

**Document on Student Rights & Welfare<sup>1</sup>**  
**2020-2021**

**Introduction**

The academic community at Kutztown University of Pennsylvania, its faculty, students, and administration, must commonly work to secure that environment in which the acquisition of knowledge and wisdom is best fostered within the context of the University's unique objectives and programs. The University should attempt to provide each student with maximum freedom for self-development. Similarly, each student is obligated to conduct his/her affairs in a responsible manner without infringement upon the rights of other members of the University community.

Channels for constructive recommendations by students regarding academic instruction, course offerings, student-administration relations, co-curricular activities, and other matters will be established and maintained. Students will also be expected to participate, according to rules set forth in this Document, in the guidance and disciplining of their constituency.

The University as a community will strive to follow the spirit of statutory and judicial changes that affect student rights. It will also, through the Commonwealth of Pennsylvania, provide for the student body those privileges, opportunities, and protections, which enhance learning processes. Students here, as elsewhere, have the right to learn and the responsibility to respect the rights of others.

To facilitate the development of high standards of mutual respect, integrity, and optimal conditions of student development, reasonable guidelines are essential. They are set forth in this Document. These guidelines are established with the understanding that the Commonwealth of Pennsylvania, the Council of Trustees, and the President of the University have the responsibility for the organization and conduct of all the activities of the institution.

**Article 1: Freedom of Association, Expression, and Inquiry**

- A. Students should be free to organize and join associations to promote their common interest. Affiliation of a University group with an organization outside the campus does not of itself disqualify a student organization from institutional recognition. In order for a student organization to be

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<sup>1</sup> *The official policy is published in the KU student handbook, The Key; this standalone copy of the policy is made available as a reference. Please consult the official policy in the student handbook as needed.*

recognized and approved it must meet criteria that are established by the *Student Government Board* and the University. Each approved student organization shall be free to choose its own faculty or staff advisor. Institutional recognition should not be withdrawn during the time the student organization is seeking an advisor. The time allotted for this should not exceed one academic semester. All student organizations should be open to all students.

- B. Students and student organizations should be free to examine and discuss all questions of interest to them and to express opinions publicly and privately. They should be free to support causes in an orderly manner that does not disrupt the operations of the University or violate the rights of others. An opinion of a student or student organization is not necessarily that of the University. The University encourages the airing of all facets of issues and topics.
- C. Student organizations should be allowed to invite and to hear any person of their choosing providing the program is in accordance with state and federal Law. The University shall not use its control over facilities as a device of censorship.
- D. Students shall have an opportunity to participate in the formulation and application of University policy through the *Student Government Association*. The authority for the establishing of University policy and for the governance of the University is the responsibility of the *President* and the *Council of Trustees*.

## **Article 2: The Academic Rights & Responsibilities of Students**

The relationship between Kutztown University students and their instructors should be established on mutual respect and understanding. Both the student and instructor should attempt to resolve differences in informal and direct discussion.

- A. The student shall have the right to orderly expression in the classroom without penalty.
- B. The student has a right to a course grade based on the instructor's judgment of demonstrated performance in the course. A student's appeal may be based on the belief that the grade was not fairly determined.
- C. Students have a right to protection against unprofessional disclosure by an instructor concerning their grades, beliefs, political association, health, or character.
- D. Course and program selection is the responsibility of the student. He or she has a right to accurate and clearly stated information:
  - 1. on calendar dates for achieving specific academic standing;

2. on his/her own academic standing in the University; and
  3. on graduation requirements for his/her particular curriculum and major.
- E. Any student who wishes to report a concern, grievance, or complaint regarding an academic or non-academic concern should consult the following website for guidance:
- <https://www.kutztown.edu/contact/student-complaint-procedures.html>
- F. The faculty shall have final authority and responsibility for course content, classroom procedure and grade determination. No power to change any grade given to a student is vested in any student conduct authority established under this document.

### **Article 3: Student Records**

Kutztown University collects and retains information about students for designated periods of time in order to facilitate the students' educational development. The University, recognizing each student's interest in exercising control over disclosure of such information, must at the same time balance that interest against the institution's own need for information relevant to the fulfillment of its educational mission. Accordingly, the Kutztown University policy on *The Confidentiality of Student Records* ([STU-033](#)) outlines all procedures that apply to the collection, maintenance, and release of student records. Copies of the policy are on file and may be obtained through the online Policy Register (<https://www.kutztown.edu/about-ku/administration/governance/policy-register.html>).

