

### **3359-41-01 Code of student conduct at the university of Akron.**

#### **(A) Introduction, purpose and disciplinary authority of the university.**

- (1) The disciplinary power of the university is inherent in its responsibility to protect its educational purposes and processes through the setting of standards of conduct and scholarship for its students and through the regulation of the use of its facilities. The university of Akron's code of student conduct reflects and supports the educational mission of the institution, balancing the ideals of individual rights and responsibilities with community citizenship and responsibility. The code of student conduct expresses the university's values of civility, integrity in all matters, and responsible behavior on and off university premises. Students also are required to abide by applicable federal, state, and local laws.
- (2) Students at the university of Akron are responsible to know and abide by all university rules, regulations and policies. Failure to abide by the university's rules, regulation and policies may result in sanction(s) by the university. Students are subject to public laws, which the university police and other law enforcement agencies are empowered to enforce on or off university premises, either through their statutory jurisdiction or pursuant to a mutual aid agreement. Public laws include federal, state and local laws and ordinances. Should a student's conduct violate public law and the code of student conduct, the university may proceed with its own investigation and disciplinary action under the code of student conduct without awaiting the outcome of concurrent criminal, administrative or civil proceedings.
- (3) There are significant differences between the university of Akron's student conduct process and state and federal criminal processes. Criminal processes are adversarial, with one side opposing the accused. The student conduct process is designed to be a tool for student learning and development while still protecting the interests of complainants, respondents, victims and all members of the university community. Although the university of Akron's student conduct process is not designed to function as a court of law, there are policies and procedures in place to ensure that each student is treated in a fair and equitable manner. However, the formal rules of criminal procedure that apply to the criminal justice system do not apply to the student conduct process.
- (4) The overarching goal of the enforcement of the code of student conduct is to focus on the growth of the individual student, encourage self-discipline, and maintain a civil environment that is safe and conducive for learning. Each intervention within the university's student conduct process is intended to assess the cause of a student's inappropriate behavior and to develop resolutions that will benefit the individual student and the university community.
- (5) Involvement of parents or guardians in these proceedings will be governed by the "Family Educational Rights and Privacy Act" as provided in rule 3359-11-08 of the Administrative Code.

- (6) This chapter shall not be interpreted, construed or applied in any manner that abridges or denies to any student their constitutional rights as guaranteed under the constitutions of the United States or the state of Ohio.

(B) Definitions.

- (1) "Advisor." "Advisor" includes anyone assisting or supporting the complainant or respondent during their involvement in a student conduct and community standards proceeding, including but not limited to, an attorney, parent, guardian, social worker, student advocate, professor, acquaintance or friend. The role of an advisor is explained in paragraph (F)(3) of this rule.
- (2) "Appeals board." "Appeals board" refers to a panel of hearing officers assigned by the director of the department of student conduct and community standards to review appeals as defined in paragraph (F)(7) of this rule. An appeals board shall be composed of three members, including at least one student and one faculty member. No appeals board member may have participated in the initial adjudication of the case. All appeals board members must be members of the hearing officer pool. Representatives of the department of student conduct and community standards may not serve as a hearing officer on an appeals board. The appeals board procedure is explained in paragraph (F)(7) of this rule.
- (3) "Chairperson of the hearing board." "Chairperson of the hearing board" or "chairperson" refers to a member of the hearing board who is selected by the director of the department of student conduct and community standards from a smaller pool of hearing officers who have received additional training. The chairperson presides over the deliberations of the hearing board and reports the hearing board's decision.
- (4) "Code of student conduct." "Code of student conduct" refers to this rule of the administrative code, which outlines the expectations for student behavior and the procedures through which the department of student conduct and community standards addresses student misconduct.
- (5) "Complainant." "Complainant" means any individual or entity who is alleged to be the victim of conduct prohibited by the code of student conduct.
- (6) "Professional Staff." "Professional Staff" means individuals who are full-time or part-time non-teaching professional personnel of the university as described in paragraph (A) of rule 3359-22-01 of the Administrative Code.
- (7) "Disciplinary hold." "Disciplinary hold" is a restriction placed on a student's account that prevents a student from obtaining certain university services, including but not limited to: registering for classes; obtaining enrollment or degree verification; and/or receiving an official transcript.

- (8) "Disciplinary referral." "Disciplinary referral" is a communication to the department of student conduct and community standards of information about a possible violation of the code of student conduct with a request that the department of student conduct and community standards initiate action concerning the alleged violation.
- (9) "Faculty member." "Faculty member" means any individual hired by the university to conduct classroom or teaching activities, research activities or who is otherwise considered by the university to be a member of the faculty.
- (10) "Hearing board." "Hearing board" refers to a panel of hearing officers assigned by the director of the department of student conduct and community standards to make a determination of responsibility and sanction as appropriate. The hearing board shall be composed of five members including three faculty members or professional staff, but at least one of each classification, and two student members. A minimum of two faculty members must serve on a hearing board in which a student is charged with academic misconduct. In the case of a graduate or professional student accused of misconduct, the student members of the hearing board will be graduate or professional students. Representatives of the department of student conduct and community standards may not serve as a hearing officer on a hearing board. The hearing procedure is explained in paragraph (F)(6) of this rule.
- (11) "Hearing facilitator." "Hearing facilitator" refers to the representative of the department of student conduct and community standards who presides over hearings conducted pursuant to this code and ensures that the hearing procedures specified in this code are followed.
- (12) "Hearing officer." "Hearing officer" refers to a representative of the department of student conduct and community standards or members of the hearing officer pool appointed by the president and assigned by the director of the department of student conduct and community standards to make a determination of responsibility and sanction as appropriate. All hearing officers shall be trained prior to serving on a hearing or appeals board.
- (13) "Investigating officer". "Investigating officer" refers to representative of the department of student conduct and community standards who: investigates allegations of student misconduct; meets with the respondent; decides whether to proceed to a hearing; determines sanction(s) if the respondent accepts responsibility for the alleged violation(s); and presents information about the alleged misconduct to the hearing board or hearing officer.
- (14) "Member of the university community." "Member of the university community" includes students, university employees, and individuals lawfully present on university premises.
- (15) "Respondent." "Respondent" includes any student or student organization, through their authorized representative, that has been accused informally or through a

disciplinary referral of violating the code of student conduct.

