

# Student Code of Conduct

## I. STUDENT CODE OF CONDUCT

Kean University is committed to providing a campus environment that is conducive to academic inquiry in the university tradition. Kean is a metropolitan, comprehensive, teaching university that exists to foster inquiry and public discourse. It is also a community. At Kean, student members of the community are expected to abide by certain standards of conduct that form the basis of the Student Code of Conduct [Code] and ensure that their guests and visitors do likewise. These standards are embodied within a set of core values that include **integrity, fairness, respect, community, and responsibility**. When students fail to adhere to the community standards, appropriate proceedings may be initiated under the Code to address the failure and its consequences.

### DEFINITION OF A STUDENT

For the purposes of enforcing the Code, students are defined as persons who have accepted an offer of admission and who have a continuing relationship with the University, including taking courses at the University, both full-time and part-time, pursuing undergraduate, graduate, professional studies, or continuing education. The Code remains in effect at all Kean University campuses including Union, Kean Ocean and Wenzhou-Kean, as well as at off-campus sites or on the Internet. In addition, a University-recognized student organization is defined as any group of Kean students meeting the criteria for group registration or recognition established by the Vice President for Student Affairs.

The Vice President for Student Affairs is responsible for overseeing processes related to the implementation of the **Code**.

## II. THE STUDENT CONDUCT PROCESS UPHOLDS COMMUNITY VALUES

The student conduct process at Kean is intended to protect the interests of all members of the campus community and appropriately address conduct not in accord with the Code. Remedies and sanctions are intended to contribute to the development of student decision-making and to help them bring student behavior into accord with community values. When a student does not conform his/her behavior to community expectations, the student may be subject to appropriate remedies and sanctions including, but not limited to, restriction or loss of the privilege of participating in this community. The student conduct process is different from criminal and civil court proceedings. Procedures and rights in student conduct proceedings are conducted with fairness to all, but do not necessarily include the same process afforded by the courts.

## III. JURISDICTION OVER STUDENT CONDUCT

Students at Kean University are annually provided notification that explains how they may access the Code on the University Web site

([www.kean.edu/policies](http://www.kean.edu/policies) or [www.kean.edu/offices/community-standards-student-conduct](http://www.kean.edu/offices/community-standards-student-conduct)).

The printed document is also available in the Office of the Vice President for Student Affairs (Kean Hall, Room 124), the Office of Community Standards and Student Conduct (Miron Student Center, Room 317) and at Wenzhou Kean, D203 in the General Education Hall..

Students are charged with the responsibility to read and to abide by the provisions of the Code and the authority of the student conduct process. The Code and the student conduct process apply to the conduct of individual students and University-recognized student organizations. Because the Code is based on shared values, it sets a range of expectations for the Kean student no matter where or when their conduct may take place. Therefore, the Code applies to conduct that takes place on the campus, at University-sponsored events, and off-campus, when the administration determines that the off campus conduct affects a substantial University interest. A substantial University interest is defined to include:

- Constitutes a violation of local, state or federal law, including violations of any law or regulation of Wenzhou and/or the People's Republic of China. Included are repeat violations of any local, state or federal law committed in the municipality where the University is located.
- Indicates that the student may present a danger or threat to the health or safety of him/herself or others.

- Significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder.
- Is detrimental to the educational interests of the University.

The Code may be applied to conduct that takes place during the time a person is enrolled as a student, including during intra-semester breaks and between semesters. Further, the Code applies to guests of community members whose hosts may be held accountable for the misconduct of their guests and to visitors to the Kean campus. Sanctions for violations by visitors and guests may include but not be limited to a warning, Campus-Wide and Residence Life No Trespass and referral to the Department of Public Safety and Police. Visitors to and guests of the University are also protected by the Code, and may initiate grievances for violations of the Code committed by members of the University community against them. The University may address misconduct that occurs prior to, but is not reported until after, the graduation of the offending student, as long as the misconduct is reported within six months of its occurrence. Otherwise, there is no time limit on reporting of violations of the Code, as long as the offending student is still enrolled at the University. Those who are aware of misconduct are encouraged to report it as quickly as possible to the Office of Community Standards and Student Conduct.

#### **IV. VIOLATIONS OF THE LAW**

Violations of federal, state, and local laws are offenses under the Code even where those violations are not explicitly prohibited by this Code, including violations of any law or regulation of Wenzhou and/or the People's Republic of China. Where such offenses occur off campus, the University may institute conduct proceedings that affect a substantial university interest, at the discretion of the director of Community Standards and Student Conduct. The University may institute conduct proceedings against a student charged with violation of federal, state, or local laws without regard to the existence or possibility of civil or criminal legal proceedings. It is the policy of the University typically to pursue the conduct process in a timely manner through its conduct proceedings, rather than to delay campus proceedings for external criminal and/or civil proceedings arising from the same misconduct.

#### **V. SPECIAL PROVISIONS**

## **Attempted Violations**

In most circumstances, Kean University will treat attempts to commit any of the violations listed in the Student Code of Conduct as if those attempts had been completed.

## **College as Complainant**

As necessary, Kean University reserves the right to initiate a complaint, to serve as complainant, and to initiate conduct proceedings without a formal complaint of misconduct.