In the interest of protecting students from the unauthorized use of records and examination of them, the following stipulations are made:

- A. Student Conduct Records. Student Conduct records are maintained by the *Dean of Students' Office*; these records may include indications of disciplinary actions. Consistent with Kutztown University policy on *The Confidentiality of Student Records* (STU-033), student conduct records:
1. are held confidential.
  2. are available for examination by the student upon request.
  3. will be maintained as follows:
    - 1) Student conduct records will be maintained for seven (7) years; records may be maintained for a longer period if the record holder is a currently enrolled student.
    - 2) Student conduct records for dismissed students will be maintained permanently.

- 3) When necessitated by extenuating circumstances (such as pending legal issues) the university reserves the right to keep student conduct records for longer periods as deemed necessary.
  - 4) For the purpose of determining when a record will be expunged, the last day of the last semester of the student's attendance at Kutztown University will be the first day of the time period.
4. are not to be used in an academic transcript or in placement records,
  5. are not to be disclosed to outside parties except as permitted or required by law, valid subpoena or permission of the student, unless provided for elsewhere in this document or University policy.

## **Article 4: Due Process**

### **A. Introduction**

Educational institutions through the regulation of the use of their facilities and the setting of standards of conduct and scholarship of students have an inherent responsibility in carrying out the educational purposes of their charter. The principles of civility, example, and due process will be followed. Proper safeguards will be provided to protect individual or group rights of students from the imposition of unjust penalties.

Any student or student organization charged with violating a University regulation shall have the right to be heard by the appropriate hearing authority. All such bodies shall follow the basic procedures of due process indicated in this document.

**All Title IX and non-Title IX cases of sexual misconduct are governed by Kutztown University's *Sexual Misconduct Policy*. The *Sexual Misconduct Policy* and its procedures are followed in all such cases, therefore, the policy and procedures outlined in the *Document on Student Rights and Welfare* do not apply. If other non-sexual misconduct violations are reported from the same set of facts and circumstances, the *Sexual Misconduct Policy* procedures will be utilized to adjudicate all charges including and in addition to, any alleged sexual misconduct.**

Please refer to *Sexual Misconduct Policy* for more information.

### **B. Rights**

1. University students have the same constitutional freedom of speech, peaceful assembly, and right of petition as other citizens enjoy and are subject to the same civil laws and due process as other citizens.
2. Illegal activity by students, whether on or off-campus, subjects the individual to prosecution by civil authorities. The principle of Dual Jurisdiction may apply in some disciplinary matters where a

student is charged (1) by law enforcement agencies of violating a civil or criminal law, and (2) by University officials for violation of a University regulation on-campus or off-campus when behavior represents a substantial university interest and/or poses a threat to the health, safety, or well-being of the university or its members.

### C. Ethical Standards of Hearing Authorities

As a part of the larger community, Kutztown University acknowledges the laws of the land and expects its members to adhere to them. While affording aid to its members in difficulties with the law, the University provides no immunity from the consequences of illegal acts. As an academic community the University has a special interest in the prevention of certain conducts, which are detrimental to its efforts to facilitate responsible inquiry and educational growth. Conduct regulations are listed in the student handbook, *The Key*.

Hearing authorities, conduct boards, appeal boards and their members exist to serve the university community. To function effectively they are responsible for adhering to certain standards.

1. All matters coming before an appropriate hearing authority are to be treated in a confidential manner. It is the right of every student to have information concerning student conduct matters confined to those directly involved. Members of the various boards or hearing authorities are obliged to refrain from discussing cases with anyone other than fellow members. The confidential nature of hearings pertains not only to the testimony presented but also to internal discussions held and decisions rendered. Under no circumstances, is it acceptable to divulge information obtained in a hearing; breaches of confidentiality are strictly prohibited
2. The members of the various boards are appointed to ensure that the welfare of the students and the academic community are preserved. The members of boards are charged, specifically, with determining if violations of college regulations have occurred through examination of presented evidence. Implicit in this charge is an acceptance of existing rules, which are established to protect the total community.
3. At no time should a board member be involved in the decision-making process when he/she has a vested interest in the outcome of the case. Any prior knowledge about the case or personal involvement with the complainant, witnesses, or respondent that would give cause for the board member to be biased or prejudiced in the decision-making process is sufficient justification for removing oneself from the deliberations.
4. It is the responsibility of the hearing authority and every board member to possess as many relevant facts as possible to reach a fair and just decision.
5. Hearing authorities and board members should never make accusations or statements regarding their personal beliefs, positions or opinions during the hearing process. Questioning should be

conducted to produce information and should not be undertaken to badger an individual. Questioning should take place without prying into personal matters that bear no relevance to the issues being adjudicated. Hearing participants must refrain from asking questions in a manner that is hostile.

6. An inherent part of the student conduct procedure is the effort to understand both the students and the situations in which they become involved. Every hearing must be executed in a proper environment and decorum.
7. Decisions are made by the board as a whole. All decisions are reached by simple majority vote and must be upheld by all members of the board.

