



Operating Policy and Procedure

OP 30.001 Student Code of Conduct

DATE: Aug. 19, 2020

PURPOSE: The purpose of the Student Code of Conduct at Kellogg Community College (KCC) is to foster a positive and safe learning environment for the College community by clearly articulating conduct prohibited by the College and identifying the rights of individuals in the process consistent with that purpose.

REVIEW: This OP will be reviewed in July of each year by the Dean of Student Services and the Vice President for Student and Community Services, with revisions forwarded to the Board of Trustees through President's Council by the Office of the President.

POLICY/PROCEDURE

1. General Policy

The purpose of the Student Code of Conduct at Kellogg Community College ("KCC") is to foster a positive and safe learning environment for the College community by clearly articulating conduct prohibited by the College and identifying the rights of individuals in the process consistent with that purpose. The College makes reasonable efforts to foster the personal and social development of those students who are held accountable for violations of the Student Code of Conduct, or any KCC policies and regulations, by providing appropriate due process and educational responses to violations of policies.

The Student Code of Conduct applies to individuals from the time that an offer of admission is extended and thereafter as long as the individual has a continuing educational interest in the College; this individual is referred to as "student". It also applies to guests of members of the College community whose hosts may be held accountable for the misconduct of their guests. The Student Code of Conduct may also be applied to high school bridge/extension/partner programs including, but not limited to, dual enrollment and Early College. Registered Student Organizations (RSOs) are held accountable to the Student Code of Conduct. The Student Code of Conduct does not have jurisdiction over the visitors or guests; KCC Public Safety can and will address the misconduct of visitors and guests.

KCC upholds all federal, state, and local laws and expects students to abide by such laws. The College reserves the right to hold students accountable for violations of federal, state, and local laws when the conduct has a direct impact on the College or the college community. Additionally, students are expected to comply with the Student Code of Conduct, and any specific regulations adopted by KCC.

The following acts of prohibited conduct apply to all college-related events, whether the offense takes place on college premises or at college-sponsored, endorsed, supported, or related events which occur off-campus, or when an offense that occurs off-campus may adversely affect any interest or mission of the College.

2. Scope

This policy applies to all KCC students and Registered Student Organizations (“RSOs”).

3. Prohibited Conduct

A student or Registered Student Organization, who commits any of the following acts of misconduct shall be subject to disciplinary action. KCC disciplinary proceedings may be instituted against a student charged with violation of a law, which is also a violation of the Student Code of Conduct. For example, if both violations result from the same factual situation, proceedings under the Student Code of Conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings.

Prohibited conduct include, but are not limited to, the following:

- a) **Academic Dishonesty** – Violation(s) of the Academic Integrity policy.
- b) **Acts of Dishonesty** - (1) Misrepresentation of facts or intentionally furnishing false information to any KCC employee in any oral or written transaction with the College; making a false statement which materially interferes with college processes or procedures. (2) Forgery, alteration, or misuse of any KCC document, record, or instrument of identification. (3) Withholding material information from college processes and/or officials.
- c) **Alcohol and Drug** - The unauthorized use, possession, sale, manufacture or distribution of illegal drugs, controlled substances, look-a-like drugs, narcotics, drug paraphernalia, alcoholic beverages, or being under the influence of the same while on KCC premises, at KCC-sponsored activities, engaged in coursework, or conducting any college-related business. Violation(s) of the Alcohol and Drug policy.
- d) **Animals** - Animals are prohibited in KCC facilities, with the exception of specially trained working service dogs for persons with a disability. Specially trained working service dogs must be under the control of the handler at all times. If it is not apparent the animal is trained to help, College staff may ask whether the animal is required because of a disability and what work or task the animal has been trained to perform.
- e) **Bullying** - Bullying is systematic intentional behavior that may take many forms, including but not limited to, repeated unwanted physical, verbal, or written acts which are hostile or offensive, targeted at an individual or group and creates an intimidating and/or threatening environment which produces a risk of psychological and/or physical harm. Bullying may manifest as cyber stalking or cyber bullying as well as excluding behaviors such as ignoring or dismissing individuals or groups. Hostile behaviors include, but are not limited to, inappropriate behaviors that are harmful or damaging to an individual and/or property. Behaviors that are intimidating, threatening, disruptive, humiliating, sarcastic, or vicious may also constitute hostile behavior. Offensive behaviors may include, but are not limited to, inappropriate behaviors such as abusive language, derogatory remarks, insults, or epithets. Other offensive behaviors may include the use of condescending, humiliating, or vulgar language, swearing, shouting or use of unsuitable language, use of obscene gestures, or mocking.
- f) **Children and Dependent Adults on Campus** - Any person who brings with them a minor child or dependent adult to any KCC facility or property is responsible for the actions of the minor child or dependent adult. Minor children and dependent adults are not to be left unattended (including in automobiles). These children and dependent adults may not be taken to classrooms, laboratories, testing, or clinical sessions. If children and dependent adults are left unattended or create a disturbance to the orderly functioning of KCC, the person responsible will be required to remove them from campus.
- g) **Computer Misuse** - Violations of the Acceptable Use of Technology policy including system usage, system performance, unauthorized access, and copyright law.
- h) **Discrimination** – Engaging in discrimination against other persons on the basis of national or ethnic origin, ethnicity, race, ancestry, color, sex (sex or gender, affiliation, expression or

