

STUDENT CONDUCT PROCESS

1. Reporting Misconduct

a. Any member of the public or University community may report a complaint against a student for alleged misbehavior. Different types of reports have different reporting processes including:

- Emergency/Urgent/Immediate safety situation – Campus Safety (714-992-7892)
- Title IX (<https://catalog.ketchum.edu/university-student-handbook/student-conduct/title-ix-policy/>) (discrimination/harassment/sexual misconduct involving student or employee) – TitleIX@ketchum.edu
- Student Code of Conduct or University Policy Violation – Enrollment and Student Services - StudentAffairs@ketchum.edu
- Complaint against a Program Policy – Program Dean/Director, or designee
- Employee as Respondent (non-Title IX) – Human Resources - HumanResources@ketchum.edu
- General Concern for student or employee wellbeing – Report a Concern Form (https://my.ketchum.edu/ICS/Community/Report_a_Concern.jnz)
- Unsure – Enrollment and Student Services – StudentAffairs@ketchum.edu

b. Each complaint and conduct process is unique and may not always follow this outline precisely. The Program Conduct Process section is intended to provide general guidance in resolution to potential Code violations. All conduct processes shall begin under the assumption that the Respondent has not violated Program or University policy.

2. Program Administrative Process

If a complaint about a potential violation(s) of the Code are reported to a designated Program administrator, the administrator either:

- a. Speaks to the student directly to talk about the incident (no sanctions); OR
- b. Forwards the complaint/report to the Enrollment and Student Services Conduct Officer (initiating the University Conduct Process, #4 below). Unofficial Program administrative procedures should only be utilized with simple, non-serious incidents where it would not be reasonably appropriate to provide sanctions after a first offense. Program administrators may not sanction students.

Any and all other reports should be forwarded to the University Conduct Process.

3. University Conduct Committee (UCC)

All cases involving sexual misconduct and/or harassment/discrimination shall be forwarded to the MBKU Title IX Office for resolution. (See Title IX: Sexual Harassment and Non-Discrimination Policy (<https://catalog.ketchum.edu/university-student-handbook/student-conduct/title-ix-policy/>).)

- a. Composition – Managed by Enrollment and Student Services, the University Conduct Committee (UCC) shall be a University-wide standing committee comprised of nine faculty, and

administrators from all University Programs. Each summer, the Program Dean/Director submits the names of three faculty and/or administrators within their Program to serve on the Committee. These individuals may serve on the UCC for any number of years. Once selected, UCC members are trained on the Fair Hearing and University Student Conduct process.

- b. Scope - The UCC shall conduct Fair Hearings or hear on matters involving scenarios in which:
 - the student accepts responsibility but does not agree/accept the sanctions given by the University Conduct Officer (UCO);
 - the student denies responsibility but is found to have violated the Code by the UCO;
 - serious sanctions may be required (e.g., suspension or separation from the University) or cases serious in nature, involve complicated facts, and/or involve students/groups with previous disciplinary violations; OR
 - the student requests a UCC hearing.
 - For matters in which individuals pose a danger to themselves, others, or the immediate well-being of the University community, the Medical Extended Absence Policy (<https://catalog.ketchum.edu/university-catalog/university-policies-procedures/academic-policies/extended-absence-time-policy/>) shall be followed, including the possibility of separation from the University.
- c. Participation - If a need arises for a UCC Fair Hearing, the nine individuals shall be contacted to participate and 2-4 will be selected based on availability. The VPES (and/or designee) shall serve as Committee Chair by facilitating the hearing, ensuring due process, and performing interviews and administrative functions. UCC policies and procedures are outlined in the Conduct Committee Handbook. This document is maintained by Enrollment and Student Services.
- d. Initial Assumption - All UCC Fair Hearing processes shall be operated under the initial assumption that the Respondent has not violated University/Program policy.

4. University Conduct Committee Process

Every complaint and conduct process is unique and may not always follow the exact process below. However, this process is intended to provide general guidance in the resolution of potential Code violations.

