



**STUDENT HANDBOOK  
2020-2021**

**Student Conduct Process**

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# INTRODUCTION

A student's decision to enroll at University of Pikeville indicates that they accept an invitation to participate, not only in their personal growth and development, but also in the growth and development of our community. Students also accept the rights and responsibilities of membership in this community. The choice to become a member of this community implies the commitment to accept the rights and responsibilities of that membership, and students' participation in the process of developing the individuals and community we seek.

In order to create an environment whereby students can live safely, succeed academically, and develop skills for their future, the University relies upon students to know and adhere to standards of behavior guided by university policies as well as local, state, and federal laws. While the Student Handbook attempts to include information on most of these regulations and policies, students need to review other applicable publications and documents, (e.g. the Academic Catalog and financial aid documents) available through various offices on campus.

The university conduct process is based on the assumption that conduct procedures, when required, should be an educational experience. Sanctions are imposed to help students develop a sense of personal responsibility, to encourage self-discipline, to foster healthy choices, to promote respect for the rights of others, as well as to protect the rights, freedoms and safety of the entire campus community.

Proceedings pursuant to the Student Code of Conduct shall be fair and expeditious. The procedures of criminal and civil courts shall not govern UPIKE's private campus conduct procedures; as such, formal rules of evidence are not applicable. In all instances, university officials leading the conduct process bear the burden of establishing, by a consideration of the totality of evidence, that **more likely than not**, a violation of the student code of conduct has occurred. This standard indicates that the evidence presented is 51% likely to be true; this standard is lower than the "beyond a reasonable doubt" standard.

These standards are established to address allegations of student misconduct across campus. The conduct system is designed to educate students, encourage sound decision-making and provide opportunities for growth and personal development, when found to be in violation of these community values. The University of Pikeville's student conduct process will follow established procedures to ensure the integrity of the conduct process and an educational experience that facilitates the development of the individual and in accord with the university values.

Notwithstanding anything in this handbook to the contrary, allegations of sexual misconduct will be processed under the terms and procedures set out in the University's [Sexual Misconduct Policy](#).

## **Definitions**

- The term "**University**" shall refer to the community of faculty, staff, and students at the University of Pikeville, as well as to premises and facilities.
- The term "**student**" shall include any person currently enrolled, in the process of registration, or who will be registered for an academic term, course, program, or activity at the University.
- The term "**faculty member**" shall mean any person employed by the University who holds academic rank or performs teaching or research duties.
- The term "**staff member**" shall mean any person employed by the University who is not considered faculty.
- The term "**University premises/facilities**" shall mean all buildings or grounds owned, leased, operated, controlled, or supervised by the University or any other recognized University affiliates.
- The term "**organization**" shall mean a group of persons who have complied with University requirements for registration or recognition.
- The term "**University (sponsored) activity**" shall mean any activity, on or off campus, which is initiated, aided, funded, authorized, or supervised by the University.
- The terms "**will**" and "**shall**" are to be used in the imperative sense, not imparting a choice.
- The term "**may**" is to be deemed permissive, imparting a choice.
- The term "**University official**" includes all full, part-time, and contracted employees, including paid law enforcement hired for specific University events and student employees such as Resident Assistant, Student Security Assistant, and Desk Attendant staff.
- The following terms refer to individuals holding those positions and/or their designee: "**Dean of Student Affairs**", "**Dean of KYCO**", "**Dean of KYCOM**", "**Assistant Dean of Student Affairs**", "**Director of Residence Life**", "**Director of Student Conduct & Community Standards**", "**Area Coordinator**", and "**Title IX Coordinator**".

# FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

## **FERPA Statement**

The University of Pikeville's Family Educational Rights and Privacy Act of 1974 (FERPA) Statement can be found at the following link:

<https://www.upike.edu/wp-content/uploads/2019/04/FERPA-Policy.pdf>

## **Legitimate Educational Interest and Student Affairs**

The Division of Student Affairs often receives requests for Student Discipline Records from other employees of the University. The Division of Student Affairs will not ordinarily share Student Disciplinary Records with other employees without first obtaining written permission from the student to release those Student Disciplinary Records. In some circumstances, where there is a legitimate educational interest (i.e. Office of Athletics, ROTC Office, academic colleges) or where federal or state law allows the University to release Student Conduct Records without a student's permission, the University may exercise its right to do so. An example would be the University Parental Notification Policy for alcohol or drug violations. In addition, the Dean of Student Affairs or their designee may consult with administrators whose offices oversee extra-curricular and/or co-curricular activities sponsored within the University. The University shall endeavor to comply with all applicable laws and regulations relating to record retention, and in order to meet this objective the University reserves the right to modify or amend these policies, as it deems advisable or appropriate.

## **FERPA and Student Conduct**

The Family Educational Right to Privacy Act (FERPA), administered by the U.S. Department of Education, states that it is permissible for the university to notify the parents or guardians of underage students (below 21) when those students are found responsible for alcohol and other drug-related offenses. The university endorses the concept that the student, parents/guardians and the university are in a partnership in which each partner has the responsibility to promote a healthy and productive educational experience for the student.

The university imposes disciplinary policies and procedures in order to provide a positive learning experience for the student, protect the campus community, and maintain an environment conducive to learning. Students who have violated university alcohol and/or drug policies can benefit from candid discussion with their parents/guardian concerning the specifics of their disciplinary violations and how their use of alcohol and/or drugs can detract from their educational goals.

