



Operating Policy and Procedure

OP 12.001 Employee Standards of Conduct

DATE: May 20, 2020

PURPOSE: The purpose of this Operating Policy/Procedure (OP) is to establish the standards and expectations regarding employee conduct at Kellogg Community College

REVIEW: This OP will be reviewed annually by the Chief Human Resources Officer (CHRO) and President's Council, with revisions forwarded to the Board of Trustees through the Office of the President.

POLICY/PROCEDURE

1. General Policy

As a community college and public entity, KCC's successful operation and reputation are built upon the ethical conduct of its employees. Employee behavior should demonstrate the essential values of the College and reinforce a culture of inclusion, lifelong learning, respect for others, and continuous improvement. While the established code of conduct cannot address all situations that may arise, it offers a framework to assist KCC employees in understanding the College's expectations of them.

All faculty, staff (full-time, part-time, temporary), and student employees have a responsibility and expectation to conduct themselves in a professional and respectful manner in alignment with their roles and responsibilities as an employee.

2. Definitions

- a. *Coaching* means partnering with employees in a thought-provoking process that inspires and encourages them to make necessary changes to their behavior and/or performance to align with the organization. It assumes the individual has the desire and motivation to solve their own problem. The coach asks guided, work-related questions to help the employee. It differs from direct corrective action.
- b. *Insubordination* means the willful failure or refusal to carry out the lawful, reasonable directions or instructions from an authorized supervisor.
- c. *Administrative Leave* means temporary removal from the work environment of an employee, with or without pay, following an allegation of misconduct, or other similar circumstance, that requires an investigation and review of the related facts.
- d. *Demotion* means an assignment to a position with a lower pay grade, salary reduction, and/or classification.
- e. *Reassignment* means a change, without promotion or demotion, from one position in a different line of work, department or organizational hierarchy.
- f. *College Community* means enrolled students, faculty, staff members, College officials, other persons employed by the College, third-party vendors, and campus visitors.

- g. *Off-Duty*. Hours outside of the College's, department's or organizational unit's standard hours of operation, approved leave, workweek or outside of the employee's normal workday.
- h. *On-Duty*. Hours during the College's, department's or organizational unit's standard hours of operation, workweek or within the employee's normal workday.

3. Off-Duty vs On-Duty Conduct

- a. When an employee engages in conduct in violation of this policy and the conduct is committed off-duty and not on College property, the College may discipline the employee, up to and including termination, whenever the conduct negatively impacts the employment relationship with the College or the working environment or impairs the employee's job performance or ability to perform the job.
- b. Conduct that is off-duty, but on College property, or that is directed toward College students, employees, members of the Board, or property is always connected to employment at the College.
- c. Conduct that is on-duty, but off College property is always connected to employment at the College.

4. Employee

- a. **Generally**. All Employees are expected to understand and conduct themselves in accordance with the performance criteria for their particular job and with all rules, procedures, and standards of conduct established by the College and the employee's department or unit. An employee who does not fulfill the responsibilities set out by such performance criteria, rules, procedures, and standards of conduct, or who violates the standards established in this policy, may be subject to coaching, corrective action, and/or termination.
- b. **Expectations**. Examples of conduct, performance, and work standards expected of Employees include, but are not limited to:
 - i. Obeying all applicable laws, rules, regulations, and adhering to all College and department policies;
 - ii. Communicating, reporting, and documenting timely, accurately, honestly, and in good faith;
 - iii. Performing work in a professional manner and in accordance with expected standards of performance;
 - iv. Adhering to attendance, timeliness, and work schedule standards;
 - v. Using College resources and assets efficiently, including one's work time; and
 - vi. Contributing to a safe and violence-free workplace.
- c. **Misconduct**.