## **False Reports**

Kean University will not tolerate intentional false reporting of incidents. It is a violation of the Student Code of Conduct to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.

## **Group Violations**

When members of groups, individuals acting collusively, or members of an organization act in concert in violation of any policy, they may be held accountable as a group, and a hearing may proceed against the group as jointly accused students. In any such action, however, determinations will be made with respect to the involvement of each accused individual.

## **Immunity for Reporting Party**

Kean University encourages the reporting of conduct code violations and crimes by reporting parties. Sometimes reporting parties are hesitant to report to University officials because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that as many reporting parties as possible choose to report to University officials. To encourage reporting, Kean University pursues a policy of offering reporting parties of crimes and severe conduct offenses amnesty from policy violations related to the incident.

## **Medical Amnesty/Good Samaritan**

### **1. Philosophy**

Kean University remains committed to ensuring the health, safety and well-being of its community. As such, the University recognizes that there may be health or safety emergencies related to alcohol consumption or the use of other substances in which fear of student conduct or disciplinary action may serve as a deterrent to students who want to seek help for themselves or others. Kean University wants to make certain that students do not hesitate to seek help when faced with life threatening or critical substance related emergencies. In these circumstances, the University's response will

focus on education and prevention rather than on disciplinary action. Additional associated student conduct violations that threaten the health, safety and well-being of the community may be addressed on a case by case basis as determined appropriate by the Office of Community Standards and Student Conduct or designee.

## 2. Procedures

- a. Students who seek emergency medical assistance for themselves or for whom medical assistance was sought related to consumption of alcohol and/or drug overdose will not be charged with violations of the Kean University Code of Conduct associated with that action (specifically: Section VI., Letter E. 5 & 6 and/or RSS policy numbers 11 & 12), provided they comply with the following conditions:
  1. The student subsequently completes a screening at the Counseling Center and follows through with recommendations, which may include a more comprehensive evaluation from an outside agency or Choice program.
  2. This follow-up must be completed within the time frame determined by the University.
  3. Failure to complete this screening/evaluation/treatment may result in student conduct charges being filed with the Office of Community Standards Student Conduct.
- b. In order for Medical Amnesty/Good Samaritan to apply to students who seek emergency medical assistance for someone else, the students must communicate the substance related emergency directly to emergency medical services, 9-1-1, or to a University authority such as a Resident Assistant. The student must also remain with the individual until the emergency personnel arrive and cooperate with all emergency personnel requests for information and assistance. If the conditions for Medical Amnesty/Good Samaritan are met, the students will not be charged with violations of the Kean University Code of Conduct related to consumption of alcohol, alcohol intoxication, and/or drug use (specifically: Section VI., Letter E. 5 & 6 and/or RSS policy numbers 11 & 12 respectively), provided that the student subsequently participates in a meeting with and complies with all recommended stipulations established by the Director of Community Standards and Student Conduct.
- c. Student organizations who wish to employ Medical Amnesty/Good Samaritan will be determined on a case-by-case basis.
- d. Medical Amnesty/Good Samaritan applies only to those students or organizations who seek emergency medical assistance in connection with alcohol or drug overdose and does not apply to individuals experiencing an alcohol medical emergency who are

found by University employees. (i.e. University Police, faculty, administrative staff, residence hall directors, resident assistants, community assistants, security staff, etc...)

- e. Medical Amnesty/Good Samaritan is not intended to shield or protect those students or organizations that repeatedly violate the Code of Conduct. In cases where repeated violations of the Kean University Code of Conduct occur, the University reserves the right to take disciplinary action on a case by case basis regardless of the manner in which the incident is reported. Additionally the University reserves the right to adjudicate any case in which the violations are determined by the University in its sole discretion to be egregious.
- f. The Office of Community Standards and Student Conduct reserves the right to contact any student to discuss an incident whether or not Medical Amnesty/Good Samaritan is in effect.
- g. Information concerning students who utilize Medical Amnesty/Good Samaritan is confidential, but will be recorded for case management purposes.
- h. Medical Amnesty/Good Samaritan does not preclude students from being held responsible for other violations of the Code of Conduct.
- i. Under Kean University's Parental Notification Policy, parents may be notified about incidents involving medical amnesty as determined to be appropriate by the Office of Community Standards and Student Conduct or designee.

**Revised August 2017**

***(Note: These procedures only provide amnesty from violations of the Kean University Student Code of Conduct. It does not grant forgiveness for criminal, civil, or legal consequences for violations of Federal, State, or Local law. However, the "911 Lifeline Legislation" approved on October 1, 2009, P.L.2009, c.133 does allow for underage individuals to receive amnesty in accordance with the provisions of the law. Individuals must stay on scene and assist responders with information concerning the at-risk individual to comply with the law. Further, Good Samaritan Emergency Response Act, approved on May 2, 2013 (A578/S851), allows for the same regarding drug overdoses.)***

**Adopted on 6/21/2016**

### **Parental Notification**

Kean University reserves the right to notify parents/guardians of dependent students regarding any conduct situation, particularly alcohol and other drug violations. The college

may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is not-dependent, Kean University will contact parents/guardians to inform them of situations in which there is a health and/or safety risk. Kean University also reserves the right to designate which University officials have a need to know about individual conduct complaints pursuant to the Family Education Rights and Privacy Act (FERPA).