The university may also notify a parent/guardian when a student expresses suicide ideation/self-harm, has devised a plan, and has the means to carry out their plan.

In support of this philosophy, parents and/or guardians of underage students may be notified when the student is found responsible for an alcohol or other drug related offense and a sanction of disciplinary probation or a more severe disciplinary sanction is imposed.

### **Athletics Department Notification**

The Division of Student Affairs has the right to notify coaches of repeat minor offenses and of major offenses by student athletes; coaches may also be notified of the resulting University sanction. The coach and/or the Athletic Director can add to that sanction as they deem appropriate; these additional actions may include, but are not limited to, sitting out of practice and/or athletic competitions. Coaches are not always notified in the event of a student conduct case; coaches should initiate this contact if they would like more information. Typically, when student athletes reach Level 3 status, the Dean of Student Affairs and/or his/her designee will work in tandem with the Athletic Director and/or his/her designee to review the student's situation and to develop an appropriate response regarding his/her continued athletic participation.

## **STUDENT RIGHTS AND RESPONSIBILITIES WITHIN THE UNIVERSITY COMMUNITY**

### **Student Rights**

Supporting these expectations described in the mission, all student members of the University of Pikeville community have certain rights. These include:

- The right to learn, including the right of access to ideas, the right of access to facts and opinions, the right to express ideas, and the right to discuss those ideas with others in a civil, non-hostile environment.
- The right to not be discriminated on the basis of race, ethnicity, color, sex, gender, gender identity, sexual orientation, religion, national origin, age or disabilities in its programs, activities, hiring, or the admission of students.
- The right of peaceful coexistence, including the right to be free from violence, force, threats, and abuse, and the right to move about freely.
- The right to be free of any action that unduly interferes with student rights and/or a supportive learning environment.
- The right to express opinion, which includes the right to respectfully state agreement or disagreement with the opinions of others and the right to an appropriate forum for the expression of opinion.
- The right of privacy, which includes the right to be free of unauthorized search of personal spaces.

Student conduct standards at the University of Pikeville should not be equated to state or federal criminal Codes. Even in cases involving suspension or expulsion, our aims include education and

student development as well as a just consequence. Consequently, our processes—grounded in fundamental fairness—are focused on disciplined and courteous truth-seeking, not adversarial procedures. We conduct investigatory proceedings, conferences and hearings, not trials.

In student conduct procedures, students have:

- The right to be informed of charges of misconduct,
- The right to adequate time to prepare a response to the charges,
- The right to hear evidence in support of the charges,
- The right to present evidence against the charges, and such other procedural rights as are provided in this policy.

### **Student Rights within the Conduct Process**

Students facing possible student conduct action for alleged violations of University policy and other community standards established by the University, including but not necessarily limited to the rights and responsibilities listed in this handbook, are entitled to the following procedural rights:

- The right to be notified of charges against him/her with sufficient detail.
- The right to know the nature and source of the evidence that will be used against him/her.
- The right to present evidence and witnesses relevant to his/her defense.
- The right to freedom against compulsory self-incrimination.
- The right to confidentiality, to the extent permitted by, and consistent with, applicable federal and state law.

### **Students' Responsibilities**

Along with rights come certain responsibilities. Students at the University are expected to act consistently with the values of the University community and to obey local, state, and federal laws. Students also have the:

- The responsibility for knowledge and observance of established university policies and other information presented in official university publications or electronic resources.
- The responsibility for assuming the consequence of one's own actions and holding oneself and others accountable for the Code of Student Conduct.
- The responsibility to honor and allow for free discussion, both in and out of the classroom, which represents the scholarly nature of an academic community.
- As stated in the University's non-discrimination policy, The University of Pikeville does not discriminate on the basis of race, ethnicity, color, sex, gender, gender identity, sexual orientation, religion, national origin, age or disabilities in its programs, activities, hiring, or the admission of students.

## **STUDENT CONDUCT LEVEL SYSTEM**

### **Introduction**

Violations of the Code of Conduct are classified within a Level System; since no two incidents are identical, the Conduct Officer or Conduct Board is called upon to use their professional judgment in issuing appropriate sanctions and/or decisions. The corresponding list of sanctions is not all-inclusive; this information is to serve as a guideline, not a cookbook, for potential sanctions. Sanctions, including fines, may be increased for violations occurring during times of non-regular University functioning, including during University break periods, during the summer recess, and when students are permitted to return to campus prior to the official opening of the residence halls.

Levels need not be sequential in order. A student may be immediately placed on a higher level of sanctioning without progressing through the lower levels due to the recidivism and impact of the violation. Likewise, a student placed on a higher level of violation may be moved to a lower level upon satisfactorily completion of sanctions and/or a period of time without further Code of Conduct violation(s); this does not apply to students charged with violations of the Alcohol and Illicit Drug Policy. A student's placement on a Level is dependent on several factors, including student's conduct history at the University and factors involved with each individual situation (i.e. context of each student's involvement); students involved in the same situation may find themselves at different Levels.

### **Level 1: Alert Status**

Typical Violations: Level 1 Violations are minor violations that impact the University Community. The Conduct Officer/Board hearing the case will determine the sanction. The list of sanctions outlined below is not exhaustive and sanctions may be combined for any single violation. Other options or conditions can be added. Students are not eligible to graduate or to receive transcripts until they complete any outstanding student conduct proceedings or sanctions.