An employee exhibits misconduct when they do not fulfill the responsibilities set out by such performance criteria, rules, procedures and standards of conduct, or who violates the standards established in this policy. Examples of misconduct include, but are not limited to:

- i. Failure to meet the expectations set forth in Section 4(b);
- ii. Acts of dishonesty or aiding others in acts of dishonesty, forgery, alteration, or falsification; or intentionally providing false or inaccurate information;

- iii. Theft of College property or resources, or the property or resources of a member of the College Community;
- iv. Unauthorized use or access of College property or resources;
- v. Inadequate performance and or failure to perform essential function and job duties;
- vi. Conduct that threatens or harms a member of the College Community or College property;
- vii. Unauthorized access, use, or release of confidential or protected information, including but not limited to student records, employment records, protected health information, or any other personally identifiable information;
- viii. Conduct that could constitute a violation of applicable criminal law while in the course and scope of employment, while on duty, at a College function, or on College property, regardless of whether criminal prosecution is pursued or conviction is attained;
- ix. Being unfit for duty, including having controlled substances, including marijuana or alcohol in their bodily system while on College property or at College-sponsored events, or while performing work for the College (see section 5, Drugs & Alcohol); or refusal to submit to a drug or alcohol test; a positive drug or alcohol test result;
- x. Failure to notify the College of any criminal drug statute conviction no later than five (5) days after such conviction;
- xi. Knowingly admitting an unauthorized person or persons into any locked or restricted building or area of the campus;
- xii. Intentionally attempting to influence a disciplinary process for your own or someone else's benefit and/or assisting others by lying or falsifying information on their behalf;
- xiii. Behaving in a manner that is materially and substantially disruptive to College functions or operations;
- xiv. Solicitation and/or acceptance of gifts in exchange for favors or influences related to the College;
- xv. Engaging in an act of insubordination;
- xvi. Failure to meet financial obligations to the College;
- xvii. Harassment, sexual misconduct, discrimination or retaliation against any member of the College Community;
- xviii. Violation of federal, state or local laws, Board of Trustees Bylaws, College policies and procedures, or other applicable laws, rules, and regulations.

5. Drugs & Alcohol

The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, including marijuana, or alcohol on property owned or controlled by the College or during or as part of any College sponsored event or program off campus while on duty is prohibited. In addition, an employee may not have controlled substances, including marijuana or alcohol, in their bodily system while on College property or at College-sponsored events, while on duty, or while performing work for the College.

- a. **Reasonable Suspicion.** An employee shall be required to submit to a drug test or an alcohol test if there is reasonable suspicion that the employee has violated this policy or regulations regarding drugs or alcohol use in the workplace. Non-compliance with a request for reasonable suspicion testing will constitute insubordination and result in appropriate disciplinary action.
 - i. **Definition.** Reasonable suspicion means a belief, drawn from specific objective facts and reasonable inferences drawn from those facts in light of experience, that an employee has

violated this policy or another departmental work rule, policy or regulation regarding drugs and alcohol use in the workplace.

ii. *Reporting and Testing.* Reasonable suspicion must be documented with the **HR-03 Report for Reasonable Suspicion** form. The decision to test must be based on a reasonable and articulated statement on the basis of specific observations concerning the appearance, behavior, speech, or odors of the employee.

- Alcohol breath testing will be conducted by the Public Safety Office utilizing a PBT - Preliminary Breath Test.
- Drug testing will be conducted by an approved licensed medical facility.

iii. *Examples.* By way of example only, reasonable suspicion may be based upon one or more of the following:

- Odors (smell of alcohol or marijuana)
- Movements (unsteady, fidgety, dizzy, lack of coordination)
- Eyes (dilated, red/bloodshot eyes, constricted or watery eyes or involuntary eye movements)
- Face (flushed, sweating, confused or blank look)
- Speech (slurred or inability to verbalize thoughts)
- Emotions (argumentative, agitated, irritable, confused, drowsy)
- Actions (tremors or twitching)
- Inactions (sleeping, unconscious, no reaction to questions)

iv. *Medical Conditions.* The possibility exists that the signs and symptoms listed above may be a result of a potentially life threatening medical condition and not due to alcohol or drug use. An employee should always be taken to the hospital emergency room if it appears they are having a medical emergency. Follow up alcohol/drug testing can be conducted at the emergency room if it is determined that the medical emergency resulted from the use of alcohol or drugs. Public Safety will assess the situation and determine when the situation is a medical emergency and will respond accordingly.

b. ***Marijuana Use and Drug Testing.*** The College maintains the right to marijuana drug testing in accordance with the Michigan Regulation and Taxation of Marihuana Act, 2018 (section 333.27954).