#### **D. Entry and Search of Residence Areas**

1. Kutztown University respects the privacy of all students. Under certain circumstances, the University's obligation to maintain an appropriate educational environment would permit entry and at times search of residence hall areas.
2. The University reserves the right to routinely inspect University-owned housing for fire, health, and sanitation purposes. Such inspections will be carried out through the department of *Housing and Dining Services* and/or the department of *Residence Life*. Such inspections must be announced at least 24 hours in advance.
3. Immediate entry by University officials is permissible when violation of University regulations has been observed.
4. Entry by University officials using a *Right of Entry Form*, when there is reasonable cause to believe that violation of a University regulation exists, is permissible under the following procedures and guidelines:
  - a. University officials are authorized to make visual observations only.
  - b. Searches of rooms and portable personal effects shall be conducted only through application of a legal warrant as designated by the laws of the Commonwealth of Pennsylvania.
  - c. In cases of emergency where there is danger of life and/or property immediate entry without a statement of entry is permissible and regarded as a legitimate admission.
  - d. Evidence of a violation of a University regulation observed during a legitimate admission by University officials shall be admissible evidence in University student conduct proceedings.

## E. Procedural Due Process

1. A University official may request that student conduct charges be filed against a student for a violation of a University conduct standard or regulation by submitting an incident report to the Dean of Students' Office. In addition, members of the University community, including students, may file charges against a student when the individual filing the charges believes that he/she was a victim of the violation or that his/her rights were violated.

To file a report, go to:

<https://www.kutztown.edu/studentconduct>

or,

[https://cm.maxient.com/reportingform.php?KutztownUniv&layout\\_id=0](https://cm.maxient.com/reportingform.php?KutztownUniv&layout_id=0)

Such charges shall be filed with the *Dean of Students Office* and shall contain the following:

- a. a clear reference to the specific University regulation which was allegedly violated,
  - b. a reasonably detailed description of precise acts or omissions, (dates, times, places, victims, and co-actors, if any, shall be specified); and
  - c. identification of the person or department bringing charges (aka complainant) and all witnesses who are expected to give testimony, the substance of that testimony, and a description of other types of evidence which may be used.
2. The student respondent will be sent a **notice of charges** from the *Dean of Students' Office* that he/she is being charged with a violation of university regulations and that he/she is to make an appointment for a **preliminary briefing** with their assigned case officer within the time frame indicated in the notice of charges, typically two (2) to ten (10) business days from the date of notice.
  3. A student may waive his/her right to participate in the student conduct process, including a hearing, through a written statement.
  4. Failure to appear or schedule a preliminary briefing within the specified time-frame as informed in the notice of charges will result in the scheduling of an administrative review of the violation(s) by the assigned hearing authority. Respondents will be notified of the date and time of the administrative review and their attendance requested. ***If the respondent does not appear for this review after being provided notice, a decision of responsibility will be made at this meeting based on the presented evidence.***
  5. At the preliminary briefing the respondent:
    - a. is informed of the charges against him/her(self).
    - b. is advised of the witnesses who may be presented at a hearing.

- c. is advised of his/her right to an advocate consistent with *Article 4.G*.
- d. is advised of the possible sanctions which may be imposed.
- e. is advised of his/her right to appeal and informed of the procedure.
- f. upon being advised of the above, is asked to respond to the alleged violation by choosing one (1) of the following responses:
  - 1) accept responsibility for the violation(s) and have the case officer or hearing authority determine sanction. The respondent will be notified of his/her sanction(s), in writing, within five (5) to ten (10) business days from the date of outcome, unless extenuating circumstances exist to warrant an extension, by the case officer or hearing authority.
  - 2) deny responsibility for the violation(s) and request a formal hearing before the appropriate hearing authority.
  - 3) waive their right to participate in the hearing process as defined in *Article 4.E.3* and have their case decided informally.
- 6. Following the respondent's preliminary briefing, the complainant may also be contacted for a briefing regarding the incident status and pending hearing, if applicable.
- 7. In instances where violations are reported or take place over break periods or at the end of an academic period or where the coordination of a hearing board is not logistically feasible, students will then have a formal hearing with an assigned administrative hearing authority.
- 8. Notice of the time and place of the hearing before the appropriate hearing authority will be given to the respondent, complainant, and witnesses at least three (3) business days prior to the hearing.
- 9. In those cases where advocacy is provided by an attorney, the hearing will be scheduled no earlier than five (5) business days following the preliminary briefing unless an earlier date is requested by the respondent and approved by the Associate Dean of Students or his/her designee.
- 10. Unless an *Interim Suspension* is imposed a student shall continue matriculation until his/her case is heard through university procedure.