- orientation), marital/family status, age, physical or mental ability or attributes, genetic information, political affiliation, veteran status, religion, or any other characteristic covered by law. This includes any crime motivated by such discrimination. Discrimination occurs when the conduct is directed toward an individual or group of individuals based on their protected status and is severe, persistent, and objectively offensive sufficient to limit or deny that individual or group of individuals their rights to their education, participation in activities, or receipt of benefits to which they are entitled.
- i) **Disruptive Behavior** - A student's behavior at the College must comport with educational processes and should not disrupt teaching, learning, or the orderly conduct of business. Disruption may include: disorderly conduct, lewd or indecent behavior, breach of peace, or aiding, abetting or procuring another person to breach the peace on College premises or at functions sponsored by or participated in by the College. Student who engage in misconduct that is disruptive to the educational environment will be subject to disciplinary action by their instructor and/or Vice President for Instruction (OP 26.006 Administrative Withdrawal policy), and/or as outlined in this policy. No student shall conduct themselves in such a way as to deprive others of an orderly atmosphere for study and learning. Each student is expected to comply with reasonable classroom regulations established in writing by an individual teacher and made available to students at the beginning of the term.
 - j) **Endangerment** - The creation of a hazard endangering the physical safety of self or others by engaging in a dangerous activity or using hazardous materials or chemicals; interference with the freedom of another person to move about in a lawful manner on KCC premises or at KCC sponsored events.
 - k) **Failure to Comply with Official Requests** - Students and registered student organizations are expected to comply with and respond appropriately to the reasonable and lawful requests of college officials in the performance of their duties. A failure to properly comply with a verbal warning or a sanction may also be considered a failure to comply with an official request. Failing to present an ID when requested by a College official acting in the performance of his or her duties.
 - l) **False Alarm and Reports** - Intentionally initiating or causing to be initiated any false alarm, report, or warning of any kind on KCC premises or at KCC sponsored activities.
 - m) **Fire Alarms and Emergency Procedures** - Students are required to evacuate any building when a fire alarm is sounded and to follow emergency procedures as instructed by college officials.
 - n) **Fire Hazard** - No person shall start a fire or create a fire hazard on college property without authorization. This regulation also prohibits the possession and/or use of candles, torches, incense and/or incense burners, other open flame apparatus, as well as extension cords and other devices or materials which may create a fire hazard if used without authorization or in unauthorized areas.
 - o) **Fraud** - Perceived, attempted, or actual financial aid fraud or corresponding behaviors that would allow a student to receive a monetary benefit for which they are not eligible.
 - p) **Gambling** - Encouraging, promoting, or participating in unauthorized gambling on KCC premises or at KCC-sponsored events is prohibited.
 - q) **Harassment** – Harassment is repeated, malicious mistreatment, verbal abuse, or conduct that is threatening, intimidating, humiliating, insulting, isolates people, or undermines their reputation through verbal or non-verbal communications. Participating in any form of harassment defined as any verbal or physical conduct that shows hostility, intimidation, threat, or aversion toward another individual.
 - r) **Hazing** - Any acts which are hazing in nature committed by a person, whether individually or in concert with others, against a student in connection with being initiated into, affiliating with, holding office in, participating in, or maintaining membership in any organization or team affiliated with the College. This includes acts intended to have the effect of, or should reasonably be expected to have the effect of, humiliating, intimidating, or demeaning the student or endangering the mental or physical health of the student. Hazing also includes soliciting, directing, aiding, or otherwise participating actively or passively in the above acts.