- i. This act does not require Kellogg Community College to permit or accommodate conduct otherwise allowed by this act in any workplace or on the College's property. This includes the main campus and regional centers – Eastern Academic Center, Fehsenfeld Center, Grahl Center and the Regional Manufacturing Technology Center.
- ii. This act does not prohibit Kellogg Community College from disciplining an employee for a violation of a workplace drug policy.
- iii. This act does not prevent Kellogg Community College from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against a person with respect to hire, tenure, terms, conditions, or privileges of employment because of that person's

violation of a workplace drug policy or because that person was working while under the influence of marijuana.

- c. **Transportation.** Under Michigan law, it is illegal to operate a motor vehicle while intoxicated or impaired by alcohol, illegal drugs and some prescribed medications. As such,
 - i. An employee may be transported home by Public Safety. In the event an employee refuses to be transported by Public Safety, he/she must arrange for a non-employee to provide transportation.
 - ii. If an employee is transported home for suspected drug use, he/she is considered on a paid administrative leave as the College waits for test results.
- d. **Legal Prescription & Over-the Counter Drugs.**
 - i. Any employee taking prescription drugs or over-the-counter medication is personally responsible for ensuring that while taking such drugs or medications, he or she is not a safety risk to themselves and others while on College property, while driving a College or privately owned vehicle, while operating any machinery or equipment, or while otherwise engaged in College business.
 - ii. The legal use of prescribed drugs is permitted on the job provided the use does not impair an employee's ability to perform the essential functions of the job in a safe manner and does not endanger other individuals in the workplace.
 - iii. If you are using prescription and/or over-the-counter drugs/medications that may affect your ability to safely perform your job, you must report such use to human resources prior to starting your shift.
- e. **Standard Procedures for Reasonable Suspicion Testing.** Before an employee is subject to reasonable suspicion testing, the Chief of Public Safety or designee must document the basis for the reasonable suspicion (see section 8c). In addition, an employee shall not be subject to a reasonable suspicion test until Public Safety has given express, individualized approval to conduct the test.
 - i. Where reasonable suspicion is presented, the supervisor or appropriate next level management should contact Public Safety as soon as possible explaining their reasons for suspicion. Public safety will assess the reported behavior, document (using HR-03 Report for Reasonable Suspicion) and make a determination on how to proceed.
- f. **Payment of Mandated Drug & Alcohol Testing Costs.** KCC will pay the costs for any reasonable suspicion testing. Employees will not be responsible for payment or reimbursement of any mandated drug & alcohol testing costs.
- g. **Confidentiality.** Records of drug and alcohol testing will be treated as confidential medical records and be kept separate from the employee's personnel file.
- h. **Addressing Infractions.** Any reported drug/alcohol infractions will follow due process procedures and appropriate disciplinary actions outlined in section 6. General procedures for addressing infractions include the following:
 - i. **Faculty.** If the employee is a faculty member, the supervisor (usually the department chair) shall initially recommend to the dean and, thereafter, to the respective Vice President appropriate disciplinary action. The Vice President, in consultation with the Chief Human

Resources Officer will make a final determination on the recommended disciplinary action. All disciplinary actions are subject to this policy and in accordance with the current Kellogg Faculty Association agreement.

- ii. *Staff.* If the employee is a non-faculty staff member, the supervisor shall initially recommend to the appropriate next-level management for appropriate disciplinary action. All disciplinary actions are subject to this policy and where applicable, the Kellogg Community College Maintenance Union Contract and Support Staff Union Contract.
 - iii. *Student.* If the offender is a student employee, and the student is found to be in violation of this policy, sanctions may include termination of employment.
- i. All disciplinary actions for drug/alcohol infractions must be reviewed in consultation with the Chief Human Resources Officer or designee prior to discussion with the employee.
 - j. The Chief Human Resources Officer or designee will consult with the employee on resources available for the employee to support them in ensuring no further infractions. These may include services through the College's Employee Assistance Program (EAP), Health Benefit Plans or other services available through the community.

6. Coaching, Corrective Action, and Termination

While the College encourages the use of coaching and corrective action, in appropriate circumstances, it is not required or necessary that coaching or corrective action be offered in every situation or that coaching or corrective action progress through the options in the sequence presented in this section.