### **Level 2: Warning Status**

Typical violations: Behavior of a more serious nature that impacts the University community. Level 2 offenses have a more serious impact on the University community than Level 1 offenses but less of an impact than a Level 3 offense. Typical Sanctions for Level 2 Violations: The Conduct Officer/Board hearing the case will typically determine the sanction. Other options or conditions can be added. Students are not eligible to graduate or to receive transcripts until they complete any outstanding student conduct proceedings or sanctions.

### **Level 3: Conduct Probation**

Typical violations: Behavior and/or a conduct history that jeopardizes the safety and well-being of others in the campus community and/or integrity as an educational institution, and/or that severely calls into question a student's suitability as a University student.

**Level 4: Suspension**

Typical violations: Behavior and/or a conduct history that deems the student to be a clear threat to the University community and/or to the University's integrity as an educational institution and/or that deems the student unsuitable as a University of Pikeville student. Student behavior necessitates a separation between the student and the University for a specified amount of time with parameters set forth for student's return to campus. Typical Sanctions for Level 4 Violations: The Dean of Student Affairs, or his/her designee when the Dean is unavailable, hears all conduct cases at Level 4 status.

**Level 5: Expulsion**

Typical violations: Behavior and/or a conduct history that deems the student to be a clear threat to the University community and/or to the University's integrity as an educational institution and/or that deems the student unsuitable as a University of Pikeville student. Separation is permanent and student behavior is deemed unsuitable to continue at the University of Pikeville at any time in the future. The Dean of Student Affairs, or his/her designee when the Dean is unavailable, hears all conduct cases at Level 5 status. Expulsion from the University is the only sanction.

## **Student Code of Conduct: Violation Sanctioning Guidelines**

**Please note:** *The list of sanctions outlined below is not exhaustive and sanctions may be combined for any single violation.*

<b>Sanction Level</b>	<b>Violations may include, but are not limited to:</b>	<b>Typical Sanction Guideline</b>
<b>Level 1:</b> Alert Status	Violation of visitation and/or escort policies; Disturbing the peace/violation of quiet hours; Minor and/or non-repeat violation of a Residence Life Policy; Failure to comply with the instructions or disrespect of a University official (minor and/or non-repeat violations).	Verbal Warning; Disciplinary/Written Warning; Educational Sanction and/or Activity; Assessment Requirements; Community Restitution; Parental Notification (Letter); Fines.
<b>Level 2:</b> Warning Status	Second offense of a Level 1 violation; Aggravated Level 1; In addition to: theft; Vandalism; jeopardizing the safety of self or others (smoking policy, propping/improper use of doors); providing false information.	Educational Sanction and/or Activity; Loss of University Privileges; Community Restitution; Assessment Requirements; Parental Notification (Letter); Fines; Suspension from Campus Housing or the University.
<b>Level 3:</b> Conduct Probation	Third offense of a Level 1 violation; Level 1 violation when Level 2 status has already been assigned; a grossly aggravated offense of a Level 2 violation; In addition to: Verbal abuse, harassment or uncooperative behavior, hostile or threatening behavior; Psychological or physical harassment; Physical violence or the threat of physical violence; Lewd Behavior; Falsifying university documents; Fire Regulation violations; intimidation of witnesses; Local/State/ Federal criminal code violations.	Parental Notification; Fines; Loss of University Privileges; Community Restitution; Off-campus Assessment; Weekend Campus Restriction; Residence Hall Transfer or Removal.
<b>Level 4 &amp; 5</b> Suspension (4) /Expulsion (5)	Additional violations following placement on Level 3 status; an aggravated offense of a Level 3 violation; second offense of a level 2 violation when a Level 2 has already been assigned. In addition to: Weapon possession	Residence Hall Suspension; University Suspension; Interim Housing and/or University Suspension; Fine. University Expulsion.

## DEFINITIONS OF CONDUCT SANCTIONS

- **Disciplinary/Written Warning:** The student is given formal written notice that the student has violated a Code of Conduct. The warning remains in effect for a specific period of time, as determined by the hearing board or officer. In most instances, students will only receive one written warning for a specified offense during their duration of their time on campus.
- **Educational Sanction and/or Activity:** A student is required to perform a positive action for the University community by completing a campus work assignment, writing a letter of apology, completing an educational program, or an educational reflection and/or paper, etc.
- **Fines:** Fines may be assessed as a punitive measure and fines may include restitution for loss of or damages to University or personal property or cost of medical expenses for bodily injury resulting from a student's actions. Whenever possible, funds attained through fines will be used to support programming in the residence halls that promote the educational mission of the University. See the Alcohol and Illicit Drug Policy for fines in case of such violations.
- **Parental Notification:** A copy of the student's conduct letter may be mailed to the address on file for parents/guardians of underage students found in violation of the University Alcohol Policy and/or Drug policy. If the student's behavior warrants Level 3: Probation Status, whenever possible, a conversation (either in person or via the phone) may be held with both the student and his/her parent(s)/guardians. Please see FERPA policy above.
- **Loss of University Privileges:** Denial of specific University privileges for a designated period of time.
- **Restitution:** Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
- **Assessment Requirements (On or Off Campus):** A student may be required to complete a specified assessment relative to the violation committed; all assessment reports shall be submitted to the Dean of Student Affairs and will become part of the student's conduct record. Any cost associated with these assessments will be the responsibility of the student.
- **Weekend Campus Restriction:** The student is not permitted on campus from Friday at 5:00 pm and until Sunday at 5:00 pm.
- **University Conduct Probation:** For specified or indefinite period of time; during this time, the student is deemed not in good student conduct standing and cannot hold an elected or appointed office in any student organizations registered with the University or hold University paraprofessional employment. A student's placement on Conduct Probation may be considered during proceedings of the Academic Life Committee. Any student placed on Conduct Probation may lose eligibility to work in a campus job and may lose eligibility to represent the University on their Athletic Team.
- **University Conduct Suspension:** The student is required to leave the University for a specified or indefinite period of time. The student must comply with all sanctions prior to readmission.

