

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

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

- (1) The disciplinary power of the university is inherent in its responsibility to protect its educational purposes and processes through the setting of standards of conduct and scholarship for its students and through the regulation of the use of its facilities. The university of Akron's code of student conduct (CSC) reflects and supports the educational mission of the institution, balancing the ideals of individual rights and responsibilities with community citizenship and responsibility. The CSC expresses the university's values of civility, integrity in all matters, and responsible behavior on- and off-university premises. Students also are required to abide by applicable federal, state, and local laws.
- (2) Students at the university of Akron are responsible to know and abide by all university rules, regulations and policies. Failure to abide by the university's rules, regulation and policies may result in sanction by the university. Students are subject to public laws, which the university police and other law enforcement agencies are empowered to enforce on or off university premises, either through their statutory jurisdiction or pursuant to a mutual aid agreement. Public laws include federal, state and local laws and ordinances. Should a student's conduct violate public law and the CSC, the university may proceed with its own investigation and disciplinary action under the CSC without awaiting the outcome of concurrent criminal, administrative or civil proceedings.
- (3) There are significant differences between the university of Akron's conduct process and state and federal criminal processes. Criminal processes are adversarial, with one side opposing the accused. The conduct process is designed to be a tool for student learning and development while still protecting the interests of complainants, accused, victims and all members of the university community. Although the university of Akron's student disciplinary process is not designed to function as a court of law, there are policies and procedures in place to ensure that each student is treated in a fair and equitable manner. However, the formal rules of criminal procedure that apply to the criminal justice system do not apply to the student disciplinary process.

- (4) The overarching goal of the enforcement of the CSC is to focus on the growth of the individual student, encourage self-discipline, and maintain a civil environment that is safe and conducive for learning. Each intervention within the university's conduct process is intended to assess the cause of a student's inappropriate behavior and to develop resolutions that will benefit the individual student and the university community.
- (5) Involvement of parents or guardians in these proceedings will be governed by the "Family Educational Rights and Privacy Act" as provided in rule 3359-11-08 of the Administrative Code.
- (6) These rules shall not be interpreted, construed or applied in any manner that abridges or denies to any student his or her constitutional rights as guaranteed under the constitutions of the United States or the state of Ohio.

(B) Definitions.

- (1) "Advisor." "Advisor" includes anyone assisting or supporting a student during his or her involvement in a student judicial affairs proceeding, including but not limited to, an attorney, parent(s), guardian, social worker, student advocate, professor, acquaintance or friend.
- (2) "Chairperson of the hearing board." "Chairperson of the hearing board" or "chairperson" refers to a member of the hearing board who is selected by the vice president for student ~~affairs~~ engagement and success upon recommendation of the director of the department of student judicial affairs from a smaller pool of hearing board members who have received additional training. The chairperson presides over the deliberations of the hearing board and reports the hearing board's decisions.
- (3) "Code of student conduct." "Code of student conduct" refers to this rule of the administrative code, which outlines the expectations for student behavior and the procedures through which the department of student judicial affairs addresses student misconduct.

- (4) “Complainant.” “Complainant” means any person who submits a report alleging that a student has violated this code of student conduct.
- (5) “Contract professional.” “Contract Professional” means persons who are full-time or part-time non-teaching professional personnel of the university as described in paragraph (A) of rule 3359-22-01 of the Administrative Code.
- (6) “Disciplinary hold.” “Disciplinary hold” is a restriction placed on a student’s account that prevents a student from obtaining certain university services, including but not limited to: registering for classes; obtaining enrollment or degree verification; receiving an official transcript; and/or issuance of a housing contract.
- (7) “Disciplinary referral.” “Disciplinary referral is a communication to the department of student judicial affairs of information about a possible violation of the code of student conduct with a request that the department of student judicial affairs initiate action concerning the alleged violation.
- (8) “Faculty member.” “Faculty member” means any person hired by the university to conduct classroom or teaching activities, research activities or who is otherwise considered by the university to be a member of the faculty.
- (9) “Investigating officer”. “Investigating officer” refers to representative of the department of student judicial affairs who: investigates allegations of student misconduct; meets with the accused student; decides whether to proceed to a hearing; determines sanction(s) if student accepts responsibility for alleged violation; and presents information about the alleged misconduct to the hearing board or, if the accused student has waived his or her right to have the case heard by a hearing board, to the student conduct administrator.
- (10) “Member of the university community.” “Member of the university community” includes students, university employees, and persons lawfully present on university premises.

