

University of Nebraska at Kearney Student Code of Conduct

Preamble

The community of scholars at the University of Nebraska at Kearney is dedicated to personal growth and academic excellence. By choosing to join the community, each member agrees to comply with certain standards of civilized behavior. Therefore, the University of Nebraska at Kearney adopts this Student Code of Conduct, in order that it might: (1) promote a campus environment that supports its educational, research, and outreach missions; (2) protect the members of the community and its resources from disruption and harm; (3) provide a guide to appropriate individual and group behavior; and (4) foster ethical standards and civic virtues, all in keeping with the Student Code of Values adopted by the Association of Students of the University of Nebraska at Kearney on October 27, 2015.

All allegations of sexual misconduct, including sexual assault, sexual violence, dating violence, domestic violence, or stalking are investigated and addressed following the procedures set forth in the "University of Nebraska at Kearney Response to Allegations of Student Sexual Misconduct", adopted pursuant to Board of Regents Policy 5.3.3, attached to this Student Code as Appendix "A," or as Appendix "A" may be hereafter amended.

Student Statement of Values

We the students of the University of Nebraska at Kearney, as the Loper community, are proud of who we are. We are students who care for each other and are part of a community that helps us grow and prosper throughout the University and the City of Kearney. We unite in times of struggle and in times of success. We serve each other honorably and with respect and dignity, whether in our classrooms, in our residence halls, or wherever we may be. We take pride in our relationship with the City of Kearney. We are open-minded and value the intrinsic worth and ideas of others. We strive for excellence, forever carrying the banner of UNK. We are indeed Difference Makers. We are the University of Nebraska at Kearney Lopers.

Furthermore, we embrace that rules, regulations, and sanctions do not exist as punitive measures, but rather as guiding principles, leading us toward higher levels of success. This Code of Conduct seeks to create standards consistent with our values and ideas of the highest order to which we hold our peers and ourselves.

Article I: Definitions

1. The terms "University" and "UNK" mean the University of Nebraska at Kearney.
2. The term "Student" includes all persons enrolled at the University, either as a resident Student or an on-line Student, whether full-time or part-time. The term "Student" also includes:
 - a. A person who withdraws from enrollment at the University after allegedly violating the Student Code, but before the offense is adjudicated;
 - b. A person once enrolled as a Student, not officially enrolled for a particular term in which an offense is committed, but who has a continuing relationship with the University;
 - c. A person living in any University residence hall or family housing, although not enrolled at the University; and
 - d. A person participating as a learner in a program sponsored by the University, even if such program is conducted away from University premises, in any location, including other states and countries.
3. The term "faculty member" means any person hired by the University to conduct classroom, research, or teaching activities or who is otherwise considered by the University to be a member of its faculty.
4. The term "University official" includes any person employed by the University, performing assigned administrative or professional responsibilities.
5. The term "member of the University community" includes any person who is a Student, faculty member, University official or any other person employed by the University. A person's status in a particular situation shall be determined by the Dean of Students.
6. The term "University premises" includes all land, buildings, facilities, and other property in the possession of or owned, used, or affiliated with the University (e. g., Greek Houses, Residence Halls, University vehicles, or off-campus research facilities including adjacent streets and sidewalks).
7. The term "RSO" means any Recognized Student Organization with any number of persons who have complied with the formal requirements for University recognition.
8. The term "shall" is used in the imperative sense.
9. The term "may" is used in the permissive sense.
10. The term "school day(s)" refers to those days during the Fall semester and the Spring semester when classes are in session; "school day(s)" also refers to those days when summer terms are in session, if the Respondent is an individual enrolled in summer sessions. The term "University business day(s)" refers to any day when UNK administrative offices are open to conduct business.
11. The term "policy" means the written regulations of the University and the University of Nebraska as found in, but not limited to, the Student Code, Residence Life Handbook, the University of Nebraska and the University of Nebraska at Kearney web pages, the computer use policy (Executive Memorandum No. 16), and Graduate/Undergraduate Bulletins.

12. The term “Complainant” means any person who submits a charge alleging that a Student violated this Student Code. When a Student believes that s/he has been a victim of another Student’s misconduct, the Student who believes s/he has been a victim will have the same rights under this Student Code as are provided to the Complainant, even if another member of the University community also submitted the charge.
13. The term “Respondent” means any Student or RSO accused of violating this Student Code of Conduct.
14. The term “Conduct Officer” shall mean the Assistant Dean of Students or a University official authorized by the Senior Student Affairs Officer to impose sanctions upon Students or RSOs found to have violated the Student Code of Conduct or other published University policies and regulations prescribing standards of Student conduct.
15. The terms “Disciplinary Procedures” or “University Disciplinary Procedures” refers to the provisions which comprise the hearing process described in Article IV of this Student Code.
16. The terms “Conduct Board” and “University Conduct Board” refer to that body of faculty, staff, and Students selected pursuant to the provisions of Article IV, paragraph 10.1, which presides over hearings conducted as part of the Disciplinary Procedures.
17. The terms “Appeals Board” and “University Appeals Board” refer to that body of faculty, staff, and Students selected pursuant to the provisions of Article IV, paragraph 11.1, which hears appeals of the decisions made by the Conduct Board.
18. The term “Senior Student Affairs Officer” shall refer to the Dean of Student Affairs, Division of Student Affairs, or such other University official as may be appointed by the Senior Vice Chancellor for Academic and Student Affairs.

Article II: Student Code Authority

Decisions made by the University Conduct Board, or if appealed, then by the University Appeals Board, shall be final. No other UNK, or University of Nebraska, appeal is available.

Article III: Proscribed Conduct

A. Jurisdiction of the University Student Code of Conduct

1. The Student Code shall apply to conduct that occurs:
 - a. On University premises, including all University of Nebraska locations, physical campuses and any University affiliated programs located in other states or countries.
 - b. Off University premises, if the conduct is determined by the Conduct Officer to adversely affect the University community, its members, its reputation or the pursuit of its objectives.
2. The Student Code applies to Student conduct which occurs from the time of enrollment through the actual awarding of a degree, even if the conduct occurs prior to the start of classes or is discovered after a degree is awarded.
3. An RSO is responsible for a member’s conduct from the time the Student is admitted to membership until the earlier of the Student’s permanent termination from membership or a degree is awarded.