#### **F. Interim Suspension and Measures**

- 1. A *Decree of Interim Suspension* may be issued only when, in the judgment of the University President or his/her designee, a student's continuing presence on campus presents a clear and



present danger to other persons and/or property. If a hearing is necessary, it shall commence within ten (10) business days of issuance unless extenuating circumstances exist to warrant an extension of the interim suspension. The student will have the right to complete any missed academic work if the decree is rescinded or the student is found not-responsible. A student respondent on interim suspension who appeals an adverse outcome shall remain on interim suspension until his/her appeal is fully heard.

2. A *Decree of Interim Suspension from University Facilities* may only be issued when, in the judgment of the University President or his/her designee, a student's continued presence in a specific campus facility or facilities presents a danger or harmful effects to other persons and/or property. If a hearing is necessary it shall commence within ten (10) business days of issuance unless extenuating circumstances exist to warrant an extension of the interim suspension. A student respondent on interim suspension who appeals an adverse outcome shall remain on interim suspension until his/her appeal is fully heard.
3. A *No Contact Directive* may be issued to a student in response to an adverse health and safety situation to limit contact with a particular person(s). In most instances, no contact directives will be issued reciprocally when all parties concerned are students. A no contact directive will prohibit a student or by others on behalf of the student, from directly contacting a specified person(s), by any means, including in-person, written, telephone, and/or electronic communication such as texting and use of social media. A temporary *Facility Restriction* may also be issued in addition to or separate from, a *No Contact Directive* that may prohibit or limit access to university facilities including but not limited to, academic buildings or university owned or operated residence halls. Students who fail to comply with the terms of their *No Contact Directive* or *Facility Restriction* are subject to immediate disciplinary action.
  - a. Proximity of the involved parties in public areas on campus or in university facilities such as dining areas, student life facilities, academic buildings, or sporting events at the same time does not constitute a violation of a *No Contact Directive* in and of itself unless intentional, direct contact or intimidation occurs.
  - b. When the parties involved are enrolled in the same course, every effort will be made to make alternate academic arrangements with the instructor to allow both parties with the opportunity to complete course requirements. However, in some instances an alternative class or arrangement may not be available. In such situations, no contact requirements remain in effect but attendance at a shared class will not be considered a violation of the *No Contact Directive*.
4. When the proximity or address of a student or students within an assigned residence hall, suite, or apartment may result in an adverse health and/or safety situation, the Dean of Students Office may request or recommend to the Residence Life office and/or Housing and Dining Services office, an *Administrative Move* of a student within the residence hall system.

## G. Role of Advisors in the Student Conduct Process

1. A student bringing charges (complainant) or student charged (respondent) with violating University regulations has a right to an advisor by:
  - a. A member of the University community who may be a student, staff member or faculty member.
  - b. A private attorney whose expenses will be borne by the student.

*If necessary, you may meet with your advisor of choice on campus. Should you need a meeting space, please call Conference and Event Services at 610-683-1359, to reserve your meeting space.*

2. Any student having an advisor is required to notify the Dean of Students Office or their case officer with the name and contact information of their advocate.
3. All meeting/hearing dates and times as well as information, including the description of charges, names of witnesses, substance of testimony and other types of evidence, which may be used, will be supplied to the student throughout the student conduct process. Advisors will have access to this information through the student.
4. During the preliminary briefing or other student conduct meetings, excluding hearings, the advisor may interact with the case officer or designated university official during the meeting.
5. During formal hearings, neither party's advisor will have a formal or interactive role with the hearing authority or witnesses. The student will be granted reasonable opportunities during the hearing to privately confer with his/her advocate.
6. If the advisor is not a student, the student will be considered as host while the advisor is on campus. Any disruptive or disorderly behavior on the part of the advisor may result in charges being filed against the student under the following conduct standards: *Abuse of the Student Conduct Process* and/or *Responsibility for Actions of Guests*.
7. The Dean of Students Office reserves the right to assign a university official to attend any student conduct hearing, proceeding or meeting for the purposes including but not limited to advising hearing boards or university officials on procedures and/or for the purposes of evaluation or assessment.

## H. Formal Hearing Process

Any student accused of violating a University regulation shall have the right to due process and to have his/her case considered.