### **Notification of Outcomes**

The outcome of a campus hearing is part of the educational record of the accused student, and is protected from release under the federal FERPA law. However, Kean University observes the legal exceptions as follows:

Reporting parties in sexual misconduct, sexual harassment, and any other incidents falling under Title IX have an absolute right to be informed of the outcome and sanctions of the hearing, and the rationale for the decision, in writing, without condition or limitation.

The University may release publicly the name, nature of the violation and the sanction for any student who is found in violation of a University policy that is a "crime of violence," including: arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property and kidnapping/abduction. The University also will release this information to the reporting party in any of these offenses regardless of the outcome.

### **Defenses**

It has become common for students accused of policy violations to try to defend their actions with excuses, such as prescription drug interactions, self-defense, disabilities, etc. The University's policy on defenses is clear. Defending your actions is admitting to a policy violation. "Yes, we fought, but he started it." This still means you had a fight, and that violates the rules. You may have taken someone's property under the influence of an anti-depressant, but you still took someone else's property. While your defense will not excuse your actions, Kean University will take into consideration the legitimacy of your defense in addressing the proper sanction. If you were not the aggressor in a fight, you will still be sanctioned, but your sanction may be less than the sanction of the person who started the fight.

### **Misconduct Online**

Students are cautioned that behavior conducted online such as harassment delivered by email can subject them to a University conduct action. Students must also be aware that

blogs, webpages, Google+, Twitter, Facebook entries, and similar online postings are in the public sphere and are not private. These postings can subject a student to allegations of conduct violations if evidence of policy violations is posted online. The University does not regularly seek this information, but will take action if and when such information is brought to the attention of University officials.

## **VI. OFFENSES UNDER THE CODE**

### **A. INTEGRITY**

Kean University students exemplify honesty, integrity, and a respect for truth in all of their dealings. Behavior that demonstrates a lapse of integrity includes, but is not limited to:

1. Acts of dishonesty
  - a. Furnishing false information to any Kean University official, faculty member or office
  - b. Forgery, alteration, or misuse of any Kean University document, record, or instrument of identification
  - c. Tampering with the election of any Kean University registered student organization
  - d. Causing, condoning, or encouraging the completion of any Kean University record, document or form dishonestly
  - e. Initiating a false report or warning of fire, explosion, bomb threat, or other emergency
  - f. Deception – to defraud, lie, or scam to receive something of value or to mischaracterize so as to give a false belief or conclusion about something in a way that is harmful to another
  - g. Knowingly presenting a worthless check or forging a money order in payment to Kean University or to a member of the Kean University community acting in an official capacity, or failure to make satisfactory arrangement for the settling of accounts with Kean University;
2. Violations of positions of trust or authority (i.e., student employee, student leader, student athlete, student volunteer) within the community;
3. Misuse or unauthorized use of Kean University and/or organizational names and images; all Kean University sponsored activities must be sanctioned through appropriate administrative process; all Kean University representation must be approved by the Office of the Vice President for Student Affairs or the appropriate designee;



4. Intentional and unauthorized taking of the property of the University or personal property of a member of the University community including, without limitation:
  - a. Knowingly possessing stolen property
  - b. Selling or attempting to sell textbooks unless the seller is the owner of the textbook or has the permission of the owner to do so
  - c. Taking, attempting to take, or keeping items belonging to the library or items placed in the library for display

## **B. FAIRNESS**

Kean University students honor fairness and strive for fairness in all their dealings and interactions. Behavior that relates this value includes but is not limited to:

1. Obstruction of freedom of movement by community members or visitors
2. Abuse, interference, or failing to comply in Kean University processes including Conduct and Academic Integrity hearings;
3. Abuse of the campus conduct system, including:
  - a. Failure to attend meetings scheduled for conduct code administration purposes;
  - b. Falsification, distortion, or misrepresentation of information;
  - c. Failure to provide, destroying, omitting, or hiding information during an investigation of an alleged policy violation;
  - d. Attempting to discourage an individual's participation in, or use of, the campus conduct system;
  - e. Harassment (verbal or physical) and/or intimidation of a member of a campus conduct body prior to, during, and/or after a campus conduct proceeding;
  - f. Failure to comply with the sanction(s) imposed by the campus conduct system;
  - g. Failure to respect the dignity and privacy of fellow Kean community members by disclosing confidential information obtained during participation in a student conduct proceeding;
  - h. Influencing or attempting to influence (i.e., texting, calling, email, skypeing) another person to commit an abuse of the campus conduct system.