- (11) “Student.” “Student” includes all persons taking credit or non-credit courses from the university of Akron. Persons who have been notified of their acceptance for admission, persons who withdraw after allegedly violating the code of student conduct and persons who are matriculated but not officially enrolled for a particular term also are considered “students.”
- (12) “Student Conduct Administrator.” “Student conduct administrator” refers to the representative of the department of student judicial affairs who: presides over hearings conducted pursuant to this code; rules on questions and motions during the hearing; and ensures that the hearing procedures specified in this code are followed. In the event that the student waives his or her right to have his or her case heard by a hearing board, the student conduct administrator also makes findings of responsibility and determines sanction(s).
- (13) “Student organization.” “Student organization” means any number of persons who have complied with the formal requirements for or are actively seeking university recognition as a student organization.
- (14) “University official.” “University official” includes any person employed or appointed by the university and performing administrative or professional responsibilities within the scope of his/her authority.
- (15) “University policy.” “University policy” generally means the written regulations of the university as found in, but not limited to: the code of student conduct; the residence hall handbook; the school of law student handbook; departmental operating manuals; the university web page; university rules; and the undergraduate and graduate bulletins. University policy also includes unwritten policies that are commonly applied and utilized consistent with written policies or in order to carry out the effect of written policies.
- (16) “University premises.” “University premises” includes all land, buildings, facilities, and other property in the possession of or owned, leased, used or controlled by the university or its foundations including adjacent streets and sidewalks.

- (17) “University.” “University” means the university of Akron and all of its campuses, centers or other locations on which it operates.
 - (18) “Weapon.” “Weapon” is defined in accordance with federal, state and local law, and includes any object or substance designed to inflict a wound or cause injury.
- (C) Jurisdiction.
- (1) University authority should not be used merely to duplicate the function of general laws. The university of Akron code of student conduct applies to the conduct of all students and student organizations that occurs on university owned premises or on non-university premises, where the conduct away from university premises is deemed by the university to affect the university or its students and university employees, including but not limited to:
 - (a) Any professional practice assignment;
 - (b) Any activity performed to satisfy academic course requirements, such as internships, field trips, or student teaching;
 - (c) Any activity supporting pursuit of a degree, such as research at another institution;
 - (d) Any activity sponsored, conducted, or authorized by the university or by student organizations including but not limited to social events, athletic contests and philanthropic activities;
 - (e) Any activity that causes substantial destruction of property belonging to the university or members of the university community or causes serious harm to the health or safety of members of the university community; or
 - (f) Any activity in which a police report has been filed; a criminal indictment or information has been issued; or an arrest has occurred for a crime of violence.

- (2) Each student shall be responsible for his or her conduct from the time of notification of acceptance for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment, even if his or her misconduct while a student is not discovered until after a degree is awarded. The code of student conduct shall apply to a student's conduct even if the student withdraws from school while a disciplinary matter is pending. The director of student judicial affairs or his or her designee shall determine whether the code of student conduct shall be applied to conduct occurring off university premises, on a case by case basis.

(D) Definition of student misconduct.

The university of Akron defines "student misconduct" as behavior that violates university policies, rules and regulations. Any student or student organization alleged to have committed or to have attempted to commit the following misconduct is subject to the disciplinary process outlined in this rule.

- (1) Academic misconduct is any activity that compromises the academic integrity of the student and university, and undermines the educational process. Academic misconduct includes but is not limited to:
 - (a) Cheating, including but not limited to:
 - (i) Use of unauthorized assistance in taking quizzes, tests, or examinations.
 - (ii) Submitting substantially the same work to satisfy requirements for one course or academic requirement that has been submitted in satisfaction of requirements for another course or academic requirement, without permission of the faculty member of the course for which the work is being submitted or supervising authority for the academic requirement.

- (iii) Use of sources prohibited by the faculty member in writing papers, preparing reports, solving problems, or carrying out other assignments.
- (iv) Inappropriate acquisition and/or improper distribution of tests or other academic materials without the permission of the faculty member.
- (v) Engaging in any behavior specifically prohibited by a faculty member in the course syllabus or during class discussion.

Paragraphs (D)(1)(a)(iii)(iv) and (v) of this rule shall not be interpreted as permitting a faculty member to limit a student's right to responsibly engage in free inquiry and expression, when relevant to the subject under study or discussion, or to be treated fairly in the academic setting and to have his/her performance evaluated solely on an academic basis.

(b) Plagiarism, including but not limited to:

- (i) Intentional or unintentional representation of ideas or works of another author or creator in whole or in part as the student's own without properly citing the original source for those ideas or works.
 - (ii) The use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.
- (2) Knowingly furnishing false or misleading information to university officials or faculty members either verbally, in writing or in any other form of communication or on university records, including but not limited to forgery, alteration, or misuse of any university document, record, or instrument of identification.
- (3) Engaging in or threatening physical abuse, verbal abuse, threats, intimidation, harassment, coercion, and/or other conduct which intentionally or recklessly threatens or endangers the health, welfare or safety of any person.