- (16) "Student." "Student" includes all individuals taking credit or non-credit courses from the university of Akron. Individuals who have been notified of their acceptance for admission, individuals who withdraw after allegedly violating the code of student conduct and individuals who are matriculated but not officially enrolled for a particular term are also considered "students." Student status ceases when an individual graduates, is not enrolled for two consecutive semesters including the summer term, transfers to another institution, or an individual who is suspended or dismissed for any reason.
  - (17) "Student organization." "Student organization" means any number of individuals who have complied with the formal requirements for or are actively seeking university recognition as a student organization.
  - (18) "University official." "University official" includes any individual employed or appointed by the university and performing administrative or professional responsibilities within the scope of their authority.
  - (19) "University policy." "University policy" generally means the written regulations of the university as found in, but not limited to: the code of student conduct; the residence hall handbook; the school of law student handbook; departmental operating manuals; the university web page; university rules; and the undergraduate and graduate bulletins. University policy also includes unwritten policies that are commonly applied and utilized consistent with written policies or in order to carry out the effect of written policies.
  - (20) "University premises." "University premises" includes all land, buildings, facilities, and other property in the possession of or owned, leased, used or controlled by the university or its foundations including adjacent streets and sidewalks.
  - (21) "University." "University" means the university of Akron and all of its campuses, centers or other locations on which it operates.
  - (22) "Weapon." "Weapon" is defined in accordance with federal, state and local law, and includes any object or substance designed to inflict a wound or cause injury.
- (C) Jurisdiction.
- (1) University authority should not be used merely to duplicate the function of general laws. The university of Akron code of student conduct applies to the conduct of all students and student organizations that occurs on university premises or on non-university premises, in person or by any electronic form or medium, where the conduct away from university premises is deemed by the university to affect the university or its students and university employees, including but not limited to:
    - (a) Any professional practice assignment;

- (b) Any activity performed to satisfy an academic course or course requirement, including but not limited to internships, co-op, clinical or practicum experiences, field trips, study abroad or student teaching;
  - (c) Any activity supporting pursuit of a degree, such as research at another institution;
  - (d) Any activity sponsored, conducted, or authorized by the university or by student organizations including but not limited to social events, athletic contests and philanthropic activities;
  - (e) Any activity that causes substantial destruction of property belonging to the university or members of the university community or causes or threatens serious harm to the health or safety of members of the university community; or
  - (f) Any activity which could constitute a criminal offense as defined by local, state or federal law, regardless of the existence or outcome of any criminal proceeding.
- (2) Each student shall be responsible for their conduct from the time of notification of acceptance for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment, even if their misconduct while a student is not discovered until after a degree is awarded. The code of student conduct shall apply to a student's conduct even if the student withdraws from the university while a disciplinary matter is pending. Student status ceases when an individual graduates, is not enrolled for two consecutive semesters including the summer term, transfers to another institution, or an individual who is suspended or dismissed for any reason. The director of student conduct and community standards or designee shall determine whether the code of student conduct shall be applied to conduct occurring off university premises, on a case-by-case basis.

(D) Definition of student misconduct.

The university of Akron defines "student misconduct" as behavior that violates university policies, rules and regulations. Any student or student organization alleged to have committed or to have attempted to commit the following misconduct is subject to the disciplinary process outlined in this rule. Students and student organizations have shared responsibility for infractions committed in their presence in such a way to incite, aid or abet a violation and/or may be responsible for their guests' actions that are violations of the code of student conduct.

- (1) Academic misconduct: Engaging in any intentional or unintentional activity, individually or in concert with others, which would constitute a breach of academic integrity, or otherwise subverts the educational process. This includes the submission of any student work or assignment wherein an evaluation, grade, or academic credit is expected, whether in a face-to-face setting or by any electronic

means. Acts of academic misconduct include, but are not limited to, the following:

- (a) Cheating: the use, attempt to use, or possession of any aid, information, resources, or other means in the completion of any academic assignment, where use of such material is not specifically permitted or authorized by the instructor, or providing such material to another student. This includes, but is not limited to: possessing, referring to, or otherwise using unauthorized books, notes, crib/cheat sheets, etc. in any format; possessing, using, or referring to any unauthorized electronic devices or other materials during completion of any academic assignment; looking at or using information from another student during the completion of any academic assignment; receiving assistance from another individual in completing any academic assignment without express authorization from the instructor; utilizing or soliciting another individual to complete any portion of an academic assignment in place of oneself or submitting the work of another individual as one's own; submitting the same, or substantially the same, materials for academic credit in more than one course without the express permission of the instructor making the academic assignment; completing or participating in the completion of any portion of an academic assignment for another student to submit as their own work; providing assistance, information, or other materials to another student in any manner not authorized by the instructor.
- (b) Plagiarism: presenting as one's own work the ideas, representations, or words of another individual/source without proper attribution. Examples include, but are not limited to, submitting material that in whole or in part is not entirely one's own work, without accurate and appropriate citation and/or attribution (including the use of quotation marks); using the words, ideas, or structure/sequence of another individual or source without proper and appropriate citation and attribution (including the use of quotation marks).
- (c) Fabrication: falsification, invention, or manipulation of any information, citation, data, or method. Examples include, but are not limited to, changing materials submitted on a graded academic assignment and requesting re-grading of that assignment; presenting false or invented information in any academic assignment; presenting false claims regarding how information or data was collected, generated or obtained; inventing or inaccurately presenting citations or sources.
- (d) Unauthorized collaboration: unauthorized collaboration with another in any phase of, or in the completion of, an individual academic assignment, without the express permission of the instructor to complete any assignment in that manner.
- (e) Misrepresentation: falsely representing oneself or one's efforts or abilities in an academic assignment. Examples include, but are not limited to, utilizing another individual or individuals to complete any portion of an academic assignment in

place of one's self; having another individual appear in or participate in any fashion in any class.