**NOTE:** Students suspended from the University, regardless of the amount of time remaining in the semester, are not eligible for refunds or rebates for charges associated with housing, meal plans, tuition, or fees. In the case of expelled/suspended students who also receive Title IV federal aid, a Return of Title IV Refund Calculation will be completed; this may result in the suspended student owing an additional balance to the University. This information will be determined on an individual basis by the Financial Aid Office. Please refer to the Academic Catalog Refunds policy for additional information.

- **University Conduct Expulsion:** The student is permanently and immediately expelled and cannot continue at the University in any status.

**NOTE:** Students expelled from the University, regardless of the amount of time remaining in the semester, are not eligible for refunds or rebates for charges associated with housing, meal plans, tuition, or fees. In the case of expelled students who also receive Title IV federal aid, a Return of Title IV Refund Calculation will be completed; this may result in the expelled/suspended student owing an additional balance to the University. This information will be determined on an individual basis by the Financial Aid Office.

- **Deactivation** - Loss of all privileges, including university recognition, for a specified period of time. Conditions for reactivation may be specified.
- **Involuntary Withdrawal:** The University places the utmost priority on student welfare and community safety. When a student demonstrates conduct that violates the student Code of Conduct or other university policies, that conduct will be addressed through the appropriate disciplinary processes. This policy outlines the criteria and procedures for when and how a student may be involuntarily withdrawn from the University for demonstrating behavior that creates a direct threat to the safety or health of others or that unreasonably disrupts the normal education processes and orderly operation of the University. There may be situations in which both this policy and the Code of Conduct and/or other University policies are applicable.
  - **Criteria:** A student may be involuntarily withdrawn from the University if it is determined, in accordance with the procedures listed below, that the student:
    - Demonstrates behavior that is unreasonably disruptive to the normal education processes and orderly operation of the University;
    - Demonstrates behavior that endangers others or that creates a direct threat of endangerment to others.
  - **Determination:** The involuntary withdrawal process begins when the Dean of Student Affairs receives a referral or other information regarding a student who appears to be demonstrating behavior consistent with one or more of the criteria listed above. If, after reviewing the information received, the Dean of Student Affairs determines that the student has demonstrated behavior consistent with one

or more of the criteria for involuntary withdrawal from the University as stated above, the Dean of Student Affairs will inform the student of this determination. At the time of this communication, the staff member will inform any student who is involuntarily withdrawn: a) about the student's right to appeal the decision to the Provost, and b) the conditions for returning to the University community (see below).

- Prior to proceeding with the involuntary withdrawal process, the staff member may offer the student the opportunity to voluntarily withdraw.
- **Effect of Involuntary Withdrawal:** Students who have been involuntarily withdrawn from the University are generally not permitted to be on university premises or participate in University events. However, a student who has been involuntarily withdrawn or suspended on an interim basis pending an appeal, may be on campus, with the permission of the Dean of Student Affairs for the purposes of participating in the processes detailed in this policy or as otherwise required and appropriate in the discretion of the Dean of Student Affairs.
- **Interim Housing and/or University Suspension:** If a student's continued presence constitutes an immediate threat of harm to other individuals, or the underlying behavior otherwise renders the student unqualified to remain on campus or in University housing for the immediate and foreseeable future, the Dean of Student Affairs or his/her designee, may suspend that student from the University and/or University housing pending final disposition of the case. In most cases, interim suspension will take place before a hearing. Within ten business days of issuance of the interim suspension, a full hearing will be convened to review the circumstances of the interim suspension.
- While the student is subject to interim suspension, the Dean of Student Affairs will coordinate communication with the student's faculty concerning their course obligations, the receipt of lecture notes and/or recorded lectures if requested, and will arrange for the submission of course work by the student. Students are responsible for contacting appropriate University offices in order to ensure that their academic and financial affairs are in order (including any on-campus housing). All determinations as to the effect of an involuntary withdrawal in these areas will be made by the applicable offices in accordance with existing University policies.
- **Returning to Campus—Conditions for Readmission:** A student who has satisfied the conditions for readmission outlined at the time of his or her involuntary withdrawal will be considered for readmission to the university. Readmission conditions will be individually tailored so as to be appropriate to each student but will always be premised on the notion that the student is no longer a direct threat to others and/or no longer demonstrates behavior that is disruptive to

the normal educational processes and orderly operation of the University. Specific conditions for readmission might include:

- Appropriate documentation indicating that the student no longer demonstrates the behavior which led to the involuntary withdrawal;
- Verification from a mental health professional or other appropriate care provider that the student is complying with a treatment plan (or has been satisfactorily complying with a treatment plan for a designated length of time);

Students wishing to be readmitted must schedule a face-to-face meeting with the Dean of Student Affairs to discuss the student's compliance with, and appropriate documentation of, the designated conditions for readmission. All determinations as to whether the conditions for readmission have been satisfied will be made by the Dean of Student Affairs. These determinations are final.