1. Quorum is required.
  - a. University Conduct Board: A typical board consists of three (3) representatives but with a minimum of at least two (2) representatives and a presiding hearing officer.
  - b. University Conduct Board (Single Administrator): A single hearing officer selected from a pool of hearing officers, Assistant Director of Student Conduct or Associate Dean of Students.
2. All hearings shall be conducted as closed proceedings to the general public and university community.
3. In the event that the respondent, without just cause or prior arrangement, does not attend the scheduled hearing or, if he/she withdraws from the university before the scheduled hearing, the case should, nevertheless, be heard.
4. The complainant's case is presented first.
5. A respondent is considered not responsible until proven responsible.
6. The complainant and respondent shall have the right to call witnesses, question all witnesses and inspect written statements which relate to the charges.
7. All hearing authorities, boards and hearing officers are empowered to issue student conduct orders to implement their decisions regarding the request of information, the appearance of witnesses, the implementation of the sanctions which they impose, and other matters necessary to their functioning. All members of the University community should comply with student conduct orders.
8. Failure to appear as a student witness is a violation of the *Student Code of Conduct*.
9. Neither respondents nor witnesses shall be compelled to testify against themselves. Deliberate falsification of testimony shall be considered cause for disciplinary action.
10. Disorderly conduct by participants may result in disciplinary action.
11. The burden of proof refers to who has the responsibility of showing a violation has occurred. In all cases, it is the responsibility of the University to satisfy the burden of proof.
12. The standard of proof used in all student conduct proceedings is a preponderance of the evidence; therefore, a decision of responsibility will be based upon presented evidence sufficient to make a

reasonable person believe that it was more likely than not a student is in violation of university policy.

13. Formal rules of process, procedure and/or technical rules of evidence such as are applied in criminal or civil court do not apply and are not used in student conduct hearings.
14. The designated hearing authority shall have the power to rule on the admissibility of evidence.
15. An outcome notice will be made in writing within five (5) to ten (10) business days, unless extenuating circumstances exist to warrant an extension, by the chair of the appropriate hearing authority to the appropriate student(s). A copy will be sent to the appropriate University official(s) with a record of the hearing. In all cases formal hearings shall be recorded. A student record holder may request a copy of the transcript of the hearing consistent with the *Policy on Confidentiality of Student Records* ([STU-033](#)). The student record holder is responsible for any transcription costs or expenses.
16. In the event the respondent is found responsible for a violation, the hearing authority will then consider a sanction following the hearing. Student conduct history, impact statements and/or testimony from individuals may be included in the consideration.
17. Kutztown University may withhold transcripts, grades, diploma or other official records pending the disposition of cases if deemed reasonably necessary by the Dean of Students Office.

#### I. **Sanctions**

1. The appropriate hearing officer or hearing authority, upon determining an individual has, in fact, been found to be responsible for violating a University standard, shall impose one or more of the following sanctions:
  - a. *Disciplinary Reprimand*: A formal letter issued when a student's conduct is deemed to be unsatisfactory to the degree that the University makes a record of the incident and warns the student against repetition of similar behavior.
  - b. *Review Period*: A period of time not to exceed one academic year and imposed with the expectation that the student will engage in a relationship with a counselor or staff member and may include a service related to the infraction committed.
  - c. *Educational Activities*: The required participation in a specified activity, service project, community service, educational program, event, assignment or other educational and/or restorative assignment.

- d. *Access Restriction:* Suspension of attendance or restrictions to co-curricular events or programs; change of residence hall assignment; and/or no contact restrictions with specific individuals for a defined period of time. The action may also restrict access or visitation privileges to campus facilities.
- e. *Restitution:* Payment for replacement or repair for damages to property. Restitution may be applied only once if civil or criminal action is also being applied. In these cases, legal judgments shall take precedence. Restitution imposed by a campus hearing authority will be held in abeyance until civil and criminal charges can be finalized.
- f. *Disciplinary Probation:* A status which declares a student to not be in good standing with the University and to be subject to loss of certain participation privileges for specified period of time not to exceed one (1) year. A student is denied the privilege to represent the University in any organized capacity including intercollegiate varsity, non-varsity or club events or to hold office in any student organization. Such probation indicates to the student that future violations of University regulations will most likely result in suspension or dismissal from the University.
- g. *Residence Hall Suspension:* A student may be excluded from campus housing for a specified period of time if held responsible through the student conduct process for a major violation of the Student Code of Conduct, for repeated infractions or a serious breach of residence hall regulations.
- h. *Deferred Suspension:* The student is informed that although the violation of university regulations may warrant a suspension decision (residence hall or university suspension), a suspension is being deferred and the student is required to adhere to specific requirements and conditions imposed by the designated hearing authority. Failure to abide by the imposed conditions may result in the rescission of the deferment. The student is also advised that any subsequent violations may result in the immediate suspension or dismissal from the university and/or residence halls.
- i. *Suspension:* A hearing authority may recommend to the Dean of Students the exclusion of student from the University for a specific period of time **not to exceed four (4) years**. During the period of suspension, the student: is ineligible to enroll or participate in any academic courses or university programs and activities; must adhere to all other terms and conditions of their official sanctions; must not be involved in further student conduct violations during their period of suspension and is required to meet with the Dean of Students or designee and complete the [Post Suspension Reentry Form](#) PRIOR to reenrolling at Kutztown University. In addition, the University may restrict or place limitations on a suspended student's access to campus facilities during this period of time as specified as part of their official sanction.