The College will make a judgment in the best interest of the institution as to the appropriate level of discipline, in alignment with bargaining unit agreements (as applicable), and will consider all relevant factors when making decisions including: behavior, severity, business impact, patterns. If warranted by the facts and situation, even for first time offenses, administrators/supervisors may recommend termination.

Employee performance records and any disciplinary actions may be used to inform decisions of future employment, promotion and transfer.

- a. *Coaching and Corrective Action Options.* Coaching and corrective actions are used to encourage the correction of performance or conduct deficiencies by providing the employee with knowledge of the deficiencies, recommended actions that will correct the deficiencies, and an opportunity to take the actions recommended. Supervisors should work in consultation with human resources prior to taking disciplinary actions above the level of verbal coaching.

Coaching and corrective action may include, but is not limited to:

- i. *Verbal Coaching.* If an Employee is exhibiting minor deficiencies, coaching may be used to clarify a gap between current performance or behaviors and those expected by the College.
 - The supervisor should use coaching protocols to inspire the employee to recognize the gap and establish an action plan to correct the deficiencies.
 - In the event the job performance or behavior does not improve, a summary of the coaching, along with any employee's response to same, may be used to support further corrective action.
 - All supervisors should document and maintain records relating to coaching.

- ii. *Written Corrective Action.* If the conduct addressed by verbal coaching is repeated or additional problems occur within 12 months of verbal coaching, the supervisor should follow up with a written warning; or if an employee is exhibiting deficiencies and verbal coaching is either not effective or not appropriate for the situation, a written corrective action may be given to the employee.
 - The written corrective action should include specific details of the unacceptable performance or conduct, list any relevant previous discussions or actions, and state expectations with time frames for correction.
 - The supervisor shall promptly forward any written corrective action and responses to the human resources department to be placed in the employee's personnel file.
 - The supervisor is responsible for communicating any written corrective actions with their appropriate administrator.

- iii. *Administrative Leave With or Without Pay.* If an employee engages in misconduct or adverse behavior, administrative leave may be imposed. The terms of such leave will be determined based on the situation.
 - Written documentation from a supervisor supporting the recommendation for administrative leave must be submitted to and reviewed by the human resources department, respective administrator, Vice Presidents, and approved by the President.

- iv. *Demotion or reassignment.* An employee's supervisor may request a demotion or reassignment of an employee in order to assign the employee to a position where the needs of the department or unit may be met. This may or may not be for corrective reasons.
 - Written documentation supporting the supervisor's recommendation for demotion or reassignment must be submitted to and reviewed by the human resources department and Vice Presidents and approved by the President.

- v. *Final Warning.* If conduct addressed by a written warning is repeated or additional problems occur within a 12-month period, discipline may progress to a final written warning, which may include administrative leave with or without pay. However, a single incident may be so severe as to merit an immediate final warning and administrative leave without pay.
 - An employee currently within a final warning status is not eligible for a transfer or promotion.

- vi. *Employee Responses to Corrective Actions.* Employees may submit a signed and dated written response to written coaching and corrective action, within ten (10) business days of receipt, to the employee's immediate supervisor who will promptly forward such response to the human resources department to be placed in the Employee's personnel file.

7. Termination

Generally, it is recommended that verbal coaching, written corrective action, final warning, and/or administrative leave normally precede termination from employment for job performance reasons. However, when coaching and corrective action do not result in improved or satisfactory work performance, or depending on the severity of misconduct, termination may be warranted.

a. Required Consultations and Review.

- i. *Human Resources.* Supervisors must first consult with the human resources department prior to initiating a termination. Human Resources will then make the determination on whether to proceed with the process of termination.

- ii. *Legal Counsel.* Before any termination is finalized, the Chief Human Resources Officer or designee must consult with the legal counsel.
 - iii. *President.* All terminations must be routed to the President for review and final recommendation to the Board.
- b. **Separation Agreements.** Any proposed separation agreements must be reviewed by the Chief Human Resources Officer and legal counsel and approved by the President in consultation with the Board of Trustees, through the Board Chair.

8. Documentation

Documentation for any disciplinary action or reasonable suspicion testing is required.