Because conduct that gives rise to an involuntary withdrawal under this policy might also result in sanctions in accordance with the student Code of Conduct, it is possible that a student who has met the designated conditions for readmission following an involuntary withdrawal might still not be eligible for re-enrollment due to student conduct sanctions (similarly, it is possible that a student who has satisfied all student Conduct sanctions might still not be eligible for re-enrollment because of an inability to meet the designated conditions for readmission in accordance with this policy). The Dean of Student Affairs may make such reasonable exceptions to this policy and these procedures as circumstances may require for the welfare of the institution and its students; provided that fundamental elements of fairness and due process are observed.

### **Additional Conduct Sanctions for Residential Students**

- **Residence Hall Transfer or Removal:** A residential student is required to transfer residence halls or leave the residence halls for a specified or indefinite period of time.
- **Residence Hall Suspension/Expulsion:** The residential student is required to immediately vacate campus for a specified or indefinite period of time. The student must comply with all sanctions prior to readmission to campus housing.

**NOTE:** Students suspended from campus housing, regardless of the amount of time remaining in the semester, are not eligible for refunds or rebates for charges associated with housing or meal plans. Additionally, students suspended from campus housing will forfeit the receipt of institutional financial aid up to the full cost of room and board, per the university housing policy.

*Disciplinary sanctions, including suspension and expulsion, do not appear on a student's academic transcript, but they are a part of the student's educational record with the university.*

# RESOLVING CASES

## **Prior to Conduct Hearing:**

Any member of the University community may file charges against a student for violations of the Code of Student Conduct. All charges must be prepared in writing and directed to the Dean of Student Affairs or his/her designee(s). Complaints about sexual misconduct (i.e., sexual harassment, sexual assault, domestic violence, dating violence, stalking and sexual exploitation) should be submitted pursuant to the University's [Sexual Misconduct Policy](#).

Complaints about all other forms of unlawful activity or behavior of a student by a University employee or third party should be submitted to Public Safety or the Division of Student Affairs. Any charge should be submitted in writing as soon as possible following the incident. Individuals working within these areas will typically investigate the charges to determine their merit and/or if they can be addressed administratively with the consent of the parties involved.

Upon receipt of reports of alleged Student Code of Conduct violations, students will receive notification of charges of an alleged violation of the Student Code of Conduct; this written notification is typically received within five business days of the date on the report. Timeline for receipt of initial notification of a conduct charge may be delayed for situations that occur during University break periods and during the summer months. This written notification will outline the date of the alleged incident, the violations of the Student Code of Conduct with which the student is being charged, and other relevant information to appropriately notify the student of the incident and charges in question. In most cases, the letter will also designate a pre-arranged hearing date; it is the student's responsibility to either attend the pre-arranged appointment designated in their notification or to set up an appointment with the hearing officer within 24 hours of notification. **Written notification may occur via the student's University email account. Students are required to check their email on a regular basis (minimally, every 48 hours) to ensure prompt receipt of messages. If a student does not attend their scheduled hearing, the hearing officer can render a decision without the student's participation.**

## **Types of Conduct Hearing Meetings & Conduct Violation Resolution:**

**Administrative Hearing:** Prior to the hearing, the charged student has the opportunity to review and during the hearing can comment on the documentation of the case and to present witnesses and evidence on his/her own behalf.

- **Advisor:** Students may request to have an advisor present at an Administrative Hearing; the administrative hearing officer has final authority to determine if an advisor will be allowed. If allowed, the advisor must be a member of the University community and may not be an attorney or a family member/legal guardian. The advisor helps ensure that the student understands the student conduct process, and is supported and prepared for the hearing. The advisor does not represent the student by speaking for the student, by questioning witnesses, or requesting documents and/or meetings pertaining to the student's conduct records/case.

Before the end of this hearing, the student will be asked whether or not they chose take responsibility for his/her actions. The appropriate professional staff conducting the hearing will make a final decision, based on the facts of the case and the outcome of the Administrative Hearing, whether or not to hold a student responsible for the alleged policy violation; the professional staff will determine resulting sanctions (if any). Students will receive a final letter outlining the outcome of the hearing within 15 business days (3 weeks) of the hearing.

**Conduct Board Hearing:** This is a formal, audio-taped process that occurs in front of the conduct board. Cases may be heard by the Conduct Board if they involve individuals: a) with extensive conduct histories; b) with charges that could lead to suspension/expulsion; or c) who have been charged with violations that impact the University community as a whole.

- During the hearing process, the charged student has the opportunity to review and comment on the documentation of the case and to question all witnesses and present witnesses and evidence on his/her own behalf.
- **Advisor:** All students have the right to have an advisor present at all Conduct Board Hearings. The advisor must be a member of the University community and may not be an attorney or a family member/legal guardian. The advisor helps ensure that the student understands the student conduct process and is supported and prepared for the hearing. The advisor does not represent the student by speaking for the student, by questioning witnesses, or requesting documents and/or meetings pertaining to the student's conduct records/case.
- After reviewing the case with the student charged, the members of the Conduct Board will deliberate in private to make a final decision, based on the facts of the case and the outcome of the board hearing, whether or not to hold a student responsible for the alleged policy violation; the Conduct Board will determine resulting sanctions (if any).
- Students will receive a final letter outlining the outcome of the hearing within 15 business days (3 weeks) of the hearing. A conduct board hearing can only occur when a trained board is available to hear a case.

