



WKU

University Disciplinary Committee

The Office of Student Conduct

***Promoting Ethics, Integrity, Civility and
Responsibility of all Students***

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Section I

Refreshers & Reminders

UDC Member Code of Ethics

- As the Conduct system exists to promote justice and fairness, and thus to serve the individual student, the campus and the public interest, a University Disciplinary Committee (UDC) committee member's public and official behavior must be beyond reproach and free from impropriety.
- Any UDC committee member or committee member who might be biased for any reason must disqualify him/herself for that particular conference.
- Candor and fairness shall characterize the conduct of the UDC committee members during all phases of the adjudication process.
- A UDC committee member represents the UNIVERSITY's interests. Committee members shall not assert personal beliefs while offering recommendations or delivering sanctioning decisions to a client.

Student Conduct vs. Legal System

LEGAL SYSTEM

- Guilty
- Innocent
- Investigator/Detective
- Defendant/Perpetrator
- Victim
- Standard Rules of Evidence apply
- Standard of Proof: Beyond Reasonable Doubt

STUDENT CONDUCT

- In Violation
- Not in Violation
- Conduct Officer/Investigator
- Respondent
- Complainant/Reporting Party
- Standard Rules of Evidence **do not** apply
- Standard of Proof: Preponderance of the Evidence

The Code of Student Conduct

1. Aiding and Abetting Misconduct
2. Alcohol
3. Contumacy/Refusal to Comply
4. Destruction of Property
5. Dishonesty
6. Disrupting the Academic Process/ Student Conduct Process
7. Drones/Unmanned Aircraft System
8. Drugs
9. Firearms/Weapons
10. Forgery
11. Fraud
12. Gambling
13. Harassment
14. Hazing
15. Identification
16. Misuse of Property
17. Class Nonattendance
18. Obstruction of Access
19. Recreational Mobility
20. Relationship Violence
21. Retaliation
22. Stalking
23. Sexual Assault/Sexual Misconduct
24. Theft
25. Technology Use
26. Tobacco
27. Traffic and Parking Regulations
28. Unruly Conduct
29. Violation of Laws
30. Violation of General Rules and Regulations
31. Weapons

Due Process

The University follows fair procedures in keeping with democratic practices and due process requirements.

Action will not be taken without providing the student with notice of the charges in advance to allow a reasonable period of time to prepare for the conference. Notice may be in writing, or may be delivered in person during a meeting depending on the nature of the consequences for the alleged violation.

Preliminary conferences with the student on any alleged violation or misconduct may occur immediately for the purpose of ascertaining the nature and extent of the problem.



Due Process

Because the focus is on the education of students, student conferences are conducted as informal inquiries and do not follow formalized courtroom procedures.

Decisions at such conferences will be based solely upon the information produced therein. Based on the preponderance of the evidence, the level of student responsibility and/or involvement shall be determined by the institution.

There may be some procedural differences in cases related to Title IX to afford due process to both parties



KRS 164.370 (aka House Bill 290)

An Act relating to student discipline at public postsecondary education institutions.

- Signed by the Governor April 8, 2022, effective July 2022.
- Outlines due process for violations punishable by:
 - Suspension or expulsion from the University
 - Termination of a student's residence in campus housing
 - Loss of campus network access*

Hilltopics / Residential Students' Community Standards

Violations that may reach a level punishable by outcomes ranging from warning – housing probation include, but are not limited to Safety Violations, 1st & 2nd Alcohol Violations

- Adjudicated by Hall Directors or Area Coordinators
- Support Person(s) permitted.
- 1 level of appeal

High-level Residential Violations

Violations that may reach a level punishable by the **termination of residence in campus housing** include, but are not limited to: Drugs, Unruly Conduct, and Possession of Firearms/Weapons.

- Investigated by Area Coordinators
- Adjudicated by Assistant Director for Student Behavior and Conduct.
- Support Person(s) and/or Legal Counsel permitted.
- Up to 3 levels of appeal.

General Codes of Student Conduct

Violations that may reach a level punishable by outcomes ranging from warning – deferred suspension include, but are not limited to: Dishonesty, Alcohol, Drugs (possession or use of), Disrupting the Academic or Conduct Process, Possession of Firearms/Weapons, Violations of General Rules and Regulations.

- Adjudicated by Director, Office of Student Conduct.
- Support Person(s) permitted.
- No Appeals

High-Level Codes of Student Conduct

Violations that may reach a level punishable by a **suspension or expulsion, or loss of network access**, include, but are not limited to Drugs (manufacture, distribution, sale, or intent to sell), Hazing, Relationship Violence*, Sexual Misconduct*, Unruly Conduct, Violation of Laws, and Weapon Brandishing.

- Investigated by Office of Student Conduct or Department of Student Activities
- Adjudicated by the University Disciplinary Committee
- Support Person(s) and/or Legal Counsel permitted.
- Up to 3 levels of appeal.

