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Procedures for handling infractions of regulations established by the administration.

The purpose of the Kenyon College conduct process is to review alleged violations of Kenyon policies, procedures and regulations by individual students, groups of students or student groups. The various components of the College conduct system are designed to respond to such violations, to determine the facts based on a standard of the preponderance of the evidence, to ascertain responsibility or non-responsibility regarding the alleged charges, and to determine appropriate sanctions.

The vice president for student affairs or designee has the authority and responsibility for the administration of the Kenyon conduct process. The members of the Division of Student Affairs and the Student Conduct Review Board seek to provide a conduct process and disciplinary function that educates students about their rights, responsibilities and accountability as members of the Kenyon community. The College's conduct process encourages students and/or the groups to which they belong to recognize their obligations to themselves, to their peers, to Kenyon and to society as a whole. Therefore, a goal of the conduct process is to build an understanding on the part of the students of the positive and negative outcomes of one's behavior and the manner in which that behavior can and often does affect others. Through established procedures, the College conduct process seeks to ensure the protection of student rights in questions of alleged violations of Kenyon policies, procedures and regulations.

It should be noted that the College reserves the prerogative to require students to leave the campus prior to the formal consideration of alleged violation of policies whenever their activities are viewed as threatening or potentially injurious to the well-being or property of members of the Kenyon community or to the property or orderly functioning of the College. An individual or group may be required to curtail or modify behavior and/or activities prior to the formal consideration of alleged violation of policies whenever these behaviors and/or activities are viewed as threatening or potentially injurious to the well-being or property of members of the Kenyon community or to the property or orderly functioning of the College. An individual who chooses to voluntarily withdraw may still be subject to the conduct process if and when the student is readmitted.

Kenyon's president or designee (normally, the vice president for student affairs) may invoke immediate interim suspension following an incident of serious misconduct on the part of individuals or groups when the offender poses a threat to self, others, property or the orderly functioning of the College or when a felonious act has been committed. In compliance with federal and Ohio law, Kenyon reserves the right to notify authorities and the local community of any dangerous or threatening situations and to take action without the consent of the victim.

The College reserves the right to determine whether particular violations of local, state or federal laws also constitute a violation of Kenyon rules and standards. Therefore, students who are arrested and charged by law-enforcement authorities may be notified that College disciplinary action also is pending. The 14th Amendment to the U.S. Constitution does not refer to or place restrictions upon private action, and therefore private institutions of higher education, including Kenyon, are not bound by the prohibitions in the 14th Amendment. The College is in a contractual relationship, not a constitutional relationship, with its students, unless it is in some way acting on behalf of the state, and its procedures are designed to protect the best interests of all its students and the Kenyon community as a whole.

In cases where students have allegedly violated both campus regulations and statutory laws, the College may be faced with a situation where it must take action in its code of conduct prior to action by the courts. This does not constitute double jeopardy for the student, since the campus and the community are two separate jurisdictions. Therefore, the proceedings are independent of each other and one need not necessarily await the outcome of the other. The institution is maintaining its integrity by lawfully determining that the student is unfit to continue in the academic community. Kenyon reserves the right to take action against a student in cases where the College feels that the presence of the student on campus may endanger or disrupt the Kenyon community. (See also the Campus Government Constitution, Article IV, available at [kenyon.edu/campus-government-constitution](http://kenyon.edu/campus-government-constitution).)

The College may delay granting a diploma otherwise earned until the completion of the student conduct process including completion of any sanctions imposed.

### Infractions

Infractions of nonacademic rules and regulations will be reported to the vice president for student affairs, who, with other members of the Student Affairs staff and the Student Conduct Review Board, has jurisdiction in such cases. Initially, a staff member will be assigned to make a preliminary inquiry into the nature and circumstances of each alleged violation. The accused student(s) and/or group will be contacted by the Student Affairs staff member to schedule a meeting to discuss the report or complaint of alleged behavior and to review the conduct review procedures and the student's rights in that process.

In cases when the staff member deems the student(s) and/or group not responsible, or feels that the infraction(s) merit(s) nothing more than a warning, the staff member may adjudicate the case within a reasonable time, not to exceed 30 days while the College is in session. If the infraction appears to call for a more serious sanction, such as disciplinary probation, suspension or dismissal, the student affairs staff member shall consult with the accused student(s) and, at the discretion of the staff member, with the chair of the Student Conduct Review Board. The accused person, persons or group are normally given the opportunity to elect either an administrative hearing or a hearing by the Student Conduct Review Board for judgment, and if appropriate, assignment of a sanction. Note that the staff member assigned to a case always has the prerogative to refer the case to the Student Conduct Review Board because of serious alleged violations for which a hearing by the community, as represented by the Student Conduct Review Board, might be more appropriate. Such a referral by the staff member may also occur when the case is of such a nature that the staff member cannot formulate a judgment on the basis of the information available. The choice for a student or group may be limited to an administrative hearing if the alleged violation occurs at a time when the Student Conduct Review Board cannot be convened.