Unless a student officially withdraws from the university, the student's relationship with the university is maintained therefore any alleged disciplinary infraction that occurs while a student is serving a suspension will be adjudicated in accordance with university policy. Violating conditions of suspension subjects the student to additional sanctions including, but not limited to, an extension of suspension and/or dismissal from the university.

- j. *Dismissal*: A hearing authority may recommend to the Dean of Students the **permanent** separation of the student from the University. Under this status, the relationship between the student and the University is terminated and the individual is no longer considered a student. A dismissed student may also be restricted or limited from campus facilities during this period time as specified as part of their official sanction.

A dismissed student may petition the University, through the Dean of Students, to request consideration for eligibility to return to the university, after a minimum of four (4) years of separation. The individual must show just cause to be considered and must apply and qualify for re-admission to the University. This written petition must be submitted at least four (4) weeks prior to the term in which the former student seeks to enroll.

## 2. Application and Maintenance

- a. All sanctions imposed upon a student will be kept on file in the Dean of Students Office as an indication of one's conduct and to determine future sanctions, if necessary. These files may not be examined by hearing authorities before responsibility has been determined in an active proceeding.
- b. Sanctions may include any combination of the above (I.1.a-j).

## 3. Jurisdiction for the Issuance of Sanctions

- a. All hearing authorities may impose all sanctions, including recommendation for suspension or dismissal from the University.

## J. Appeals

### 1. Filing an Appeal

To file an appeal request, an appellant must complete and submit a *Student Conduct Request for Appeal Form* along with a **required written statement**, found online at:

[www.kutztown.edu/studentconduct/appeals;](http://www.kutztown.edu/studentconduct/appeals;)

or

[https://cm.maxient.com/reportingform.php?KutztownUniv&layout\\_id=5](https://cm.maxient.com/reportingform.php?KutztownUniv&layout_id=5)

- a. All student respondents and complainants after having their case heard and decided by the appropriate board or university official, may appeal the decision to the *Student-Faculty Review Board*. Within five (5) business days, after being officially informed in writing of the decision, an appeal form from the complainant or the respondent must be submitted online using the *Student Conduct Request for Appeal Form* to the chairperson of the *Student-Faculty Review Board* via the Dean of Students Office. All supplemental documentation and the required student statement must be submitted as one submission using the online form. Incomplete appeal request submissions will not be considered.
- b. The submitted appeal must contain specific citation that shows the reason for the appeal consistent with 4.J.3.
- c. Substantial credible evidence citing the specific error claimed in the initial hearing must be presented.
- d. There is one appeal proceeding per case. Case Officers, the designated hearing authority and the opposing respondent or complainant all have the right to review the appellant's appeal submission and the opportunity to provide a supplemental statement and/or documentation as part of the appeal process. Any supplemental information from the opposing respondent or complainant and/or other non-appellant parties must be submitted within three (3) business days of receiving notification of the appeal request.
- e. The imposition of sanctions will be stayed while the appeal process is pending except in cases of interim suspension. The appeal authority will have the right to modify the original sanction start or end dates based on the length of the appeal process and in accordance with the original sanction imposed.

## 2. Appeal Process

- a. The chairperson of the *Student-Faculty Review Board*, *Dean of Students* and a student representative of the *Student-Faculty Review Board* will review the request for appeal to determine the merits of the stated basis for appeal.
- b. If the request for appeal is accepted, the case will be referred to a panel from the *Student Faculty Review Board* for consideration on the stated reasons of appeal. If the request for appeal does not establish the existence of at least one of the reasons for appeal that is stated in the *Reasons for Appeal* section (J.3), the appeal will be rejected and the original outcome shall stand.
  - i. A minimum number of representatives for an appeal review consists of three (3) faculty representatives, two (2) student representatives and the Dean of Students (ex officio).

- c. If the appeal is accepted for further review, the *Student-Faculty Review Board* shall consider the appeal based solely on the record, request for appeal, and supplemental statement and/or documentation provided by the opposing party, case officer or hearing authority involved in the case.
- d. The appellant must cite the reason(s) for appeal and provide supporting rationale to that specific reason(s). At that time, only the cited reasons for the appeal will be reviewed.
- e. The board will then reach a decision and inform the appellant and opposing party of that decision.
- f. During the summer months and/or break periods (e.g., May through August), if a request for appeal is submitted, the Dean of Students shall review the appeal request and determine if the request for appeal should be considered. When possible and based on availability, the Dean of Students will involve the faculty chairperson and a student representative of the *Student Faculty Review Board* during this process. If the appeal is accepted for review, and a quorum of the board cannot be scheduled, the Dean of Students will rule on the appeal. If the faculty chair and student representative are not available, and other members of the board are also unavailable, the Dean of Students will make a determination regarding the appeal on behalf of the *Student Faculty Review Board*.
- g. In instances when the Dean of Students is involved in a student conduct decision or a conflict of interest exists, the Vice President for Enrollment Management and Student Affairs or designee, will act in place of the Dean of Students as part of the appeals process.