- (f) Gaining an unfair advantage: completing an academic assignment through use of information or means not available to other students or engaging in any activity that interferes with another student's ability to complete their academic work. Examples include, but are not limited to: retaining, possessing, using, or distributing previous or current academic assignment materials when the instructor has indicated that those materials are not to be retained or shared or are to be returned to the instructor at the conclusion of the academic assignment or course (including originals, copies, reproductions, or pictures and electronic or hard-copy formats); making copies, pictures or reproductions in any form of any academic assignment when the instructor has not allowed such reproduction; obstructing or interfering with another student's work, or ability to get access to information to be used in the completion of any academic assignment; taking another student's work without his or her knowledge or permission; removing academic assignment materials from an instructor's office, classroom, computer, or any other University space (physical or virtual/electronic); violating the procedures described to maintain the integrity of an academic assignment.
- (g) Engaging in behavior specifically prohibited by an instructor in the course syllabus or during any academic assignments.
- (h) Attempts to engage in any of the described acts shall be treated the same as a completed act.

This rule shall not be interpreted as permitting a faculty member to limit a student's right to responsibly engage in free inquiry and expression, when relevant to the subject under study or discussion, or to be treated fairly in the academic setting and to have the student's performance evaluated solely on an academic basis.

Violation of any prohibition of academic misconduct may result in the imposition of sanctions beyond any imposed, or suggested, by the faculty member involved, and may result in the university revoking any degree awarded. Any act of academic misconduct must be reported to the department of student conduct and community standards by any faculty, or other individuals who become aware of such acts and will be adjudicated as outlined in paragraph (H) of this rule.

- (2) Furnishing false information: knowingly furnishing false or misleading information to university officials or faculty members either verbally, in writing or in any other form of communication or on university records; including, but not limited to, forgery, alteration, or misuse of any university, government, or other document, record, or instrument of identification.
- (3) Offenses against others: engaging in or threatening physical abuse, threats,

intimidation, harassment, coercion, and/or other conduct which intentionally or recklessly threatens or endangers the health, welfare or safety of any individual.

- (4) Protected class-based harassment: protected class-based harassment in violation of rule 3359-11-13 of the Administrative Code, includes, unwelcome conduct directed towards a person based on their actual or perceived membership in a protected class where (a) enduring the offensive conduct becomes a condition of continued employment or participation in the university's educational program, activities or services, or (b) the conduct is sufficiently severe or pervasive to create a work, educational or campus residential environment that a reasonable person would consider intimidating, hostile, or abusive. For purposes of this policy, protected classes are those specified in the university's affirmative action policy and include race, color, religion, sex, sexual orientation, gender identity or expression, age, national or ethnic origin, disability, status as a parent during pregnancy and immediately after the birth of a child, status as a parent of a young child, status as a foster parent, military status, genetic information, or status as a veteran. Alleged violations of protected class-based harassment will be addressed through the process as provided in rule 3359-11-13 of the Administrative Code.
- (5) Disorderly conduct: disorderly, disruptive, lewd or indecent conduct.
- (6) Unauthorized recording: unauthorized use of an electronic or other device(s) to make an audio or video recording or photograph of any individual without the individual's prior knowledge or consent, except as is otherwise permitted by law and except in a public setting where there is not a reasonable expectation of privacy and such use is consistent with the law. The faculty have the right to control the academic environment and to permit or deny permission for electronic video or audio recording in the academic environment.
- (7) Release of recordings: unauthorized distribution or dissemination of an audio or video recording or photograph of any individual without the individual's prior knowledge or consent, even if the audio or video recording or photograph originally had been produced with the individual's consent, except as is otherwise permitted by law and except in a public setting where there is not a reasonable expectation of privacy and such use is consistent with the law.
- (8) Gender-based misconduct. Gender-based misconduct as defined in the gender-based misconduct and title IX policy and protocol includes sexual harassment, sexual assault, dating violence, domestic violence, stalking, discrimination, battery, indecent exposure, sexual exploitation and retaliation. Alleged violations of gender-based misconduct will be addressed through the process outlined in the gender-based misconduct and title IX policy and protocol.
- (9) Theft/damage: theft or attempted theft, or willfully, recklessly, or negligently destroying, damaging, injuring, or using another's property without the consent of the owner.

- (10) Drugs: unlawful use, possession, manufacture, cultivation, distribution or facilitating the distribution of marijuana or any narcotic, hallucinogenic, drug of abuse, or other controlled substances as defined in applicable federal, state or local law. Possession of drug paraphernalia is also prohibited.
- (11) Alcohol: use, possession, manufacture or distribution of alcoholic beverages, or public intoxication in a manner prohibited by law or university policy including, but not limited to, any violation of rule 3359-47-01 of the Administrative Code. Alcoholic beverages may not, in any circumstance, be used by, possessed by, or distributed to any individual under twenty-one years of age.
- (12) Gambling: unlawful gambling or participating in unlawful games of chance as defined in applicable federal, state or local law.
- (13) Weapons/prohibited items: unlawful or unauthorized possession of firearms, fireworks, explosives, other weapons, or dangerous chemicals, or using any item, even if lawfully possessed, in a manner that harms, threatens or causes fear to others.
- (14) Felony/misdemeanor: commission of any felony or misdemeanor under applicable federal, state or local law.
- (15) Unauthorized access: unauthorized possession, distribution, duplication, retention or use of keys, keycards or other means of access to any university premises or unauthorized entry or exit, presence in, or use of university facilities.
- (16) Disruptive/obstructive behavior: behavior that the student knew or reasonably should have known would cause a disruption or obstruction of teaching, research, administration, disciplinary proceedings, or other university activities, including its public service functions on or off university premises, or of other authorized non-university activities occurring on university premises.
- (17) Riotous behavior: participation in a disturbance with the purpose to commit or incite any action that presents a clear and present danger to others, causes physical harm to others, or damages property. Prohibited behavior in the context of a riot includes, but is not limited to, those behaviors prohibited by federal, state or local law and:
  - (a) Engaging in conduct designed to incite another to engage in riotous or violent behavior;
  - (b) Causing or threatening damage to or destruction of university premises or property of others, whether done intentionally or with reckless disregard;
  - (c) Failing to comply with a directive to disperse by university officials, faculty members, law enforcement or emergency personnel; or
  - (d) Intimidating, impeding, hindering or obstructing university officials, faculty

members, or law enforcement or emergency personnel in the performance of their duties.

