations are within the parameters of university policy regarding the administration of student conduct (rule 3342-4-02 of the Administrative Code) and may assign appropriate accusations based on the information provided.

(3) Action. Formal disciplinary action shall be instituted against a respondent only after the director of student conduct (or designee) has determined that such action, rather than medical or counseling services, or alternative conflict resolution / mediation referral, is appropriate.

(4) Type of hearing or referral. A sanction hearing may be assigned for violations that, even with a finding of responsibility, may not lead to suspension or dismissal from the university. A hearing panel may be convened when a respondent does not accept responsibility for accusations, or when assigned by the director of student conduct (or designee). An administrative hearing may be assigned may be assigned by the director of student conduct (or designee) in cases where the accusation



includes an alleged act of violence, significant personal or property damage, and/or the alleged behavior may be considered detrimental to the health or safety of the university. The office of student conduct sends written notification to the respondent(s) as per the code of student conduct and paragraph (C)(5) of this rule.

(a) Sanction hearing A sanction hearing is composed of one hearing officer and facilitated by a student conduct convener. A student conduct convener may serve as a sanction hearing officer and function in both roles.

If a respondent, any time prior to the start of deliberation, informs the hearing officer and/or student conduct convener that responsibility for one or more accusations is not accepted, the sanction hearing is nullified and a hearing panel may be scheduled. The sanction hearing process will immediately cease and the hearing panel process will follow the code of student conduct and paragraph (C)(12) of this rule.

(b) Hearing panel A hearing panel is composed of three hearing officers and facilitated by a student conduct convener. The purpose of a hearing panel is to decide if a respondent is responsible for accusations, and if so, to apply educational sanctions. A student conduct convener may serve on a hearing panel and function in both roles.

(c) Administrative hearing. An administrative hearing panel is composed of one hearing officer appointed by the director of student conduct (or designee). The purpose of an administrative hearing is to decide if a respondent is responsible for accusations, and if so, to apply educational sanctions.

(d) Referral to alternative conflict resolution. A student or student organization may be referred to alternative conflict resolution in lieu of and/or in addition to a student conduct hearing.

(5) Notice. A respondent shall be sent a written (and/or electronic) letter that includes accusation(s) in addition to a copy of the corresponding incident report. A date and location for a hearing shall be set and sent in writing to the respondent(s) that will be no less than three calendar days and no more than thirty calendar days after the letter of accusation(s) and incident report has been sent. Time limits may be extended at the discretion of the director of student conduct (or designee); see paragraph (B)(1)(b)(i) of this rule for further information The letter of accusation(s) and incident



report shall contain links to access information about the student conduct process, the code of student conduct, and accessibility of a conduct advisor.

(6) Separate hearings. In proceedings involving more than one respondent, a separate hearing may be requested by a respondent or complainant, and granted at the discretion of the director of student conduct (or designee). Also, upon reasonable request submitted in writing, a delay in the hearing may be granted by the director of student conduct (or designee). In all cases, the proceedings may be delayed no more than two times.

(7) Conduct advisor. A student may have up to, but not more than, two persons serving as a conduct advisor. If an accommodation is required for a respondent or complainant, a person such as an interpreter, sign language communicator, or physical needs assistant may attend a hearing and is may not be counted as a conduct advisor. A conduct advisor may not serve in any other capacity in the hearing.

(8) Impartial hearing. Prior to the start of a hearing, a respondent and complainant may question a hearing officer regarding that person's ability to participate fairly in the hearing. Questions should be directed to the director of student conduct (or designee), who will decide whether or not to remove a hearing. If the director of student conduct (or designee) determines no changes are necessary the hearing will begin as scheduled; if changes are deemed to be necessary, a hearing may be delayed or rescheduled at the discretion of the director of student conduct (or designee).

(9) Standard of review. A hearing officer or panel shall evaluate the points of view presented by the respondent(s), complainant(s), and law enforcement/investigators and shall determine by a preponderance of the evidence (more likely than not) if the respondent(s) engaged in behavior that is a violation of university rules. The consideration of information presented will be conducted in a closed session(s).

(10) Closed hearings. All hearings are closed to the public. Attendees may include: respondent(s), complainant(s), law enforcement/investigator(s), hearing officer(s), student conduct staff /convener, and conduct advisor(s). Witnesses will be allowed in the hearing room only for introductions and when the student conduct convener and/or hearing officer authorizes entry.



