Policy and Procedures for Addressing and Resolving Allegations of Sexual Assault, Stalking, Dating Violence, and Domestic Violence

Major Topics

Scope
Definitions
Prohibited Acts
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Rights of the Complainant and the Accused
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I. Introduction

The University is committed to maintaining an environment that is safe and free from sexual assault, stalking, dating violence, and domestic violence. The University will not tolerate such actions (including threats of sexual assault, dating violence, or domestic violence) against its students, faculty, staff, or visitors. The University investigates all complaints of sexual assault, stalking, dating violence, or domestic violence and takes appropriate disciplinary or corrective action in each instance. In an ongoing effort to prevent sexual assaults, stalking, dating violence, and domestic violence, the University provides education and prevention programs; provides information on obtaining appropriate counseling and medical care; and provides complainants with information on pursuing criminal or other legal action.

II. Scope

A. This Administrative Regulation applies to all members of the University community, including faculty, staff, students, visitors, volunteers, and members of registered student organizations.

B. This regulation applies to any acts of sexual assault, stalking, dating or domestic violence that occur:

   1. On campus or any other University owned, leased, controlled, or operated location;
2. During any University sanctioned function, including but not limited to research activities, internships, or travel regardless of the location; or

3. Off campus when the parties are either students or employees of the University (i.e. student-student, employee-employee, student-employee, or employee-student).*

* University faculty, staff, and students may always utilize services of the University’s Violence Intervention and Prevention Center (VIP) whether or not the accused is another student or employee.

III. Definitions

The following definitions are for purposes of this regulation and are not intended to replace or summarize the Kentucky Penal Codes.

A. Sexual Assault

1. Sexual assault means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s Uniform Crime Reporting system. A sex offense is any act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

   (a) Rape is defined as the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

   (b) Fondling is defined as the touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental incapacity.

   (c) Incest is defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

   (d) Statutory Rape is defined sexual intercourse with a person who is under the statutory age of consent.

2. Sexual assault also includes all sex offenses as stated in Kentucky Revised Statutes 510.010 through 510.140.

B. Stalking

1. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others or suffer substantial emotional distress.

   (a) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property.

   (b) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
(c) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

2. Examples of stalking include, but are not limited to:

   (a) Following a person;

   (b) Appearing at their home, place of business, or classrooms;

   (c) Making harassing phone calls;

   (d) Mailing written messages, sending or posting electronic messages;

   (e) Leaving messages or objects at their home, place of business, vehicle, or classroom; and

   (f) Vandalizing personal property.

C. Dating Violence

Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and

1. The existence of such a relationship shall be based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

2. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

D. Domestic Violence

Domestic Violence means violence committed by:

1. A person who is a current or former spouse or intimate partner with the victim;

2. A person with whom the victim shares a child in common;

3. A person who is cohabitating with or who has cohabited with the victim as a spouse or intimate partner; or

4. Any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws where the violence occurred.

E. Affirmative Consent

Affirmative Consent means an unambiguous and voluntary expression of willingness, permission, or agreement to engage in specific sexual activity throughout a sexual encounter. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other to engage in the sexual activity. Consent cannot be inferred from the absence of a "no"; a clear "yes," verbal or otherwise, is necessary.

Consent cannot be granted by an individual who:

1. Is incapacitated by any drug or intoxicant;
2. Has been compelled by force or threat of force;
3. Is unaware that the act is being committed;
4. Is impaired because of a mental or physical condition;
5. Is coerced by supervisory or disciplinary authority; or
6. Is less than the statutory age of consent.

F. Complainant
A complainant is anyone who makes a complaint she or he has been a victim of sexual assault, stalking, dating violence, or domestic violence.

G. Respondent
A respondent is anyone against whom a complaint or allegation of sexual assault, stalking, dating violence, or domestic violence is made.