This rule shall not be interpreted as prohibiting legally protected behavior and speech under the law.

- (18) Animals: possession of or permitting animals inside buildings owned or leased by the university of Akron. This excludes disability-related service animals and animals permitted within the residence halls by the residence life and housing contract. Animals must not be disruptive to the learning or living environment of the university. Owners must control their animals at all times and abide by all applicable university policies and federal, state, and local laws (e.g., use of leashes and removal of waste) while on university premises.
- (19) Computer/network use: Students are responsible to know and abide by the regulations as outlined in rule 3359-11-10 of the Administrative Code. University computing resources include hardware, software, and data owned, licensed, or developed by the university, students, or employees. Abuse of computer facilities and resources includes, but is not limited to:
- (a) Unauthorized transfer or entry into a file, to use, read, or change the contents, or for any other purpose;
  - (b) Unauthorized access to, use of, or control of university computing resources including circumvention of computing system safeguards;
  - (c) Use of another individual's identification and/or password;
  - (d) Use of computing facilities and resources to interfere with the work of another student, faculty member or university official;
  - (e) Use of computing facilities and resources to send unlawful communications, including threats of violence, obscenity, child pornography, and harassing communications;
  - (f) Use of computing facilities and resources to interfere with normal operation of the university computing system or educational process;
  - (g) Destruction, theft or misuse of property;
  - (h) Unauthorized copying of computer software, or other violations of software copyrights, license agreements or trade secrets; or
  - (i) Using university resources to violate federal, state, or local law.
- (20) Hazing: Hazing means doing, participating in, allowing, causing, coercing or forcing an individual to do, any of the acts listed in this paragraph, regardless of the

individual's willingness to participate, for the purpose of admitting, affiliating, or initiating, an individual into or with a student organization or any other recognizable groups, teams, or associations of students, or for the purpose of continuing, enhancing, or reinstating an individual's affiliation, membership, or status in a student organization or any other recognizable groups, teams, or associations of students:

- (a) Consume any food, liquid, alcohol, drug of abuse, or other substance;
- (b) Endure any act of a physical nature including, but not limited to, whipping, beating, branding, paddling, kicking, pushing, shoving, physical exercise, physical exertion, or exposure to the elements;
- (c) Endure any act which may adversely affect the mental health or dignity of the individual including, but not limited to, sleep deprivation, exclusion from social contact, or conduct that could result in embarrassment, harassment, ridicule, or degradation;
- (d) Any activity which has the potential to be frightening, degrading, or unduly deceptive, including deception designed to convince the individual of impending pain, injury, or non-admission, non-affiliation, non-initiation, or non-membership, including, but not limited to, promoting servitude, requiring individuals to run personal errands, intentionally creating labor or clean-up work, berating or verbally harassing individuals, referring to individuals by demeaning or embarrassing nicknames, assigning individuals degrading, crude, or humiliating stunts, skits, or acts, throwing items at or on individuals, forcing individuals to carry items, forcing individuals to yell when entering or departing a physical structure or in the presence of designated individuals, forcing individuals to use designated entrances or exits, forcing an individual to be confined to a small space, transportation and/or abandonment of an individual, or requiring individuals to wear embarrassing, humiliating, or scant attire or to be nude;
- (e) Any activity that causes or creates a substantial risk of causing mental or physical harm to any individual;
- (f) Endure or participate in any act of a sexual nature;
- (g) Any activity which endangers or has the potential to endanger the academic performance of the individual, such as not allowing adequate time for or interfering with academic commitments;
- (h) Any destruction or removal of public or private property; or
- (i) Any violation of federal, state, or local law; university policy, rule or regulation; or the Ohio department of higher education anti-hazing policy.

Hazing does not include reasonable and customary athletic, law enforcement or military training, contests, competitions, or events that are explicitly relevant to the mission of the student organization or any other recognizable groups, teams, or associations of students.

Expressed or implied consent of the victim to hazing is not a defense and does not prevent the behavior from being considered a violation of this rule.

It is a violation of this rule for any individual, knowing that hazing has been or is being committed, to fail to report such information to law enforcement authorities or to the department of student conduct and community standards.

- (21) Failure to comply: willful failure to comply with directions of university officials, faculty members, law enforcement officers or emergency personnel acting in performance of their duties and/or willful failure to identify oneself to these individuals when requested to do so.
- (22) Fire safety: 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.
- (23) Abuse of the conduct system: abuse of the student conduct system, including but not limited to:
  - (a) Failing to comply with notice (with confirmation of delivery) from the department of student conduct and community standards or university official to appear for a meeting or hearing as part of the student conduct process;
  - (b) Knowingly falsifying, distorting, or misrepresenting information during the student conduct process or initiating a conduct proceeding in bad faith or without reasonable cause to do so;
  - (c) Engaging in behavior that an individual knew or reasonably should have known would cause disruption or interference with the orderly proceeding of the student conduct process;
  - (d) Attempting to discourage an individual's proper participation in, or use of, the student conduct process;
  - (e) Attempting to influence the impartiality of a member of the hearing board or hearing officer prior to, and/or during the course of, the hearing proceeding;
  - (f) Failing to comply with the sanctions imposed under the code of student conduct;  
or
  - (g) Influencing or attempting to influence another individual to commit an abuse of the student conduct system.

- (24) Violation of university policy/rule/regulation: Willfully, recklessly, or knowingly engaging in conduct that violates any university policy, rule, or regulation. It is not a defense that the student was unaware of the policy, rule, or regulation.

(E) Amnesty.

- (1) Medical amnesty. Student health and safety is a substantial university interest. The university's interest in promoting student health and safety is furthered by encouraging students to seek and obtain prompt medical assistance for themselves or another individual who is in distress from the use of alcohol, and/or other substances, or is experiencing a medical emergency. The university's interest is also furthered by removing obstacles to obtaining prompt medical assistance for an individual in need.