All allegations of sexual misconduct, including sexual assault, sexual violence, dating violence, domestic violence, or stalking are investigated and addressed following the procedures set forth in the “University of Nebraska at Kearney Response to Allegations of Student Sexual Conduct”, adopted pursuant to Board of Regents Policy 5.3. 3, attached to this Student Code as Appendix “A,” or as Appendix “A” may be hereafter amended.

B. Conduct – Rules and Regulations

Any Student found to have committed, or to have attempted to commit, the following misconduct is subject to the disciplinary sanctions outlined in Article IV:

1. Acts of academic dishonesty, including but not limited to the following:

1a. Cheating: Copying or attempting to copy from an academic test or examination of another Student; using or attempting to use unauthorized materials, information, notes, study aids or other devices for an academic test, examination or exercise; engaging or attempting to engage the assistance of another individual in misrepresenting the academic performance of a Student; or communicating information in an unauthorized manner to another person for an academic test, examination or exercise.

1b. Fabrication or Falsification: Falsifying or fabricating any information or citation in any academic exercise, work, speech, research, test or examination. Falsification is the alteration of information, while fabrication is the invention or counterfeiting of information.

1c. Plagiarism: Presenting the work of another as one’s own (i.e., without proper acknowledgement of the source) and submitting examinations, theses, reports, speeches, drawings, laboratory notes or other academic work in whole or in part as one’s own when such work has been prepared by another person or copied from another person. Materials covered by this prohibition include, but are not limited to, text, video, audio, images, photographs, websites, electronic and online materials, and other intellectual property.

1d. Abuse of Academic Materials: Destroying, defacing, stealing, or making inaccessible library or other academic resource material.

1e. Complicity in Academic Dishonesty: Helping or attempting to help another Student to commit an act of academic dishonesty.

- 1f. Falsifying Grade Reports: Changing or destroying grades, scores or markings on an examination or in a faculty member's records.
- 1g. Impermissible Collaboration: Collaborating on any academic exercise, work, speech, test or examination unless expressly authorized by the faculty member. It is the obligation of the Student to know whether collaboration is permitted.
- 1h. Misrepresentation to Avoid Academic Work: Misrepresentation by fabrication of an otherwise justifiable excuse such as illness, injury, accident, or loss of a family member, in order to avoid or delay timely submission of academic work, to avoid or delay the taking of a test or examination or an academic deadline.
- 1i. Other: Academic units and members of the faculty may prescribe and give Students prior notice of additional standards of conduct for academic honesty in a particular course, and violation of any such standard of conduct shall constitute misconduct under this Student Code and the University Disciplinary Procedures.

Any student found responsible for academic dishonesty may be subject to both academic and disciplinary sanctions. Academic sanctions are issued in accordance with the Academic Integrity policy that may be found at <http://www.unk.edu/offices/reslife/documents/academic-integrity-policy.pdf>.

2. Furnishing false information to any University official, faculty or staff member, or office.
3. Forgery, alteration, or misuse of any University document, record, or instrument of identification.
4. Disruption or obstruction of teaching, research, administration, disciplinary proceedings, and other University activities on or off-campus, including its public service functions on or off-campus, or of other authorized non-University activities.
5. Physical abuse, verbal abuse, threats, intimidation, harassment, coercion, and/or other conduct that threatens or unreasonably endangers the mental or physical health, safety or reputation of any person or oneself, including any such conduct achieved through means of social media or any other means of electronic communication.
6. Attempted or actual theft of and/or damage to property of the University or property of a member of the University community on or off campus.
7. Hazing, defined as any activity by which a person intentionally or recklessly endangers the physical or mental health or safety of an individual for the purpose of initiation into, admission into, affiliation with, or continued membership with any Student organization (regardless of whether the organization is formerly recognized as an RSO). Such hazing activity shall include, but not be limited to, whipping, beating, branding, forced and prolonged calisthenics, prolonged exposure to the elements, forced consumption of any food, liquor, beverage, drug or harmful substance not generally intended for human consumption, prolonged sleep deprivation, any brutal treatment, or the performance of any act which endangers the physical or mental health or safety of any person.
8. Improper Initiation Rituals, more specifically described as, intentionally adopting or implementing a practice or activity for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or RSO that requires exertion or deprivation or embarrassment over a sustained period of time that can reasonably be expected to interfere with a Student's academic performance, or if publicly known could reasonably be expected to diminish the reputation of the group, RSO, or the University, whether within or outside of the University. Any practice or activity that is not publicly advertised in advance of its implementation shall be presumed to violate this section, and the group or RSO shall have the burden of showing that its practice or activity does not violate this section. The express or implied consent of the victim will not be a defense.
9. Failure to comply with directions of University officials or law enforcement officers acting in the course and scope of their University job duties and/or failure to identify oneself to these persons when requested to do so.
10. Unauthorized possession, duplication or use of keys and/or keycards to any University premises or unauthorized entry to or use of University premises.
11. Violation of any UNK or University of Nebraska policy, rule, or regulation published in hard copy or available electronically on the UNK or University of Nebraska websites.
12. Violation of any federal, state or local law.
13. Use, possession, manufacturing, or distribution of marijuana, heroin, narcotics, or other controlled substances, or drug paraphernalia, except as expressly permitted by law.
14. Use, possession, manufacturing, or distribution of alcoholic beverages on University premises (except as expressly permitted by the University), or public intoxication. Alcoholic beverages may not, in any circumstance, be used by, possessed by, or distributed to any person under twenty-one (21) years of age in the State of Nebraska.
 - a. UNK Student Diversion Policy
(Students who seek and/or receive emergency treatment for alcohol poisoning or drug reactions)
 1. Students calling 911 (or similar police/emergency medical services) to assist another person experiencing adverse drug reactions or acute alcohol poisoning or other serious alcohol-related injury are eligible to participate in an alternative to normal Student Code procedure. Students seeking to participate in this alternative must meet with the Conduct Officer to honestly and openly discuss the circumstances surrounding the incident and the decision to call 911/seek emergency medical services. The Conduct Officer will determine if the Student is eligible for the UNK Student Diversion Policy.

2. If the Student is eligible, then in lieu of discipline, the Student must complete, at Student's own expense, the CHOICES program, or such other similar program designated by the University. In addition, the Student shall complete such further recommendations made by professional staff as a result of CHOICES evaluation, or such other similar program, provided that the recommendations do not violate the Student's rights, including but not limited to those rights set forth in the Americans with Disabilities Act.