### Rights of the Complainant and Rights of the Respondent in an Administrative Hearing Process

When students or group participate in an Administrative Hearing, certain procedural rights are afforded:

#### Rights of the Complainant

- The right to decide whether to file a complaint and proceed with a formal hearing.
- The right to review all relevant written documents prior to the hearing.
- The right to present evidence and witnesses. Witnesses must testify to factual evidence only and may not be called to testify to the character of an involved party.

- The right to question all evidence, as well as witnesses and the respondent(s).
- The right to have an advisor, who is a member of the administration, faculty or student body, who is not party to the case, to assist in the preparation of the case and be present at the hearing. The role of the advisor is to ask clarifying questions and to advise the student, not to present the case. It is the student's obligation to present his/her/their own case.

### Rights of the Respondent

- The right to an unbiased hearing and one based on evidence presented at the hearing.
- The right to remain silent; silence is not construed as culpability.
- The right to receive written notification of the complaint(s) brought against him/her at least one business day prior to an administrative hearing.
- The right to review all relevant written documents prior to the hearing.
- The right to a hearing conducted without unreasonable delay following the notification of complaint(s), not to exceed 30 business days while the College is in session.
- The right to present evidence and witnesses. Witnesses must testify to factual evidence only and may not be called to testify to the character of an involved party.
- The right to question all evidence and information, as well as witnesses and the complainant.
- The right not to self-incriminate.
- The right to have an advisor, who is a member of the administration, faculty or student body who is not party to the case to assist in the preparation of the case and be present at the hearing. The role of the advisor is to ask clarifying questions and to advise the student, not to present the case. Students are obligated to present their own cases.
- The right to written notification of a decision in a case in a timely manner, not to exceed five business days.
- The right to appeal the decision of administrative hearing officer to the dean of students. In situations where the dean of students is unable to consider the appeal, the vice president for student affairs shall fulfill this role. The appeal must be based on one or more of the following criteria:
  - procedural error(s) made during the original proceeding;
  - new information unavailable at the original proceeding;
  - the severity of the sanction; and/or
  - decision(s) made absent a preponderance of evidence.

It should be noted that in an appeal, the preponderance of evidence shifts to the respondent, and that an appeal is not a rehearing of the case. The letter of appeal must be filed with the dean of students or designee within three business days of written notification to the respondent of the outcome of the administrative hearing. The dean of students or designee will normally make a decision regarding the written appeal within 15 business days of receipt of the written appeal. In the presence of unusual circumstances, only the president of the College may grant additional time to the dean of students or designee for consideration of the appeal. Normally an appeal will be considered unless it is obvious that none of the criteria listed for an appeal is present. In considering an appeal, the dean of students or designee may deny the appeal and maintain the decision of the administrative hearing officer, grant the appeal and modify the sanction or penalty, or refer the case back to the administrative hearing officer for

further deliberation. The decision of the dean of students or designee regarding the case shall be final and not subject to further appeal.

## Sanctions

While sanctions may be of a punitive nature, they are intended to be educational as well. Notice of sanctions may be sent to the student's parents or guardian, faculty advisor or coach, and the infraction is entered on the student's record in the Dean of Students Office. One year following graduation, all disciplinary records are purged except those involving incidents that resulted in suspension or dismissal from the College. For students who withdraw from the College, all records are retained for five years. Actions that may be taken, individually or in combination, by the staff member or the Student Conduct Review Board are:

- **Statement of Concern.** May be issued to students who are found in the presence of a policy violation, but who are not held formally accountable for that violation.
- **Warning.** A warning is notification that a student has committed certain violations and that continuance of such conduct will result in more severe disciplinary action.
- **Educational Sanctions.** These include but are not limited to alcohol education, mandatory counseling assessment and adherence to professional counseling recommendations, research paper or project, hall or building program with a residential life staff member, group education program, etc.
- **Behavioral Contract.** The purpose is to allow a student to successfully manage himself or herself while remaining an active member of the Kenyon community. The contract may be entered into only by the student affairs staff. Failure to complete the agreed-upon provisions of the contract would result in suspension from the College, unless the student voluntarily withdraws. Whether suspended or withdrawn, the student must follow the re-admittance process outlined in the Kenyon College Catalog.
- **Administrative Hold on Student Accounts.** Enforced most often when students have failed to comply with assigned tasks from a conduct hearing. This action precludes students from registering for classes and obtaining such documents as transcripts and diplomas. Once the outstanding sanction has been satisfactorily completed, the hold will be lifted.
- **Disciplinary Service.** Service hours expected to be completed in a given area as a way to give back to the campus or local community.
- **Fine/Restitution.** A fine or restitution is a monetary penalty for violations such as vandalism or damage to College property or the property of others. All fines must be paid by personal or cashier's check; they will not be applied to a student's account.
- **College Restriction.** Restriction from certain buildings, events, activities, etc.
- **College Housing Restriction.** Residence re-assignment, removal from College housing, loss of lottery points, or restrictions on type of housing where a student may live.
- **Disciplinary Probation.** This sanction means that for a specified period of time (ordinarily no less than the equivalent of one semester) a student is not in good standing with the College.
- **Administrative Withdrawal.** Withdrawal from a specific course, major or academic department may be invoked in cases where a student or group of students violates expectations of the academic arena (classroom incivility, disruption, harassment of faculty or other students in the classroom).

- **Deferred Suspension.** This involves students who have been held responsible for behavior that warrants suspension but where mitigating circumstances and additional sanctions may allow a student to remain in the community while these sanctions are being completed. Failure to complete any of the additional expectations by the stated deadlines will lead to the immediate implementation of suspension without further hearing. In addition, if a student is found responsible for any further College policy violations, at minimum, the student will automatically be recommended for suspension for at least one full semester.
- **Suspension.** The denial of the opportunity to continue in the College for a specified period of time (ordinarily no less than one semester), or indefinitely until the student's intervening record can support an application for readmission. While suspended, a student is not allowed to be on campus or to attend any official College event. The intent is for the student to have time away from the College to consider the implications of his or her behavior and to return to campus with a better understanding of his or her responsibility within the community. In the event that additional sanctions are imposed in conjunction with the suspension, these sanctions will most likely be expected to be completed prior to an application for readmission to be considered.
- **Dismissal.** The denial of the opportunity to continue as a student at the College. A student who has been dismissed is not eligible to apply for readmission. A student who is dismissed is not allowed to be on campus or to be at any official College event at any time.

The sanction or sanctions determined at the time of a hearing (administrative or Student Conduct Review Board) are effective immediately following the appeal period unless indicated otherwise by the dean of students or her/his designee.

Policies governing the recording of suspensions and dismissals on the student's permanent record can be found in the College's academic rules and regulations published in the Kenyon College Catalog.

For organizations and groups, disciplinary action may include, but is not limited to, restriction of social events; loss of housing privileges; probation; suspension; dismissal; and/or removal of recognition of the group.

If a sanction is violated, the individual and/or group shall be subject to further disciplinary actions.

In any case of discipline, whether it is adjudicated by a staff member or by the Student Conduct Review Board, that judgment shall be final, subject only to appeal by the respondent to the dean of students or designee. Such an appeal must be filed within three business days of the official notification. A form for this purpose is available at the Office of the Dean of Students. After hearing the appeal, the dean of students may sustain the decision being appealed, impose an independent judgment of the case, or refer the case back to the Student Conduct Review Board officer for further deliberation.

In the case of a Student Conduct Review Board hearing, an audio recording of the hearing will be made by the administrative liaison to the Student Conduct Review Board. The recording is the property of Kenyon College, and it is available only to the dean of students for the purpose of making determinations stemming from an appeal of the results of a Student Conduct Review Board hearing. Other parties may not have access to, or copies of, the recording. The recording is destroyed when: (1) the time period for filing an appeal expires without an appeal being properly filed, or (2) a decision is made by the dean of students in the event of an appeal.

## The Student Conduct Review System

*This section is from Article IV of the Campus Constitution, passed Dec. 7, 2010.*

The Student Conduct Review Board is designed to address alleged infractions of the College's nonacademic regulations. It was created to ensure the protection of student rights. The Student Conduct Review Board operates through a clearly articulated process designed to determine the facts. When appropriate, it will respond to violation of College policy in a manner that is intended to be for the purpose of educating about accountability and upholding the standards of the community. (For information about the procedures for the Academic Infractions Board, which is separate from this process, please consult the Kenyon College Catalog.)