(a) In situations where it is known that the student conduct process is in progress addition to a pending, current, or potential legal process, Kent state university general counsel may attend the student conduct hearing.

(b) For sanction hearings, where the respondent has already accepted responsibility for the accusations, complainants may not be asked to participate in the hearing process.

(11) Failure to appear. If a complainant, respondent, or law enforcement/investigator fails to appear to a scheduled student conduct hearing, the hearing will proceed in accordance with student conduct procedures.

(12) Hearings. The office of student conduct shall create and make publicly available a guideline for hearing expectations that will include the following information:

(a) Decorum.

(b) Hearing proceedings.

(c) Questioning.

(d) Student organization hearings.

(13) All student conduct hearing decisions are final, pending the appeal process.

(14) Decisions. A letter containing the decisions of a hearing and the procedures for appeal shall be sent to the respondent(s) (and complainant(s) where appropriate). Individuals and appropriate members of the university community who are affected by/involved in the decision may also be notified, including but not limited to: the president, senior vice president for student affairs, dean of students, academic dean(s), academic advisor(s), university registrar, bursar, residence services, psychological services, university health services, center for student involvement, recreational services, department of athletics, and university police services.

If the respondent(s) is not present, the decision may be sent to the respondent's official Kent state



university email address. If the respondent(s) is a student organization and is not present, the decision may be sent to the official Kent state university email addresses of minimally the president and vice president of the accused student organization.

(15) Retaliation. A retaliatory action is any materially adverse action taken 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..

(D) Appeals.

(1) Appeal of a decision from a student conduct hearing must be submitted by the respondent(s) or complainant(s) in writing to the office of student conduct within seven calendar days from the conclusion of the hearing (or the next available business day after seven calendar days - for example holidays or recesses). An appeal must be submitted using the appeal form available through the office of student conduct. The office of student conduct compiles the written appeal and documentation from the respondent(s), complainant(s), law enforcement/investigator(s), the student's disciplinary file(s), the digital recording of the hearing, and any additional information provided by the hearing officer(s) and submits these materials to an appeal panel.

(2) Appeals may be made on the basis that:

(a) Procedural irregularity that affected the outcome of the matter; and/or

(b) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and/or

(c) The hearing officer(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; and/or

(d) For decisions resulting in separation from Kent state university only (including but not limited to suspension, dismissal, removal from university housing, and persona non grata): sanction(s) imposed



were not appropriate for the conduct violation for which the respondent(s) was found responsible.

(3) If the office of student conduct receives an appeal that does not meet any of the criteria listed in paragraph (D)(2) of this rule, it may reject the appeal.

(4) The director of student conduct (or designee) has the discretion to extend the date to appeal process timelines for extenuating circumstances.

(5) Composition. An appeal panel is composed of at least two Kent state university faculty, staff, and/or student hearing officers appointed by the senior vice president for student affairs who are trained by the director of student conduct (or designee). No member of the appeal panel shall have participated in the original hearing in any capacity.

(6) Authority. The senior vice president for student affairs (or designee) may:

(a) Accept or deny an appeal depending on the basis of the appeal, and/or

(b) Alter an assigned accusation, and/or

(c) Alter or reverse a finding of responsible/not responsible, and/or

(d) Alter or reverse any sanction decision, and/or

(e) Remand the case to another hearing. A case may not be remanded more than once.

(7) Timeline. An appeal panel will provide a recommendation in writing to the senior vice president for student affairs (or designee) within fifteen calendar days of receipt of the appeal. The vice president for student affairs (or designee) shall provide a written decision within fifteen calendar days of receipt from an appeal panel. The decision will be provided to the respondent(s) and complainant(s) in writing from the office of student conduct.

(8) Appeal decisions made by the senior vice president for student affairs (or designee) are final.



(E) Interim actions. When the senior vice president for student affairs (or designee) has reasonable cause to believe that a student(s) or student organization(s) may pose a risk to the safety or well-being of those involved or others in the university community, the student(s) or student organization(s) may be issued an interim action. Interim actions may include but are not limited to: no contact order(s); restriction from specific classes, campus facilities or locations; requirement to secure a psychological evaluation; cease and desist mandates; restriction from facilitating or participating in student organization business or activities; suspension of student status or student organization recognition; etc. An interim action shall remain in effect until removed or altered by the senior vice president for student affairs (or designee) or as the result of the student conduct process. A student or student organization may challenge an interim action in writing to the senior vice president for student affairs. Failure to comply with an interim action may result in a referral to the office of student conduct and/or the Kent state university police department.