3. Students who qualify for and complete these alternative requirements will have their Student Code charges set aside and the incident will not be recorded in the behavioral conduct record of the Student, provided the Student commits no additional major violations (as determined by the Conduct Officer) of the Student Code within a twelve (12) month period.

b. Procedure

1. In order for this policy to be in effect, emergency medical services (e.g. 911) must be summoned and must respond directly to the situation.
2. Students will receive a letter from the Conduct Officer or appropriate Residence Hall Director informing them of misconduct charges. Upon meeting with the Conduct Officer, it will be determined if the Student may be eligible for the UNK Student Diversion Policy.
3. If the Student is deemed eligible for the UNK Student Diversion Policy by the Conduct Officer, then upon the Student fulfilling the requirements of the policy, the Student's record will indicate no violation of the Student Code.

While the policy diverts penalties within the Disciplinary Procedures, Students may still be charged by law enforcement officials with violations of federal, state or local laws.

15. Illegal or unauthorized possession of firearms, explosives, other weapons, or dangerous chemicals on University premises or, the use of any such item, even if legally possessed, in a manner that harms, threatens or causes fear to others.
16. Participating in an on-campus demonstration, riot or activity that infringes, or incites others to infringe, on the rights of other members of the University community, including, but not limited to, the ability to legally express oneself, to attend classes or other University activities and programs, or to engage in one's University job duties.
17. Obstruction of the free flow of pedestrian or vehicular traffic on University Premises or at University sponsored or supervised functions.
18. Conduct that is disorderly or indecent, including but not limited to, public urination; breach of peace; or aiding, abetting, or procuring another person to breach the peace on University premises or at functions sponsored by, or participated in by, the University or members of the University community.

In addition, a Student commits disorderly conduct if she or he:

- a. Engages in fighting, assault, or battery;
- b. Makes unreasonable noise and continues to do so after being asked to stop; or
- c. Disrupts a lawful assembly of persons.

19. Theft or other misuse of computer facilities and resources, including but not limited to:
 - a. Unauthorized entry into a file, to copy, use, read, or change the contents, or for any other purpose.
 - b. Unauthorized transfer of a file.
 - c. Use of another individual's identification, username/userid and/or password.
 - d. Use of computing and information technology facilities and resources to interfere with the work of another Student, faculty member or University Official.
 - e. Use of computing and information technology facilities and resources to send obscene or abusive messages.
 - f. Use of computing facilities and resources to interfere with normal operation of the University computing system and information technology systems.
 - g. Use of computing and facilities and resources in violation of copyright laws.
 - h. Any violation of the University Computer Use Policy (Executive Memorandum No. 16).
20. Smoking in any University facility or vehicle.
21. Turning in false fire alarm or bomb threat or misusing fire safety equipment on University Premises, including any Student housing unit.
22. Failing to report a fire or any other extremely dangerous condition when known or recognized on the campus.
23. Violation of any Student housing unit policy or regulation. (All Residence Life policies are found at www.unk.edu/offices/reslife)
24. Sexual assault or any other uninvited behavior of a sexually explicit nature including but not limited to sexual harassment, dating or domestic violence, and stalking. All allegations of sexual misconduct, including sexual assault, sexual violence, dating violence,

domestic violence, or stalking are investigated and addressed following the procedures set forth the “University of Nebraska at Kearney Response to Allegations of Student Sexual Misconduct,” adopted pursuant to Board of Regents Policy 5.3.3, attached to this Student Code as Appendix “A,” or as Appendix “A” may hereafter be amended.

25. Abuse of the University Disciplinary Proceedings, including but not limited to:
 - a. Failure to obey the notice from a Conduct Board or University official to appear for a meeting or hearing as part of the Disciplinary Proceedings.
 - b. Falsification, distortion, or misrepresentation of information before a Conduct Board.
 - c. Disruption or interference with the orderly conduct of a Conduct Board proceeding.
 - d. Filing a malicious or frivolous complaint.
 - e. Attempting to discourage an individual’s desire or efforts to engage in a permitted participation or use of the Disciplinary Procedures.
 - f. Attempting to influence the impartiality of a member of a Conduct Board prior to, and/or during the course of, the Conduct Board proceeding.
 - g. Harassment (verbal or physical) and/or intimidation of a member of a Conduct Board prior to, during, and/or after a disciplinary proceeding.
 - h. Failure to comply with the sanction(s) imposed under the Student Code.

C. Violation of Law and University Discipline

When a Student is charged by federal, state, or local authorities with a violation of law, the University will not request or agree to special consideration for that individual because of his or her status as a Student. If the alleged offense is also being processed under the Student Code, the University may advise off-campus authorities of the existence of the Student Code and how such matters are typically handled within the University community. The University will attempt to cooperate with law enforcement and other agencies in the enforcement of criminal law on campus and in the condition imposed by criminal courts for the rehabilitation of Student violators. Individual Students and other members of the University community remain free to interact with governmental representatives as they deem appropriate.

D. Referral to Civil or Criminal Authorities

When circumstances warrant, the University administration will refer acts of misconduct to appropriate civil or criminal justice authorities.

Article IV: Student Code of Conduct Disciplinary Procedures

1. General

- 1.1 Right to Disciplinary Proceeding. Except in cases of temporary suspension ordered by the Senior Vice Chancellor for Academic and Student Affairs or Senior Student Affairs Officer as hereafter provided, suspension, expulsion or other disciplinary sanction for misconduct may not be imposed without a disciplinary proceeding in accordance with these Disciplinary Procedures.
- 1.2 Student Court Jurisdiction. Nothing in these Disciplinary Procedures shall affect the jurisdiction of the Student Court of the Association of Students of the University of Nebraska at Kearney (ASUNK) with respect to ASUNK constitutional matters, RSO’s and other non-disciplinary Student matters.
- 1.3 Disciplinary Procedures of Subordinate Conduct Boards. All subordinate conduct boards shall model their disciplinary procedures insofar as possible after these Disciplinary Procedure. See Section 13 relating to subordinate conduct boards.

2. Rights of the Complainant and Respondent

2.1 Complaint. Any member of the University community may file a written misconduct complaint against a Student or RSO alleging misconduct under the Student Code or other policy. Misconduct complaints shall be filed with the Conduct Officer.