The limitations of the College's student conduct review system should be recognized. Therefore, when an individual believes a crime has been committed, the College recommends that charges be filed in the criminal justice system, as well as with the College. Members of the Student Affairs staff and the director of campus safety can assist students in making contact with the appropriate state and federal criminal justice agencies and provide support throughout the process. Students should be aware that some College staff members may be bound by law to report certain offenses to criminal justice authorities. Within the College's conduct system, the following shall be the case:

- Any member of the campus community may file a complaint against any student for alleged misconduct by contacting the Campus Safety Office, the chair of the Student Conduct Review Board or a member of the student affairs staff. Complaints must be filed in writing within 30 days following notification to the College administration of the alleged incident.
- Pursuant to the Family Educational Rights and Privacy Act of 1974, all College conduct proceedings are confidential; therefore, hearings are closed to anyone not directly involved in a case. It is expected that the results of a conduct hearing will respect the privacy rights of those involved.
- Cases shall be decided upon a standard of preponderance of evidence.
- Respondents will be considered not responsible until determined otherwise, and it shall be the responsibility of the complainant to establish the facts supporting his or her claim.
- Attorneys may not represent respondents or complainants at a Student Conduct Review Board hearing.
- The College's jurisdiction regarding discipline includes conduct that occurs on College property or at a registered College event or that adversely affects the College community and/or the pursuit of its objectives. College disciplinary proceedings may be instituted against a student charged with violation of a federal, state or local law that is also a violation of the student code, even though civil litigation in court or criminal arrest and prosecution are pending. Proceedings may be carried out prior to, simultaneous with, or following civil or criminal proceedings.

### 1. Terms Used in the Student Conduct Review System

The following terms, when used in the administrative hearing procedures and Student Conduct Review Board procedures, are defined as follows:

1. **Administration:** deans, directors and coordinators within the Division of Student Affairs.

2. **Administrative hearing officer:** a person authorized by the vice president for student affairs or her/his designee to determine whether a student or group has violated the student code of conduct and to impose sanctions when a violation has occurred.
3. **Administrative liaison:** the Student Affairs Office professional who manages the integrity and fairness of the student conduct process before and during a Student Conduct Review Board hearing.
4. **Allegation:** a claimed or suspected infraction or violation of the code of conduct.
5. **Appeal:** the right of a student/organization to question the outcome of the Student Conduct Review Board or administrative hearing to the vice president for student affairs or her/his designee.
6. **Business day:** a weekday when the College is open and conducting regular business, i.e., the College calendar should be consulted to determine when the College is open and conducting regular business versus closed.
7. **College community member:** a current Kenyon faculty member, administrator, staff member or student.
8. **College:** Kenyon College.
9. **Complainant:** a person who submits a complaint alleging that a student violated the student code of conduct.
10. **Complaint:** a written statement alleging that a student or organization has violated the student code of conduct.
11. **Faculty:** any person currently employed by Kenyon to conduct classroom or teaching activities or who is otherwise considered by Kenyon to be a member of its faculty.
12. **Interim suspension:** a temporary suspension, pending the outcome of a hearing, implemented by the vice president for student affairs or her/his designee when he or she deems one or more individuals to be threatening or injurious to the well-being or property of members of the College community, or to its operation.
13. **Investigation:** the process during which information related to a reported incident is gathered.
14. **Not responsible:** an outcome of a Student Conduct Review Board or administrative hearing in which no violation of the student code of conduct is found to have occurred.
15. **Observer/recorder:** Member of Student Council, appointed by Student Council, to keep a written record of the Student Conduct Review Board hearing and in particular to call to the attention of the board chair any observed errors or irregularities, or needed clarifications.
16. **Policies:** written regulations of the student code of conduct.
17. **Preponderance of evidence:** during the hearing, “preponderance of the evidence” is the threshold whereby all the information is determined by the board members to support, more likely than not, the allegations. This preponderance is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence. Thus, one clearly knowledgeable witness may provide a preponderance of evidence over a dozen witnesses with hazy testimony.
18. **Referring administrator:** the Student Affairs staff member assigned to serve as the voice of the College/complainant in the absence of a student complainant.
19. **Regulations:** rules authorized by Campus Senate to set community standards for student conduct.
20. **Respondent:** any student or group against whom a complaint regarding violating the code of conduct has been lodged.