**Summary Hearing:** This is an abbreviated version of an Administrative Hearing that is called by the Dean of Student Affairs and/or his/her designee, to immediately address and resolve the case if:

- A student's continued presence constitutes an immediate threat of harm to other individuals or the underlying behavior otherwise renders the student unqualified to remain on campus or in University housing.
- The violation occurs two weeks prior to any official University recess or during the summer recess.

- Deemed necessary to protect the safety and security of campus and integrity of the conduct process.

Immediate campus restrictions and/or sanctions may be put in place in the cases of a summary hearing. In the cases of summary hearings, student may not receive an initial letter outlining charges against him/her. Students will receive a letter outlining the charges, outcome of the hearing, and options for appeal.

### **Hearing Officers**

- **Residence Life Staff:** The Residence Life Staff will typically adjudicate cases that have a direct correlation to the residential community.
- **Director of Student Conduct:** The Director of Student Conduct is responsible for the management and adjudication of the undergraduate student conduct process at the University of Pikeville. The Director of Student Conduct may hear graduate and health professions cases upon the delegation from the Assistant Dean of Student Affairs. The Director of Student Conduct has the ability to recommend suspension or expulsion to the Dean of Student Affairs.
- **Assistant Dean of Student Affairs:** The Assistant Dean of Student Affairs is responsible for the management and adjudication of the student conduct process at the University of Pikeville for all graduate and health professions (graduate, KYCO, KYCOM) students. The Assistant Dean of Student Affairs has the ability to recommend suspension or expulsion to the Dean of Student Affairs, Dean of KYCO, and Dean of KYCOM.
- **Dean of KYCO:** The Dean of KYCO is the Chief Academic Officer for the Kentucky College of Optometry.
- **Dean of KYCOM:** The Dean of KYCOM is the Chief Academic Officer for the Kentucky College of Osteopathic Medicine.
- **Dean of Student Affairs:** The Dean of Student Affairs is the Chief Student Affairs Officer and is the supervisor of the Director of Student Conduct, Residence Life Staff, and Assistant Dean of Student Affairs.

## **Conduct Boards**

### **Undergraduate and Graduate Student Conduct Board**

**Conduct Board:** The board is composed of three elected students, and two members of the faculty, staff, or administrators. Student Government Association Executive Board members will be trained to serve on the Conduct Board in the event that additional students are needed to discern cases going before the Conduct Board. The Conduct Board has the ability to recommend suspension or expulsion to the Dean of Student Affairs.

### **Health Professions (KYCO/KYCOM) Student Conduct Boards**

**KYCOM Conduct Board:** The Promotion and Matriculation Committee in serves as the conduct board in KYCOM and is composed of faculty and staff. Voting members of this board include faculty members and the Assistant Dean of Student Affairs.

**KYCOM Student Ethics Committee:** The Student Ethics Committee hears cases involving allegations of violations of the KYCOM Professionalism Standards. This board is comprised of a chair and members elected from the KYCOM student body.

**KYCO Conduct Board:** The Professional Conduct and Ethics Committee serves as the conduct board for KYCO. This is a faculty led committee that includes a chair and secretary. All voting members are faculty members with the Assistant Dean of Student Affairs serving as an Ex-Officio member.

## **Case Delegation**

### **Undergraduate and Graduate Case Delegation**

#### **Level 1, 2, & 3 Violations**

The Residence Life Staff, Director of Student Conduct, or the Conduct Board will most likely determine the outcome of Level 1, 2, and 3 violations (this is up to the discretion of the Dean of Student Affairs). On occasion, Level 3 violations may be heard by the Conduct Board when the student does not have a prior history of going before peer review board and where the case may result in a Level 4 or 5 outcome.

#### **Level 4 & 5 Violations**

Upon report of such violations, the Director of Student Conduct, the Dean of Student Affairs, or the Conduct Board will most likely meet with the student for an administrative hearing concerning the alleged violation and determine the outcome.

## Health Professions (KYCO/KYCOM) Case Delegation

### Level 1, 2, & 3 Violations

The Assistant Dean of Student Affairs or the applicable Conduct Board will most likely determine the outcome of Level 1, 2, and 3 violations (this is up to the discretion of the Dean of Student Affairs). On occasion, Level 3 violations may be heard by the Conduct Board when the student does not have a prior history of going before peer review board and where the case may result in a Level 4 or 5 outcome.

### Level 4 & 5 Violations

Upon report of such violations, the Assistant Dean of Student Affairs or the Conduct Board will most likely meet with the student for an administrative hearing concerning the alleged violation and determine the outcome.