- (4) Disorderly, disruptive, lewd or indecent conduct.
- (5) Unauthorized use of an electronic or other device(s) to make an audio or video recording of any person without his or her prior knowledge or consent, except as is otherwise permitted by law and except in a public setting where there is not a reasonable expectation of privacy and such use is consistent with the law.
- (6) Unauthorized distribution or dissemination of an audio or video recording or photograph of any person without his or her prior knowledge or consent, even if the audio or video recording or photograph originally had been produced with the person's consent.
- (7) Sexual misconduct, sexual assault as defined in applicable federal, state or municipal law, or imposition or sexual harassment in violation of rule 3359-11-13 of the Administrative Code. Sexual misconduct includes but is not limited to:
 - (a) Any physical act of a sexual nature perpetrated against an individual without consent or when an individual is unable to freely give consent.
 - (b) Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature that expressly or implicitly imposes conditions upon, threatens, interferes with, or creates an intimidating, hostile, or demeaning environment for an individual's:
 - (i) Academic pursuits;
 - (ii) University employment;
 - (iii) Participation in activities sponsored by the university or organizations or groups related to the university, or
 - (iv) Opportunities to benefit from other aspects of university life.

- (8) Theft or attempted theft, or willfully, recklessly, or negligently destroying, damaging, injuring, or using another's property without the consent of the owner.
- (9) Use, possession, manufacture, cultivation, distribution or facilitating the distribution of marijuana or any narcotic, hallucinogenic, or other controlled substances as defined in applicable federal, state or municipal law.
- (10) Use, possession, manufacture or distribution of alcoholic beverages, or public intoxication in a manner prohibited by law or university policy including but not limited to any violation of rule 3359-47-01 of the Administrative Code. Alcoholic beverages may not, in any circumstance, be used by, possessed by or distributed to any person under twenty-one years of age.
- (11) Unlawful gambling or participating in unlawful games of chance as defined in applicable federal, state and municipal law.
- (12) Unlawful or unauthorized possession of firearms, fireworks, explosives, other weapons, or dangerous chemicals, or using any such item, even if lawfully possessed, in a manner that harms, threatens or causes fear to others.
- (13) Commission of any felony or misdemeanor under applicable federal, state and municipal law.
- (14) Unauthorized possession, distribution, duplication, retention or use of keys to any university premises or unauthorized entry into, presence in, or use of university facilities.
- (15) Behavior that the student knew or reasonably should have known would cause a disruption or obstruction of teaching, research, administration, disciplinary proceedings, or other university activities, including its public service functions on or off university premises, or of other authorized non-university activities occurring on university premises.
- (16) Participation in a disturbance with the purpose to commit or incite any action that presents a clear and present danger to others, causes physical harm to others, or damages property. Prohibited behavior

in the context of a riot includes but is not limited to those behaviors prohibited by federal, state and municipal law and:

- (a) Engaging in conduct designed to incite another to engage in riotous behavior;
- (b) Causing or threatening damage to or destruction of university premises or property of others, whether done intentionally or with reckless disregard;
- (c) Failing to comply with a directive to disperse by university officials, faculty members, law enforcement or emergency personnel; or
- (d) Intimidating, impeding, hindering or obstructing university officials, faculty members, or law enforcement or emergency personnel in the performance of their duties.

Paragraph (D)(15)(d) of this rule shall not be interpreted as prohibiting peaceful demonstrations, peaceful picketing, a call for a peaceful boycott, or other forms of peaceful dissent.

- (17) Possession of or permitting animals inside buildings owned or leased by the university of Akron or its foundation. This excludes disability-related service animals and animals permitted within the residence halls by the residence life and housing contract. Animals must not be disruptive to the learning or living environment of the university. Owners must control their animals at all times and abide by all applicable federal, state, and local laws (e.g., use of leashes and removal of waste) while on university premises.
- (18) Theft or other abuse of computer facilities and resources, including but not limited to:
 - (a) Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.
 - (b) Unauthorized transfer of a file.
 - (c) Use of another individual's identification and/or password.

- (d) Use of computing facilities and resources to interfere with the work of another student, faculty member or university official.
 - (e) Use of computing facilities and resources to send obscene or abusive messages.
 - (f) Use of computing facilities and resources to interfere with normal operation of the university computing system.
 - (g) Any violation of the university computer use policy as outlined rules 3359-11-09 to 3359-11-10 of the Administrative Code.
- (19) Hazing, as defined by the Ohio Revised Code and federal law, is prohibited. It is a violation of this rule for an individual, knowing that hazing has been or is being committed, to knowingly fail to report such information to law enforcement authorities or to student judicial affairs. Officers of a student organization must report any hazing incident(s) of which they are aware. The consent of the victim is not a defense.
- (20) Willful failure to comply with directions of university officials, faculty members, law enforcement officers or emergency personnel acting in performance of their duties and/or willful failure to identify oneself to these persons when requested to do so.
- (21) Abuse of the student conduct system, including but not limited to:
- (a) Failing to comply with notice (with confirmation of delivery) from the department of judicial affairs or university official to appear for a meeting or hearing as part of the student conduct system.
 - (b) Knowingly falsifying, distorting, or misrepresenting information during the student conduct process or initiating a conduct proceeding in bad faith.
 - (c) Engaging in behavior that an individual knew or reasonably should have known would cause disruption or interference with the orderly proceeding of the student conduct process.