Violations related to the Title IX Policy

Violations related to Title IX included reports of Sexual Harassment, Sexual Assault, Stalking, and Relationship Violence that occur on campus owned/operated property.

- Investigated by Office of Student Conduct and Title IX Coordinator
- Informal Resolution mediated by General Council, Title IX Coordinator, or Designee.
- Formal Hearings will follow the current process
- Support Person(s) and/or Legal Counsel permitted.

Student Due Process Rights

- Receive advance notice and be advised of the charges in writing.
- ***Be presumed Not Responsible until the institution has established every element of the alleged violation; however, this shall not be construed to mean that a complainant or any witness(es) has presented false testimony or evidence.***
- Explain their version of the events that lead to the alleged violation(s).
- Provide witnesses or persons they wish not to speak too; to present information that tends to support his/her version of the alleged violation.
- Not participate. You may choose not to answer any questions.
- Refute, question, or ask for clarification on any questions presented.
- Challenge the objectivity of the conduct administrator if you have reasonable cause to believe that they may be biased or have a conflict of interest.
- ***Be represented by counsel (or an advisor) in cases that may result in suspension, expulsion, or denial of housing/network access at each material phase of the process.***
- Appeal the outcome of the conference if it resulted in a suspension, expulsion or denial of housing/network access. If you are the complaining student in a sexual harassment and/or sexual misconduct case, you may also file an appeal.

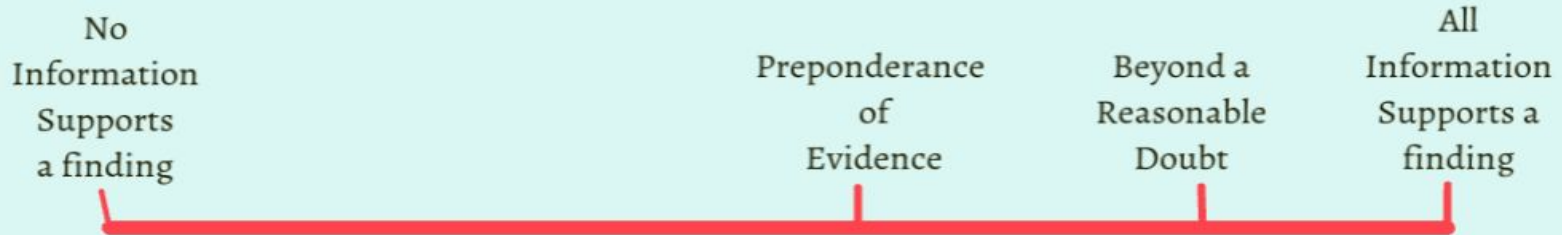
UDC Procedures

Standard of Evidence

Preponderance of evidence

This is the standard of proof used in the WKU Student Conduct Process. For a student to be found responsible for a violation, the evidence must indicate that it is more likely than not that the violation occurred. This is very different from the criminal court system.

Preponderance of the evidence standard is necessary to ensure a fair and equitable student conduct process.



Know the Code

Rely on definitions in the Code of Conduct to clarify potentially ambiguous terms in a conduct case

- The word “include(s)” before a list should be read as saying that the types of conduct in the list are examples of conduct that is covered by the general category rather than an exclusive list.
- The words “means” before a list should be read as saying that the general category covers only the types of conduct in the list.



File Review

Electronic File access will be given approximately one week in advance of the hearing.

It is especially important you are mindful of confidentiality and discretion during this time.

https://topperwkuedu94069-my.sharepoint.com/:f:/g/personal/melanie_evan_s_wku_edu/EkEQZ0dtvORDmJiPV1la1isBUZ4lpl_4hS_2tDug8BQnA?e=WnJHqZ

*Bring laptops/devices to the UDC conference to allow for accessing & referencing materials during the conference.

Requirements for Findings

To establish that a violation had taken place, the referral agent of the complainant must provide information which:

- Constitutes a violation of the Student Code of Conduct.
- Substantiates the alleged behavior charged, and
- Determines the accused student's responsibility for the behavior substantiated.

When preponderance of the evidence establishes any of the three, a finding that a Student Code of Conduct violation has occurred and that the student is responsible must be rendered.

Requirements for Findings

The UDC Committee may not consider:

- A claim of ignorance of the Student Code of Conduct
- A claim of diminished capacity while under the influence of alcohol or other drug, or
- A claim that behavior was motivated by the unsubstantiated behavior of another as a legitimate defense.

These factors, as well as motive and intent, are more often applicable to the sanctioning process and should not be used as criteria on which to base findings.

Ethical Considerations

- Enter each proceeding with an open mind.
- UDC members should express an approachable and non-judgmental attitude toward the charged student(s) at all times.
- If asked by a charged student before the conference what the outcome will be, UDC member should not commit to any course of action. The most appropriate response is, “There is no way to predict the outcome before the conference is held.
- All referral agents, witnesses, charged students and fellow committee members are to be treated respectfully and consistently.