2.2 Responsibility of the Conduct Officer. If the Conduct Officer determines that the misconduct alleged in a complaint warrants the institution of disciplinary proceedings, he or she shall insure compliance with these Disciplinary Procedures.

2.3 Disqualification of Conduct Officer. In the event the Conduct Officer may be a material witness in any disciplinary proceeding or for any reason cannot perform his or her duties under these Disciplinary Procedures, the Senior Vice Chancellor for Academic and Student Affairs shall appoint an acting Conduct Officer to perform such duties.

2.4 Review of Complaint. The Conduct Officer shall make a preliminary investigation of each complaint to determine whether it may be disposed of without institution of disciplinary proceedings. Within 20 school days after receipt of a written misconduct complaint against a Student or RSO, the Conduct Officer must decide on one of three courses of action: (a) dismiss the complaint, (b) propose an administrative disposition to the Student or RSO, or (c) initiate a disciplinary proceeding before the University Conduct Board or a subordinate conduct board.

2.5 Informal Meeting. The Conduct Officer may conduct an informal meeting with a Student or RSO accused of misconduct to discuss the misconduct alleged. Prior to any such informal meeting the Student or RSO accused of misconduct shall be apprised in writing of the following:

- a. The source and nature of the misconduct complaint that has been filed.

- b. That the Student or RSO is entitled to be accompanied by legal counsel or an adviser at the expense of the Student or RSO at any meeting or hearing relevant to the misconduct alleged in the complaint.
- c. That the Student or RSO is under no obligation at any time to admit the misconduct alleged or to make any other statement at any meeting or hearing relevant to the misconduct alleged.
- d. That any statement that the student or any representative of the RSO may make can be used against the student or RSO under these Disciplinary Procedures.

During any such informal meeting, the Conduct Officer may proceed with administrative disposition of a complaint pursuant to Section 4.2 of these Disciplinary Procedures if the Conduct Officer determines that administrative disposition is appropriate and if the same is accepted by the Student or RSO as provided in Section 4.2.

2.6 Failure to Appear. If a Student or RSO accused of misconduct fails to appear at an informal meeting requested by the Conduct Officer, the Conduct Officer may initiate disciplinary proceedings before the University Conduct Board or a subordinate conduct board.

3. Temporary Suspension

Pending initiation of disciplinary proceedings by the Conduct Officer, the Senior Vice Chancellor for Academic and Student Affairs or the Senior Student Affairs Officer may at any time temporarily suspend a Student from the University or deny a Student readmission when the Senior Vice Chancellor for Academic and Student Affairs or Senior Student Affairs Officer finds and believes from information coming to his or her attention that the presence of the Student on the University campus would seriously disrupt the University or constitute a danger to the health, safety or welfare of other persons, the Students, or property of the University or members of the University community. If a Student is temporarily suspended by the Senior Vice Chancellor for Academic and Student Affairs or the Senior Student Affairs Officer, the Senior Vice Chancellor for Academic and Student Affairs or Senior Student Affairs Officer shall promptly instruct the Conduct Officer to initiate appropriate disciplinary proceedings against the Student within five (5) University business days after temporary suspension is imposed. If a Student placed on temporary suspension is ultimately found "Not in Violation" of misconduct, such Student shall be allowed if at all possible to make up academic work missed while on temporary suspension.

4. Administrative and Conduct Board Disciplinary Proceedings.

4.1 General. If the Conduct Officer determines that the institution of a University disciplinary proceeding for alleged misconduct is in the best interests of the University and/or the University community, such proceedings shall be instituted against the Student or RSO accused of misconduct in accordance with the procedures for administrative disposition or the procedures for conduct board disposition hereinafter provided.

4.2 Administrative Disposition. The Conduct Officer, in the exercise of his or her reasonable judgment, and when agreed to in writing by the Student or RSO, shall have authority by administrative disposition of a disciplinary proceeding to impose any of the disciplinary sanctions provided in Section 7. The proposed administrative disposition shall list all Student Code violations with which the Student or RSO is being charged as a result of the alleged misconduct. Where an administrative disposition proposed by the Conduct Officer is not accepted in writing by the Student or RSO, the Student or RSO shall have the right to have the matter of the alleged misconduct referred to the University Conduct Board. The Student or RSO shall have three (3) school days within which to accept or reject an administrative disposition proposed by the Conduct Officer. If the Student or RSO fails to accept or reject the proposed administrative disposition within such three day period, rejection will be presumed and the matter shall be referred to the University Conduct Board as provided from in Section 4.3.

4.3 Conduct Board Disposition. If a student or RSO rejects administrative disposition of a disciplinary proceeding proposed by the Conduct Officer, the Conduct Officer shall institute a disciplinary proceeding against the Student or RSO before the University Conduct Board or before a subordinate conduct board for the misconduct alleged in the complaint. The disciplinary proceeding so instituted shall be limited to those Student Code violations listed in the rejected administrative disposition, unless new evidence becomes available after the administrative disposition was rejected. Further, the Conduct Officer in the exercise of his or her reasonable judgment may institute a disciplinary proceeding for alleged misconduct directly before the University Conduct Board or before a subordinate conduct board without first offering administrative disposition to a student or RSO accused of misconduct.

4.4 Jurisdiction. The University Conduct Board shall have general original jurisdiction under these Disciplinary Procedures to hear and decide any disciplinary proceedings against a Student or RSO accused of misconduct. Subordinate conduct boards shall have limited original jurisdiction to hear and decide disciplinary proceedings according to their respective disciplinary procedures. (See Section 13.1(e) relating to jurisdiction of subordinate conduct boards.)

5. University Conduct Board Procedure

5.1 Notice. All disciplinary proceedings before the University Conduct Board shall be instituted by written notice delivered to the Student accused of misconduct or delivered to an officer of the RSO accused of misconduct. Such written notice shall contain the following information:

- a. Source of the misconduct complaint.
- b. Statement of alleged facts constituting misconduct under the Student Code or other policy.
- c. Citation of the specific provision(s) of the Student Code of Conduct or other policy alleged to have been violated.
- d. Description of the pertinent information (e.g. records, statements, images or other information) to be presented in support of the alleged misconduct.