## Appeals

A student has the right to **one appeal** of disciplinary sanctions; multiple appeals are not allowed. Appeals are not re-hearings and they are not granted on the basis of disagreement with the decision of the original hearing. Upon receipt of the sanction, a student will have up to five business days to file an appeal. All appeals need to be submitted to the following website: [https://cm.maxient.com/reportingform.php?UnivofPikeville&layout\\_id=10](https://cm.maxient.com/reportingform.php?UnivofPikeville&layout_id=10)

**The following chart will determine who reviews the submitted appeal:**

<b>Population</b>	<b>Initial Hearing Officer</b>	<b>Appeals heard by:</b>
Undergraduate	Area Coordinators	Director of Student Conduct
Undergraduate	Director of Residence Life	Dean of Student Affairs
Undergraduate	Director of Student Conduct	Dean of Student Affairs
Undergraduate	Student Conduct Board	Dean of Student Affairs
Undergraduate	Dean of Student Affairs	Provost
Graduate	Assistant Dean of Student Affairs	Dean of Student Affairs
Graduate	Student Conduct Board	Dean of Student Affairs
KYCOM	Assistant Dean of Student Affairs	Dean of KYCOM
KYCOM	Student Ethics Counsel	Assistant Dean of Student Affairs
KYCOM	Promotion and Matriculation Committee	Dean of KYCOM
KYCO	Assistant Dean of Student Affairs	Dean of KYCO
KYCO	Professional Conduct & Ethics Committee	Dean of KYCO

**A student may appeal only on the following grounds:**

1. The hearing was not conducted in the manner provided under the Code of Conduct.
2. There was insufficient evidence to establish responsibility.
3. There is new and substantial information not previously considered in the disciplinary process. There is new evidence that exonerates, clears the student, or puts the conduct situation into a different context.
4. The student witnessed or experienced bias or discrimination during the conduct process.

5. The sanction(s) imposed or other measures taken are too severe based on the evidence of record.

Students are to clearly make their case in their written appeal, identifying for which of the above grounds they are appealing. If the written appeal does not meet one of the five criteria noted above, the student will be notified in writing that the request for appeal is denied and the initial decision and sanction(s) will remain in effect. **To be considered, written appeals should provide sufficient detail for the reason for the appeal; lack of sufficient information contained within a written appeal is grounds for denial.**

If the appeal meets at least one of the criteria above, most appeals will be reviewed and decided within 20 business days (4 weeks) of the receipt of the appeal. Appeals submitted to the Provost will be reviewed and decided within 30 business days (6 weeks) of the receipt of the appeal. The student will receive written notification of the decision from the appropriate appeals officer (outlined above). In some instances, the appeals officer may request a meeting with the student appealing a decision; however, such meetings are not necessary for an appeal to be considered and decided upon.

**The individual who receives and decides on the appeal may choose one of four options:**

1. The appeal is granted, and the sanctions are overturned.
2. The appeal is granted, and the sanctions are modified.
3. The appeal is denied, and the sanctions remain in effect.
4. The appeal is denied and additional sanctions are imposed.

**PLEASE NOTE: An appeal does not postpone/delay the imposition/completion of sanctions.**

### **Violations of Federal, State or Local Law**

University disciplinary proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and this Student Code without regard to the pendency of civil or criminal litigation in court or criminal arrest and prosecution. Proceedings under this Student Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the Dean of Student Affairs or his/her designee.

Determinations made or sanctions imposed under this Student Code shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of University rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

### **Off Campus Conduct**

University of Pikeville students are responsible to the University for certain actions committed off-campus. The University will take student conduct action against a student for such an off-campus offense only when it is required by law to do so or when the nature of the offense is such that in the judgment of the Dean of Student Affairs and/or his/her designee, the continued presence of the student on campus is likely to interfere with the educational process or the orderly operation of the University; or the continued presence of the student on campus is likely to endanger the health, safety, or welfare of the University community, or is threatening to another individual within the University community; or the offense committed by the student is of such a serious

nature as to adversely affect the student's suitability as a member of the University community. Off-campus conduct may also prevent students from entering into or continuing in academic programs when their demonstrated conduct is contrary to professional and academic department values. The action of the University with respect to any such off-campus conduct shall be taken independently of any off-campus authority. The prospect of criminal charges does not preclude the possibility of a University student conduct hearing.

### **Student Conduct Records**

Student conduct records (non-academic) are kept with Student Affairs, with the exception of records from proceedings under the University's Sexual Misconduct Policy, which are kept with the University's Title IX Coordinator. A University official will only release student conduct information upon receipt of a signed and dated written consent form from the student which must specify the timeframe along with the party to whom the disclosure may be made.

Moreover, the University of Pikeville does not consider records exclusively relating to treatment provided by physician, psychiatrist, psychologist, counselor or other recognized professionals or paraprofessionals and disclosed only to individuals providing treatment(s) as part of the students' educational record. As a result, the student must specify if records of this nature may be disclosed. Plus, identify the party to whom the disclosure may be made by way of signed, dated and written consent. All requests may be made either in person or via email to the Dean of Student Affairs.

## **ADA: Conduct Process Accommodations**

“The Americans with Disability Act (ADA) was passed in 1990, amended in 2008 (ADAAA) and seems to pick up where the Rehabilitation Act left off. Borrowing from the §504 definition of disabled person, and using the familiar three-pronged approach to eligibility (has a physical or mental impairment that substantially limits one or more life activities, a record of an impairment, or being regarded as having an impairment), the ADA applied those standards to most private sector businesses, and sought to eliminate barriers to disabled access in buildings, transportation, and communication. To a large degree, the passage of the ADA supplants the employment provisions of §504 [and] reinforces the accessibility requirements of §504 with more specific regulations. . . . The courts have interpreted 504 and the ADA almost identically, applying doctrines and interpretations freely between the two [emphasis added]. . . .”