Ethical Considerations

- All information is to be treated as confidential information. While charged student(s) may make public comments about the process and decision outside of the conference, UDC members MAY NOT make any comment about the conference to anyone (as a matter of federal law).
- During the deliberation, UDC members should fully state their opinions even when they differ from the majority point of view. Full participation is critical to sound decision making.
- Once a UDC recommendation has been made, follow through despite the criticism you might receive.
- UDC members should project collegial tone and educational perspective.



Section II

Questioning

Questioning

One of the most important responsibilities as a UDC committee member is to ask relevant questions of the accused student(s), referral agent(s) and witness(es) in order to reach a fair and objective decision.

Good questioning provides useful information, but is a skill that is developed through experience.

It implies active participation in the conference and requires good listening skills.

In depth questioning helps to ascertain the facts of the case and clarify vague issues.

Questioning

Why do we ask questions???

To gather information to assist in:

- Determining Facts
- Determining Credibility (ex: Motivation, Ability, Malice, Threats, Expressions, Behavior Denoting Intent, Other Behavior)
- Determining Responsibility
- Assessing Awareness and Understanding
- Determining Sanctions

Questioning

Types of Questions

- **Open Ended** - Designed to get more thorough, complete responses
- **Closed Ended** - Designed to get specific responses and may be “yes” or “no” answers
- **Multiple Choice** - Can be leading or confusing (students pick the answer that sounds best)
- **Essential Questions** - Who, What, When, Where, How

Questioning

- **“What” Questions**

- Collect details, specifics and/or clarifications
- Ex., “What happened next?”, “What were you drinking that night?”

- **“How” Questions**

- Explicit emotional understanding
- Clarify sequence of events
- Ex., “How did that make you feel?”, “How did you two meet?”

Questioning

- **“Storyteller” Questions**
 - Ex., “Tell me about...”
 - Ex., “Help me understand...”
- **Be Mindful of “WHY” questions** which may sound blaming and **“ASSUMING” questions** (ex., **“Didn’t you...”** which may sound like you have a predetermined decision.

Questioning

Things to Remember

- Prepare questions **before** the hearing!
- Listen carefully and watch non-verbal behaviors
- Examine timeline or sequence of events in an incident
- Clarify any conflicting information before entering deliberations
- Avoid jumping from topic to topic
- Follow-up on contradictions
- Avoid unnecessary writing or notes/messaging during the hearing

UDC Members Should:

Aggressively seek out training on diversity and multicultural topics in order to maintain sensitivity to the point of view of historically underrepresented student sub-groups.

Be cognizant of times when there are racial or gender differences between the referral agent and the charged student and UDC Committee members appropriately (so that it cannot be easily alleged that the decision was implicitly racist, sexist, etc.)

Keep mental track of the benchmarks articulated in the Range of Sanction for the student misconduct and apply them even-handedly in all cases regardless of the social identity factors involved.



Evaluating Information

Direct Information (First-hand)

- A first-person observation of an event/incident

<u>Strengths</u>	<u>Weaknesses</u>
Drawn from direct observation	Subject to observer's accuracy and/or interpretation
	Subject to bias

Evaluating Information

Documentary Information

- Written description of an incident (ex.: incident report, police report, written statement of witness(es)).

<u>Strengths</u>	<u>Weaknesses</u>
Drawn from direct observation and/or initial reporting	Without a witness present, the document cannot answer questions about its content
Serves as basis from which UDC may develop questions	Subject to bias

Evaluating Information

Circumstantial Information

- A reported observation of information that offers inferences about the facts of an event. (ex.: “The student was standing in the hallway near the fire alarm shortly before it went off.”)

<u>Strengths</u>	<u>Weaknesses</u>
Drawn from direct observation and/or initial reporting	Pieces of information may be subject to multiple interpretations
Multiple pieces of circumstantial information can often create compelling conclusions	Subject to bias
Serves as basis from which UDC may develop questions	

Evaluating Information

Hearsay Information (second-hand information)

- Information reported through another party. (ex.: A student witness says that within moments of the fire alarm sounding, another student told them that they observed another student pulling the alarm.)

<u>Strengths</u>	<u>Weaknesses</u>
Can be useful as a means for determining what an involved party said or did following an event.	May not be consistent with fact
	Subject to bias
	May not be relevant to the issues in dispute

Evaluating Information

“Expert” Information

- Information shared from a person who has an acknowledged expertise in related subject matter. (ex.: A police officer who has training related to the reported issue.)

<u>Strengths</u>	<u>Weaknesses</u>
Can assist in making credibility decisions between people providing incongruent information	People can be given the benefit of expertise with insufficient training or experience
Can aid the UDC in understanding pieces of information that should be present	Opinions can sometimes be implied as fact.

Future Trainings

- Title IX - September 20, 2023, 1:30pm, Potter Hall 4th Floor
- Weighing Information - coming soon
- Sanctioning & Rationals - coming soon