- s) **Misuse of Student ID** - Lending a KCC Student ID to anyone for any reason not authorized by the College. Possessing or using a fraudulent student ID card, may subject the owner and/or the holder to disciplinary action.
- t) **Obstruction/Abuse of Student Code of Conduct Process** - (1) Failure to comply with the Student Code of Conduct process; (2) Falsification, distortion, or misrepresentation of information; (3) Disruption or interference with the orderly process of a discipline hearing; (4) Attempting to influence, intimidate, or discourage an individual's participation throughout the conduct process directly or indirectly; and/or (5) Attempting to influence the impartiality of a conduct officer or Appeal Board committee member.
- u) **Retaliation** – A student, group of students, or registered student organizations shall not retaliate, or take adverse action, against any student who files a complaint or grievance and/or participates in an administrative investigation or hearing.
- v) **Sexual Harassment, Sexual Misconduct and Retaliation** – Violation(s) of the Sexual Harassment, Sexual Misconduct, and Retaliation (Title IX) policy (OP 12.002). Conduct that does not rise to the Title IX level (is not severe and/or pervasive) and is not assaultive in nature may be processed via the Student Code of Conduct, as determined by the Title IX Coordinator.
- w) **Smoking and Tobacco** - All KCC facilities are tobacco-free pursuant to Part 126 of the Public Health Code, PA 368 of 1978. Smoking is prohibited in public places, places of employment, and places of recreation, at all its campus locations. Smoking, including the use of e-cigarettes, is only permitted in the following locations in designated areas.
- x) **Soliciting** - Active commercial solicitation on college-owned property is prohibited unless the activity is specifically authorized by the College. Violation(s) of the Commercial Solicitation policy.
- y) **Theft** - Attempted or actual theft of college property, the property of a member of the KCC community, or the property of an authorized campus visitor.
- z) **Unauthorized Presence/Use of College Facilities** - Unauthorized entry into, presence in, or use of college facilities or equipment which has not been reserved or accessed through appropriate College officials.
- aa) **Vandalism** - Attempted or actual damage to or destruction of KCC property, the property of a member of the KCC community, or the property of an authorized campus visitor. This includes actions that have the potential for such damage or destruction and conduct which threatens to damage or creates hazardous conditions.
- bb) **Violation(s) of the Freedom of Expression Policy** – Violation(s) of the Freedom of Expression policy.
- cc) **Violence** - Participating in any form of violence, the threat of violence, or causing reasonable concern of such harm.
- dd) **Voyeurism** - Spying on people engaged in intimate behaviors, such as undressing, sexual activity, or other actions usually considered to be of a private nature.
- ee) **Weapons** - The unauthorized possession or use of firearms, or weapons of any other kind is prohibited on campus. The use or display of any object or instrument in a dangerous or threatening manner directed toward others.

4. Definitions

- a) **Preponderance of the Evidence:** The standard of evidence applied in determining a violation of this policy. Generally considered to be “more likely than not” or “the greater weight of the evidence”.
- b) **Reporting Party:** The person alleging a policy violation and to whom the violation occurred.
- c) **Responding Party:** The person who is alleged to have violated policy.
- d) **Student:** An individual enrolled as a member of KCC in the current and/or future semester or who has been admitted to the College and is actively engaged in the enrollment process.
- e) **Third-Party Reporter:** An individual who reports an alleged violation, but who is not the recipient of such actions.

5. Due Process Proceedings

KCC upholds the principles of due process in all actions related to this policy. The process provides students notice of and an opportunity to respond to allegations of violations of the Student Code of Conduct.

Due process proceedings for allegations of sexual harassment or other forms of sexual misconduct are outlined in the Sexual Harassment, Sexual Misconduct and Retaliation (Title IX) Policy (OP 12.002).

