

- F. To be informed in writing of the Committee's recommendation to the appropriate dean.
- G. To appeal the Committee's decision to the President.
- H. To waive the right of a formal hearing before the Committee and to have the case heard by the appropriate dean.

## **Laws, Regulations and College Policy**

Students shall obey the laws enacted by federal, state and local governments, as well as the policies and regulations of Kirtland Community College. If a student is charged with a misdemeanor or felony, the college will fully cooperate with civil authorities while recognizing the student's rights under the Family Educational Rights to Privacy Act ("FERPA").

Note: Under FERPA, an educational institution, including a community college, may not disclose personally identifiable information found in a student's education record to law enforcement officials, unless such disclosure is "to comply with a judicial order or lawfully issued subpoena." In such a situation, the college must make a reasonable effort to notify the parent or student of the order or subpoena in advance of compliance.

## **Student Code of Conduct**

College student conduct expectations are essential to the establishment of an environment conducive to learning, to the protection of Kirtland Community College's educational purpose and to the maintenance of a reasonable level of order on the campus. The college strives to maintain these standards through educational programs, services to the students and the promotion of student conduct standards.

Enrollment as a student at Kirtland Community College carries with it behavioral obligations inside and outside the classroom. Students are responsible for obeying municipal, state and federal laws which govern the community, as well as for the rules and regulations of the college. If a student participates individually or as a member of a group in any of the "Forms of Misconduct" (listed below), he or she can be subject to disciplinary action. Further, sanctions may be imposed upon student groups or organizations, including the sanction of deactivation which entails the loss of all the privileges and/or college recognition for a specified period of time.

Generally, college jurisdiction and discipline shall be limited to conduct which occurs on college premises or which adversely affects the college community and/or the pursuit of its objectives. The student code of conduct is in effect for students while they are on any campus property, as well as other property in the possession of or owned, used or controlled by the college.

The code of conduct also applies to off-campus activities, such as field trips, off-campus classes and college-sponsored events. On a case-by-case basis, the dean of student services or the appropriate instructional dean will determine whether jurisdiction should be asserted to address the adverse effects of an off-campus activity.

### **A. Disciplinary Actions**

Violations of the student code of conduct are subject to disciplinary action and will be given immediate attention by the college. The appropriate dean may impose any of the following disciplinary actions:

1. **Warning:** A "WARNING" is an official reprimand which expresses college dissatisfaction with the student's conduct and which clarifies expected behavior in the future. Such action is in effect for the duration of the semester in which the warning was issued. Normally, a warning does not include any restrictions. If the same offense is repeated after a warning is given, probation will be the minimum sanction awarded.
2. **Probation:** "PROBATION" status indicates that any violation of the code of conduct within the probationary period shall result in more severe disciplinary action against the student that could include suspension or dismissal from the institution. Usually, the probationary period extends for a specified period of time or until completion of a specific requirement.  
  
Probation in itself does not carry with it any restrictions; but, in addition to probation, it is possible for a student to be expected to complete a work assignment, pay a fine or be prohibited from holding an office or representing the college in any activity.
3. **Removal from a Course:** If "REMOVAL FROM A COURSE" occurs, a student may continue to attend other classes, but may not resume attendance in the course from which he or she has been removed for the remainder of the semester in which the removal occurs. In the event a student is removed from a course, he or she will be given either a withdrawal or a failure in accordance with the college's "Withdrawal From Classes" policy.
4. **Suspension:** "SUSPENSION" is an action that separates the student from the institution for a definite period of time (days, weeks, semesters, etc.) and is to be appropriate with the circumstances of the violation. Such action will specify the conditions required for readmission, as well as the date the student will be eligible to return.

5. Expulsion: "EXPULSION" is an action that permanently separates the student from the institution.
6. Specific Orders: "SPECIFIC ORDERS" is an action which may stand alone or be issued with another sanction. Specific orders may include, but are not limited to, performance or non-performance of specific acts, loss of certain privileges, payment of fines, restitution and work assignments.