- (d) Attempting to discourage an individual's proper participation in, or use of, the student conduct system.
 - (e) Attempting to influence the impartiality of a member of the hearing board prior to, and/or during the course of, the hearing board proceeding.
 - (f) Failing to comply with the sanctions imposed under the code of student conduct.
 - (g) Influencing or attempting to influence another person to commit an abuse of the student conduct system.
 - (22) Willfully, recklessly, or knowingly engaging in conduct that violates any university policy, rule, or regulation. It is not a defense that the student was unaware of the policy, rule, or regulation.
- (E) Investigation of student misconduct.
- (1) It is the intent of this provision that the department of student judicial affairs shall be the exclusive administrative unit that has authority to investigate reports of misconduct as defined in this rule and to implement the procedures and sanctions as provided in this rule. While other units and organizations such as residence halls, athletic teams and professional schools may have separate rules and administer separate penalties or sanctions, whether by contract or otherwise, that may apply to certain categories of students, the commission of misconduct as defined in this rule shall also be reported to the department of student judicial affairs for action as appropriate under this rule.
 - (2) The fact-finding process shall be as follows:
 - (a) The department of student judicial affairs, generally within five business days of receipt of a disciplinary referral, will send written notice to any student or student organization identified as allegedly being in violation of university rules. Notice may be given in person or by mail to the student or student organization's last known address or by any other

official means of notification adopted by the university now or in the future. The department of student judicial affairs must request, and the vice president for student ~~affairs~~ engagement and success or his or her designee must within three days of such request either deny or approve, any extension of time that will delay notice to the student beyond fifteen business days. A copy of the request for an extension, and the final decision as to that request, shall be included in the student's disciplinary file.

- (b) The student or authorized representative of the student organization shall be required to appear before an officer of the department of student judicial affairs no more than five business days following receipt of notice, unless otherwise determined by the department of student judicial affairs. Upon his or her appearance in the department of student judicial affairs, the student or authorized representative of the student organization shall be informed of the initial report that alleges violations of university rules and regulations. All available materials related to the alleged violation of university rules shall be made available to the student or authorized representative of the student organization at this meeting, or in advance if practicable.

The student or authorized representative of the student organization shall be requested to make a statement concerning the reported violation, but prior to this request the student shall be informed that:

- (i) S/He is not required to make a statement; provided however that the authorized representative of a student organization shall be required to make a statement on behalf of the organization; and
- (ii) Any statement s/he may wish to make may later be used in disciplinary proceedings, and
- (iii) S/He has the right to have an advisor present. The role of an advisor is explained in paragraph (G)(2)(i) of this rule.

- (c) Investigation(s) generally will be completed within fifteen business days of the initial meeting. If additional time is needed to gather more information, student judicial affairs shall make a request to the vice president for student ~~affairs~~ engagement and success or his or her designee for a time extension(s) if the vice president determines that the circumstances warrant an extension.
- (d) Upon completion of the investigation, the fact-finding process shall be concluded if both of the following conditions are satisfied:
- (i) The student or authorized representative of the student organization denies the alleged misconduct, and
 - (ii) Based on the information gathered, the student conduct administrator determines that no university rule or regulation was violated.

If these conditions are satisfied, the student or authorized representative of the student organization shall be informed that the matter is closed with no prejudice to him or her.

- (e) If the investigation reveals that there is sufficient information to support an allegation that the student or the student organization has violated university rules, the department of student judicial affairs may place a disciplinary hold on the student's or the student organization's account and may refer the matter to the university hearing board for further proceedings.
- (f) If the student or authorized representative of the student organization admits responsibility for violating university rules, the investigating officer shall issue a sanction or sanctions. If the student or authorized representative of the student organization disagrees with the sanction(s) assigned, s/he may appeal the sanction(s) to the university appeals board.

- (g) If the student or authorized representative of the student organization does not agree with the charge(s), and if the investigating officer determines that the charge(s) are appropriate based upon the information collected, the student or authorized representative of the student organization may choose to pursue a determination of responsibility before a student conduct administrator or a university hearing board. An explanation of the charges and the process shall be given to the accused student and all information revealed by the investigation and known to the department of student judicial affairs shall be included in a comprehensive, detailed, written report by the investigating officer and made available to the accused student or authorized representative of the student organization.
- (h) If the matter is referred to a university hearing board, the student or authorized representative of the student organization shall be informed that the university hearing board generally will meet no later than ten business days from the date of the hearing board charge letter. When necessary, the university may continue the date of the hearing beyond ten business days with the approval of the vice president for student ~~affairs~~ engagement and success or his or her designee.
- (i) In cases where more than one student or student organization is involved, each student or student organization has the right to a separate hearing upon written request. Additionally the department of student judicial affairs may hold separate hearings at its discretion.
- (j) The student or authorized representative of the student organization shall be informed in writing by the department of student judicial affairs of the time and place of the hearing, the specific university rule(s) or regulation(s) that the student is accused of violating, and information on the hearing procedures and the general facts surrounding the incident that led to the charge(s). The notice may be hand-delivered, placed into a student or authorized representative of the student organization's residence hall mailbox or mailed to the last known address of the student or

authorized representative of the student organization, either by certified mail or first class mail or given via any method officially recognized by the university now or in the future. Notice of the hearing generally will be provided at least five business days prior to the scheduled hearing. The student or authorized representative of the student organization may be granted an earlier hearing upon written request to, and approval by the department of student judicial affairs.