- a. **Complaint Intake** – The UCC Process will initiate either by transfer of complaint from a Program administrator, or by direct intake. University Conduct Officer (UCO) will ensure the appropriate intake of complaints, determine the basic validity of the complaint (is/is not a potential violation of the Code), review/edit the case file, and prepare for the next steps.
 - i. The UCO will determine if Support Measures may be required due to concerns for the personal safety, health, well-being, or fear of confrontation by involved parties while the case is being investigated. Support Measures include, but are not limited to:
 1. No Contact Orders
 2. Campus Safety presence at meetings
 3. Temporary schedule adjustments
 4. Brief removal from class or campus
 5. Interim Suspension – Outlined below

- b. **Initial Investigation** – The UCO shall conduct an initial investigation, including appropriate interviews with complainants and/or respondents, consideration of relevant materials, presentation of initial charge letter (subject to change based on circumstances of the case), and review of the next steps of the process.
- If respondent admits and accepts responsibility, the UCC may resolve with consideration of the admission.
 - If respondent denies responsibility, UCC will convene, conduct training review with UCC, and begin formal investigation
- c. **Formal Investigation** – In consultation with the UCC, UCO will conduct a formal investigation into the allegation.
- If requested by respondent, UCO will provide relevant details related to initial complaint to inform respondent statement, or potential witnesses to rebut charges.
 - Initiate appropriate interviews with witnesses, or other related parties
 - Collect and organize relevant information and materials, which may include information from interviews, past conduct cases, respondent statement, etc.
 - Review, update, and present charge elements in Notice of Fair Hearing to respondent (in person when possible, or by electronic means if necessary) and answer any relevant questions. If charges change significantly from initial Notification of Charges, respondent will have opportunity to respond to new charges. Additionally, throughout the course of the Fair Hearing, new information may necessitate further modifications of the charges and the respondent will be notified accordingly and provided an opportunity to respond.
 - Provide respondent with information regarding expectations and responsibilities related to Fair Hearing process. See below.
 - At the conclusion of the investigation, the UCA may prepare a written investigative report of the findings of the investigation. The investigative report may include an assessment of the credibility of persons interviewed during the investigation and an assessment of whether it is more likely than not that the Respondent violated the Code or other policy.
- d. **Fair Hearing** – Fair Hearings shall be conducted using the following guidelines:
- The intent of Hearings is to use an educational perspective to provide a fair, efficient, and private process to determine if a student has violated the Code, what level of responsibility the student must take, and what consequences the student must accept in order to mitigate the impact on the community. The burden rests with the University to prove that a violation occurred.
 - In cases involving more than one respondent, the UCC shall conduct separate Hearings to determine the responsibility of each student.
 - Hearings shall be scheduled at the convenience of the VPES, in consultation with the UCC. All efforts shall be made to schedule the Hearing as soon as possible. Respondents may be excused from educational activities for Hearings but will still be held responsible for any missed work/hours.
 - If Respondents wish to have witnesses, relevant information, or a support person present/considered at the Hearing, the respondent must notify the VPES no less 72 hours prior to the hearing to verify and schedule. The student support person may not actively participate in the Hearing but may consult with their student if they have questions/concerns.
- v. The VPES, in their sole discretion, shall determine which information is relevant given the report and/or the facts and circumstances and will notify the respondent appropriately.
- vi. After all relevant information, materials, witnesses, and statements are heard, the UCC shall consider if there is a preponderance of the evidence that the respondent more likely than not violated the Code as charged. Then the UCO will inform the respondent through a Notification of Findings letter outlined below.
- Notification of Findings** – Once the UCC reaches a decision on the question of responsibility, the UCO will notify University President, and Program Dean/Director, then deliver the Findings to the student in person if possible, or electronically if needed, in order to provide additional information, support and resources, or answer any relevant questions.
 - Potential Findings:**
 - If the UCC finds, through the Hearing process, that the charges require further modification, the Findings may indicate such. If charges change significantly from the Notification of Fair Hearing, respondent will have 3 business days to respond to new charges.
 - If the respondent is found not responsible, then the Notification of Findings indicates the case is dismissed and closed.
 - If the respondent is found more likely than not responsible for one or more violations, the Findings will indicate the charges they are responsible for, include sanctions and reference to the appeal process of the finding.
- e. **Failure to Attend** - If the Respondent fails to attend a conduct meeting or Hearing, then the Respondent waives all rights to a Hearing. The UCO or UCC may; 1) proceed with the Hearing without the Respondent; AND/OR 2) automatically find the Respondent responsible and issue sanctions.
- f. **Sanctions** – Possible sanctions are outlined below. In most cases, sanctions will be effective immediately upon receipt of Findings. However, in some cases they will be effective when possible, or following an appeal process. Appropriate academic penalties for students will be determined by the faculty (i.e., zero score for an exam if student is found responsible for cheating).
- g. **Appeals** – When a UCO or the UCC reaches a Finding regarding the Code, it is important for both the respondent and complainant to understand their options and procedures for appealing the Finding. UCC Appeals are described in detail below.
- h. **Authority** – A student's Program Dean/Director shall serve as the Appellate Officer (AO) for all cases or shall assign an appropriate AO to the case. The AO shall have the sole authority to determine whether an appeal warrants further review. An appeal that has been declined by the AO is considered a final and binding decision. An appeal that has been accepted for review (meets one, or more criteria below) shall be limited to a