### 3. Reasons for Appeal

- a. The appealing party indicates the existence of evidence showing the previous student conduct process was not conducted in such a manner as to provide the student with procedural due process as outlined in this document.
- b. The appealing party has new evidence that was not available to him/her at the time of the proceeding, which may have significant bearing on reversal of the decision and/or reduction or increase of the severity of the sanction.
- c. The appealing party indicates there is a strong likelihood that the evidence presented at the original hearing was not sufficiently substantial to justify the decision reached.
- d. The imposed sanction is grossly disproportionate to the offense committed and/or overall student conduct record of the student.

### 3. Decisions of Appeal



After hearing and reviewing all evidence presented in the appeal, the reviewing authority shall decide to do one of the following and inform the appellant, in writing, within five (5) business days:

- a. Uphold the previous decision.
  - b. Overrule the previous decision and modify the outcome or dismiss the case.
  - c. Overrule the previous decision and send the case back to the board or hearing officer of original jurisdiction for rehearing.
  - d. Affirm or modify the imposed sanction.
4. All decisions of the *Student-Faculty Review Board* may be appealed to the President or his/her designee. The original complainant or respondent may seek a review, in writing, by the *University President* or his/her designee, within two (2) University business days of receipt of official notification. This request for review must contain relevant specific evidence consistent with 4.J.3. Should the President or his/her designee accept the appeal for review, the decision of the President or his/her designee shall be final. Should the President or his/her designee not accept the appeal for review, the decision of the *Student Faculty Review Board* shall be final.

## **Article 5: Student Conduct System**

### **A. Hearing Officers**

1. Student Conduct *Hearing Officers* are professional staff (non-faculty) appointed by the *Dean of Students* and/or *Vice President for Enrollment Management and Student Affairs* to assist with the implementation and coordination of student conduct hearings.
2. Hearing Officers:
  - a. preside over *University Conduct Board* hearings and serve as advisors to the board.
  - b. serve as the hearing authority for cases falling under the *Sexual Misconduct Policy*; one (1) to three (3) representatives will preside over hearings in such cases.
  - c. conduct formal administrative hearings as needed.
  - d. participate in on-going training and professional development regarding student conduct policies, procedures, current issues and best practices.

### **B. University Conduct Board**

1. Composition: The *University Conduct Board* will consist of 18 – 20 members of the University community. Cases brought before the board will be heard by a two (2) to three (3) member University Conduct Board panel (UCB) with a *Hearing Officer* presiding.
  - a. Five (5) students shall be selected by Dean of Students Office. All selectees must be in good academic and disciplinary standing and not currently under any student conduct sanction. Student representative appointments may be renewed on an annual basis.
  - b. Five (5) faculty members shall be selected from the willingness-to-serve process as conducted by the *Committee on Committees*. Faculty shall serve three (3) year staggered terms.
  - c. Five (5) Professional/Administrative staff shall be selected from willingness-to-serve ballots as conducted by the *Committee on Committees*. Professional/Administrative staff shall serve three (3) year staggered terms.
  - d. Three (3) to Five (5) *Hearing Officers*.
2. Procedure
  - a. All members of the *University Conduct Board* will participate in content and procedural training relating to the workings of the student conduct system.
  - b. When a case is referred to the *University Conduct Board*, it will be assigned to a *Hearing Officer*.
  - c. One (1) representative from each constituency listed in 5.B.1.a.b.c. will be assigned to a case. In the event of a lack of available representatives from one of the groups listed in 5.B.1 a-c, then more than one (1) representative from the other group(s) may serve at a hearing.
  - d. The *University Conduct Board* is responsible for finding fact, determining responsibility and recommending sanctions, if appropriate, in the case assigned.
  - e. The *Hearing Officer* will preside over the hearing and will not participate in the decision of responsibility but will facilitate the deliberative process and be responsible for making the final determination regarding sanctions, as applicable, in consultation with the *University Conduct Board*.
3. Jurisdiction
  - a. Violation of the University's *Student Code of Conduct* excluding cases falling under the *Sexual Misconduct Policy*.