- e. Date, time and place of the hearing before the Conduct Board. Each hearing shall be at least three (3) school days after the date of receipt of the written notice.
 - f. A statement that the Student or RSO accused of misconduct may be accompanied by legal counsel or other adviser at the hearing before the Conduct Board, to be provided at the expense of the Student or RSO, and that such legal counsel or adviser may advise the Student or RSO, but may not directly participate in the hearing.
 - g. That the Student or RSO accused of misconduct is under no obligation to admit the truth of the alleged misconduct or to make any other statement at the hearing relevant to the alleged misconduct, and that refusal to testify or make a statement will not be considered as an indication of guilt.
 - h. That the Student or RSO accused of misconduct has the right to inspect any evidence which the Conduct Officer intends to present at the hearing and be given an opportunity to inspect such information before the hearing in the Conduct Officer's office. The Student or RSO will be advised in writing prior to the hearing of any pertinent information subsequently discovered.
- 5.2 Failure to Appear. The Student accused of misconduct, or a Student officer of the RSO accused of misconduct, will be expected to be present at the hearing before the Conduct Board. If the Student or a Student officer of the RSO fails to appear at the time and place designated for the hearing, the Conduct Board shall proceed with the hearing if a majority of the Conduct Board members present are satisfied that the Student or RSO has received written notice as required by Section 5.1. The Conduct Board will then proceed in the absence of the Student or RSO and render a decision, based upon the information presented at the hearing.
- 5.3 Quorum. Every Student or RSO accused of misconduct in disciplinary proceedings before the Conduct Board is entitled to a hearing by a quorum of the Conduct Board. A quorum will consist of at least five members, which must include at least one faculty member, one staff member, and one Student member of the Conduct Board pool. If a quorum is not present, the Student or Student officer of the RSO, as the case may be, and the Conduct Officer may stipulate and agree in writing that the Conduct Board hearing may be conducted and the case may be decided by those Conduct Board members present even though a quorum has not been established. If there is no such stipulation, the hearing shall be rescheduled as soon as is reasonably possible.
- 5.4 Status Pending Conduct Board Proceedings. The status of a Student accused of misconduct shall not be altered and the right of a Student to be present on campus and to attend classes shall not be suspended during the time of any pending disciplinary proceeding against the Student unless the Senior Vice Chancellor for Academic and Student Affairs or Senior Student Affairs Officer determines that suspension of the Student is required for compelling reasons, including but not limited to the protection of the health, safety or welfare of the Student, other persons, or the property of the University and/or the members of the University community. The status of an RSO accused of misconduct shall not be altered pending any disciplinary proceeding, unless the Senior Vice Chancellor for Academic and Student Affairs or Senior Student Affairs Officer determines that suspension of the RSO from the University is required for compelling reasons in order to protect the health, safety or welfare of the members of the University community, their property or that of the University.
- 5.5 Disqualification of a Conduct Board Member
- a. If any member of the Conduct Board believes that associations, relationships, or other circumstances exist such that he or she is unable, or is perceived to be unable, to render a fully fair and impartial decision, such Conduct Board member shall disqualify himself or herself from participation in the proceeding. Additionally, a member may elect not to serve on the Conduct Board for a particular proceeding if the member in the exercise of reasonable discretion believes there may be an appearance of impropriety by serving as a member of the Conduct Board for that proceeding. The foregoing shall not relieve the Conduct Board from the requirement of maintaining a quorum as required by Section 5.3 above.
 - b. At the beginning of any hearing before the Conduct Board, prior to any presentation of pertinent information related to the alleged misconduct, each member of the Conduct Board shall state and affirm on the record that to the best of his or her knowledge and belief, he or she is able, and knows of no reason why, he or she would be unable, or would be perceived as unable, to render a fully fair and impartial decision for the matter before the Conduct Board.
- 5.6 Conduct Board Hearings Closed. All hearings of the Conduct Board shall be private and closed to the public; provided that the Complainant, the Respondent and their advisors, if any, shall be allowed to attend the entire portion of the hearing at which information is presented. Admission of any other person to the hearing shall be at the discretion of the Conduct Board in consultation with the Conduct Officer. Neither the Complainant, nor the Respondent, nor their advisors, if any, shall be allowed to attend the deliberations of the Conduct Board.
- 5.7 Right to Separate Hearing. In any proceeding involving more than one Respondent, any Respondent may request and the Conduct Board, at its discretion may grant, a separate disciplinary proceeding before the Conduct Board.
- 5.8 Hearing during the 15th Week, Finals Week and Summer Sessions. Conduct hearings may not be available during the last two weeks of each semester (15th Week and Finals Weeks) and during summer school sessions. During these time periods the Senior Student Affairs Officer may designate one or more hearing officers who shall be authorized to serve as the Conduct Board, to conduct hearings and render decisions in disciplinary proceedings in accordance with the procedures governing the Conduct Board to the extent reasonably applicable.
- 5.9 Decisions. The Conduct Board shall render a written decision in each proceeding in accordance with the requirements of Sections 7.1 and 7.2 of these Disciplinary Procedures.