## **C. COMMUNITY**

Kean University students honor and value their community. Behavior that violates this value includes, but is not limited to:

1. Misuse of access privileges to University premises or unauthorized entry to or use of buildings, including trespass
  - a. Unauthorized or attempted entry into any building, office, construction site, or other Kean University facility
  - b. Unauthorized possession, use, or duplication of keys or other methods of controlled access such as ID or access cards or key codes
2. Damage to or littering Kean University grounds and/or properties owned or leased by registered student organizations
  - a. Driving motor vehicles on lawn or grounds without permission
  - b. Failure to clean up sidewalk chalk following an authorized student event
  - c. Failure to maintain an organization's facilities and/or surrounding property
  - d. Vandalism, the causing of intentional damage to the property of another or to Kean University
  - e. Damaging items rented, leased, or placed on the campus at the request of Kean University
3. Substantial disruption to or unreasonable interference with University operations, teaching, research, administration, other Kean University activities, including its public service functions on or off campus, or of other authorized non-Kean University activities when the conduct occurs on Kean University or leased premises.
  - a. Unruly classroom behavior that impedes instructional pedagogy
  - b. Obstruction of the free flow of pedestrian or vehicular traffic on Kean University premises or at Kean University sponsored or supervised functions.
  - c. Participating, leading, or inciting an on-campus or off-campus demonstration, riot, or activity that substantially and/or unreasonably disrupts or interferes with the normal operations of Kean University and/or infringes on the rights of other members of the Kean University community;
  - d. Failure to follow University special event policies and procedures for University events held on or off-campus.
4. Inappropriate use of resources as stated in Policy on Information Technology, including misuse of Kean University computing facilities, equipment, network, passwords, accounts or information. Students who connect their personal computers to the campus network will be held responsible for any violation of this policy that originates from that computer. Examples of misuse include:
  - a. Use of computing facilities to send harassing or abusive messages;
  - b. Use of computing facilities to interfere with the work of other community members;

- c. Unauthorized access to a file or personal or group account;
  - d. Use of computing facilities to interfere with normal operation of the Kean University computer system;
  - e. Anonymous or forged network news articles or E-mail messages;
  - f. Disk usage over the allotted limit without prior approval;
  - g. Unauthorized transfer of a file;
  - h. Unauthorized use of another individual's identification, username, and password.
  - i. Making copies of copyrighted computer software when no written authority to copy the software has been granted;
5. Possession of firearms, explosives, other weapons (including, but not limited to BB/pellet guns, slingshots, and sharp edged instruments, such as hatchets when used as weapons), or dangerous chemicals while on campus, unless properly authorized;
  6. Having animals on campus except service animals and those that may be required for class unless otherwise approved through the Office of Disability Services.

## **D. RESPECT**

Kean University students show respect for each other, for property and for the community. Behavior that violates this value includes, but is not limited to:

1. Threatening, intimidation, or severe verbal or physical abuse.
2. Assault or other conduct which threatens or endangers the health or safety of any person; and/or any conduct which is marked by utter thoughtlessness or disregard for oneself or others and provides a substantial risk to persons or property;
3. Bullying, defined as gestures or written, verbal, electronic, or physical acts that a reasonable person should know will cause physical and/or emotional harm or fear of harm to one or more individuals, often involving an imbalance of physical, psychological, and/or social power, occurring usually, but not necessarily, repeatedly and over time, and which is not speech or conduct protected by the First Amendment;
4. Intimidation (implied threats) or coercion (pressuring another unreasonably until an act is not truly voluntary);
5. Discriminatory harassment, including speech, actions, or conduct which have the effect of depriving a member of the community of educational or employment access, enjoyment, benefits, or opportunities. Merely offensive or annoying behavior may feel like harassment, but to rise to the level of a Code violation, harassment must have the potential to cause a deprivation of the civil rights of a member of a protected class;

Protected classes at Kean University include gender, race, color, religion, age, national origin, ethnicity, disability, veteran's status, sexual orientation, and pregnancy status.

6. Hazing, defined as behavior that endangers the mental or physical health of a student as a condition for initial or continued affiliation with any group regardless of either the lack of intent to endanger the student or the student's own willingness to participate. The express or implied consent of the reporting party will not be a defense. Apathy or acquiescence in the presence of hazing are not neutral acts; they are violations of this rule;
7. Domestic Violence such as actual threat or threatened physical harm or the infliction of fear of imminent physical harm upon a family member, significant other, household member, or resident sharing a room; violence between those in an intimate relationship to each other;
8. Stalking, defined as repetitive and/or menacing pursuit, following, harassment and/or interference with the peace and/or safety of another.
9. Sexual misconduct, including:
  - a. sexual harassment – sex or gender-based verbal or physical conduct that unreasonably interferes with or deprives someone of educational access, benefits, or opportunities
  - b. non-consensual sexual contact
    - Any intentional sexual touching
    - However slight,
    - With any object
    - By a person upon another person
    - That is without consent and/or by force\*
  - c. non-consensual sexual intercourse
    - Any sexual intercourse (anal, oral, or vaginal)
    - However slight
    - With any object
    - By a person upon another person
    - That is without consent and/or by force\*
  - d. Sexual exploitation – occurs when a student takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- i. Prostituting another student
- ii. Non-consensual video or audio-taping of sexual activity
- iii. Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex)
- iv. Engaging in voyeurism
- v. Knowingly transmitting an STI or HIV to another student

### **\*Consent Defined**

**Consent is informed, active and voluntary permission for specific sexual activity. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity.**

**Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.**

**Previous relationships or prior consent cannot imply consent to future sexual acts.**

1. Lewd or obscene conduct
  - a. Public urination
  - b. Sexual acts performed in public
  - c. Surreptitiously taking pictures and /or videos of another person in a gym, locker room, or restroom, residence halls, etc.
  - d. Streaking
  - e. Possession or distribution of child pornography
  - f. Possession or distribution of any obscene materials, as defined by the standards of the Kean University community.
2. Failure to comply with directions of University officials or law-enforcement officers during the performance of their duties and/or failure to identify oneself to these persons when requested to do so
3. Failure or refusal to produce a University identification card upon demand by a security officer or other official of the University acting on his/her official capacity or an officer of the law
4. Smoking in any University building or areas designated as non smoking within three feet of an entrance/exit location.
5. Inappropriate conduct

## E. RESPONSIBILITY

Kean University students are given and accept a high level of responsibility as role models. Behavior that violates this value includes, but is not limited to:

1. Intentionally or carelessly causing a fire which damages Kean University or personal property or which causes injury to any member of the community;
2. Failure to follow fire safety procedures
  - a. Failure to evacuate a building when the fire alarm sounds
  - b. Misusing, damaging, or tampering with fire safety equipment
  - c. Intentionally or recklessly obstructing a fire exit in any Kean University building
3. Action or inaction by a student which fails to discourage a known and obvious violation of Kean University policy or law; assisting in violation of Kean University policies or public laws.
4. The knowing failure of any organized group to exercise preventive measures relative to violations of this Student Code of Conduct by members;
5. Use, possession, manufacture, sale, purchase, transportation, distribution, or being in the presence of alcoholic beverages except as expressly permitted by law and the University's Alcohol Policy. This includes possession/consumption by those under the age of 21, providing alcohol to those under the age of 21, driving under the influence, and public intoxication by persons of any age. For the purposes of the Code, distribution is determined by the quantity of alcohol and /or means of distribution. Please see the full policy on alcohol use in the Annual Campus Security and Fire Safety Report.
6. Use, possession, manufacture, sale, purchase, transportation, distribution, or being in the presence of a narcotic, or other controlled dangerous substances, as well as drug paraphernalia. Abuse, misuse, or distribution of prescriptions medications, drugs or over-the-counter medications, except as expressly permitted by law. For the purposes of the Code, distribution is determined by the quantity of drugs, means, and materials for distribution. Please see the full policy on illicit drugs in the Annual Campus Security and Fire Safety Report.
7. Gambling, except as permitted by New Jersey law and/or regulation of Wenzhou and/or the People's Republic of China;
8. Operating a business. State property or facilities may not be used for personal profit, sale, and/or solicitation. Use of any facilities is prohibited unless participating in a University sanctioned event. This includes, but is not limited to, the commercialization

of rooms, the use of any space for gambling, or to solicit students or patrons for private businesses.

9. Violation of any Kean University policy, rule, or regulation published in hard copy or available electronically on the Kean University website.
10. Any allegation of violation of federal, state, or local laws.

## **VII. STUDENT CODE OF CONDUCT PROCESS AND PROCEDURES**

### **GENERAL PROCESS**

A complaint against a student for violations of the Code may be made in writing or in person by anyone who feels the Code has been violated. A complaint should be made as soon as possible following the incident. A Complaint Form is available in the Office of Community Standards and Student Conduct and on-line at [www.kean.edu/offices/community-standards-student-conduct](http://www.kean.edu/offices/community-standards-student-conduct). The reporting party should include as much detail of the alleged violation as possible and to the degree possible include specific references to that part of the Code that pertains to the complaint.

A written complaint should include the reporting party's name, address and telephone number and as much information as is known about the person accused. If there are any witnesses, their names and addresses should also be provided if known; as much detail as possible should be provided. In exceptional circumstances, provisions may be made to protect the identity of reporters and/or witnesses upon request.

### **INITIAL INVESTIGATION**

Upon receipt of a complaint or University police report, the conduct administrator of the Office of Community Standards and Student Conduct will inquire as to the circumstances surrounding the event in question to determine whether there are sufficient grounds to believe that a violation of the Code occurred.

1. The conduct administrator will schedule conferences and obtain a written statement from the reporting party, responding party, witnesses and/or other persons directly involved in the incident.
2. Based upon the sufficiency of the complaint or report filed, the conduct administrator or designee may investigate the circumstances surrounding the incident in question and

determine whether it warrants a Student Conduct Conference, a Student Conduct Hearing, or referral to the appropriate student conduct process within the University. If the director determines the complaint does not warrant further action, the matter will be closed. Such determinations are appropriate where the complained conduct does not violate the Code, and/or when there is insufficient evidence to support a reasonable belief that the Code has been violated.

### **3. Interim Suspension**

Pending the completion of the conduct administrator's investigation and subsequent hearing process, the Vice President for Student Affairs, or designee, is authorized to place an accused student on interim suspension for reasons related to his or her physical or emotional safety and well-being, to protect the integrity of the investigation and/or for reasons relating to the safety and well-being of students, faculty, staff, or University property. In some cases, the accused student may be permitted to attend classes but be suspended from all other campus activities. This determination will be made by the Vice President based upon his/her knowledge of the potential threat posed by the accused student's presence on campus. Whenever such action is taken, a Student Conduct Hearing will be convened within ten (10) business days unless an extension is agreed upon. The Student Conduct Hearing process is outlined below. At the time of an interim suspension, a Temporary Campus-Wide Notice of No Trespass or Temporary Residence Life Notice of No Trespass may be issued. These documents identify campus locations and events as off limits to the accused student until further notice.