5. A. *Complaint and Investigation Procedures*

- 1) All persons should report alleged policy violations and any other concerning behavior through an online reporting form available at <http://www.kellogg.edu/reportanincident>.
 - a) Students may also notify any College employee when an allegation of a violation occurs.
 - b) Emergency situations should be reported directly to KCC Public Safety at 269-965-4147, by calling 9-1-1, or using any of the yellow call boxes located across the College.
- 2) Once an incident is reported, the Dean of Student Services (or designee) will review the incident report and take the following steps to determine the appropriate response to the report:
 - a) Determine if the facts provided in the incident report fall within the Student Code of Conduct.
 - i) If it does not immediately appear to fall within the jurisdiction of this code, the incident report may be addressed by:
 - (1) Engaging in a preliminary inquiry to gather additional facts;
 - (2) Referral to another College policy/procedure, office or department for further resolution; and/or,
 - (3) Providing an informal administrative resolution.
 - b) If the facts provided in the incident report fall within the Student Code of Conduct, the following steps will be taken:
 - (1) Notify the responding party of the allegation(s); and,
 - (2) Provide the responding party with an opportunity to respond to the allegation(s).
 - c) At any point, the Dean of Student Services (or designee) may determine to open a formal investigation. In such cases, the Dean of Student Services (or designee) may serve as the investigator or may assign the case to an investigator(s).
 - 3) Investigation Procedure
 - a) Investigator(s) will commence a thorough, reliable, and impartial investigation which may include document gathering, interviews, and other relevant evidence.
 - b) Interviews will be conducted as needed, with the reporting party(s), responding party(s), and/or other identified witnesses or parties with first-hand knowledge of the alleged event(s). Information gathered during interviews will be compiled along with other relevant evidence that may exist.
 - c) Investigator(s) may provide a summary report of the investigation to the Dean of Student Services (or designee) along with a verbal recommendation and rationale for a finding.
 - d) The Dean of Student Services (or designee) reserves the right to conduct further or additional interviews.

5. B. *Determining Responsibility*

- 1) Applying a preponderance of the evidence measure, the Dean of Student Services (or designee) shall assess all the information and determine whether it is more likely than not that a violation of the Student Code of Conduct did occur.
- 2) The responding party(s) will receive notice of the findings by the Dean of Student Services (or designee). This notice will include the determination of whether a violation occurred and any sanction(s) applied for the violation(s) along with information regarding the appeal process.

- a) When appropriate, the reporting party(s) may receive a findings notice as well when the findings and/or sanction(s) are appropriate to share.
- b) Third-party reporters, whether an employee or student, do not have the same rights as the primary parties and may not receive notice regarding the outcome of their report or any subsequent investigation or finding.

5. C. *Sanctions*

The following corrective actions, singly or in combination, may be imposed for violation of the Student Code of Conduct. Violation of an imposed sanction is grounds for additional sanctions including suspension, dismissal, or expulsion from the College.

- 1) **Administrative Course Withdrawal** – Administrative withdrawal from any course as a result of a violation of the Student Code of Conduct. The student remains responsible for the course(s) monetarily, and the action will result in a grade of “W” (Withdrawal) or “F” (Failure) on the student’s academic record.
- 2) **Warning** – A verbal or written warning that the Student Code of Conduct has been violated and further violation(s) may result in more severe action(s).
- 3) **Probation** – Probation is for a designated period of time and further violation(s) may result in more severe action(s).
- 4) **Interim Action** – Action taken pending the completion of an investigation. Interim action may include, but is not limited to: temporary no-contact order, alternative course completion options, changing of class and/or work schedules, limited access to campus facilities, providing a campus escort, and/or any other remedy that can be tailored to the student(s) in order to achieve the goals of this policy.
- 5) **Interim Suspension** – The KCC Chief of Police (or designee) may interim suspend a student pending the completion of an investigation, particularly when the safety of the College and/or members of the campus community may be jeopardized by the on-campus presence of the responding party(s). Interim suspension is immediate and will last until the threat has been fully assessed, as determined by the KCC Chief of Police (or designee). At the discretion of the College, the responding party(s) may be denied access to the College campus/facilities/events, and alternative coursework options may be pursued to ensure as minimal an impact as possible on the student(s).
- 6) **Suspension** – Separation from KCC for up to one year during which time the student shall not participate in any college-sponsored activities and/or may be barred from College premises. At the conclusion of the suspension, the student is eligible to make written request for readmission to the College to the Dean of Student Services office (deanofss@kellogg.edu). Readmission is not automatic, may be granted with conditions, and will be considered along with incidents that may have occurred during the suspension status.
- 7) **Dismissal** – Permanent separation from the College which may include being barred from College premises and/or College-sponsored activities.
- 8) **Expulsion** – Permanent separation from the College including employment, using College services, participating in College-sponsored activities, appearing on campus or at College-owned facilities, or representing the College in any manner.
- 9) **Loss of Privileges** – Denial of specific privileges for a designated period of time.
- 10) **Restitution** – Requirement to make payment to KCC or to other persons, groups, or organizations for monetary damages incurred. When appropriate, restitution may take the form of appropriate community service or other compensation.
- 11) **No Contact Order** – Prohibited contact between students when there exists a reasonable concern that physical or psychological harm may result from such contact.
- 12) **Other Sanctions** – Other sanctions may include, but are not limited to, recommendations for counseling and/or psychiatric assessments, specific behavior-related courses, educational or rehabilitative programs, or community service projects.