6. Rules Applicable to the Conduct Board Hearing

- 6.1 Pertinent Information and Summary Presentations. Pertinent information related to the alleged misconduct shall be submitted in the following order: (i) information presented by the Conduct Officer in relation to the alleged misconduct, (ii) information presented by the Student or RSO accused of misconduct, and (iii) further information or explanation presented by first, the Conduct Officer, followed by the accused Student or RSO, such presentations to be confined to rebutting the other's information presented at the hearing. After the presentation of all pertinent information, the Conduct Officer shall be given the opportunity to make a presentation summarizing the information and position of the University, followed by a presentation by the Student or RSO summarizing the Respondent's position.
- 6.2 Witnesses. The Conduct Board, the Complainant and the Respondent may arrange for witnesses to present pertinent information to the Conduct Board. Witnesses will provide information to and answer questions from the Conduct Board. Questions may be suggested by the Complainant or the Respondent to be answered by each other or by other witnesses. This will be conducted by the Conduct Board with such questions directed to the chairperson, rather than to the witness directly. This method is used to preserve the educational tone of the hearing and to avoid creation of an adversarial environment. Questions of whether potential information will be received shall be resolved in the discretion of the chairperson of the Conduct Board.
- 6.3 Attorney or Adviser Not Allowed to Participate in Hearing. An attorney, or other adviser for a Complainant or a Respondent, may be present at the hearing solely to advise, and may not directly participate in the hearing. Without limiting the generality of the foregoing sentence, an attorney or other adviser shall not be permitted to make oral presentations or arguments, ask questions of the Conduct Board examine or cross-examine a witness, or object to testimony of a witness or to introduction of other evidence. Failure of an attorney to abide by this section may result in a ruling against the Attorney's client for noncompliance with these Disciplinary Procedures. Each of the Complainants and Respondents are expected to present their own pertinent information and, therefore, advisors are not permitted to speak or to participate directly in any hearing before the Conduct Board.
- 6.4 Evidentiary Rules. Formal rules of process, procedure, and technical rules of evidence, like those applied in criminal or civil court, are not used, nor are they applicable, in proceedings before the Conduct Board. Incompetent, irrelevant, immaterial, and unduly repetitious information may be excluded. The Conduct Board shall, in its sole discretion, determine whether information shall be heard at the hearing and/or considered in its deliberations.
- 6.5 Verbatim Record. The Conduct Board shall make a confidential verbatim record of each hearing. Such verbatim record shall be made by such method of recording or recording device as the University deems suitable. The recording shall be the property of the University. Copies of such recording may be obtained by a Respondent upon payment of the cost of duplication and used only for the purpose of an appeal under these Disciplinary Procedures or as otherwise required by law. In no event shall the record of a Conduct Board hearing be used in a manner which violates the privacy or other rights of any Students, University employee or other person, whether such rights are set forth in law or the policies of the University. Any form of distribution of the recording, other than as permitted above, shall constitute a separate and actionable violation of the Student Code.

7. Conduct Board Decisions

- 7.1 The Conduct Board's decision shall be made on the basis of whether it is more likely than not that the Respondent violated the Student Code. After hearing and considering the pertinent information presented, the Conduct Board shall, by a majority vote, render a decision as follows:
- a. Not in Violation. Misconduct has not been proved; **or**
 - b. In Violation. Misconduct has been proved. In this case, the Conduct Board may decide not to impose a disciplinary sanction, if mitigating circumstances warrant that no sanction be imposed, or it may decide to impose one or more, or any combination, of the following disciplinary sanctions:
 1. Warning – A notice in writing to the Respondent that the Respondent is violating or has violated specific designated section(s) of the Student Code.
 2. Probation – A written reprimand for violation of specific designated section(s) of the Student Code. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the Respondent is found to violate the terms of the probation or any provision of the Student Code during the probationary period.
 3. Loss of privileges – Denial of specified privileges for a designated period of time.
 4. Fines—Previously established and published fines may be imposed.
 5. Restitution – Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
 6. Discretionary Sanctions – Work assignments, essays, service to the University, or other related discretionary assignments.
 7. Residence Hall Suspension – Separation of the Respondent from the residence halls for a definite period of time, after which the Respondent is eligible to return. Conditions for readmission may be specified.
 8. Residence Hall Expulsion – Permanent separation of the Respondent from the residence halls.
 9. University Suspension – Separation of the Respondent from the University for a definite period of time, after which the Respondent is eligible to return. Conditions for readmission may be specified.

10. University Expulsion – Permanent separation of the Respondent from the University.
11. Revocation of Admission and/or Degree—Admission to or a degree awarded from the University may be revoked for fraud, misrepresentation, or other violation of University standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.
12. Withholding Degree—The University may permanently withhold awarding a degree, or withhold the award of a degree pending the completion of the Disciplinary Procedures, including the completion of all sanctions imposed, if any.

7.2 Written Decisions; Delivery. The Conduct Board shall render its decisions in writing within ten (10) school days after the conclusion of a hearing. Each decision shall contain findings of fact as well as the Conduct Board's disposition of the proceedings and shall be delivered to the Office of the Senior Student Affairs Officer together with the verbatim record of the Conduct Board hearing. Within one school day of rendering the decision, a copy of the decision shall be mailed to the Respondent by U.S. post at the address of record as verified at the hearing, e-mailed to an address designated by the Respondent at the hearing, or hand-delivered by the Conduct Officer.

In disciplinary proceedings involving crimes of violence, the Conduct Officer shall, if requested by the alleged victims, disclose to the alleged victims whether the Respondent was found in violation of the Student Code. The disciplinary sanctions imposed on any Respondent may be disclosed to the victims at the discretion of the Conduct Officer. Violations of the Student Code which may be considered crimes of violence include, but are not limited to, physical abuse, sexual assault, and hazing.

8. Procedural Interpretation; Supplemental Rules

Questions of interpretation arising with respect to the Student Code and its Disciplinary Procedures shall be determined in the discretion of the Conduct Officer. The Conduct Board may adopt supplemental rules and regulations, not in conflict with the provisions of these Disciplinary Procedures, which the Board shall determine to be necessary for the fair and impartial conduct of its proceedings.

9. Rehearing

A Student or RSO found in violation of the Student Code by the Conduct Board may petition the Conduct Board to rehear the proceedings upon the discovery of new and pertinent information within 90 days from the date of the decision of the Conduct Board, except that in cases of suspension a petition for rehearing request may be filed anytime during the term of suspension, and in cases of expulsion there shall be no time limit on the filing of a petition for rehearing. The Conduct Board will judge the sufficiency of the new information, and no appeal may be taken from its decision to either grant or deny the request to rehear the disciplinary proceedings. If a rehearing is granted, the verbatim record of the original hearing shall be fully admissible and considered by the Conduct Board. In order to prevail, the Respondent must demonstrate that, based upon the new information, the original decision is wrong and should be modified or rescinded.

10. Conduct Board Composition and Term of Office

10.1 Membership. The University Conduct Board shall be selected by the Senior Vice Chancellor for Academic and Student Affairs and consist of three student members, three staff members, and three faculty members, as well as an alternate for each category. The Association of Students of the University of Nebraska at Kearney will recommend six names to the Chancellor for the student members and alternate, as shall the Staff Senate and Faculty Senate recommend six names for their respective representatives on the Conduct Board. All Conduct Board members shall attend an annual training session, prior to serving on the Conduct Board.