- a. ***HR-01 Employee Corrective Action.*** This form is required for all any actions specified in 4(c)(ii-iv). This form must be reviewed with the Chief Human Resources Officer or designee before presenting to employee. All corrective actions must contain the following information:
- Employee's name, K-ID#, job title, department and supervisor's name
 - Type of corrective action currently being taken
 - Any related corrective action taken, including the date and reason for corrective action the description of the incident (what did or didn't the employee do or say?) leading to corrective action being taken, including the date of the incident, manager's review of findings (avoid speculation, assumptions, or hearsay) and policy violated.
 - Exactly what the supervisor expects of the employee going forward and when compliance is expected
 - How and when the supervisor and the employee will follow-up regarding these expectations

This form must be signed and dated by the supervisor and the employee. Note: If the employee refuses to sign the document, the supervisor should write "declined to sign" on the employee signature line.

- b. ***HR-02 Organizational Change Form.*** This form is required for demotions, transfers, or reassignments which may or may not be for corrective disciplinary reasons.
- c. ***HR-03 Report for Reasonable Suspicion*** form is required for any reported instances of reasonable suspicion and provides documentation for purposes of identifying and documenting observed behavior, speech, or other conditions that might lead one to believe and employee is in violation of this policy or regulations regarding drugs or alcohol use in the workplace.

9. Employee Assistance Program

Kellogg Community College is dedicated to the safety, positive performance, and overall well-being of employees. The College provides Employee Assistance Program (EAP) services and resources through HelpNet which offers assessment, counseling, and community referrals to employees.

The (EAP) is a work-life benefit program that enhances a healthy work attitude by providing faculty and staff employees the opportunity to manage life's challenges before they become serious and impair work performance or overall well-being. It provides employees the opportunity to seek treatment for specific problems such as depression, anxiety, substance abuse, anger management, relationship issues, and supervisor/management support.

- a. *Eligibility.* All full-time, part-time, and temporary employees are eligible to access the services of the EAP at any time. Family members of the employee, defined as spouse or covered dependents are also eligible.

b. *Accessing the Employee Referral Assistance Program.*

- i. *Voluntary Self-Referral.* An employee who is experiencing personal problems or whose job performance is affected by personal problems is encouraged to seek help voluntarily from the EAP. EAP records are separate and not a part of an employee's personnel file. An employee's use of EAP services or any other information concerning the nature of the problem is not released to the College or any supervisor. Confidentiality is regulated by state of Michigan and federal guidelines.
- ii. *Supervisory Referral.* In situations where an employee's attendance, punctuality, judgment, behavior, or job performance have deteriorated to the point that disciplinary action is being contemplated, a supervisor may refer the employee to EAP services through Human Resources for voluntary treatment.
- iii. *Contact Information.* An employee may seek assistance or learn more about the program by contacting the EAP, HelpNet directly at 800.969.6162, or on-line at www.helpneteap.com or by contacting the Human Resources department.

10. Roles and Responsibilities

- a. All *employees* have the responsibility to become familiar with, and abide by state and federal laws and regulations, the policies of the Board, administrative procedures, regulations, and all ethical standards of their profession.
- b. The *College* has the authority and responsibility to establish and maintain an effective, efficient, and orderly workplace. However, when an employee's performance or conduct is not in compliance with the standards expected of an employee, the *employee's immediate supervisor* has the responsibility to determine the facts and to take appropriate action.
- c. *Human Resources* is responsible for providing guidance, training and/or resources to assist with understanding, interpreting, and implementing this policy.
- d. At all times, *Public Safety* will operate within the scope of their roles and responsibility as outlined in this policy and in alignment with law enforcement procedures, rules, and regulations.

11. Persons/Departments Affected

- a. All employees

12. Authoritative References

- a. Michigan Regulation and Taxation of Marijuana Act of 2018 and subsequent amendments
- b. Drug-Free Workplace Act of 1988 and subsequent amendments
- c. Drug Free Schools and Communities Act of 1986 and subsequent amendments

13. Right to Change Policy

The College reserves the right to interpret, change, modify, amend, or rescind this policy, in whole or in part, at any time.

14. Approval Date: 05/20/2020