## **B. Student-Faculty Review Board**

## 1. Composition

- a. Four (4) students shall be appointed by the *Student Government Board*. No students serving on the *University Conduct Board* shall be eligible for the *Student-Faculty Review Board* unless the student resigns from the former position. A member must be in good academic and disciplinary standing and not currently under any student conduct sanction.
- b. Students shall serve two (2) year terms and shall maintain their appointment regardless of their role on the *Student Government Board*.
- c. Five (5) faculty members shall serve three (3) year staggered terms with appointments made by the University Senate.
- d. Members shall take office in the fall semester of the year of their selection.
- e. Vacancies shall be filed by the appointing body within one month after they occur.

## 2. Jurisdiction

- a. Appeals from an official student conduct decision of the *University Conduct Board* or other appropriate hearing authority within the student conduct system excluding those cases under the *Sexual Misconduct Policy*.

## **Article 6: Communication Media**

- A. Student Communication Media are a valuable aid in the dissemination of information as well as establishing and maintaining an atmosphere of free and responsible discussion and of intellectual exploration on the campus. They are a means of bringing student concerns to the attention of the faculty and the institutional authorities and of formulating student opinion on various issues on the campus and in the world-at-large.
- B. It shall be the responsibility of the *Student Communication Media Advisory Board* to provide assistance to all campus communication organizations and to encourage the freedom of expression, integrity and aesthetic values in campus communications.
- C. As safeguards for the editorial freedom and responsibility of student communications the following provisions are necessary:
  1. The student communication media shall be free of censorship and advance approval of copy, and its editors and managers shall be free to develop their own editorial policies and news coverage. The editorial freedom of student editors and managers entails corollary responsibilities to be governed by the canons of responsible journalism, such as the avoidance

- of libel, indecency, undocumented allegations, attacks on personal integrity, and the techniques of harassment and innuendo. In the delegation of editorial responsibility to students, the institution must provide sufficient editorial freedom and financial autonomy for the student communications media to maintain their integrity and free expression in the academic community.
2. Editors and managers of student communication media shall be protected from arbitrary suspension and removal because of student, faculty, administrative or public disapproval of editorial policy or content. Only for proper and stated causes, violations of the canons of responsible journalism as cited in 6.3a., shall editors and managers be subject to removal, and then by orderly and prescribed procedures. Such procedures shall involve the presentation of charges by the Student Communications Media Advisory Board to the Student-Faculty Review Board.
  3. All student communication media shall explicitly state that opinions expressed are not necessarily those of the University or student body.

#### **Article 7: Definitions of Terms**

- A. *Absolute majority* - a majority of the entire voting membership.
- B. *Appellant* - a person who appeals a decision to a reviewing authority for a reversal or modification of decision
- C. *Civil and criminal law* - shall include all laws, regulations, and ordinances made by the United States Government, the Commonwealth of Pennsylvania, and its political subdivisions.
- D. *Complainant* - the person(s) referring charges of a violation of a University regulation.
- E. *Good academic standing* as described in *KU Policy ACA-042: Academic Warning, Probation, and Dismissal*.
- F. *Members of the University community* - shall include University officials, faculty, non-instructional staff, and all full-time and part-time graduate and undergraduate students.
- G. *Quorum* - the established minimum number of represented members required to conduct business.
- H. *Respondent* - the student(s) charged with violating a University regulation.
- I. *Simple majority* - a majority of those voting members present, provided there is a quorum.

- J. *University communications organization* - Any approved organization, which is engaged in University communications.
- K. *University official* - employee of the University under the authority of the President. Such personnel may include administrators, as well as faculty, when performing administrative functions.
- L. *University regulation* - an official rule established by an appropriate University authority governing the conduct or behavior of a member of the University community.
- M. *University housing* - all residential facilities owned, leased, and/or operated by Kutztown University and/or the Commonwealth of Pennsylvania.

#### **Article 8: Authority**

- A. Specific regulations concerning student conduct on or off-campus and their administration shall be the responsibility of the *Council of Trustees* and the University President through the *Division of Enrollment Management and Student Affairs* and such members of the faculty and student body as appropriate.
- B. The *Dean of Students* (or his/her designee) is that person assigned by the university President (or his/her designee) to be responsible for the administration of the *Student Code of Conduct*. *The Dean of Students (or his/her designee) is responsible* for directing periodic reviews and updates to this document and the *Student Code of Conduct*.
- C. The *Dean of Students* (or his/her designee) shall develop policies for the administration of the student conduct system and procedural rules for the conduct of hearing processes that are consistent with the provisions of the *Student Code of Conduct*.
- D. Students are recognized as contributing members of the university community. All are recognized as having specific rights and responsibilities which are set forth in this document, the *Student Code of Conduct* and the Kutztown University student handbook, *The Key*.