- (3) Alternative resolution process. Based on the nature of the incident and the willingness of the complainant and the accused to participate, the department of student judicial affairs may recommend to the parties that the matter be addressed through an educational conference, mediation or restorative justice process. Such mediation sessions shall be conducted by a person chosen by the department of student judicial affairs who has been trained in mediation based on the principles of restorative justice. No such mediation shall be conducted unless the accused student and the person(s) harmed by the student's misconduct consent to the mediation.

(F) Student procedural rights.

- (1) Alleged violations of the code of student conduct shall be heard by a student conduct administrator or university hearing board. In every instance, proper procedural safeguards shall be observed to protect each party's rights.
- (2) Although the procedural requirements are not as formal as those existing in criminal or civil courts of law, the following procedural rights shall pertain to all formal proceedings:
 - (a) Proceedings are instituted only for violation of university rules and regulations established under this code.
 - (b) Investigation of alleged misconduct is conducted as described in this code.
 - (c) Sanctions should be commensurate with the violation(s) found to have occurred. More than one sanction may be

imposed for any single violation. Individual circumstances, attitude, and prior conduct history are some of the factors that are considered when determining the sanction(s).

Possible sanctions include, but are not limited to:

- (i) Deactivation – a student organization’s loss of all privileges, including university recognition, for a specified period of time.
- (ii) Educational sanctions – other appropriate sanctions may be imposed, including but not limited to workshops, work assignments, essays, service to the university, residence hall actions up to and including cancellation of contract, or other related discretionary sanctions.
- (iii) Fine – monetary charge assigned for a violation in accordance with the schedule approved by the board of trustees.
- (iv) Formal reprimand – a notice in writing to the student that the student is violating or has violated university regulations and that future violations will result in further charges and sanctions.
- (v) Loss of privileges – denial of specified privileges for a designated period of time.
- (vi) Probation – probation is imposed for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to violate any university regulation(s) during the probationary period. Students shall not be considered to be in good standing with the university until the probationary period has ended. Probation may affect a student’s ability to participate in athletics, serve in a leadership capacity in a student organization or act as a representative of the university of Akron.
- (vii) Revocation of an academic degree.

- (viii) Revocation of admission (for violations that occur prior to the student's first class attendance.)
 - (ix) Restitution – compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
 - (x) University suspension – separation of the student from the university for a specified period of time, after which the student is eligible to return. Conditions for readmission may be required.
 - (xi) University dismissal – permanent separation of the student from the university.
- (d) University officials have the right to enter property owned, leased or operated by the university for purposes of inspecting for cleanliness, orderliness and safety, to perform maintenance, and to administer university regulations. Evidence of violations of this code obtained as a result of this entry, may be used in disciplinary proceedings. In cases involving suspicion of misconduct, as defined in this code, except in health, welfare and safety emergencies, student premises and possessions shall not be searched without first obtaining proper authorization from the associate vice president ~~for student affairs/~~ and dean of students or his or her designee. Notwithstanding the foregoing, university police have the right to enter property, subject to the normal requirements of applicable policy and law.
- (e) Pending action on the alleged violation(s), the status of the student shall not be altered or his or her right to be present on campus and to attend classes suspended, except when the student's continued presence disrupts the good order and discipline of the university or poses a threat to his or her own physical or emotional safety or to that of others. The president or his or her designee shall determine whether such a threat exists. If the president or his or her

designee, concludes that such a disruption or threat exists, s/he may suspend the student immediately.

When a student is suspended in this manner, the department of student judicial affairs shall convene the hearing board as soon as practical. This interim suspension does not replace the regular judicial process, which shall proceed on the normal schedule, up to and through a university hearing.

- (f) Prior to a conduct hearing, a representative of the department of student judicial affairs shall inform the student in writing of the reasons for the proposed disciplinary action. The department of student judicial affairs will make available to the charged student copies of all information related to the conduct hearing that is in its possession at the time of the notice, including the names of all known witnesses who may testify in support of the allegations. Such information generally will be available at least five business days before the hearing to ensure that the student has an opportunity to prepare for the hearing. If the department of student judicial affairs receives additional information less than five business days before the hearing, the department shall promptly make that information available to the charged student. If the student requests an earlier hearing and such request is granted by the department of student judicial affairs, such information also may be provided to the student less than five business days before the hearing.
- (g) The complainant and the accused student shall have the right to have an advisor of his or her choice present to provide advice and counsel in the hearing and in any meetings with representatives of the department of student judicial affairs. The advisor may only give counsel to the parties and may not actively participate in the hearing; provided however that in extraordinary circumstances and at the sole discretion of the student conduct administrator, an advisor may be permitted to actively participate, subject to the limited terms and conditions set by the student conduct administrator. The student shall speak and act on

his or her own behalf. Questions asked or testimony given by the accused student shall be limited to elements directly related to the alleged violations and potential sanctions.