A student who in good faith seeks or obtains medical assistance (e.g. seeking assistance of a university staff member, calling UAPD at 330-972-2911 if on campus or calling 9-1-1 if off campus) for themselves or for another individual for the use of alcohol, other substances, or experiencing a medical emergency shall not be charged with a violation of the code of student conduct in connection with the possession or use of alcohol or drugs if all of the following apply:

- (a) The information that would be the basis of the code of student conduct alcohol, drug or other offense was obtained as a result of a student seeking medical assistance for themselves or another individual.
  - (b) The student accepts responsibility for the misconduct; obtains an alcohol and drug assessment; complies with any recommendations for treatment from a university or community alcohol or drug abuse services provider or a properly credentialed substance abuse or addiction treatment professional; and completes any educational interventions required by the department of student conduct and community standards.
  - (c) The student provides documentation of completion of assessment and treatment recommendations.
  - (d) The student has not previously been granted medical amnesty in defense of another alcohol or drug incident.
  - (e) The student is in good disciplinary standing with the university.
- (2) Limited amnesty. To encourage reporting and adjudication of student misconduct including, but not limited to, gender-based misconduct, the university of Akron may extend limited amnesty to complainants, respondents, and witnesses. Such amnesty may be granted at the sole discretion of the director of student conduct and community standards or designee.
- (3) Amnesty does not preclude any disciplinary actions regarding other university

violations including, but not limited to, endangering, threatening, or attempting to cause physical harm to another individual; gender-based misconduct; damage to property; theft; hazing; or any other code of student conduct violation.

- (4) Student organizations. If a representative of a recognized student organization seeks medical assistance under medical amnesty, that act will be considered as a mitigating factor in determining a sanction if the organization is found in violation of the code of student conduct in connection with the occurrence.
  - (5) In the event of a health and safety emergency, the university may notify the students' parents/guardians about the incident.
  - (6) Amnesty applies only to disciplinary actions under code of student conduct violations and does not limit any law enforcement agency, including the university of Akron police department, from investigating or prosecuting criminal activity in accordance with federal, state or local law.
  - (7) Determination of whether all the conditions of amnesty have been satisfied is at the sole discretion of the director of student conduct and community standards or designee. When circumstances warrant, the department of student conduct and community standards may waive compliance with paragraphs (E)(1)(d) and (E)(1)(e) of this rule. A student who fails to successfully satisfy all the conditions of this policy, including any required educational interventions, will be referred for adjudication as outlined in this rule for the original incident.
- (F) Investigation and adjudication of student misconduct.
- (1) The department of student conduct and community standards shall be the exclusive administrative unit that has authority to investigate reports of misconduct as defined in this rule and to implement the procedures and sanctions as provided in this rule. While other units and organizations such as residence halls, athletic teams and professional schools may have separate rules and administer separate penalties or sanctions, whether by contract or otherwise, that may apply to certain categories of students, the commission of misconduct as defined in this rule shall also be reported to the department of student conduct and community standards for action as appropriate under this rule.
  - (2) Interim suspension. Pending action on any alleged violation(s) of the code of student conduct, the status of the student shall not be altered or the student's right to be present on campus and to attend classes suspended, except when the student's continued presence disrupts the good order and discipline of the university or poses a threat to the physical or emotional safety of others. The vice president for student affairs or designee shall determine whether such a threat exists. If the vice president for student affairs or designee, concludes that such a disruption or threat exists, the vice president for student affairs or designee may suspend the student immediately.

When a student is suspended in this manner, the department of student conduct and community standards shall convene a hearing as soon as practical. This interim suspension does not replace the regular student conduct process.

Any student under an interim suspension may request a review of the interim suspension by submitting a written request to the vice president for student affairs or their designee. The vice president for student affairs or their designee will complete a review and issue a decision within three business days of receipt of the written request. Regardless of the outcome of the review, the student conduct process will continue as provided in this rule. The vice president for student affairs or designee has the authority to modify the interim suspension as appropriate.

- (3) Right to an advisor. The complainant and the respondent shall have the right to have an advisor of their choice present to provide advice and counsel in any meetings or hearings held by the department of student conduct and community standards. The advisor may only give counsel to their party and may not actively participate in the meeting or hearing. The same individual may not serve as an advisor and a witness; nor can the advisor of a charged student organization serve as a witness and an advisor. In extraordinary circumstances and at the sole discretion of the hearing officer/hearing facilitator, an advisor may be permitted to actively participate, subject to the limited terms and conditions set by the hearing officer/hearing facilitator. The complainant and respondent shall speak and act on their own behalf. Any advisor who repeatedly violates the limitations imposed on advisors, or otherwise engages in disruptive behavior may be removed from the meeting or hearing. Meetings or hearings will not be scheduled around the availability of an advisor. An advisor may not attend a meeting or hearing unaccompanied by the advisee.

In cases where the complainant or respondent is a minor or dually enrolled high school student, the complainant and/or respondent may have both a parent and an advisor present for a meeting or hearing.

If an accommodation is required for a complainant or respondent, an individual such as an interpreter, sign language communicator, or physical needs assistant may attend a meeting or hearing and may not be counted as an advisor.

- (4) The fact-finding process shall be as follows:
  - (a) When a disciplinary referral is received by the department of student conduct and community standards alleging a student has violated the code of student conduct the department of student conduct and community standards will send written notice to the student respondent(s). This notice will include the alleged violation(s) of the code of student conduct and details concerning a fact-finding meeting. Notice will be sent to the respondent's official university email account; however, the department may use other delivery methods as necessary.