10.2 Vacancies. Vacancies on the Conduct Board, including temporary vacancies, may be filled by the Senior Student Affairs Officer or his or her designee from the list of alternate members appointed by the Senior Vice Chancellor for Academic and Student Affairs. Should the need arise, the Faculty Senate, the Staff Senate and the ASUNK shall at the request of the Chancellor submit additional lists of alternate members to the Chancellor. Should the Faculty Senate, ASUNK, or the Staff Senate refuse or for any reason fail to submit any of the above-mentioned lists of alternate members to the Senior Vice Chancellor for Academic and Student Affairs when requested, the Senior Vice Chancellor for Academic and Student Affairs shall directly make any appointment required to fill a vacancy on the Conduct Board.

10.3 Term of Office. Members of the University Conduct Board shall be appointed for one year terms, beginning on May 1 of each year. Members may be reappointed provided their names are included on the lists submitted to the Senior Vice Chancellor for Academic and Student Affairs pursuant to Section 10.1.

10.4 Chairperson. The Conduct Board shall select a chairperson at the time the Board convenes.

10.5 Removal from the Conduct Board. If any of the following situations occur, a member may be removed from the Conduct Board by the Senior Student Affairs Officer:

- a. A member fails to respond to meeting notices more than twice in a single semester.
- b. A Student member is found to be in violation of the Student Code.
- c. A member is found to be in violation of the privacy or other rights of any member of the University community who is involved in a disciplinary proceeding, whether such rights are set forth in law or the policies of the University/University of Nebraska.

The Senior Student Affairs Officer determines, in his or her discretion, that a member has engaged in conduct that so adversely impacts and reflects upon the member's honesty, integrity, or moral values, so as to render him or her unable to meaningfully and credibly participate in the hearing, deliberations, or decision of the Conduct Board.

11. Appeals and University Appeals Board Procedure.

11.1 Right of Appeal. A Student or RSO found in violation of the Student Code by the University Conduct Board or any subordinate Conduct Board shall have the right to appeal to the University Appeals Board which has exclusive appellate jurisdiction in all disciplinary proceedings.

11.2 Timeliness. Any appeal must be submitted in writing and received in the Office of the Senior Student Affairs Officer within 5 University business days after the date of mailing, e-mailing, or hand-delivery of the Conduct Board's decision to the Respondent.

11.3 Issues to be Considered on Appeal. The Appeals Board will consider only the following issues on appeal:

- a. That the information presented to and received by the Conduct Board was not sufficient to support its decision.
- b. That sanctions imposed by the Conduct Board were excessive and/or not in keeping with the gravity of the misconduct.
- c. That the Conduct Board failed to follow the Disciplinary Procedures and that as a result of such failure the Student or RSO did not receive a fair and impartial hearing.

An appeal which does not clearly raise in writing one or more of the three issues listed above shall be dismissed without further consideration. The Appeals Board shall limit its review to the issue or issues raised in the written appeal and no others. The Appeals Board shall complete its review of the written appeal within 10 University business days after its receipt, and shall promptly issue written notice of its decision to the Student or RSO.

11.4 Oral Presentations. In considering an appeal, the Appeals Board may ask either the Student or RSO making the appeal and the Conduct Officer to make an oral presentation. In this case the Student or RSO making the appeal shall first make an oral presentation followed by an oral presentation by the Conduct Officer. The Appeals Board may ask questions of all parties.

11.5 Record of Proceedings Before the Conduct Board. Upon request by the Appeals Board, the Conduct Officer shall deliver to the Appeals Board the record of the Conduct board proceedings, including the recording of the Conduct Board hearing.

11.6 Disposition by Appeals Board. After reviewing an appeal complying with the requirements of Section 11.3, the Appeals Board may decide as follows:

- a. Affirm the Conduct Board decision, or
- b. Modify or rescind any sanction imposed by a Conduct Board if the Appeals Board finds that good cause exists for the modification or rescission.

11.7 Status Pending Appeals Board Proceedings. Any sanctions imposed by a Conduct Board shall be suspended until an appeal is decided by the University Appeals Board. The status of a Student shall not be altered and the right of a Student to be present on campus and to attend classes shall not be suspended during the time of any appeal proceeding, unless the Vice Chancellor for Academic and Student Affairs or Senior Student Affairs Officer determines that suspension of the Student is required for compelling reasons, including but not limited to the protection of the health or safety or welfare of the Student, other persons, or property of the University and/or the members of the University community. The status of an RSO shall not be altered pending any appeal proceedings, unless the Senior Vice Chancellor for Academic and Student Affairs or Senior Student Affairs Officer determines that suspension of the RSO from the University is required for compelling reasons in order to protect the health, safety or welfare of the members of the University community, their property, or that of the University.

11.8 Quorum. A quorum will consist of three members – one faculty member, one staff member, and one Student member. If a quorum is not present, the Student or Student officer of the RSO, as the case may be, and the Conduct Officer may stipulate and agree in writing that the appeal may be heard by those Appeals Board members present even though a quorum has not been established. If there is no such stipulation, the proceeding shall be rescheduled as soon as is reasonably possible.

11.9 Disqualification of an Appeals Board Member. If any member of the Appeals Board believes that associations, relationships, or other circumstances exist such that he or she is unable, or is perceived to be unable, to render a fully fair and impartial decision, such Appeals Board member shall disqualify himself or herself from participation in the proceeding. Additionally, a member may elect not to serve on the Appeals Board for a particular appeal proceeding if the member in the exercise of reasonable discretion believes there may be an appearance of impropriety by serving as a member of the Appeals Board for that appeal proceeding. The foregoing shall not relieve the Appeals Board from the requirement of maintaining a quorum as required by Section 11.8 above.

11.10 Attorney or Adviser Not Allowed to Participate. An attorney or other adviser for a Complainant or Respondent may be present at any proceedings of the Appeals Board solely to advise, but may not directly participate in the proceedings. Without limiting the generality of the foregoing sentence, an attorney or other adviser shall not be permitted to make oral presentations, arguments, or ask questions of the Appeals Board. The Complainants and Respondents are expected to present their own appeal and, therefore, advisors are not permitted to speak or to participate directly in any proceeding before the Appeals Board.

11.11 Verbatim Record. The Appeals Board shall make a confidential verbatim record of its proceedings. Such verbatim record shall be made by such method of recording or recording device as the University deems suitable. The recording shall be the property of the University.