21. **Responsible:** an outcome of a Student Conduct Review Board or administrative hearing in which a violation of the student code of conduct is found to have occurred.
22. **Retaliation:** an attempted or actual return action, usually harmful, against a person because of an action or accusation made against you.
23. **Sanction:** the official College response to violations of the student code of conduct. Although sanctions may be of a punitive nature, they are intended to be for the purpose of educating respondents about accountability and upholding community standards of behavior.
24. **Self-incrimination:** the act of disclosing information that could result in new allegations of code of conduct violations.
25. **Student body:** all persons enrolled at Kenyon.
26. **Director, Office of Student Rights and Responsibilities:** the person designated by the vice president for student affairs or her/his designee to facilitate the administration of the student conduct process.
27. **Student Conduct Process:** the process Kenyon uses to address alleged infractions of the student code of conduct.
28. **Student Conduct Review Board:** persons authorized by the vice president for student affairs or her/his designee, Student Council, the president of the College and the chair of the faculty to determine whether a student or group has violated the code of conduct.
29. **Student:** a person enrolled at Kenyon.
30. **Violation:** behavior contrary to the standards outlined in the code of conduct.
31. **Warning:** Notification that a student's conduct has violated the code of conduct and that continuance of such conduct will result in disciplinary action.
32. **Witness:** a person who provides information on behalf of the complainant or respondent in an administrative or Student Conduct Review Board hearing.

## 2. Membership of the Student Conduct Review Board

- Each spring, Student Council will elect three students to each serve a two-year term and three alternates to each serve a one-year term. In addition, Student Council will appoint three of its members to serve one-year terms as observer/recorder on a rotating basis.
- Each spring the chair of the faculty shall coordinate the election of two faculty members to each serve a two-year term.
- Every second spring, the president of the College shall designate one member of the faculty, ideally a tenured professor who has served at least one year as a voting member on the Student Conduct Review Board, to serve one two-year term as the chair of the Student Conduct Review Board; the chair will vote only in the case of a tie. Faculty members who have served previously on the Student Conduct Review Board or current or past members of the College's Academic Infractions Board may be called to serve when a sufficient number of voting faculty members are not available to meet the qualification of quorum.
- A quorum shall consist of four voting members: two students and two faculty.
- The director of the Office of Student Rights and Responsibilities or designee shall serve as the administrative liaison to the Student Conduct Review Board. The administrative liaison will attend all hearings and will advise the board with respect to board procedures and precedent. If the director of the Office of Student Rights and Responsibilities is unable to serve as the

administrative liaison, he/she will designate a colleague from within the Division of Student Affairs who is familiar with the conduct process to serve in this capacity.

- The administrative liaison will designate a member of the student affairs staff to serve as the referring administrator who will assist the chair, if appropriate, in preparing cases for the board.
- The administrative liaison will serve as a resource for the respondent, complainant and Student Conduct Review Board regarding matters of procedure throughout the process.
- The Student Conduct Review Board shall, at the beginning of each year, participate in a mandatory orientation program, coordinated by the director of the Office of Student Rights and Responsibilities and the chair, to receive and review information about the purposes and charges of the board as defined by the student and faculty handbooks, including responsibilities, policies, procedures, guidelines and obligations for the board, as well as a review of prior cases heard by the board to provide for continuity and consistency. In addition to the members of the board, student affairs staff members who share responsibility for adjudication, all student alternates, members of the observer/recorder pool and members of the Greek Conduct Review Board shall participate in the program.

### 3. Initial Procedures for the Resolution of Conduct Matters

- Initial jurisdiction for nonacademic infractions shall reside with the student affairs hearing officers, who shall make preliminary inquiry into the nature and circumstances of the complaint(s). In cases when the hearing officer does not believe the complaint could be demonstrated with a preponderance of evidence, or feels that the complaint(s) merit(s) nothing more than a warning, the hearing officer may dismiss the case or issue a warning within a reasonable time, not to exceed 30 days, while the College is in session. In cases in which the hearing officer deems the complaint(s) to be more serious, he or she may refer the case to the Student Conduct Review Board. If the hearing officer does not refer the case to the Student Conduct Review Board, the student may choose to have an administrative hearing or a hearing by the Student Conduct Review Board. This referral would occur when a hearing by the community, as represented by the board, might be more appropriate because of the seriousness of the allegations made in the complaint. The Student Conduct Review Board must hear all cases referred to it.
- An administrative hearing will be held if the alleged violation occurs at a time when the Student Conduct Review Board cannot be convened.
- In cases when the hearing officer is partial or has a conflict of interest, he or she will refer the case to another hearing officer or to the Student Conduct Review Board for resolution.
- The College reserves the right to impose an interim suspension whenever individual(s) or campus group activity(ies) is/are viewed as threatening or injurious to the well-being or property of members of the College community, or to its operation.
- The referring administrator shall act as complainant on behalf of the College in cases where a student complainant is absent.