H. University Official
A University official means:
1. Any faculty member;
2. Any staff employee who acts as an academic advisor;
3. Any other individual who has administrative responsibilities, including but not limited to, deans, directors, department heads, managers, and supervisors, and resident and assistant resident directors.

I. Campus Security Authority
A campus security authority (CSA) is broadly defined as an individual having responsibility for campus security and officials having significant responsibility for student and campus activities. For a specific listing of individuals designated as campus security authorities, see Administrative Regulation 6:7.III.E, Policy on Disclosure of Campus Security and Crime Statistics.

J. Preponderance of Evidence
Preponderance of Evidence means that it is more likely than not (50.1% certain) that the respondent is responsible for the alleged act.

IV. Prohibited Acts
A. Every member of the University community is prohibited from:
1. Engaging in sexual assault, stalking, dating violence, or domestic violence;
2. Retaliating in any manner against an individual who makes a complaint of sexual assault, stalking, dating violence, or domestic violence;
3. Interfering with procedures to investigate or redress a complaint of sexual assault, stalking, dating
violence, or domestic violence; and

4. Making an intentionally false accusation of sexual assault, stalking, dating violence, or domestic violence through the University’s procedures.

B. Any member of the University community who engages in one of these prohibited acts against any other member of the University community may be subject to corrective action and appropriate sanctions.

V. Reporting Complaints

A. Any University employee who witnesses or is made aware of an incident of sexual assault, stalking, dating violence, or domestic violence shall report it to the University Police or the Title IX Coordinator as soon as possible.

B. The University strongly encourages prompt reporting by non-employees, including victims, witnesses, and those who are made aware of incidents of sexual assault, stalking, dating violence, or domestic violence. Reports may be made to the University of Kentucky Police, police in the location where the violence occurred, University Violence Intervention and Prevention Center, the Dean of Students Office, the Title IX Coordinator, a Campus Security Authority, or to any University official. An incident may be reported without filing a written complaint.

C. Individuals designated as Campus Security Authorities are required by law to report certain crimes, including alleged sex offences, stalking, and relationship violence, to the University Police or Division of Crisis Management and Preparedness. These reports are made for statistical purposes, without the inclusion of identifying information of the parties. For reporting responsibilities of individuals designated as Campus Security Authorities, see Administrative Regulation 6:7, Policy on Disclosure of Campus Security and Crime Statistics.

D. Confidential reporting is allowed to the University Violence Intervention and Prevention Center and the University Counseling Center or Health Services when receiving counseling or medical services. Anonymous reports may also be made to the UKPD; however, because police reports are public records under state law, UKPD cannot hold reports of sexual assault, stalking, dating violence, or domestic violence in confidence.

E. The University provides information on pursuing criminal or other legal action, health care, counseling, and other support services available for students, faculty, staff, and visitors who have made a complaint of sexual assault, stalking, dating violence, or domestic violence.

F. The University makes a good faith effort to resolve complaints of sexual misconduct within sixty (60) days of receiving the report, however the proceedings timeframe allows for extensions for good cause with notice to the complainant and the respondent of the delay and the reason for the delay.

G. The University encourages individuals who make a complaint of sexual assault, stalking, dating or domestic violence, regardless of where the complaint is made, to also contact University Violence Intervention and Prevention Center (http://www.uky.edu/StudentAffairs/VIPCenter/) for assistance in accessing and navigating services, resources, and referrals both on and off campus.

H. Individuals who experience sexual assault, dating violence, or domestic violence are strongly encouraged to seek medical attention and be examined for physical injury, the presence of sexually transmitted diseases, or pregnancy as a result of rape.

NOTE: An individual who is considering making a criminal complaint or taking other legal action should seek medical care as soon as possible after the assault. It is important for the individual to not bathe, douche, or change clothing prior to the medical examination in order to avoid
The kind of evidence that supports a legal case against an accused should be collected as soon as possible, at maximum within ninety-six (96) hours of an assault.