- (b) The respondent shall be required to appear before an investigating officer(s) of the department of student conduct and community standards. Upon the respondent's appearance in the department of student conduct and community standards, the respondent shall be informed of the alleged violation(s) of the code of student conduct.
- (c) During meetings conducted by the department of student conduct and community standards the respondent and complainant shall be given:
  - (i) Reasonable access to all available materials related to the alleged violation(s).
  - (ii) An opportunity to make a statement concerning the alleged violation(s). The respondent is not required to make a statement; unless the respondent is a student organization, in which case a statement on behalf of the student organization is required. Any statements made may be used in disciplinary proceedings.
  - (iii) An opportunity to provide relevant information and/or identify relevant witnesses.
  - (iv) The right to have an advisor present. The role of an advisor is explained in paragraph (F)(3) of this rule.
- (d) Failure to appear or comply with a request to make and keep an appointment relevant to an investigation may result in a disciplinary hold being placed on a respondent's account and/or the initiation of charges for abuse of the student conduct system. In addition, failure of the respondent to participate in an investigation and/or fact-finding meeting shall in no way prevent the university from proceeding with an investigation and/or conducting a hearing.
- (e) The fact-finding process shall be concluded if:
  - (i) The respondent denies the alleged misconduct, and based on the information gathered during the investigation, the investigating officer(s) determine(s) that there is not sufficient information to support an allegation that the respondent has violated the code of student conduct. If these conditions are satisfied, the respondent and complainant shall be informed that the matter is closed; or
  - (ii) The respondent admits responsibility for violating the code of student conduct. The investigating officer(s) shall issue sanction(s) and inform the respondent and complainant of the outcome. If the respondent or complainant disagree with the sanction(s), the respondent and/or complainant may appeal the sanction(s) to the appeals board; or
  - (iii) The respondent denies the alleged misconduct, and based on the information gathered during the investigation, the investigation reveals that there is

sufficient information to support an allegation that the respondent has violated the code of student conduct, the department of student conduct and community standards may place a disciplinary hold on the respondent's account and may pursue a determination of responsibility at a hearing as outlined in this rule.

(5) Alternative resolution process.

Based on the nature of the incident and the willingness of the complainant and the respondent to participate, the department of student conduct and community standards may recommend to the parties that the matter be addressed through an alternative resolution process, which may include, but is not limited to, an educational conference, mediation or restorative justice process. Such alternative resolution processes shall be conducted by an individual chosen by the department of student conduct and community standards who has been trained in alternative resolution processes. No such process shall be conducted unless the respondent and complainant consent to the alternative resolution process.

(6) Hearing procedures.

- (a) Alleged violations of the code of student conduct shall be heard by a single hearing officer or hearing board. The respondent and/or complainant has the option to request a hearing with a single hearing officer, rather than a full hearing board. The final determination of the use of a single hearing officer or the full hearing board will be determined by the director of student conduct and community standards or designee. If a single hearing officer model is used, the hearing officer will determine if the hearing facilitator role as described in this rule will be used at the hearing.
- (b) In cases where more than one respondent or complainant is involved, a separate hearing may be requested in writing by a respondent or complainant and granted at the discretion of the director of student conduct and community standards or designee. The department of student conduct and community standards may hold separate hearings at its discretion.
- (c) The respondent and complainant shall be informed in writing by the department of student conduct and community standards of the date, time and location of the hearing, the specific violation(s) of the code of student conduct that the respondent is accused of violating, and information on the hearing procedures. The notice will be sent to the respondent's and complainant's official university email account; however, the department may use other delivery methods as necessary. Either party may request a postponement of the hearing for reasonable cause. Any request for postponement must be made in writing, include the supporting rationale and be received by the department of student conduct and community standards at least two business days before the scheduled hearing.

- (d) The complainant(s), respondent(s), hearing officer(s), and investigating officer(s) may request witnesses who might have pertinent information to participate in a hearing. Information shall be limited to elements relevant to the alleged violation(s) of the code of student conduct and only information relevant to the alleged violation(s) of the code of student conduct shall be considered by the hearing officer(s) in making a decision concerning responsibility. On a date specified by the department of student conduct and community standards, the complainant and respondent will submit to the department of student conduct and community standards a list of witnesses for the hearing, a summary of the information each witness is expected to provide and any document(s) the complainant and respondent expect to present at the hearing. The department of student conduct and community standards will make this information available to the complainant, respondent, and the hearing officer(s) prior to the hearing. The university does not have the power to compel or subpoena witnesses to attend the hearing. If a witness, for good reason, cannot attend the hearing, they may testify by telephone or video-conference. If the witness cannot testify by telephone or video-conference, they may submit a written statement. If the hearing officer/hearing facilitator determines that a written statement may be considered by the hearing officer(s), the complainant and respondent shall have the right to object to its consideration by the hearing officer(s) and, if admitted, to provide a rebuttal to said evidence.
- (e) Prior to the hearing, the respondent and complainant shall have reasonable access to all available materials and information revealed by the investigation and known to the department of student conduct and community standards.
- (f) All hearings are closed to the public.
- (g) If the respondent or complainant does not appear at the hearing, the allegation(s) shall be reviewed as scheduled on the basis of the information available and a decision shall be made.
- (h) To provide for a fair and impartial hearing the following processes shall apply:
  - (i) No hearing officer shall be a participant in the investigation of the alleged violation(s) against the respondent. If any hearing officer is unavoidably involved, that hearing officer must disclose and shall not participate in the hearing.
  - (ii) The complainant and respondent shall have the right to challenge any hearing officer for good cause. If the hearing facilitator determines that good cause has been shown, the challenged hearing officer shall be excused, and a substitute may be appointed by the hearing facilitator. Four hearing officers constitute a quorum for a hearing board.
  - (iii) Either party may raise a continuing objection to the proceedings or on any

other matter; any such objection shall be noted for the record.

- (iv) The hearing facilitator shall facilitate the operation of the hearing and shall begin the hearing by reviewing the hearing procedures that include the standard of evidence needed to support a finding of responsibility. The hearing facilitator or hearing officer shall also be responsible for recording the hearing. The recording will be made available to the respondent and complainant for review during the appeal period. The respondent, complainant, witnesses, and/or their advisors are not permitted to record any conference, hearing or disciplinary meeting.
- (v) The standard of proof that shall apply to all hearings is "preponderance of the evidence" (i.e., more likely than not), that the alleged conduct occurred.
- (vi) The respondent will enter a plea regarding each alleged violation of the code of student conduct. An admission of complete responsibility would require no further hearing proceedings, except that the complainant, respondent, and investigating officer shall be offered the opportunity to present information to be considered for the sanction(s) to be assessed by the single hearing officer or hearing board.
- (vii) The complainant and respondent will be given the opportunity to make a statement and present evidence that pertain(s) to the alleged violation(s). The respondent shall not be required to testify against themselves. No inference may be drawn against the respondent for failing to attend a hearing or remaining silent. The conclusion shall be based on the evidence presented and, if applicable, any sanction(s) shall be imposed in accordance with the findings.
- (viii) The complainant and respondent shall be given an opportunity to hear and question each other, the investigating officer, and all witnesses, as well as to present information and call witnesses. Questions asked, and testimony given by the complainant and respondent shall be limited to elements relevant to the alleged violation(s) and potential sanction(s).
- (ix) The investigating officer will present the investigative report and has the right to question the complainant, respondent, and any witnesses.
- (x) The hearing officer(s) has the right to question the complainant, respondent, investigating officer and any witness.
- (i) The hearing officer(s) and/or the hearing facilitator are responsible for the overall decorum of the hearing process, and may:
  - (i) Remove any individual in attendance at a hearing if the hearing officer/hearing facilitator believe the individual to be disruptive, distracting,

or inhibiting the process in any way.