(1) Interim suspension. An interim suspension immediately revokes a student's or student organization's access from all or any specific portion of university premises, university-related activities and/or registered student organization activities. An interim suspension will be confirmed by a written notice and shall remain in effect until the conclusion of an administrative hearing, student conduct hearing, or decision by the senior vice president for student affairs or designee). Such action may occur in conjunction with, or in lieu of, Ohio Campus Disruption Act (House Bill 1219) proceedings, at the discretion of the senior vice president for student affairs (or designee). A student or student organization may challenge an interim suspension in writing to the senior vice president for student affairs (or designee). Failure to comply with an interim suspension may result in a referral to the office of student conduct and/or the Kent state university police services.

(F) Voluntary and involuntary withdrawal. Rule 3342-4-02.5 of the Administrative Code is applied when a health emergency or condition renders a student's continued participation in university academics, programs, or services impossible, impractical or unsafe to any member of the university community. Voluntary and involuntary withdrawal may not preclude the student conduct process from occurring. In these specific instances, at the discretion of the senior vice president for student affairs (or designee), the student conduct process may be indefinitely delayed, and the student placed on ineligible hold, thus prohibiting future class registration. If/when the student attempts to re-enter the university, the pending student conduct proceedings may be reinstated.



(G) Student organizations registered with the university. Resolution of a student organization issue pertaining to an alleged violation of university policy will be addressed through the student conduct process. This may include but is not limited to recognized student organizations described in 3342-4-11 of the Administrative Code. Student organizations may be investigated and/or directly referred to the office of student conduct for adjudication. The dean of students (or designee) may receive complaints, determine interim actions if necessary, and/or coordinate investigations for allegations against student organizations.

(1) Investigations. The dean of students (or designee) may assign investigators to review allegations against student organizations for any potential violation of the code of student conduct including but not limited to, alcohol, controlled substances, hazing, physical violence, sexual assault, sexual harassment, or weapons. The dean of students (or designee) may use the information in the investigative report to: student organization and its officers and membership may be held collectively and individually responsible when violations of the code of student conduct by the organization, or its members take place. A student organization and/or individual members of a student organization alleged to have violated university rules, regulations, or policies may be referred to the office of student conduct for adjudication. If an incident involving a student organization is forwarded to the office of student conduct for adjudication, minimally the president and vice president (or equivalent executive positions) are considered representatives of the student organization, and will be provided notice in accordance with paragraph (C)(5) of this rule for participation in the student conduct process. The student organization/campus advisor may also be notified.

(a) Determine no further action is necessary; and/or

(b) Require interim actions as described in section (E) of this rule; and/or

(c) Require an administrative action including but not limited to an informal warning or a required administrative conversation; and/or

(d) Referral to the office of student conduct for adjudication.

(2) A student organization and its officers and membership may be held collectively and individually



responsible when violations of the code of student conduct by the organization, or its members take place. A student organization and/or individual members of a student organization alleged to have violated university rules, regulations, or policies may be referred to the office of student conduct for adjudication. If an incident involving a student organization is forwarded to the office of student conduct for adjudication, minimally the president and vice president (or equivalent executive positions) are considered representatives of the student organization, and will be provided notice in accordance with paragraph (C)(5) of this rule for participation in the student conduct process. The student organization/campus advisor may also be notified.

(3) Disciplinary hearings for student organizations follow paragraphs (C)(1) to (C)(16) of this rule.

(H) All-university hearing board. As stated in the university undergraduate student senate charter (provided for in rule 3342-2-08 of the Administrative Code), the all university hearing board is established to recommend sanctions regarding the violation of university rules and regulations. In addition, the all university hearing board is vested with the judicial authority for the undergraduate student government (USG).

(1) Jurisdiction. With regard to undergraduate student government, the all university hearing board shall have jurisdiction to hear and decide all cases concerning:

(a) Interpretations of the charter of the USG of Kent state university.

(b) The legality, with respect to this charter, of all USG resolutions and bills.

(c) Charges of fraud, malfeasance, or illegal procedure taking place within any general student election.

(d) Disputes between student organizations or between a student or students and any organization or organizations.

(I) Alternative conflict resolution.

(1) Alternative conflict resolution (ACR) is an informal option for seeking redress with an issue(s).