- (h) Either party may raise a continuing objection to the proceedings or on any other matter; any such objection shall be noted by the chairperson.
 - (i) Either party, during the course of the hearing, may request a short break. Such requests may be granted by the student conduct administrator at his or her discretion. The student conduct administrator shall advise the chairperson in order to assure an orderly hearing process in order to observe fairness and due process. The student conduct administrator, at the direction of the chair, is authorized to exclude persons from the hearing who are disruptive, or may postpone the hearing due to such disruption.
 - (j) The student conduct administrator may request advice from a university attorney. A university attorney may be present during the hearing. The role of the university attorney shall be limited to advising the student conduct administrator on matters of procedure and on the rights of the parties; provided however that if the student conduct administrator allows a student advisor to actively participate in the hearing, the university attorney shall be afforded the same opportunity to actively participate, subject to any limited terms and conditions set by the student conduct administrator.
- (G) University hearing board.
- (1) Pool of members. The president shall appoint a pool of hearing board members from a list of nominees submitted by the senior vice president, provost and chief operating officer. This pool shall be collected as follows:
 - (a) Nominees.
 - (i) Faculty members. Every other year, the dean of each academic college shall nominate, for a two-

year renewable term, a minimum of one interested full-time faculty member from his or her college and forward the nominee(s)' name(s) to the director of the department of student judicial affairs. The director of the department of student judicial affairs shall compile the list of all interested nominees and forward it, along with his or her recommendations to serve, to the senior vice president, provost and chief operating officer. The senior vice president, provost and chief operating officer will review these nominees and recommendations and forward to vice president for student ~~affairs~~ engagement and success his or her recommendations for hearing board membership.

- (ii) Contract professionals. Every other year, a supervisor may nominate, for a two-year renewable term, a minimum of one interested contract professional from his or her administrative unit and forward the nominee(s)' name(s) to the director of the department of student judicial affairs. The director of the department of student judicial affairs shall compile a list of all interested nominees and forward it, along with his or her recommendations to serve, to the vice president for student ~~affairs~~ engagement and success.
- (iii) Undergraduate students. Undergraduate students seeking appointment to the hearing board shall apply to the department of student judicial affairs and be recommended by the associated student government (ASG) as provided by the ASG bylaws. Nominations shall be forwarded to the vice president for student ~~affairs~~ engagement and success.
- (iv) Graduate students. Graduate students seeking appointment to the hearing board shall apply to the department of student judicial affairs and be recommended by the graduate student government (GSG), consistent with its bylaws. Nominations

shall be forwarded to the vice president for student ~~affairs~~ engagement and success.

- (b) The vice president for student ~~affairs~~ engagement and success shall review the pool of nominees and the recommendations submitted by the director of the department of student judicial affairs and the senior vice president, provost and chief operating officer and shall forward to the president his or her final, recommended nominees for hearing board membership.
 - (c) The president initially shall appoint ten faculty members and ten contract professionals from the list of nominees to serve as hearing board members. Of the initial appointees, five members from each group shall serve a two-year term and five shall serve a one-year term. The president also shall appoint fifteen students, graduate/professional and undergraduate, to serve one-year renewable appointments as hearing board members.
 - (d) Following the first year appointments, the president thereafter shall appoint annually five faculty members and five contract professionals from the list of nominees to two-year appointments as hearing board members and fifteen students, graduate/professional and undergraduate, to serve one-year renewable appointments as hearing board members.
- (2) Composition of the boards. The university hearing board shall be composed of five members as follows:
- (a) Three faculty members or contract professionals; and,
 - (b) Two student members.
 - (c) Hearing boards shall be organized by the director of the department of student judicial affairs and shall be organized into standing hearing boards. Alternate hearing board members also may be designated to participate in standing hearing boards as needed.

- (d) Each hearing board shall have a minimum of one faculty member for non-academic charges and a minimum of two faculty members for a hearing in which a student is charged with academic misconduct.
 - (e) In the case of a graduate or professional student accused of misconduct, the student members of the hearing board will be graduate or professional students.
 - (f) The chairperson for the hearing board shall be appointed by the vice president of student ~~affairs~~ engagement and success upon recommendation by the director of the department of student judicial affairs from among the board members.
 - (g) The accused student shall have the right to challenge any member of the university hearing board, for good cause. If the student conduct administrator determines that good cause has been shown, the challenged member shall be excused and a substitute member appointed by the student conduct administrator.
 - (h) The student conduct administrator shall attend all meetings of the hearing board with the exception of deliberations which shall be closed.
- (3) Training. All hearing board members shall be trained by the department of student judicial affairs on core competencies needed to perform their duties, including but not limited to hearing board procedure, evaluating information, techniques for questioning witnesses, applying the standard of proof, sanctioning, and issues of diversity. All members who complete training shall be eligible to serve on the university hearing board if needed. Chairpersons will receive further training from the department of student judicial affairs.
- (4) Procedures. When a case of alleged student misconduct is to be heard by the university hearing board, all of the student procedural rights in this code of student conduct shall apply, and the following procedures shall be followed:

- (a) The department of student judicial affairs shall notify the student in writing of the time and place of the hearing, the specific university rule(s) or regulation(s) that the student is charged with violating, information on the hearing procedures and the facts surrounding the incident that led to the charges.
- (b) If the accused student does not appear before the university hearing board or the university student conduct administrator, the charges shall be reviewed as scheduled on the basis of the information available and a decision shall be made.
- (c) The accused student shall not be required to testify against himself or herself. No inference may be drawn against the student for failing to attend a hearing or remaining silent. The conclusion shall be based on the evidence presented and, if applicable, the sanction shall be imposed in accordance with the findings.
- (d) The student has the right to have his or her responsibility or lack of responsibility determined by the university hearing board. It is the responsibility of the complainant to present information to support the allegation(s) that the student has violated university rules. To provide for a fair and impartial hearing the following processes shall apply:
 - (i) No member of the university hearing board shall be a party to prior investigation of the alleged violation against the student, nor should any member of the university hearing board be placed in a position of developing or presenting the information related to the charges. If any member is unavoidably involved, s/he must disclose and shall not participate in the proceedings as a member of the hearing board.
 - (ii) The student conduct administrator shall begin the hearing by reviewing the hearing board procedures that include the standard of evidence needed to support the finding of responsibility and a summary

of the hearing procedure. The student conduct administrator also shall be responsible for recording the hearing.

- (iii) The chairperson of the board shall advise the student of the alleged violation(s) by reading the notice of hearing and shall inform the student that s/he may admit responsibility, deny responsibility or partly admit and partly deny responsibility.
- (iv) An admission of complete responsibility would require no further proceedings, except that any student shall be offered the opportunity to present evidence of extenuating circumstances, good character, scholarship, or previous record of good conduct bearing only upon the sanction to be assessed by the university hearing board.
- (v) A denial or partial denial of responsibility by the accused student shall require the complainant to present information to support the charges(s).
 - (1) Information related to the charge(s) shall be presented by the complainant and/or a representative of the department of student judicial affairs.
 - (2) Such information may consist of oral testimony and the introduction of any physical exhibits that pertain to the charge(s).
 - (3) The complainant and the accused student shall be given an opportunity to hear and question all witnesses, as well as to present information and call witnesses.
 - (4) The members of the hearing board and a representative of the department of student judicial affairs shall have the right to question any witness.

- (5) If a witness, for good reason, cannot attend the hearing, he or she may testify by telephone- or video-conference. If the witness cannot testify by telephone- or video-conference, he or she may submit a written statement. If the student conduct administrator determines that a written statement may be considered by the hearing board, the accused student shall have the right to object to its consideration by the hearing board and, if admitted, to provide a rebuttal to said evidence.
 - (6) The student conduct administrator shall facilitate the operation of the hearing.
 - (7) The standard of proof that shall apply to all hearings is “preponderance of the evidence”, (i.e., more likely than not), that the alleged conduct occurred.
- (e) Members of the university hearing board or a representative of the department of student judicial affairs may request any member of the faculty, staff or student body who might have pertinent information to participate in a hearing. Only information that will tend to establish either a violation or an absence of violation of the code shall be considered by the hearing board in making its decision concerning responsibility.
 - (f) Findings regarding responsibility and sanction(s) shall be decided by a majority vote. The chairperson shall participate in balloting. Four members constitute a quorum; three affirmative vote(s) shall be required for a finding of responsibility.
 - (g) The report of the university hearing board shall consist of a simple statement covering the chronological sequence of the hearing procedure, together with a summary of evidence presented to the university hearing board, the conclusions reached by it on the basis of such evidence, its conclusion as to the finding of responsibility and, if applicable, sanction(s). The report shall be signed by all

members of the university hearing board and shall be final, subject only to the student's right of appeal to the university appeals board and to the limited right for presidential review pursuant to section (I).

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

(H) University appeals board.

(1) Composition.

- (a) The university appeals board shall be composed of three members including one student and at least one faculty member; it may include one contract professional. The appeals board shall be selected by the director of the department of student judicial affairs from the pool of hearing board members. No appeals board member may have participated in the initial adjudication of the case. All appeals board members must be members of the hearing board pool.
- (b) The university appeals board shall meet in closed session to review all records of the hearing and to determine whether the grounds presented for appeal have merit.

(2) Procedures.

- (a) The complainant or adjudicated student ("the appellant(s)") shall have five business days from the time that s/he is notified of the outcome of the hearing in which to petition

the appeals board in writing for a review. In order to prepare for the appeal the appellant(s) may have access to materials that shall be provided to the appeals board, including a complete record of the hearing.