Any disciplinary action imposed on a student will be recorded in the student's confidential file in the Student Service Office. A disciplinary action cannot be recorded on a student's transcript.

- B. Forms of Non-Academic Misconduct: The following forms of misconduct will not be tolerated by the college. Minimum sanctions, disciplinary actions, normally taken by the college are indicated in parenthesis following each violation. Note: This list is not inclusive of all possible forms of misconduct. The college's administration may add to this list if needed.

College 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, i.e., if both violations result from the same factual situation, without regard to the pendency of civil litigation in court or criminal arrest and prosecution. Such proceedings under this student code of conduct may be carried out prior to, simultaneously with or following civil or criminal proceedings off-campus.

1. Arrest for or conviction of any civil or criminal laws committed while on campus or at college sponsored events. (Probation)
2. Threatening, attempting, or using physical force or intimidation (including stalking) against any person on the college properties or at any off-campus college sponsored events. This includes the interference with the freedom of movement of any person. (Suspension)
3. Deliberate interference with academic freedom or freedom of speech, including disruption of a class, or interference with the freedom of any speaker invited by the college to express his/her views. (Warning)
4. Discrimination on the basis of race, color, religion, national origin or ancestry, age, sex, marital status or handicap. (Probation)
5. Sexual harassment in the educational environment, as defined by the Elliott-Larsen Civil Rights Act. (Suspension)

Note: The Elliott-Larsen Civil Rights Act defines sexual harassment in the educational environment as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communications of a sexual nature when...such conduct or communication has the purpose or effect of substantially interfering with an individual's education...or creating an intimidating, hostile or offensive...educational...environment."

6. Conduct or expression which is disorderly, lewd, indecent or obscene on college property or at a college sponsored event. (Warning)

Note: To determine conduct or expression which is disorderly, lewd, indecent or obscene, the U.S. Supreme Court has set forth the following three-prong test to determine obscenity:

The basic guidelines for the trier of fact must be: (a) whether the average person applying contemporary community standards would find that the work/action, taken as a whole, appeals to the prurient interest; (b) whether the work/action depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work/action, taken as a whole, lacks serious literary, artistic, political, or scientific value.

7. Engaging in any kind of hazing action on or off campus that endangers the mental health, physical health or safety of a student or which destroys or removes public or private property for purpose of initiation or admission into, affiliation with, or participation in any student organization. (Suspension)
8. Failure to comply with reasonable requests and orders by authorized college officials or representatives acting in behalf of the college. (This requirement includes reasonable requests for students to meet appointments in administrative or faculty offices and at investigative/disciplinary hearings.) (Warning)
9. Initiate false alarms which endanger the health and safety of any person on college properties or at any off-campus college sponsored events. (Suspension)
10. Possession or use of knives (blade in excess of 3 1/8"), firearms, firecrackers, explosives, other lethal weapons, and/or toxic or dangerous chemicals on campus or at any college sponsored events, except when specifically authorized in writing by a college administrator for educational/safety purposes. Further, possession in a locked vehicle may be permitted according to State laws. Law enforcement officers are exempt from this policy. (Suspension)