Subject to the availability of the accused student, the Vice President for Student Affairs or designee will conduct a Student Conduct Conference prior to imposing an interim suspension. If the student is not available, an interim suspension may be imposed until such time as the accused student becomes available. At the Student Conduct Conference, the accused student will be given the opportunity to demonstrate to the Vice President for Student Affairs or designee a compelling reason (e.g. mistaken identity) why he/she should not be interim suspended pending a Student Conduct Hearing.

### **4. No-Contact Order**

The Vice President for Student Affairs may impose a limited or campus-wide No-Contact Order on an accused student when the fear of retaliation and/or harassment may be present. Specific instructions will accompany the No-Contact Order outlining the expected behavior including face-to-face contact, correspondence, e-mail, instant



message or telephone. Friends and relatives may also be prohibited from contact on behalf of the accused student.

## **NOTIFICATION**

1. If the conduct administrator of the Office of Community Standards and Student Conduct or designee determines there is reasonable cause to believe that a violation of the Code has occurred, the accused student will be notified in writing through Kean University email, within ten (10) business days of receipt of the complaint. The notification time may be longer if necessary to complete the investigation.
2. This written notice will include:
  - a. The complaint identifying sections of the Code at issue;
  - b. A link to the website location of the Code and procedures applicable to the complaint;
  - c. A request that the accused student provide a written explanation of the incident (if no prior statement was obtained);
  - d. The date, time, and location of a Student Conduct Conference.
3. If the responding party fails to meet with the conduct administrator after being properly notified, the case will be decided on the basis of information gathered by the conduct administrator.

## **STUDENT CONDUCT CONFERENCE**

1. The conduct administrator of the Office of Community Standards and Student Conduct or designee will conduct a Student Conduct Conference with the responding party.
2. At the Student Conduct Conference the responding party will:
  - a. Be informed of the information provided to date by the reporting party and other persons;
  - b. Be given an opportunity to raise questions and discuss the information;
  - c. Be given the opportunity to admit the allegations and accept responsibility for the violation(s);
  - d. Be given the opportunity to deny the allegations;
  - e. Be informed of the process and possible remedies and sanctions that may result.
3. As a result of the Student Conduct Conference, the conduct administrator of the Office of Community Standards and Student Conduct or designee may:
  - a. Dismiss the complaint;

- b. Refer the complaint to the Kean Counseling Center for appropriate follow up which may include mediation with the reporting party (not applied to sexual assaults or other acts of violence);
- c. Refer the complaint to the appropriate administrative process within the University;
- d. Resolve the complaint informally or impose a remedy and/or sanction that does not result in suspension or expulsion;

If the accused student does not agree with the decision made at the Student Conduct Conference, the student has the right to appeal the decision to the next level administrator within (5) five business days of receipt of the decision letter. The appeal process will be given in writing at the time of the decision letter.

- e. Determine that a Student Conduct Hearing is appropriate.

## **STUDENT CONDUCT HEARING**

1. Notification of a Student Conduct Hearing will be provided by the Office of Community Standards and Student Conduct to the reporting party and the responding party by email to the student's official @kean.edu account. All such notice is presumptively delivered whether the student reads their mail/email or not, as all students are required to regularly check their email accounts. The notice will include:
  2. The name of the reporting party;
  3. The nature of the alleged violations, including the specific code sections alleged to have been violated, applicable conduct procedures and the sanctions that may result;
  4. The time and place of the hearing. All Student Conduct Hearings will be scheduled during regular business hours (9 a.m. – 5 p.m.);
  5. The right to have witnesses. The University may arrange for witnesses to be present or assign to the reporting party and the responding party the responsibility to contact his/her witnesses and arrange for their participation. All student witnesses are asked to complete and sign a FERPA consent form. No less than 48 hours prior to the hearing, Both the reporting party and the responding party must provide a list of witness names and a statement of their witness' anticipated testimony; all witnesses must be confirmed by the Office of Community Standards and Student Conduct no later than 48 hours prior to the hearing.
  6. The right to have an advisor. The advisor may not be a witness at the hearing or otherwise participate in the hearing;
  7. The right to present relevant information;

8. The names of others who will be present at the hearing (if known), including the names of the hearing officers; and a copy of the procedure for challenging any of the hearing officers on the basis of partiality
9. Notice that a Document File compiled by the Office of Community Standards and Student Conduct with statements from the reporting party, responding party and witnesses and any other documentary information will be available to the responding party, the reporting party, and their advisors for review at least three (3) days prior to the Student Conduct Hearing. An appointment is required to review the Document File. Copies may be made available upon specific request.

## **HEARING OFFICERS**

Student Conduct Hearings for violations of the Code will be conducted by a trained member(s) of the University faculty, staff, or consultant designated by the Office of Community Standards and Student Conduct.