ACR may be available for issues pertaining to students or student organizations. If all persons personally and directly affected by the conflict agree to attempt resolution through an alternative process (such as mediation, facilitated dialogue, etc.) and the director of student conduct (or designee) has not already assigned the formal student conduct process, than an ACR process may be available. The nature of some conflicts, especially those involving violence, may not be appropriate for ACR options.

(2) Participation in an ACR process may or may not result in an agreement or resolution. When a mutually satisfactory resolution is reached, the situation is considered resolved with no disciplinary record being maintained. Resolutions reached through ACR may not be appealed. If a resolution is not achieved through an attempt at ACR and the matter involves a potential violation of university policy, a complainant may initiate the formal disciplinary process from the university policy regarding administration of student conduct provided for in rule 3342-4-02 of the Administrative Code.

(3) The director of student conduct (or designee) may refer incidents to ACR in lieu of adjudication. Failure of a student or student organization to make a good faith and timely effort with ACR may result in the case being referred back to student conduct for adjudication.

(J) Ohio Campus Disruption Act. The Ohio Campus Disruption Act, passed by the 108th Ohio General Assembly (House Bill 1219), directly affects the operation of state universities in Ohio. The Act has specific ramifications for university students, faculty, and staff. In essence, any individual who commits an act of violence and is arrested for that violation is subject to immediate suspension from the university. The act reads in part that a student, faculty or staff member, or employee of a college or university which receives any state funds in support thereof who is arrested for any of the so-called "trigger" offenses listed within division (A)(9)(a) of section 2901.01 of the Revised Code shall be afforded a hearing, as provided in this act, to determine whether the accused person shall be immediately suspended from that college or university. Such hearings shall be held within not more than five days after an arrest of the accused person, subject to reasonable continuances for good cause shown. Continuances shall not exceed a total of ten days. If at the hearing the referee finds by a preponderance of the evidence that the person whose suspension is being considered committed any of the specified trigger offenses, the referee shall order the person suspended. Except for cases in which the good order and discipline of a college or university will be prejudiced or compromised



thereby, the referee may permit the person to return to the college or university on terms of strict disciplinary probation. Subsequent violation of the terms of the probation automatically causes the provisions of the Ohio Campus Disruption Act to go into effect. Based on section 3345.23 of the Revised Code, the conviction of a student, faculty or staff member, or employee is cause for dismissal or suspension pursuant to section 3345.22 of the Revised Code.

(K) Family Educational Rights and Privacy Act (FERPA). Kent state university complies with the Family Educational Rights and Privacy Act of 1974 in its maintenance of student educational records. This act was established to protect the privacy of educational records, to establish the right of students to inspect and review their educational records, and to provide guidelines for the correction or deletion of inaccurate or misleading data through informal and formal hearings. Disciplinary records fit within the purview of FERPA.

(1) Parental notification. Pursuant to the Family Educational Rights and Privacy Act, the office of student conduct may send written notice to the parents and/or legal guardians of a student under twenty-one years of age who is found to be responsible for violating any state or local laws pertaining to possession, consumption, or inappropriate sale of any alcoholic beverages or controlled substances.

(L) Student disciplinary records.

(1) All hearings are digitally recorded. Recordings may be listened to or viewed by students wishing to appeal a decision. Recordings will be provided to the student only at the student's request and expense. Digital recordings are maintained only if an appeal is accepted and/or a sanction of disciplinary suspension or disciplinary dismissal is assigned.

(2) All student disciplinary records are maintained by the office of student conduct in accordance with the federal Family Educational Rights and Privacy Act, all state of Ohio laws, and the Kent state university records retention policy. See university administrative policy regarding public records (provided for in rule 3342-5-15.1 of the Administrative Code) for further details.

(3) Notation of a disciplinary record in any case shall not appear on a student's official transcript.



(M) Expunction. A student (current or former) may request expunction in writing to the office of student conduct regarding a student disciplinary record. Decisions regarding expunction made by the senior vice president for student affairs (or designee) are final and not subject to appeal, and may be based on behavior subsequent to the original violation, the nature of the original violation, and/or other relevant information or factors.

(N) Revisions and applicability.

(1) Revisions. Throughout any given year, changes to the code of student conduct may be approved. As members of the university community, students are encouraged to be aware of any public announcements concerning changes to the rules and regulations governing student behavior. Updates and other changes to the code of student conduct shall be submitted the director of student conduct.

(2) Applicability. The rule and the code of student conduct reflect language found in various university policies and procedures located in the Kent state university policy register. Revisions, changes or updates to the policy register are considered the authority in situations where conflicting information exists.