11. Unauthorized distribution or sale of items on campus. (To be eligible for authorization, students must follow the steps outlined in Board policy/procedures 3.015, Community Use of College Facilities.) (Warning)
12. Manufacture, possession, control, sale, transmission or use:
  - a. Any controlled substance (illegal drugs) in violation of state or federal laws; or
  - b. Substances purported to be illegal, abusive or performance enhancing, i.e., look-alike drugs.The college has the policy of full cooperation with law enforcement agencies in such cases. (Suspension)
13. Possession (outside of State laws), distribution, consumption or abuse (including intoxication) of any alcoholic beverages on any college owned or rented facility, except in employee rented dwellings on campus. (Suspension)
14. Consumption of food or beverages in unauthorized areas on campus. (Warning)
15. Smoking in classrooms or other designated non-smoking areas. First offense (Warning), second offense (Suspension)
16. Gambling with money or anything else of value on campus or any college sponsored event. (Probation)
17. Dress that fails to meet established safety or health standards in specific on or off-campus classes or at college sponsored events. (Warning)
18. Parking of vehicles in unauthorized areas. (Warning)
19. Unauthorized presence of pets on campus. (Animals who assist students with disabilities are permitted on campus.) (Warning)
20. Misrepresentation, alteration, forging or misuse of college documents, records, or identification cards. (Students are required to present identification when requested by authorized college officials.) (Expulsion)
21. Unauthorized representation or contracting in the name of Kirtland Community College. (A student may not claim to be an official representative of the college for any commercial purpose.) (Suspension)
22. Use and/or misuse of the college computer system, facilities, hardware, software and all computerized information is prohibited in the following circumstances, including, but not to be limited to:
  - a. Unauthorized entry into a file, whether to use, read, change or for any other purpose.
  - b. Unauthorized transfer of a file.
  - c. Unauthorized use of another individual's identification and password.
  - d. Use of computing facilities to interfere with the work of another student, faculty member or college official.
  - e. Use of computing facilities to send obscene or abusive messages.
  - f. Use of computing facilities to interfere with normal operation of the college's computing system.
  - g. Use of computing facilities in a manner which violates state or federal copyright laws, e.g., unauthorized duplication of copyrighted or licensed software. (Suspension)
23. Unauthorized entry to and/or use of college facilities and equipment. Also, the possession of keys or duplication of the college's keys without proper authorization. (Suspension)
24. Attempted or actual theft from, damage to or the defacing of college property or to the property of other students, faculty or staff while on the campus or at any college sponsored event. (Expulsion)
25. Littering of college facilities and grounds. (This includes the disposal of cigarette butts in locations other than ashtrays or trash receptacles.) (Warning)
26. Dishonesty, including knowingly furnishing false information to the college or a college officer, whether verbally, in writing, or completing required forms. (Probation)

27. Violation of college policies and regulations not already addressed in the previously listed forms of misconduct. (Warning)

C. Academic Misconduct

1. Kirtland Community College considers academic dishonesty to be a serious offense. It is the policy of the college that determination of and appropriate action in respect to academic dishonesty by a student shall be a matter of individual judgment by the instructor, with departmental guidelines.
2. Cheating, plagiarism or other forms of academic dishonesty including the unauthorized acquisition of tests or other academic materials. This includes students who aid and abet, as well as those who attempt such behavior. (An instructor may administer a penalty up to and including failure in a particular course. In some cases, such as in nursing and criminal justice programs, the student handbook outlines the appropriate action. If a student fails two classes as a result of academic dishonesty, he or she is dismissed from the college for the remainder of the semester in which the second violation occurs and the following academic semester that is required for that student's program of study, i.e. some programs require students to take classes during the summer semester, most programs do not.)

Note: Cheating includes, but is not limited to:

- a. The use of any unauthorized assistance in taking quizzes, tests or examinations;
- b. Dependence upon the aid of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments;
- c. The acquisition, without permission, of tests or other academic material belonging to a member of the college faculty or staff.

Plagiarism is representing the work of other persons as one's own, including but not limited to the use of work by others and information downloaded from the Internet. The use of another person's words, ideas, or information without proper acknowledgement, whether done intentionally or through carelessness, is also plagiarism. The student should seek guidance from the instructor about acceptable methods to be used to acknowledge the work and ideas of others.

3. Deliberate interference with academic freedom or freedom of speech, including disruption of a class, or interference with the freedom of any speaker invited by the college to express his/her views. (Warning)

The deans will decide whether the conduct will be considered academic (section C) or non-academic (section B) and will follow the appropriate procedure.

Disclosure of Student Rights and Responsibilities:

Both policy and procedure for "Student Rights and Responsibilities" will be made available to all students and employees. To ensure this occurs, any college catalog, student handbook or faculty handbook printed after December 31, 1990, must include this information.