- (b) The appellant(s) must prepare a written statement appealing the outcome of the hearing and deliver it to the department of student judicial affairs. The appeal must specify the applicable grounds for appeal, as listed in paragraphs (H)(3)(a) through (H)(3)(e) of this rule, and the facts that support the appellant(s)' claim that an error was made.
 - (c) The department of student judicial affairs may provide the appeals board with a written response, a copy of which shall be provided to the appellant(s).
 - (d) If the appellant(s)' appeal(s) the outcome of the hearing, the sanction issued shall not be imposed until the appeal has been considered by the university appeals board and the appellant has been notified of the outcome of the appeal process; provided, however, that a student suspended pursuant to paragraph (F)(2)(f) of this rule shall remain suspended during the pendency of an appeal. Upon conclusion of this appeal process no additional appeal may be requested.
- (3) Grounds for appeal. An appeal shall be limited to review of the record of the hearing and the supporting documents for one or more of the following purposes:
- (a) To determine whether there was a misapplication or misinterpretation of the rule alleged to have been violated;
 - (b) To determine whether the hearing was conducted in violation of procedural requirements set forth in the code of student conduct, and whether these violation(s) could have affected the outcome of the hearing;
 - (c) To determine, based solely upon a review of the original hearing record, whether there was a reasonable basis for the hearing board's or student conduct administrator's

conclusion that a violation of the code of student conduct had been proven by the applicable standard of the evidence;

- (d) To determine whether the sanction(s) imposed were grossly disproportionate to the violation(s) of the code of student conduct for which the appellant(s) was found responsible; or
- (e) To consider new evidence unavailable to the appellant(s) at the time of the hearing, which is sufficient to alter a decision.

(4) Possible dispositions by the university appeals board. The university appeals board may exercise one of the following options in response to the appeal:

- (a) The appeal may be denied and the outcome of the hearing upheld.
- (b) The case may be remanded for a new hearing.
- (c) The university appeals board may reverse the finding of responsibility, in whole or in part, made by the university hearing board or student conduct administrator.
- (d) The university appeals board may uphold, reduce or increase the sanction(s) imposed by the university hearing board or student conduct administrator.
- (e) The university appeals board may dismiss the appeal if the appeal is not based upon one or more of the grounds set forth in paragraphs (H)(3)(a) to (H)(3)(e) of this rule.
- (f) The decision of the university appeals board is final, subject only to the limited right for presidential review pursuant to paragraph (I) of this rule.

(I) Presidential review.

- (1) The vice president for student ~~affairs~~ engagement and success may request a presidential review. Such review shall be requested only

in rare cases where there were procedural violations that rendered the decision unreliable, where the decision reached is not supported by the evidence or where the sanction imposed is excessively severe or lenient.

- (2) Notwithstanding any other provision in this code, and after exhaustion of all other rights of appeal and review, a student who has been dismissed or had a degree revoked pursuant to this code of conduct may request to have such decision reviewed by the president.

- (3) Upon review, the president may:

- (a) uphold or reverse the finding of responsibility in whole or in part; and/or
 - (b) uphold, increase, or decrease the sanction(s) imposed by the university hearing board or the university appeals board in whole or in part.

- (4) A student is entitled only to one presidential review, pursuant either to paragraph (I)(1) or (I)(2) of this rule, of a finding that results in a student's dismissal or degree revocation, and the president's decision is final.

- (J) Academic misconduct procedure.

- (1) Procedure for addressing allegations of academic misconduct.

- (a) An incident of academic misconduct may be resolved and a sanction assessed in a meeting between the faculty member and student. If the student and faculty member agree on the facts of the incident and the proposed sanction(s), the matter can be resolved informally. The faculty member shall confer with the department of student judicial affairs to determine whether any prior academic misconduct has occurred. Written documentation of the agreement as to the facts and the sanction should be created by the faculty member, signed by the student and retained for the faculty member's records. A copy shall be sent to the department of student judicial affairs and the student.

(b) If the student and faculty member disagree about the facts of the incident or the proposed sanction(s), then the matter shall be referred to the department of student judicial affairs for adjudication as provided in the code of student conduct. The matter also may be referred directly to the department of student judicial affairs if the faculty member does not wish to have the matter resolved informally as provided in this rule. Such decision by the faculty member shall not prejudice the student's case.

(2) When the alleged misconduct of the student creates an immediate health and safety concern, including but not limited to, clinical and internship environments, in addition to any other academic disciplinary processes, the student may be immediately removed from the clinical or internship environment upon recommendation of the academic dean, in accordance with the rules of the academic program, professional governing body or contract between the university and the site, pending the outcome of the university judicial process.

(K) Authority for amendments.

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

Replaces: 3359-41-01, 3359-41-02, 3359-41-03, 3359-41-04,
3359-41-05, 3359-41-06, 3359-41-07, 3359-41-08

Effective: ~~July 5, 2010~~

Certification: _____
Ted A. Mallo
Secretary
Board of Trustees

Prom. Under: 111.15

Rule Amp.: 3359.01

Stat. Auth.: 3345.31

Prior Effective Dates: Prior to 11/4/77, 12/6/85, 1/16/86, 12/4/99, 11/24/01,
8/3/03, 9/5/03, 7/5/10