### 4. Powers and Duties of the Student Conduct Review Board

- The Student Conduct Review Board shall hear those cases of alleged violation of the nonacademic rules of the College by individuals or groups as described above. The Student Conduct Review Board shall make the determination of non-responsibility or responsibility, and

if appropriate, a sanction, and it shall forward a letter outlining its findings to the student(s) or group with a copy to the referring administrator and to the administrative liaison.

- The Student Conduct Review Board does not have the power to set aside established student rights or College regulations, or the procedures established by the Senate for the implementation of the College conduct process. However, it may institute, as it deems necessary, rules for its own internal organization, one copy of which must be filed with the referring administrator and administrative liaison.
- If a board member has any potential conflict of interest in a case, he or she is expected to disqualify himself or herself from that particular hearing. The respondent and/or complainant may request that the administrative liaison disqualify a board member from a hearing. Examples for requesting the disqualification include, but are not limited to: current or former attendance in a board member's class; current or former roommate/teammate, etc.
- All hearings shall be closed to the public. Those attending hearings will be limited to: Student Conduct Review Board members, complainant(s), respondent(s) and any advisor he/she/they elect to bring, the administrative liaison, a Student Council observer and witness(es) for the case. Any persons with an interest in the case but not participating in the hearing may not be present in the building in which the hearing is taking place. The witnesses shall remain together in a separate room.
- The Student Conduct Review Board shall issue to the community through campus media each semester a summary of violations and sanctions (without names) to increase understanding of, and respect for, the rules of the College and the rights and responsibilities of the individuals or groups.
- There shall be, as a general guideline, serious efforts to establish and maintain clear lines of communication between the Student Conduct Review Board and other interested College bodies.

## 5. Rights of the Complainant and Rights of the Respondent in the Conduct Process

When students or groups appear before the Student Conduct Review Board, they are afforded certain procedural rights by the Conduct system.

### Rights of the Complainant

1. The right to decide whether to file a complaint and proceed with a formal hearing.
2. The right to review all relevant written documents prior to the hearing.
3. The right to present evidence and witnesses. The names of witnesses must be given to the chair within two business days of the hearing. The number of witnesses called may be determined by the chair to limit unnecessary repetition during a hearing. Witnesses must testify to factual evidence only and may not be called to testify to the character of an involved party.
4. The right to question all evidence, as well as witnesses and the respondent(s).
5. The right to have an advisor, who is a member of the administration, faculty or student body, who is not party to the case, assist in the preparation of the case and be present at the hearing. The role of the advisor is to ask clarifying questions and to advise the student, not to present the case. It is the student's obligation to present his/her/their own case. The complainant is responsible for notifying the chair of the advisor's name at least two business days in advance of the hearing.

## Rights of the Respondent

1. The right to an unbiased hearing and one based on evidence presented at the hearing.
2. The right to remain silent; silence is not construed as culpability.
3. The right to receive written notification of the complaint(s) brought against him/her at least three business days prior to the Student Conduct Review Board hearing.
4. The right to review all relevant written documents prior to the hearing.
5. The right to a hearing conducted without unreasonable delay following the notification of complaint(s); not to exceed 30 business days while the College is in session.
6. The right to present evidence and witnesses on his/her/their behalf in advance of the hearing. The names of witnesses must be given to the chair at least two business days in advance of the hearing. The number of witnesses called may be determined by the chair to limit unnecessary repetition during the hearing. Witnesses must testify to factual evidence only and may not be called to testify to the character of an involved party.
7. The right to question all evidence and information, as well as witnesses and the complainant.
8. The right not to self-incriminate.
9. The right to have an advisor, who is a member of the administration, faculty or student body who is not party to the case, to assist in the preparation of the case and be present at the hearing. The role of the advisor is to ask clarifying questions and to advise the student, not to present the case. Students are obligated to present their own cases. The respondent is responsible for notifying the chair of the advisor's name at least two business days in advance of the hearing.
10. The right to written notification of a decision in a case in a timely manner, not to exceed five business days.
11. The right to appeal the decision of the Student Conduct Review Board or administrative hearing officer to the vice president for student affairs or her/his designee. In situations where the vice president for student affairs or her/his designee is unable to consider the appeal, the provost shall fulfill this role. The appeal must be based on one or more of the following criteria:
  - procedural error(s) made during the original proceeding;
  - new information unavailable at the original proceeding;
  - the severity of the sanction; and/or
  - decision(s) made absent a preponderance of evidence.