**RIGHTS AND RESPONSIBILITIES OF STUDENTS**

At Kirtland Community College, two procedural forms of due process exist; Academic Due Process and Non-Academic Due Process. As conditions permit, either form of due process is provided to the student within a reasonable amount of time. In certain circumstances, the dean, or his/her designee, may impose a suspension prior to the hearing before the committee.

- A. Interim suspension may be imposed only:
  1. To ensure the safety and well-being of members of the college community or preservation of college property;
  2. To ensure the student's own physical or emotional safety and well-being;
  3. If the student poses a definite threat of disruption or interference to the normal conduct of operations of the college.
- B. During the period of interim suspension, the student shall be denied access to the campus (including being barred from classes) and/or all other college activities or privileges for which s/he might otherwise be eligible as the dean of student services may determine to be appropriate.

- C. The interim suspension shall continue until the student's due process procedures are complete. The hearing for this matter should follow the dean's actions as soon as practicable.

#### **Procedure for Non-Academic Due Process:**

Any member of the college community may file charges against a student for an alleged violation of the student code of conduct. These charges must be filed in writing by completing a "Student Conduct Complaint Form" and be submitted to the dean of student services as soon as possible after the incident. These forms can be obtained from the Student Service Office. Once charges have been formally filed, the following procedure for Non-Academic Due Process must be observed:

- A. A counselor shall meet with the person (complainant) who has filed a charge against another person or student organization. During this meeting, the counselor will review the charge and procedure with the complainant. The counselor will also meet with the individual(s) charged with the violation and attempt to resolve the situation between the two parties. If the complainant elects to withdraw the charge, a complaint withdrawal form will be completed and signed by the complainant. If the charge stands, the dean of student services will notify the student (in writing) of the charges filed against him/her and the college's policy regarding due process.
- B. The dean of student services will appoint a student judiciary committee composed of three full-time college employees and two students. The dean will appoint one of the employees to chair the hearing. The members of this committee must have no vested interest in the matter. The dean of student services cannot serve on this committee.
- C. The person filing the complaint and the person or student organization charged with violating the student code of conduct are responsible for providing statements from witnesses and other evidence. Witness statements can be provided verbally during the hearing or in written (signed and dated) form. Both parties may have other individuals at the hearing. These individuals are limited to an advisory capacity with no right of cross-examination.
- D. The student judiciary committee has the responsibility of hearing the charges against the student and reviewing the evidence. The hearing will take place within ten working days following the student's receipt of the written charges. A verbatim record, such as a tape recording, will be made of all hearings. This record remains the property of the college and must be maintained for a period of two years. Within one working day following the hearing, the committee will submit (in writing) its recommendation to the dean of student services.
- E. The dean of student services will render a decision on the case, which may include sanctions imposed on the student. The dean will then inform (in writing) all parties involved of his/her decision within three working days of the receipt of the student judiciary committee's recommendation.
- F. If the student wishes to contest the dean of student services' decision, s/he may appeal to the President within three working days following notification of the dean's decision (refer to "Appeal Process"). The President's decision will be final.

Note: A student who commits a drug or alcohol related infraction (Forms of Misconduct #13 or #14), will be immediately referred to the dean of student services. The dean may provide the student with a choice of the following options:

Option #1: Referral to the Kirtland's student assistance program and/or to a substance professional for a substance abuse intake interview and assessment. The dean will also give a formal "warning" to the student.

Option #2: Referral to the student judiciary committee for a hearing. If found in violation by the committee, the student may be suspended for the remaining portion of the current semester with no refund of tuition and fees. Further, if suspended, the student must show evidence of an intake interview and assessment with a substance abuse professional in order to return to Kirtland.