**Important University Contact Numbers:**

- **UK Police** ........................................... 911 from a UK phone; or #UKPD from your cell phone
- **Violence Intervention and Prevention Center** .... (859) 257-2884; or (859) 257-3564
- **Title IX Coordinator** ................................ (859) 257-8927
- **Office of the Dean of Students** ................. (859) 257-3754
- **Counseling and Testing** ......................... (859) 257-8701
- **University Health Services** ................. (859) 323-5823
- **UK HealthCare** .................................... (859) 257-1000

**VI. Rights of the Complainant and the Respondent**

A. The complainant has the right to choose whether or not to file a complaint with the University. However, when the University is made aware of an allegation of sexual assault, stalking, dating violence, or domestic violence, it must investigate and take action to protect the complainant or other members of the University community.

B. In addition to pursuing administrative penalties and remedies, the complainant maintains the right to pursue criminal or other legal action.

C. A preponderance of evidence standard shall be used for determining the outcome of investigations.

D. Both the complainant and the respondent shall be informed in writing of the outcome of any institutional disciplinary proceeding brought alleging a sex offence (the University’s final determination and any sanction(s)).

E. The complainant and the respondent are entitled to the same opportunities to have an advisor present during an institutional disciplinary proceeding. An advisor’s degree of participation is determined by the hearing procedures established for students by the Code of Student Conduct and for employees in applicable University regulations.

F. A student complainant has the right to change University housing and academic arrangements if such changes are reasonably available.

G. An employee complainant may consult with the Title IX Coordinator regarding available options.

**VII. Corrective Actions and Disciplinary Procedures**

A. For students, faculty, and staff, the University utilizes the procedures outlined in the Appendix to address and resolve allegations of sexual violence, stalking, domestic violence, and dating violence.

B. The recommended range of sanctions for students are in accordance with the Appendix and include disciplinary probation, counseling assessment, social restrictions, social suspension, dismissal, revocation of admission, or revocation of degree. A recommended sanction of revocation of a degree shall be referred to the Board of Trustees for final action. (See KRS 164.240) Additional sanctions also may be imposed when appropriate. Both the complainant and the respondent shall be informed of the outcome of the corrective action or disciplinary process.
C. The recommended range of sanctions for faculty and staff are in accordance with the Appendix and include suspension, counseling, or termination of employment. Additional sanctions also may be imposed when appropriate. Both the complainant and the respondent shall be informed of the outcome of the corrective action or disciplinary process.

C. Both parties have the right to appeal the decision as detailed in the Appendix.

VIII. Education

Regular and ongoing education is available for all members of the University community. The VIP Center offers both online and interactive training sessions for students and conducts Green Dot bystander intervention training for faculty and staff. Training on Discrimination and Harassment, including Title IX, is offered on a regular basis for new employees, in the Supervision curriculum, on a regular basis for faculty and employees and any units upon request.

References and Related Materials


Department of Education, Title IX regulations, 34 C.F.R. § 106.1, et seq.


Violence Against Women Reauthorization Act of 2013, (Pub. Law 113-4)

U.S. Department of Education, Dear Colleague Letter GEN-14-13
KRS 164.240, Degrees Granted by Trustees
KRS 510.010 - 510.140, Sexual Offenses


Revision History

1/26/2009, 9/30/2014 (Interim), 12/3/2014, 6/19/2015 (addition of procedures)

For questions, contact: Office of Legal Counsel
UNIVERSITY OF KENTUCKY PROCEDURES FOR ADDRESSING AND RESOLVING ALLEGATIONS OF SEXUAL VIOLENCE, STALKING, DOMESTIC VIOLENCE, AND DATING VIOLENCE

I. INTRODUCTION

These procedures are applicable to allegations, investigations, and adjudication of cases involving Administrative Regulations (AR) 6.2, Policy on Sexual Assault, Stalking, Dating Violence, and Domestic Violence. These procedures apply to University faculty, staff and students.