## **CONDUCT OF THE HEARING**

The hearing will be closed to all members of the campus and outside community except those directly involved with the complaint. The reporting and responding party each have the right to be assisted by an advisor of their choice who is not a witness in the complaint. An advisor or legal counsel may be present to advise only and may not participate. Advisors who interfere with the proceedings can be excused by the hearing officer. An audio recording of the hearing is made and kept by the Office of Community Standards and Student Conduct.

Only persons involved in the hearing process will be permitted in the vicinity of the hearing.

It is expected that participants and advisors will respect the dignity and privacy of Kean community members and keep private that which transpires during the hearing, in accordance with federal law.

Student witnesses, when called by the University on behalf of the reporting party, the responding party, or the University, are required to participate in the hearing process.

The hearing process will be conducted in the following manner:

1. All participants and advisors will be introduced to the hearing officer.
2. All participants and advisors will be introduced to the audio technician.

3. The hearing officer will recite the complaint against the student and all Code sections alleged to have been violated.
4. The responding party will state whether he/she is responsible, not responsible, or responsible with an explanation for the alleged misconduct. Responsible with an explanation means the student admits to the actions but believes there were circumstances that should be taken into consideration by the hearing officer in the determination of this complaint.
5. Statements regarding their respective positions may be given by the reporting party and the responding party. The Hearing Officer may place reasonable time limitations on the statements.
6. The University reserves the right to assign a representative of the Office of Community Standards and Student Conduct to present the complaint.
7. Relevant records, documents, and written statements may be accepted and considered by the hearing officer.
8. The reporting and responding party may be present throughout the entirety of the proceeding except for the deliberation phase. The reporting party, the responding party and the Office of Community Standards and Student Conduct representative will be able to present witnesses who will be subject to questioning. Witnesses will be asked to remain until the end of the hearing in the event they must be called back for clarification of their testimony. In the event that a witness is unavailable, a signed statement from the witness may be admitted. Any such statements will be shared with the parties prior to the hearing, and the responding party will be given full opportunity to respond to the written statement at the hearing.
9. Witnesses will appear separately and will leave the hearing room after their testimony is completed. Witnesses are not permitted to leave the vicinity of the hearing room until permission has been granted by the hearing officer, and witnesses are instructed not to communicate with other witnesses outside the hearing during the proceedings.
10. All parties may question each other and the witnesses, and the hearing officer may direct questions as appropriate to any participant, or require that all questions go through the hearing officer. Other accommodations may be utilized to ensure that the hearing is a safe space for participants. The reporting and responding party may present concluding remarks. The Hearing Officer may place reasonable time limitations on the statements.
11. At the conclusion of the hearing, the hearing officer will advise the reporting and responding party that his/her determination will be given, in writing, to the appropriate

parties.

12. The responding party's prior student conduct record will be a factor in determining the appropriate sanction(s).
13. The reporting party will not be notified of the outcome of the hearing EXCEPT in cases of violence, sexual misconduct, or offense that fall under Title IX, once the decision of the hearing officer has been issued.
14. For each separate offense, the hearing officer will determine whether the responding party is responsible or not responsible. The decision will be based upon an evaluation of the information presented and a determination as to whether the Code was more likely than not to have been violated. For each violation, the hearing officer will impose an appropriate remedy and/or sanction.
15. The rules of evidence applicable to the courts do not apply to Code proceedings of this University community. Fair process applicable to this process is as defined in these procedures.
16. The Director of Community Standards and Student Conduct or designee may implement changes to these proceedings as needed that do not jeopardize the material fairness owed to the parties to any complaint.

## REMEDIES AND SANCTIONS

- A. The following remedies and sanctions may be imposed when responding parties have been found responsible for violation of the Code. In addition, other remedies and sanctions may be fashioned at the discretion of the hearing officer:
  1. Written Warning to the offender that the conduct must stop and any continuation may be a basis for more severe action.
  2. Letter of Reprimand.
  3. Probation – Notice that further violation of the Code may result in expulsion. Also, the decision may place some additional restrictions on membership in student organizations and/or participation in activities or may establish special restitution and service requirements.
  4. Suspension:
    - a. Specific Period – Revocation of the privilege of attending the University and using its facilities for a specific period not to exceed two academic years.
    - b. Indefinite Period – Revocation of the privilege of attending the University and using the facilities pending the satisfying of specific conditions. The Vice President for

Student Affairs will determine whether the conditions have been satisfied.