### **Accommodations for Students with Disabilities**

The Division of Student Affairs is more than willing to accommodate students with disabilities during the conduct process. The responsibility is placed on the student to contact the Disability Resource Center to provide a written document outlining the accommodations the Conduct Officer will need to meet.

**Please note: The accommodations shall align with the academic accommodations on file.**

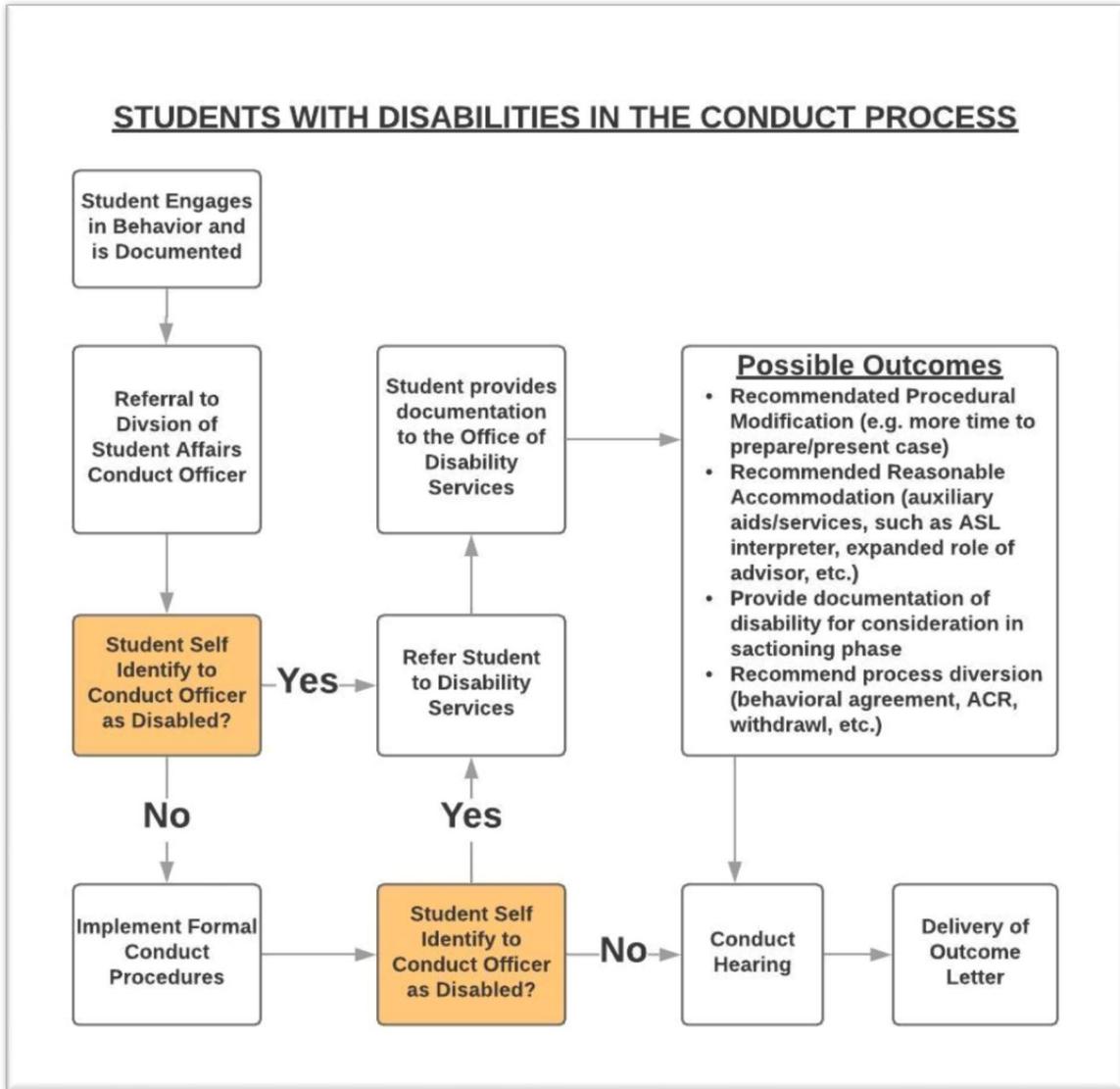
By federal law, a person with a disability is any person who:

- 1) has a physical or mental impairment;
- 2) has a record of such impairment; or
- 3) is regarded as having such an impairment, which substantially limits one or more major life activities such as self-care, walking, seeing, hearing, speaking, breathing, or learning.

A student requesting an accommodation regarding a conduct hearing/meeting must follow the appropriate process for requesting an accommodation through the Disability Resource Center. Disability Resource Center will make a determination regarding the request and notify the appropriate parties.

Reasonable accommodations depend upon the nature and degree of severity of the documented disability. While the Americans with Disabilities Act of 1990 requires that priority consideration be given to the specific methods requested by the student, it does not imply that a particular accommodation must be granted if it is deemed not reasonable and other suitable techniques are available.

## Flow Chart of Students with Disabilities in the Conduct Process



**Description:** The flow chart above describes the standard process when students with disabilities may request further assistance when navigating the student conduct process.

# GO

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