Allegations related to AR 6:1, Policy on Discrimination and Harassment are normally adjudicated under the Code of Student Conduct for students, Human Resources Policy and Procedure for staff, and the Faculty Discipline Policy for faculty. However, depending on the circumstances, the Office of Institutional Equity and Equal Opportunity (IEEO) may refer allegations related to discrimination and harassment for adjudication under these procedures.

II. DEFINITIONS

A. Complainant means any person (or his/her proxy) alleging a violation(s) of AR 6:2. The University may serve as a complainant, designate a proxy complainant, or initiate proceedings without a formal complaint from the victim of an alleged violation.

B. Employee means a faculty employee or staff employee, regardless of employee type (i.e., regular or temporary), as defined in Human Resources Policy and Procedure #4.0: Employee Status.

C. Hearing Officer means an individual learned in the law and selected by the President to facilitate a hearing of the Sexual Misconduct Hearing Panel (“Hearing Panel”).

D. The Office of Institutional Equity and Equal Opportunity (IEEO), which includes the University Title IX Coordinator, is the University office responsible for investigating complaints of sexual assault, stalking, dating violence, and domestic violence in violation of AR 6:2, resolving potential violations, and recommending appropriate sanctions when violations are confirmed.

E. Preponderance of the Evidence means that it is more likely than not (50.1% certain) that the respondent is responsible for the alleged act.

F. Registered Student Organization means a group of identifiable persons who have complied with the requirements for registration as determined by the Office of Student Involvement in accordance with AR 4:1, Registration of Student Organizations, and includes groups that are seeking, but have not yet been granted registered status.

G. Respondent means any employee, student, or registered student organization alleged to have violated AR 6:2.

H. Sanction means any educational or disciplinary measure provided to encourage self-reflection regarding the respondent’s policy violation, to stop further inappropriate behavior, and to deter any subsequent violations. Sanctions should be appropriately connected to the violation.
I. **Sexual Misconduct Hearing Panel Pool** means the twenty-one (21) individuals appointed by the President from the faculty and staff to serve on Sexual Misconduct Hearing Panels.

J. **Sexual Misconduct Hearing Panel (Hearing Panel)** means a 3-person hearing panel selected by the Hearing Officer from the Sexual Misconduct Hearing Panel Pool to resolve alleged violations of AR 6:2.

K. **Sexual Misconduct Appeals Board (SMAB)** means the ten (10) individuals and one (1) Chair appointed by the President from the faculty and staff to consider appeals of a Hearing Panel’s determination as to whether a student, student organization, or employee has violated AR 6:2 or of recommended sanctions.

L. **Student** means any person who is enrolled at the University. Student status continues whether or not the University’s academic programs are in session. Student status includes those taking courses for credit or non-credit at the University, either full-time or part-time, while pursuing undergraduate, graduate, or professional studies. An individual who withdraws after an alleged violation or who is living in the residence halls, although not enrolled at the University, is also considered a student.

M. **Support Individual** means an advocate who may attend an informal meeting or formal hearing to provide advice, support, or guidance to either the respondent or the complainant. A support individual may not represent, speak on behalf of, delay, disrupt, or otherwise interfere with the proceedings of a student conduct meeting. An attorney may serve as a support individual, although the attorney’s participation is limited to the role of support individual as described herein.

N. **University Activity** means any activity on or off University premises that is aided, authorized, initiated, sponsored, or supervised by the University or a registered student organization.

O. **University Official** means any person employed or otherwise authorized by the University, performing assigned administrative or professional responsibilities.

P. **University Premises** means all property, buildings, and facilities owned, leased, used, or controlled by the University (including adjacent streets and sidewalks).

### III. INITIATING A COMPLAINT AND INVESTIGATION PROCESS

A. **Filing a Complaint:** All complaints related to alleged violations of AR 6:2, regardless of where the complaint is initially received, shall be referred to the IEEO for investigation.