5. Residence Hall Suspension - Revocation or restriction of privileges for the use of, access to, and/or residence in University Residence Halls
6. Facilities Restriction – Revocation or restriction of privileges for the use of some but not all University facilities
7. Expulsion – Permanent termination of student status and rights to be present on University property and attend/participate in University-sponsored events
8. Referral to civil or criminal authorities

*Any of the following may accompany a remedy and sanction:*

9. Restitution requiring individuals to restore or replace within a specified time, property which has been damaged, defaced, lost, or stolen.
  10. Service assignment requiring an individual to perform services for the community or the University
  11. Referral to appropriate psychological or psychiatric service for evaluation, mandated assessment, or other special help.
  12. Fines for drug and alcohol violations as outlined in the Annual Campus Security and Fire Safety Report at [www.kean.edu/annual-campus-security-and-fire-safety-report](http://www.kean.edu/annual-campus-security-and-fire-safety-report).
  13. A Campus-Wide Notice of No Trespass will accompany a sanction of suspension or expulsion from the University.
  14. A Residence Life Notice of No Trespass will accompany any restriction imposed or related to residential living or visitation of the residence halls.
  15. Campus-Wide No Contact Order: The Vice President of Student Affairs may impose a Campus Wide No-Contact Order between parties when the fear of retaliation and/or harassment may be present. Specific instructions will accompany the Campus-Wide No-Contact Order outlining to all parties the expected behavior including face to face contact, correspondence, e-mail, instant message or telephone. Friends and relatives are also not permitted to have any contact on behalf of either party.
- B. Underage students found in violation of the University's Alcohol Policy and/or sanctioned for the possession or distribution of illegal drugs will be subject to the University parental notification policy. (See FERPA Policies and Procedures in the Annual Campus Security and Fire Safety Report). In addition, Kean University reserves the right, in accordance with FERPA, to make public notification of the final results of certain student conduct actions (See FERPA Policy in the Annual Campus Security and Fire

Safety Report). Such notification may include the name of the student offender and the type of violation, but will not disclose the names of any other students who were involved as reporting parties or witnesses without their consent.

## **APPEAL PROCEDURES**

- A. Where an individual is found responsible for a violation of the Code that may lead to a sanction less serious than suspension or expulsion, the individual can appeal in writing to the Review Committee for Appeals within five (5) business days from the date of the hearing officer's determination. A person will have the right to request a review based on any of the following grounds:
1. A sanction that falls outside the sanction range commonly assigned for the offense
  2. A material deviation from written procedures that jeopardized the fairness of the process
  3. A demonstrable bias by the hearing officer
  4. New information, unavailable at the time of the hearing, that could be outcome determinative
- B. In the case of suspension or expulsion, the student can appeal in writing to the Vice President for Student Affairs within three (3) business days of the receipt of the hearing officer's determination.
- C. In the case of suspension or expulsion, the student will not be permitted to be on campus or attend classes pending the outcome of the appeal unless implementation of the sanction is delayed by the Vice President for Student Affairs due to extraordinary circumstances.

## **THE REVIEW COMMITTEE FOR APPEALS**

The Review Committee for Appeals is a body consisting of trained staff and students whose role is to review all student conduct conference appeals. The Office of Community Standards and Student Conduct will submit the appeal to the Review Committee within ten business days of receipt. Appeals to the Review Committee will be limited to information presented during the meeting with the conduct administrator and supporting documents provided by the respondent and the conduct administrator. If new information, which was reasonably not available at the time of the original decision, is presented, the Review Committee may send the case back to the conduct administrator for further evaluation.

The Review Committee is composed of one student and two hearing officers. The Committee will review the written challenge and, based on a preponderance of the evidence standard, determine whether or not the student should be granted an appeal. If Committee determines that an appeal is not granted, the decision of the conduct administrator will go into effect and the student will have no further appeal opportunities. The Review Committee's decision not to grant an appeal is final.

If the Committee determines that an appeal should take place, the case will be forwarded to the next level administrator for review. The Review Committee will convene weekly and all proceedings are closed to the public.

## **APPEAL OF SUSPENSION/EXPULSION TO THE VICE PRESIDENT FOR STUDENT AFFAIRS**

The request for review of an appeal will be considered by the Vice President for Student Affairs to determine whether grounds for an appeal exist. A person will have the right to request an appeal based on any of the following grounds:

1. A sanction that falls outside the sanction range commonly assigned for the offense
2. A material deviation from written procedures that jeopardized the fairness of the process
3. A demonstrable bias by the hearing officer
4. New information, unavailable at the time of the hearing, that could be outcome determinative

## **REQUEST FOR APPEAL TO THE VICE PRESIDENT FOR STUDENT AFFAIRS**

1. The Vice President for Student Affairs or designee will review the written request for an appeal to determine whether there is sufficient basis to grant an appeal. If so, he/she will proceed to hear the appeal, or return the complaint to the original hearing body for reconsideration or rehearing in light of the basis for the appeal.
2. If the Vice President for Student Affairs determines that there is not a sufficient basis to change the decision of the hearing officer, the parties to the complaint will be notified in writing.
3. Appeals are deferential to the original hearing decision, and are not intended as a rehearing. If the Vice President for Student Affairs hears the appeal, he/she may determine that there is a sufficient basis to change the decision of the hearing officer if there is clear error or compelling justification only. If so, he/she may reverse, uphold or



modify the decision, or change the sanction. Normally, appeals involve a review of the hearing record and appeal request.

4. The decision of the Vice President for Student Affairs will be final within the University Student Conduct structure.

***\*Policy updated September 2017***

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# Community Standards and Student Conduct

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**Community Standards & Student Conduct Forms**

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**Q & A**

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**Student Code of Conduct**

**FILE AN INCIDENT REPORT**

## **Kean University**

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Union, New Jersey 07083

**908-737-KEAN (5326)**

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