- (ii) Limit the time of any individual presenting to the hearing officer(s).
- (iii) Limit the number of witnesses if it is determined that the information they intend to share is similar in nature to other individuals who have presented to the hearing officer(s).
- (iv) End statements or questions if the hearing officer/hearing facilitator determines that no new evidence is being offered.
- (v) Permit any additional university officials to be present during the hearing.
- (j) The hearing officer(s) and/or the hearing facilitator may request advice from a university attorney. A university attorney may be present during the hearing. The role of the university attorney shall be limited to advising the hearing officer(s) and/or the hearing facilitator on matters of procedure and on the rights of the parties; provided however that if the hearing officer and/or hearing facilitator allows an advisor to actively participate in the hearing, the university attorney shall be afforded the same opportunity to actively participate, subject to any limited terms and conditions set by the hearing officer and/or hearing facilitator.
- (k) The hearing facilitator shall attend all meetings of the hearing board with the exception of deliberations which shall be closed.
- (l) Findings regarding responsibility and sanction(s) shall be decided during closed deliberations as follows:
  - (i) In a hearing being conducted by a single hearing officer, the findings regarding responsibility and sanctions(s) shall be decided by that hearing officer.
  - (ii) In a hearing being conducted by a hearing board, the findings regarding responsibility and sanction(s) shall be decided by a majority vote of the hearing officers. The chairperson shall participate in balloting. Four hearing officers constitute a quorum; three affirmative vote(s) shall be required for a finding of responsibility.

The hearing officer(s) shall complete a report with the findings of responsibility and, if applicable, sanction(s). The report shall be signed by all hearing officer(s) and shall be final, subject only to the complainant's and respondent's right of appeal to the appeals board. A representative of the department of student conduct and community standards shall transmit the findings to the complainant and respondent.

(7) Appeals board.

(a) Procedures.

- (i) The complainant and/or respondent ("the appellant(s)") shall have five business days from the time that they are notified of the outcome of the hearing to submit an appeal in writing. In order to prepare their appeal, the appellant(s) may have reasonable access to all available materials related to the proceedings.
- (ii) The appellant(s) must prepare a written statement appealing the outcome of the hearing and submit it to the department of student conduct and community standards. The appeal is not intended to re-hear or re-argue the same case and is limited to the specific grounds outlined in this rule. The appeal must specify the applicable grounds for appeal, as listed in paragraph (F)(7)(b) of this rule, the facts that support the appellant(s)' claim(s), and the requested solution.
- (iii) In a case where a respondent has accepted responsibility for violating the code of student conduct, the appellant(s) may only appeal on the basis of paragraph (F)(7)(b)(iv) of this rule.
- (iv) The appellee(s) will be notified if an appeal is filed and will have five business days to submit a written response to the appeal. The department of student conduct and community standards may provide the appeals board with a written response. Copies of the appeal(s) and any response(s) will be made available to the parties.
- (v) The appeals board shall meet in closed session to review all records of the proceedings and to determine whether the grounds presented for appeal have merit. The appeals board may request advice from a university attorney. The role of the university attorney shall be limited to advising the hearing officer(s) on matters of procedure and on the rights of the parties.
- (vi) If the appellant(s)' appeal(s) the outcome of the hearing, the sanction(s) issued shall not be imposed until the appeal has been considered by the appeals board and the parties have been notified of the outcome of the appeal process; provided, however, that a student issued an interim suspension pursuant to paragraph (F)(2) of this rule shall remain on interim suspension during the pendency of an appeal.

(b) Grounds for appeal.

- (i) Whether there was a misapplication or misinterpretation of the rule alleged to have been violated;
- (ii) Whether the hearing was conducted in violation of procedural requirements set forth in the code of student conduct, and whether these violation(s)

significantly impacted the outcome of the hearing;

- (iii) Whether there was a reasonable basis for the hearing board's or hearing officer's decision;
  - (iv) Whether the sanction(s) imposed were grossly disproportionate to the violation(s) of the code of student conduct for which the respondent(s) was found responsible; or
  - (v) Whether there is new evidence that was unavailable to the appellant(s) at the time of the hearing which is sufficient to alter the decision.
- (c) Possible dispositions by the appeals board. The appeals board may exercise one of the following options in response to the appeal(s):
- (i) The appeal may be denied and the outcome of the hearing upheld.
  - (ii) The case may be remanded for a new hearing.
  - (iii) The appeals board may reverse the finding of responsibility, in whole or in part, made by the hearing board or hearing officer.
  - (iv) The appeals board may uphold, reduce or increase the sanction(s) imposed by the hearing board or hearing officer.
  - (v) The appeals board may dismiss the appeal if the appeal is not based upon one or more of the grounds set forth in paragraph (F)(7)(b) of this rule.
- (d) The decision of the appeals board is final.

(8) Sanctions.

- (a) Sanctions should be commensurate with the violation(s) found to have occurred. More than one sanction may be imposed for any single violation. Individual circumstances, attitude, and prior conduct history are some of the factors that are considered when determining the sanction(s). Failure to complete any sanction may result in a disciplinary hold being placed on a student's account. Possible sanctions include, but are not limited to:
- (i) Deactivation - a student organization's loss of all privileges, including university recognition, for a specified period of time.
  - (ii) Educational sanctions - other appropriate sanctions may be imposed, including but not limited to, educational conferences and/or discussions, reflection papers, workshops, work assignments, essays, service to the university or university community, or other related discretionary sanctions.
  - (iii) Failing or lowered grades – in cases of academic misconduct, a student may

be issued a failing or lowered grade in a course and/or loss of credit on coursework.