5. D. *Requesting an Appeal*

The responding and reporting party(s) will have five (5) business days to request an appeal of the decision of the Dean of Student Services and/or resolution. Third-party reporters do not have appeal rights.

The original finding and sanction will stand if the appeal request is not timely or substantively eligible, and that decision is final.

During an appeal, the sanctions imposed will remain in effect.

The party requesting an appeal must show clear error as to the original finding and/ or a compelling justification to modify a sanction, as both the finding and sanction(s) are presumed to have been decided reasonably and appropriately.

All appeal requests must be made in writing to the Vice President for Student & Community Services (or designee) and based on one of the following elements:

- 1) A procedural or substantive error occurred that significantly impacted the outcome of the investigation (e.g. substantiated bias, material deviation from established procedures, etc);
- 2) To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included; or
- 3) The sanctions imposed are substantially disproportionate to the severity of the violation.

The appeal request will be considered to determine if the appeal documentation meets the criteria for an appeal consideration. If the appeal is determined to meet the criteria for considerations, the non-appealing party (responding or reporting party) shall be provided a copy of the appeal and have two business days to file a rebuttal of the appeal (the non-appealing party may waive that right). The appeal documentation along with any rebuttal is then forwarded for consideration to the Student Code of Conduct Review Panel.

- 1) The Student Code of Conduct Review Panel (Review Panel) is convened by the Vice President (or designee). All efforts will be made to convene the Review Panel within five (5) business days of receipt of the appeal and accompanying documentation.
- 2) Review Panel members will include up to three (3) KCC employees and may include up to two (2) currently enrolled students. No person who is personally involved in a particular case will be a member of the Review Panel to consider that case.
- 3) The Review Panel shall be provided with the relevant and material portions of the investigation file for review including the investigator's report and the documentation for the appeal, as well as a rebuttal statement, if filed.
- 4) The Review deliberations are closed to the public to maintain confidentiality. The Review Panel may request to speak with the reporting party(s), responding party(s), witnesses, or any other person to clarify information.

The decision of the Review Panel may include:

- 1) Refer the case back to the Dean of Student Services based on:
 - a) New evidence submitted in the appeal which could substantially impact the original finding or sanction.
 - b) Procedural or substantial error requiring further action to correct the error.
- 2) Uphold the decision that the responding party(s) violated the Student Code of Conduct and uphold the sanction(s) imposed.

- 3) Uphold the decision that the responding party(s) violated the Student Code of Conduct, but reduce the sanction(s) imposed because the sanction(s) are too severe.

All decisions of the Review Panel will be accompanied by the rationale for their decision provided in sufficient detail for the party(s) to have a clear understanding of the basis for the decision.

- 1) The party(s) shall be notified of the Student Code of Conduct Review Panel decision in writing within five (5) business days.
- 2) The decision of the Student Code of Conduct Review Panel is final and binding upon all involved.

6. Forms

- Report an Incident form located online at www.kellogg.edu/reportanincident.

7. Roles and Responsibilities.

- Dean of Student Services (as outlined above)
- Chief of Public Safety (as outlined above)
- Investigators (various positions) (as outlined above)

8. Persons/Departments Affected:

- Students

9. Related Policies

- OP 12.002: Sexual Harassment, Sexual Misconduct, and Retaliation (Title IX)
- OP 26.004: Academic Integrity
- OP 26.006: Administrative Withdrawal

10. Authoritative References

- State law
- Federal law
- United States Department of Education

11. 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, without prior notice.

12. Approval Date: March 17, 2021

13. Past Revisions:

- a. March 17, 2021: Policy amended to clarify policy review requirements.
- b. The Student Code of Conduct has existed in KCC academic catalogs and student handbooks for decades. Annual revisions are made to the Student Code of Conduct to ensure compliance with recent changes enacted in State and Federal laws as well as decisions in pertinent court cases.