review of all supporting case documents, the verbatim recording of the Committee Hearing, and only new information specifically related to the appeal criteria (if applicable). The AO may request (electronic) written clarification from appropriate parties to inform their decision on the appeal request.

i. **Criteria** – Appeals based solely on disagreement with the outcome and/or sanction(s) shall not be accepted. Any attempt to appeal must clearly demonstrate one (or more) of four criteria:

- i. There was a material deviation from written procedures that jeopardized the fairness of the process;
- ii. There is new information that was unavailable at the time of the Hearing, which could have resulted in a different outcome;
- iii. There was a demonstrable bias by the UCO, UCC, or VPES;
- iv. The sanctions were substantially disproportionate to the severity of the violations, given the facts and relevant information.

j. **Timeline** – The eligible appealing party may submit an appeal within three (3) business days of the Finding being issued. Such appeals shall be in writing (electronic or paper) and must be delivered to the VPES, who will ensure it is promptly delivered to the appropriate AO. If applicable, the VPES may share the appeal with the non-appealing party directly involved with the case for possible counter-appeal.

k. **Counter-Appeal** – If applicable, the non-appealing party directly involved with the case may provide a response to the appeal. The non-appealing party shall have one (1) business day from the notification of appeal to submit a response (electronic or paper) to the VPES, who will ensure it is promptly delivered to the appropriate AO. If no response by the non-appealing party is submitted, the AO shall make a final determination on the information provided by the appealing party.

l. **Valid Appeal** – If an appeal is deemed valid by the AO (addresses one of the outlined criteria above), the AO shall only consider information related to that criteria for the appeal to reach a decision on next steps. Decisions of the AO on next steps will fall into one, or more, of four outcomes related to each of the required criteria for appeal:

- i. Convene a UCC consisting of all new members to conduct a new Fair Hearing and re-notice the student in accordance with the UCC procedures outlined above.
- ii. Consider the new information presented and make the final determination and sanctions, if applicable.
- iii. Depending on which party is identified, convene a University Conduct Committee consisting of all new members to conduct a new Fair Hearing, or a new UCO to manage and review the specific components deemed inappropriate with the UCC. The UCC may issue new Findings based on revised process.
- iv. AO will adjust sanctions to be proportionate to the severity of the violation.

Note: The decision of the AO, when made in any circumstances listed above, shall be final and binding upon all involved.

m. **Close of Case** – There shall be a single verbatim record of all student conduct Hearings. Digital recordings of interviews shall be the property of the University. These recordings will only be maintained until the appeal process has concluded or as deemed necessary by the University. Upon conclusion of the Appeals process, the entire case file shall then be stored with the University's disciplinary records. These records are kept separate from the student's academic record. While FERPA requires that students be provided the opportunity to "inspect and review" their record, the University is not required, nor shall it, provide a copy of the record to the student. Per University policy Disciplinary records are destroyed immediately after graduation. Please see the Records Retention Policy (<https://catalog.ketchum.edu/university-catalog/university-policies-procedures/student-records-policies-procedures/>) for details.

n. **Conclusion** – At the conclusion of the UCC Process, the involved MBKU administrators shall evaluate the matter for actions that may be taken to improve University practices.

5. Sanctions

These sanctions are available to appropriate University Conduct Officers or the UCC to apply to any student found responsible for violating University or Program policy. Program Administrators may not give sanctions to students. However, some are reserved specifically for UCC processes or student organizations as indicated below.

Disciplinary sanctions should be consistent with the impact of the offense on the University community shall be imposed. Progressive discipline principles shall be followed in that the student's conduct history at MBKU (and any other institution, if applicable) shall be considered, along with any other relevant information while determining sanctions. All sanctions will have a designated time frame for their duration, or in which they must be completed.