B. **Confidential Reporting:** Individuals may make a confidential complaint or report (where individuals receiving the complaint are not required to report incidents to IEEO) to the University Violence Intervention and Prevention Center (VIP Center), the University Counseling Center, or University Health Services (students only). Anonymous reports may be made to the UKPD; however, because police reports are public records under state law, UKPD cannot hold reports of sexual assault, stalking, dating violence, or domestic violence in confidence. In addition, certain individuals designated as Campus Security Authorities under AR 6:7 are required by law to report sex offences, stalking, and relationship violence, to the University Police or Division of Crisis Management and Preparedness. These reports are made for statistical purposes, without the inclusion of identifying information of the parties. (see AR 6:7, Policy on Disclosure of Campus Security and Crime Statistics)

C. **Dual Reporting:** Violations of AR 6:2 may be both a violation of University policy and law, and as such, the University encourages complainants to make reports to both local law enforcement agencies (Lexington Police Department, University of Kentucky Police Department, or other appropriate local law enforcement agencies) and a University official. The result of an external
criminal investigation does not impact whether a violation of University policy has occurred. An external criminal investigation shall not take the place of a University investigation, although such criminal investigation may supplement a University investigation. The University shall not wait for the conclusion of a criminal investigation to begin conducting its own independent investigation, take interim measures to protect the University or any member of the University community, or when necessary, to initiate hearing procedures as outlined below.

D. **Interim Suspension (Students):**

1. In certain circumstances, the Vice President for Student Affairs (VPSA), may impose an interim suspension from University premises upon receiving a complaint and prior to the completion of the student conduct process. Upon taking such action, the VPSA or authorized representative shall immediately notify the chair of the UAB. The student shall be notified in writing of, and the reasons for, the interim suspension. Interim suspension may be imposed to:

   a. Ensure the safety and wellbeing of members of the University community or preservation of University property;
   b. Ensure the student’s own physical or emotional safety and wellbeing; or
   c. Ensure that normal operations of the University are not disrupted.

2. A student may appeal the decision of the VPSA to the University Appeals Board (“UAB”) in writing within seven (7) business days. Interim suspension shall remain in effect during any appeal. If requested in the written appeal, a student shall be given an opportunity to appear personally before the UAB within three (3) business days in order to discuss the following issues only:

   a. The reliability of the information concerning the student's conduct, including the matter of his or her identity.
   b. Whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the student on University premises poses a substantial and immediate threat to himself or herself or to others or the stability and continuance of normal University functions.

3. A student under interim suspension shall be given an opportunity for a prompt disciplinary hearing within the University Disciplinary System.

E. **Interim Suspension (Employees):**

1. In certain circumstances, the dean (faculty), or appropriate unit administrator (staff), upon the recommendation of the IEEO, may impose an interim suspension from University premises upon receiving a complaint and prior to the completion of the disciplinary process. The accused individual shall be notified in writing of, and the reasons for, the interim suspension. Interim suspension may be imposed to:

   a. Ensure the safety and wellbeing of members of the University community or preservation of University property;
   b. Ensure the accused individual's own physical or emotional safety and wellbeing; or
   c. Ensure that normal operations of the University are not disrupted.

2. An employee under temporary suspension shall be given an opportunity for a prompt hearing within these disciplinary procedures.

F. **Other Interim Remedies Available:** Interim remedies that may be initiated at the beginning of the complaint process and are not dependent on the outcome of the case include, but are not limited to:

   1. Referral to on or off-campus resources, such as the VIP Center and counseling;
2. Alteration of the housing (students) or workstation (employees) situation for the complainant or respondent;
3. Removing a student from residential facilities or removing an employee from the work setting or University premises (See Interim Restriction or Suspension);
4. Limitation on contact between parties (e.g. No-Contact Orders, No-Trespass Orders);
5. Referral to academic support services, such as tutoring and testing accommodations (students);
6. Adjustments to course schedules and academic deadlines (students) or work schedules (employees);
7. Other appropriate remedies based on each individual situation.