It should be noted that in an appeal, the preponderance of evidence shifts to the appellant, the appeal is heard "on the record," i.e., on the basis of written information only, and that an appeal is not a rehearing of the case. The letter of appeal must be filed with the dean of students or her/his designee within three business days of written notification to the respondent of the outcome of the Student Conduct Review Board or administrative hearing. The dean of students or her/his designee will normally make a decision regarding the written appeal within 21 business days of receipt of the written appeal. In the presence of unusual circumstances, only the president of the College may grant additional time to the dean of students or her/his designee for consideration of the appeal. In considering an appeal, dean of students or her/his designee may deny the appeal and maintain the decision of the Student Conduct Review Board or administrative hearing officer, grant the appeal and modify the sanction or penalty, or refer the case back to the Student Conduct Review Board or administrative hearing officer for further deliberation. The decision of the dean of students regarding the case shall be final and not subject to further appeal.

## 6. Student Conduct Review Board Procedures

### Prior to Hearing — Student Complainant(s)

1. The administrative liaison reports the complaint(s) in writing to the chair of the Student Conduct Review Board, which includes the initial written complaint(s), and the policies allegedly violated by the respondent. The administrative liaison will attempt to gather all available information pertaining to the case and will inform the respondent of his/her/their rights as outlined in section 5. During the information gathering period, respondents shall have the opportunity to share with the administrative liaison any additional information they would like to make available to the Student Conduct Review Board.
2. The chair, in consultation with the referring administrator, sends a letter to the respondent, with a copy to the complainant and the administrative liaison, stating the final complaint, the date, time, and place of the hearing, and directing the students to the “Rights of the Respondent.” This letter either will be hand-delivered to the respondent(s) or will be available for pickup at the Office of Campus Safety at least three business days prior to the hearing. If at all possible, the hearing should be held within 15 business days of the date of the original referral from the student affairs staff member.
3. The administrative liaison informs the respondent(s), board members, the observer/recorder, complainant, and referring staff member of the date, time and place of the hearing and provides all with a copy of the available written information at least three business days prior to the hearing. Any witnesses are also informed about the hearing date, time and place three business days prior to the hearing date, but they do NOT receive the written evidence.
4. The respondent is not required to attend the hearing, but it will occur as scheduled, and the right to question written information, witnesses and the complainants is forfeited.
5. Students who harass, intimidate or attempt to influence the testimony of any parties in the conduct process, or the members of the Student Conduct Review Board, will be subject to disciplinary action.

### Prior to Hearing — College Complainant

1. The administrative liaison reports the complaint(s) in writing to the chair of the Student Conduct Review Board, which includes the initial written complaint(s) and the policies allegedly violated by the respondents. The administrative liaison will attempt to gather all available information pertaining to the case and will inform respondents of their rights as outlined in section 5. During the information-gathering period, the respondents shall have the opportunity to share with the administrative liaison any additional information they would like to make available to the Student Conduct Review Board.
2. The chair, in consultation with the referring administrator, sends a letter to the respondent(s), with a copy to the complainant(s) and the administrative liaison, stating the final complaint(s), stating the date, time, and place of the hearing, and directing the student(s) to the “Rights of the Respondent(s).” This letter will be either hand-delivered to the respondent(s) or will be available for pickup at the Office of Campus Safety at least three business days prior to the hearing. If at all possible, the hearing should be held within 15 business days of the date of the original referral from the student affairs staff member.
3. The administrative liaison informs the respondent(s), board members, the observer/recorder, complainant and the referring staff member of the date, time and place of the hearing and

provides all with a copy of the available written information at least three business days prior to the hearing. Any witnesses are also informed about the hearing date, time and place three business days prior to the hearing date, but they do NOT receive the written evidence.

4. The respondent student(s) is/are not required to attend the hearing, but it will occur as scheduled. If respondents do not attend, the right to question written information, witnesses and the complainant is forfeited.
5. Students who harass, intimidate, or attempt to influence the testimony of any parties in the conduct process, or the members of the Student Conduct Review Board, will be subject to disciplinary action.