Academic standards shall continue to be established and administered by each Program, including Academic Probation and Academic Dismissal. Please see the respective Program Handbook for more information.

Disciplinary action taken against a student may include one or more of the following:

- a. **Mediation/Restorative Justice** – A voluntary and confidential process where a neutral third-party facilitator helps two or more people in conflict have a constructive conversation to resolve issues, repair harm and improve relationships.
- b. **Written Warning** – A notice in writing to the student that the student is violating or has violated University policy and a copy of the warning letter is placed in the student's conduct file (notation in their disciplinary record).
- c. **Administrator Conferences** – Required meeting(s) with Program/University administrators to discuss behaviors and plan(s) for improvement.
- d. **Professional Probation** – Places students at a higher risk of more severe disciplinary sanctions if the student is found to violate any University policy during the probationary period. Any MBKU student on Professional Probation may not participate

- in leadership roles on campus, including federal work-study positions. Temporarily noted on the student transcript.
- e. Academic Penalties – Including but not limited to grading penalties and academic misconduct transcript notations.
 - f. Loss of Privileges – Denial of specified privileges.
 - g. Restitution – Compensation for loss, damage, or injury. This may take the form of appropriate service, monetary, or material replacement.
 - h. Educational/Developmental Sanctions – Work assignments, essays, service to MBKU, community service or other related discretionary or educational assignments.
 - i. Supportive Measures: Must be approved by VPES and may include, MBKU No Contact Orders/No unnecessary contact between the Respondent and the Complainant, victims, survivors, witnesses, or other individuals, Interim Suspension (see below), or other supportive measures.
 - j. Interim Suspension - In certain elevated circumstances, the VPES may impose an interim suspension prior to a conduct meeting. The University President shall be informed prior to notifying the student.

Interim suspension may only be imposed in one of the following circumstances:

- i. To ensure the safety and well-being of members of the University community or preservation of University property
- ii. To ensure the student's own physical or emotional safety and well-being
- iii. If the student poses an ongoing threat of disruption of, or interference with, the normal operations of the University.
 1. Interim suspension shall take effect immediately and last for no more than ten (10) business days. The 10-day period may be extended for good cause by the VPES or by agreement with the Respondent.
 2. The Respondent may challenge an imposed interim suspension in writing within two business days. The challenge shall be sent to the Program Dean/Director, who will inform the VPES of receipt.
 3. The Dean/Director shall render a final decision
 4. During the interim suspension, the Respondent shall be denied access to campus and/or all other University activities or privileges for which the student might otherwise be eligible, as the VPES may determine to be appropriate.
 5. The interim suspension does not replace the regular Conduct Committee process, which shall proceed on the normal schedule, up to and including the completion of the Hearing, submission of sanctions (if any), and if required, may include appeal processes (if any).

Sanctions *only* available to the University Conduct Committee

Given the serious nature of these sanctions, the following standards apply to all of them:

- a. University President informed prior to receipt of Notification of Findings
 - i. Suspension – Separation of the student from the University for a definite period after which the student shall be eligible

to return without reapplying. Conditions for return may be specified. Based on the UCC's decision, Suspensions may be effective immediately or deferred, pending an appeal process. Temporarily noted on the student transcript.

- ii. Dismissal – Separation of the student from the University for a definite period after which the student shall be eligible to reapply for admission. Based on the UCC's decision, Dismissals may be effective immediately, or pending an appeal process. Permanently noted on the student transcript.
- iii. Expulsion – Separation of the student from the University permanently. Based on the UCC's decision, Expulsions shall be effective immediately, or pending an appeal process. Permanently noted on the student transcript.

Sanctions available to be imposed upon recognized MBKU student organizations:

- a. Those sanctions listed above.
- b. Loss of selected privileges for a specified period
- c. Suspension of recognition
- d. Loss of recognition

6. Record Keeping

MBKU will maintain all the documentation related to reports of Misconduct using the schedule listed below. The documentation of all records is private and confidential to the extent possible under law. Student records of the conduct process are disciplinary records under Family Education Rights and Privacy Act (FERPA).

- Expulsion and Suspension are permanently noted on the transcript.
- Probation related to misconduct is noted on the transcript temporarily, being removed once the sanction is complete and the student is in good standing.
- All non-permanent conduct records are destroyed upon graduation.