11.12 Appeals During 15th Week, Finals Week, and Summer Sessions. Appeals Board hearings may not be available during the last two weeks of each semester (15th Week and Finals Week) and during summer school sessions. During these time periods the Senior Student Affairs Officer may designate one or more hearing officers who shall be authorized to hear appeals and render decisions in accordance with the procedures governing the Appeals Board to the extent such procedures are reasonably applicable.

11.13 Appeals Board Proceedings Closed. All proceedings of the Appeals Board shall be private and closed to the public; provided that the Complainant, the Respondent and their advisors, if any, shall be allowed to attend the entire appeal hearing.

11.14 Appeals Board Decision. The decisions of the Appeals Board shall be final and may not be further appealed within UNK or the University of Nebraska.

12. Appeals and Board Composition and Term of Office.

12.1 Membership. The University Appeals Board shall be selected by the Senior Vice Chancellor for Academic and Student Affairs and consist of one student member, one staff members, and one faculty members. The Association of Students of the University of Nebraska at Kearney will recommend two names to the Senior Vice Chancellor for Academic and Student Affairs for the student member, as shall the Staff Senate and Faculty Senate recommend two names for their respective representatives on the Appeals Board. All Appeals Board members shall attend an annual training session, prior to serving on the Conduct Board.

12.2 Term of Office. Members of the University Appeals Board shall be appointed for one year terms, beginning on May 1 of each year. Members may be reappointed provided their names are included on the lists submitted to the Senior Vice Chancellor for Academic and Student Affairs pursuant to Section 11.1.

12.3 Chairperson. The Appeals Board shall select a chairperson, at the time the Board convenes.

12.4 Removal from the Appeals Board. If any of the following situation(s) occur, a member may be removed from the Appeals Board by the Senior Student Affairs Officer:

- a. A member fails to respond to meetings notices more than twice in a single semester.
- b. A Student member is found to be in violation of the Student Code.
- c. A member is found to be in violation of the privacy or other rights of any member of the University community who is involved in a disciplinary proceeding, whether such rights are set forth in law or the policies of the University/University of Nebraska.

13. Subordinate Conduct Board Structure

13.1 Subordinate Conduct Boards. The Senior Student Affairs Officer may require that Subordinate Conduct Boards be established in conjunction with the Resident Hall Association, and by the Director of Greek Affairs in conjunction with Multi-Cultural Greek Council, the Interfraternity Council, and the Panhellenic Association. The disciplinary procedures under which a Subordinate Conduct Board will function must be in conformity with these Disciplinary Procedures and shall not become effective until approved by the Senior Student Affairs Officer. All Subordinate Conduct Boards shall be established in accordance with the following requirements:

- a. Composition. Student members of a Subordinate Conduct Board shall be nominated by members of the cognizant Student governing or coordinating body and appointed by the Senior Student Affairs Officer. Members of a Subordinate Conduct Board shall be nominated by the cognizant director (University Housing or Greek Affairs) and appointed by the Senior Student Affairs Officer.
- b. Term of Office. Members of the Subordinate Conduct Board shall be appointed for a term of one year, beginning on May 1 of each year. All Conduct Board members shall attend an annual training session, prior to serving on the Conduct Board.
- c. Quorum. Each Subordinate Conduct Board will establish its own rules with respect to the quorum required to conduct a hearing.
- d. Staff Adviser. Subordinate Conduct Boards will have staff advisers from the appropriate departments within the Office of the Senior Student Affairs Officer.
- e. Jurisdiction. Each Subordinate Conduct Board will have limited original jurisdiction as provided in its disciplinary procedures over alleged violations of the Student Code, University policies and rules of specific Student groups, e.g. Residence Halls or Greek sororities and fraternities. The specific jurisdiction and issues relating to interpretation of jurisdiction, of any Subordinate Conduct Board shall be decided by the Senior Student Affairs Officer.
- f. Decision. After hearing a case, a Subordinate Conduct Board may decide as follows:
 1. Not In Violation. Misconduct has not been proved; or
 2. In Violation. Misconduct has been proved. In this case a Subordinate Conduct Board may decide not to impose a disciplinary sanction, if mitigating circumstances warrant that no sanction be imposed, or it may decide to impose one or more of the following disciplinary sanctions:
 - a. Warning. A notice in writing to the Respondent that the Respondent is violating, or has violated, specific designated sections of the Student Code, or other applicable rules.
 - b. Probation. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions, if the Respondent is found to violate the terms of the probation during the probationary period.
 - c. Restitution or compensation for loss or injury, work assignments, essays, service to the University, or other related discretionary assignments, provided that the sanction(s) do not violate a Students' rights, including but not limited to the Americans with Disabilities Act (e.g. required mental health counselling.)
- g. Appeals. Appeals from decisions of a Subordinate Conduct Board may be made to the University Appeals Board in accordance with Section 11 of these Disciplinary Procedures.

14. Disciplinary Records

Transcripts of University Academic records will not include information concerning disciplinary action, except in cases of expulsion. Information from disciplinary and counseling files will not be made available to unauthorized persons without the express written consent of the person involved, or as otherwise authorized, or required by law. Disciplinary records shall be destroyed seven years after the last sanction was imposed, except in case of expulsion, where disciplinary records shall be permanently maintained.

15. Readmission After Expulsion

Any student who has been expelled from the University under these Disciplinary Procedures may at any time after seven (7) years from the date of expulsion request readmission to the University by written petition to the Senior Student Affairs Officer, who may or may not grant readmission at his or her discretion.

Article V: Interpretation and Revision

Any question of interpretation or application of the Student Code shall be referred to the Conduct Officer, or his or her designee, for final determination.

Appendix A: Response to Allegations of Student Sexual Misconduct

See University of Nebraska at Kearney's "Response to Allegations of Student Sexual Misconduct" procedure 2014 0827 0912. This policy document is attached to this Student Code and can be accessed at: <http://www.unk.edu/offices/reslife/documents/unk-student-sexual-misconduct-procedures.pdf>

Appendix B: Policy for Responsible Use of University Computers and Information Systems

See University of Nebraska Executive Memorandum No. 16. This document can be accessed at: <http://www.nebraska.edu/docs/president/16%20Responsible%20Use%20of%20Computers%20and%20Info%20Systems.pdf>

Appendix C: Response to Copyright Infringement Notifications

See UNK's Information Technology Services' "Policies" tab located at: its.unk.edu