### During the Hearing

1. The Board members shall gather a minimum of one hour prior to the scheduled start of the hearing to discuss procedure.
2. The observer shall act as recorder for the hearing and shall ensure the hearing is conducted as outlined in the code of conduct. The observer shall record the hearing in handwriting. The observer shall not use a computer or any other device with internal storage of input. The chair of the board shall operate an audio recording device and shall submit the recording to the administrative liaison after completion of the hearing.
3. All persons present are introduced and their roles are explained, particularly those of the witness(es) and observer. The chair explains the purpose of the hearing and describes the order of events of the hearing.
4. The chair shall remind the respondent, complainant and any witnesses that complete candor and honesty are required in all hearings. Perjury and intentional evasiveness are themselves grounds for disciplinary action. The chair also reminds all persons of confidentiality requirements. The chair will remind all present that the hearing is not a legal proceeding. Witnesses are dismissed to the waiting area.
5. The chair reads the list of alleged specific infraction(s).
6. The respondent student(s) or group(s) is/are invited to respond to the allegation(s) and to the information presented in the hearing packet. The response may be:
  - a. agreement with the allegation(s);
  - b. disagreement with the allegation(s); and/or
  - c. a statement (explanation, elaboration or rebuttal).
7. The respondent(s) and the board may question the complainant(s). The board and the complainant(s) may question the respondent(s). The observer may ask clarifying questions.
8. The board hears witnesses called by the complainant(s) and by the respondent(s), one at a time. The precise order of witnesses will be determined by the chair in consultation with the referring administrator and the respondent(s). Insofar as possible, the order of witnesses will be determined prior to the hearing; in any case, if circumstances require it, the order may be altered by the chair as he or she deems necessary and appropriate in the course of the hearing. The board, the complainant(s) and the respondent(s) may question the witnesses. The observer may ask only clarifying questions.
9. The respondent(s) and the complainant(s) have the right to testify orally, in writing, or both.



10. When the chair is confident that all relevant evidence and/or testimony has been heard, the chair invites concluding questions and/or statements. The chair determines who provides a closing statement first: the complainant(s) or the respondent(s).
11. All non-members of the board, including the student observer, are dismissed.
12. The board considers the evidence and testimony from the hearing and makes, by a majority vote, a determination of either responsibility or non-responsibility for each allegation. The chair votes only in the case of a tie. If the board's finding is "responsible" for any of the allegations, the past disciplinary history of the respondent(s), provided by the referring administrator, is read prior to determining the board's decision regarding appropriate sanction(s). The board also decides whether broader communication of the case is needed and if so, the form and content of the communication.
13. The respondent(s) and the observer are recalled and informed of the outcome and, if applicable, the sanction(s). The respondent(s) is/are informed of the right to appeal the outcome and of the appeal procedures and is/are directed to depart from the hearing room immediately and to have no further discussion with any individuals involved regarding this matter.
14. All contents of the hearing packet, documents presented at the hearing and notes taken during the hearing are collected and kept by the administrative liaison. In the case of an appeal, either party may access a copy of his/her/their packet and/or notes taken during the hearing at the office of the administrative liaison. Upon submitting the appeal, all accessed documents must be returned to the administrative liaison.
15. The chair transmits to the respondent(s) a written report of the board's findings, with a copy to the referring administrator and to the administrative liaison.
16. If the board becomes aware of other allegations during the hearing, these will be addressed by the referring administrator following the hearing.

### Records and Reports

1. The administrative liaison retains the audio recording and the observer's written account of each hearing. The recording and the written account are the property of the College and will be used only by the person hearing the appeal. Once the designated time period for the appeal process has been reached (see Rights of the Respondent) the administrative liaison destroys the audio recording and the observer's notes.
2. The administrative liaison retains a record, excluding names, of each infraction and action recommended.
3. Within the first month of each semester, the administrative liaison gives to campus media a summary, not including names, of Student Conduct Review Board actions taken the preceding semester.
4. The administrative liaison retains these records, to be shared with subsequent chairs for purposes of continuity and consistency. The administrative liaison makes these records available to the vice president for student affairs or her/his designee and the president of the College at their request.

See "Procedures for Handling Alleged Academic Infractions" in the Kenyon College Catalog.

## Non-Discrimination Statement

Kenyon College does not discriminate in its educational programs and activities on the basis of race, color, national origin, ancestry, sex, gender, gender identity, gender expression, sexual orientation, physical and/or mental disability, age, religion, medical condition, veteran status, marital status, genetic information or any other characteristic protected by institutional policy or state, local or federal law. The requirement of non-discrimination in educational programs and activities extends to employment and admission.

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