#### **Procedure for Academic Due Process:**

- A. If an instructor fails a student in a course for academic dishonesty, the instructor must immediately notify, in writing (Academic Student Conduct Complaint Form), the student and the dean of instruction. The dean of instruction shall maintain a record of all such notifications.
- B. If a student wishes to appeal a grade or academic decision, s/he must first meet with the faculty member to discuss his/her grievance.
- C. If the student and faculty member do not come to a satisfactory agreement, or if charged with academic misconduct, the student may appeal to the appropriate associate dean. If the problem is not resolved at this level, the student may appeal to the dean of instruction.

- D. If the student chooses to appeal to the dean of instruction, a written request (which includes a brief summary of the grievance) must be submitted. The dean will review the appeal. Within three working days after receiving the appeal, the dean shall render a decision.
- E. Should the student wish to pursue the matter further, the dean will refer the complaint to the academic appeals committee. The instructional dean will appoint an academic appeals committee composed of three full-time faculty members and two students. The dean will appoint one of the faculty members to chair the hearing. The members of this committee must have no vested interest in the matter. The dean cannot serve on this committee.
- F. The academic appeals committee has the responsibility of hearing the grievance and reviewing the evidence. The hearing will take place within ten working days following the student's request for a hearing. A verbatim record, such as a tape recording, will be made of all hearings. This record remains the property of the college and must be maintained for a period of two years. Within one working day following the hearing, the committee will submit (in writing) its recommendation to the dean.
- G. The dean will render a decision on the case. The dean will then inform (in writing) all parties involved of his/her decision within three working days of the receipt to the academic appeals committee's recommendation.
- H. If the student wishes to contest the dean's decision, he/she may appeal to the President within three working days following notification of the dean's decision (refer to "Appeal Process"). The President's decision will be final.

#### Appeal Process(es):

An appeal shall be limited to review of the verbatim record of the initial hearing and supporting documents for one or more of the following purposes, except as required to explain the basis of new evidence:

- A. To determine whether the original hearing was conducted fairly in light of the charges and evidence presented, and in conformity with prescribed procedures giving the complaining party a reasonable opportunity to prepare and present evidence that the student code of conduct was violated and giving the accused student a reasonable opportunity to prepare and to present his or her rebuttal of those allegations.
- B. To determine whether the decision reached regarding the accused student was based on substantial evidence, i.e., were the facts in the case sufficient to establish whether there was, or was not, a violation of the student code of conduct?
- C. To determine whether the sanction(s) imposed was appropriate to the violation of the student code of conduct which the student was found to have committed.
- D. To consider new evidence, sufficient to alter a decision, or other relevant facts not brought out in the original hearing because such evidence and/or facts were not known to the person appealing at the time of the original hearing.

### **SUBSTANCE ABUSE INFORMATION ON ALCOHOL AND DRUGS**

Information regarding the misuse and abuse of alcohol and drugs can be found by contacting the Counseling Office located in the Student Success Center.

### **STATEMENT/GUIDELINES REGARDING AIDS**

In response to the epidemic of infection with Human Immunodeficiency Virus (HIV), which causes the Acquired Immunodeficiency Syndrome (AIDS), Kirtland Community College has adopted these guidelines based upon the recommendation of the American College Health Association.

AIDS is a serious illness, a public health problem, and an immediate concern to the college community. AIDS is characterized as a defect in natural immunity against disease. People who have AIDS are vulnerable to critical illnesses that are not a threat to anyone whose immune system is functioning in a standard and typical fashion.

AIDS is caused by a virus commonly called HIV. Presently, there is no known cure or effective vaccine. However, the consensus of authoritative medical opinion, as reflected by the Center for Disease Control and Public Health Service, is that AIDS is not a readily communicable disease.

There are no known cases of AIDS transmission by food, water, insects, or casual social contact, and no spread of the virus has been found within family groups in which one or more persons have been diagnosed with AIDS, except from sexual and/or intravenous transmission. The current scientific understanding is that the AIDS virus is transmitted only through an exchange of infected body fluids, blood, or blood products. Such exchanges may occur when the needle of an infected person (in most cases, a drug addict) is used by someone else, through a blood transfusion from an infected person, or through intimate contact involving the transfer of semen and vaginal fluids.