- (iv) Fine - monetary charge assigned for a violation in accordance with the schedule approved by the board of trustees.
  - (v) Formal reprimand - a notice in writing to the student that the student is violating or has violated university regulations and that future violations will result in further charges and sanctions.
  - (vi) Loss of privileges - denial of specified privileges for a designated period of time, including but not limited to restrictions on access to university facilities, university sponsored events, and residence hall actions up to and including cancellation of contract.
  - (vii) Probation - probation is imposed for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to violate any university regulation(s) during the probationary period. Students shall not be considered to be in good standing with the university until the probationary period has ended. Probation may affect a student's ability to participate in athletics, serve in a leadership capacity in a student organization or act as a representative of the university of Akron.
  - (viii) Revocation of an academic degree.
  - (ix) Revocation of admission (for violations that occur prior to the student's first, class attendance.)
  - (x) Restitution - compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
  - (xi) University deferred suspension – suspension that is delayed or deferred, pending completion of assigned sanction(s) or behavioral expectations. A finite period of observation and review occurs during the deferred suspension. This suspension will go into effect immediately if the student fails to complete the assigned sanctions or behavioral expectations or is found responsible for violations of the code of student conduct while on deferred suspension.
  - (xii) University suspension - separation of the student from the university for a specified period of time, after which the student is eligible to return. Conditions for readmission may be required.
  - (xiii) University dismissal - permanent separation of the student from the university.
- (b) Review of dismissal.

Students dismissed pursuant to this rule shall not be readmitted to the university of Akron except upon review and approval of the vice president for student affairs. No request for readmission will be considered until at least one year has elapsed from the date of dismissal. A request for readmission after a dismissal pursuant to this rule must be made in writing and should include the reasons for the request and any supporting information and/or documentation to justify the potential readmission. Upon review, the vice president for student affairs may approve or deny the request for readmission and will notify the student of the decision. Readmission under these circumstances may be accompanied by terms of strict probation or other conditions deemed appropriate by the vice president for student affairs.

(G) Hearing officers.

(1) Pool of members. The president shall appoint a pool of hearing officers from a list of nominees submitted by the vice president for student affairs. This pool shall be collected as follows:

(a) Nominees.

- (i) Faculty members. Every year, the dean of each academic college shall nominate, for a two-year renewable term, a minimum of one full-time faculty member from their college and forward the nominee(s)' name(s) to the director of the department of student conduct and community standards.
- (ii) Professional staff. Every year, a supervisor may nominate, for a two-year renewable term, a minimum of one professional staff from his or her administrative unit and forward the nominee(s)' name(s) to the director of the department of student conduct and community standards.
- (iii) Undergraduate students. Undergraduate students seeking appointment to a hearing officer position shall apply to the department of student conduct and community standards and be recommended by the undergraduate student government (USG) as provided by the USG bylaws. Nominations shall be forwarded to the vice president for student affairs. The appointment will be a one-year renewable term.
- (iv) Graduate students. Graduate students seeking appointment to a hearing officer position shall apply to the department of student conduct and community standards and be recommended by the graduate student government (GSG), consistent with its bylaws. Nominations shall be forwarded to the vice president for student affairs. The appointment will be a one-year renewable term.

(b) The director of the department of student conduct and community standards shall compile the list of all interested nominees and forward it, along with any

recommendations to serve, to the vice president for student affairs.

- (c) The vice president for student affairs or designee shall review the pool of nominees and the recommendations submitted by the director of the department of student conduct and community standards and shall forward to the president the final, recommended nominees for hearing officer membership.

(H) Academic misconduct procedure.

(1) Procedure for addressing allegations of academic misconduct.

- (a) An incident of academic misconduct may be resolved, and a sanction assessed in a meeting between the faculty member and student. If the student and faculty member agree on the facts of the incident and the proposed sanction(s), the matter can be resolved informally. The faculty member shall confer with the department of student conduct and community standards to determine whether any prior academic misconduct has occurred. Written documentation of the agreement as to the facts and the sanction should be created by the faculty member, signed by the student and retained for the faculty member's records. A copy shall be sent to the department of student conduct and community standards and the student.
  - (b) If the student and faculty member disagree about the facts of the incident or the proposed sanction(s), then the matter shall be referred to the department of student conduct and community standards for adjudication as provided in the code of student conduct. The matter also may be referred directly to the department of student conduct and community standards if the faculty member does not wish to have the matter resolved informally as provided in this rule. Such decision by the faculty member shall not prejudice the student's case.
- (2) When the alleged misconduct of the student creates an immediate health and safety concern, including but not limited to, clinical and internship environments, in addition to any other academic disciplinary processes, the student may be immediately removed from the clinical or internship environment upon recommendation of the academic dean, in accordance with the rules of the academic program, professional governing body or contract between the university and the site, pending the outcome of the university conduct process as set forth in this rule.

(I) Entering university property.

University officials have the right to enter property owned, leased or operated by the university for purposes of inspecting for cleanliness, orderliness and safety, to perform maintenance, and to administer university regulations. Evidence of violations of this code obtained as a result of this entry, may be used in disciplinary proceedings. In cases involving suspicion of misconduct, as defined in this code, except in health, welfare and safety emergencies, student premises and possessions shall not be searched without first

obtaining proper authorization from the vice president for student affairs or designee. Notwithstanding the foregoing, university police have the right to enter property, subject to the normal requirements of applicable policy and law.

(J) Disciplinary records.

Consistent with the requirements of the "Family Educational Rights and Privacy Act," disciplinary records and information concerning students may be provided from time to time to other university officials, in accordance with rule 3359-11-08 of the Administrative Code or others as prescribed by law. In such instances, neither the consent of the student nor that of the student's parents shall be required.

(K) Authority for amendments.

The procedures set forth in this document are the instrument of the board of trustees of the university of Akron. Amendments to the code may be proposed in accordance with the procedures set forth in the board's bylaws.

Effective: 10/14/2023

Certification:

M. Celeste Cook  
Secretary  
Board of Trustees

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