G. Retaliation: University policy prohibits retaliation against any party cooperating in the investigation of an alleged violation of University Policy or proceeding. Retaliation includes any harassment, intimidation, threats or adverse action against any complainant or individual as a result of participation in a complaint. Retaliatory behavior is not limited to behavior by the accused individual, and covers behavior by his or her associates, as well as third parties. Retaliation may be reported to IEEO, the Office of Student Conduct, Human Resources, or Faculty Advancement and is considered an independent allegation that may lead to interim measures or disciplinary action (See Governing Regulation XIV).

IV. NOTICE AND ADMINISTRATIVE MEASURES

A. The IEEO shall notify the respondent via a Notice of Alleged Violation (hereafter referred to as “notice”) of the alleged violation. The Notice shall include a summary of the complaint, the alleged policy violation(s), the date and time of the pre-hearing meeting, and if applicable, interim restrictions.

B. Notices shall be sent to the respondent’s official University email address no less than two (2) business days prior to a scheduled meeting. For registered student organizations, the notice shall be mailed to the organization’s representative, typically the President on file with the Office of Student Involvement. Failure to read and comply with the notice is not suitable grounds for an appeal.

C. The IEEO schedules meetings and hearings. The meeting time and date of the pre-hearing meeting or formal hearing is determined by the respondent’s class or work schedule and the availability of the Title IX Investigator, Hearing Panel members, and witnesses. A meeting or formal hearing shall only be rescheduled for good cause.

V. INFORMAL RESOLUTION OPTION

Pre-Hearing Meeting: An IEEO representative shall meet with the complainant and respondent separately to: (1) review the investigative report; (2) discuss the hearing process; and (3) receive input from the complainant and respondent regarding sanctions. With the exception of support individuals, pre-hearing meetings are closed meetings. If the respondent chooses to resolve the allegation during the meeting, the case is closed. If the allegation is not resolved during the meeting, the case shall be referred to the Hearing Officer for formal resolution by a Hearing Panel.

VI. FORMAL HEARING PROCEDURES

A. Sexual Misconduct Hearing Panel Pool: The President shall appoint twenty-one (21) individuals from the faculty and staff to serve as members of the Sexual Misconduct Hearing Panel Pool. Members shall receive annual training by IEEO on issues related to sexual assault, domestic violence, dating violence, and stalking. Students are not permitted to serve.

B. Hearing Officer: The President shall appoint an individual learned in the law to serve as the facilitator of hearings involving alleged violations of AR 6:2. The Hearing Officer shall be trained in issues
related to sexual assault, domestic violence, dating violence, and stalking. The Hearing Officer convenes and presides at all meetings of the Hearing Panel but does not vote as a member of the Panel. The Hearing Officer rules on all questions of law, whether substantive, evidentiary, or procedural.

C. Sexual Misconduct Hearing Panel: Once a case is referred to the Hearing Officer for a formal hearing, the Hearing Officer selects three (3) members at random from the Sexual Misconduct Hearing Panel Pool.

D. Hearings: Formal hearings shall be conducted by the Hearing Panel according to the following procedures:

1. Given the nature of these incidents, and the impact on the overall University community, a representative from Student Conduct, Human Resources, or Faculty Advancement shall serve as a complainant on behalf of the University. The rights of this representative shall be same as that of the complainant. The burden of proof shall rest on the complainant.

2. The complainant and the respondent shall submit to the Hearing Officer any information s/he wishes to present at the hearing, the name of his/her support person(s) and if s/he is an attorney, preliminary list of questions, and a possible list of witnesses six (6) business days prior to the hearing. Absent good cause, as determined by the Hearing Officer, the parties may not submit information for the hearing after this deadline. Upon the receipt of information from both parties, the Hearing Officer shall review the information submitted to eliminate any redundant or prejudicial information.

3. The IEOE shall arrange the attendance of witnesses who are members of the University community, if reasonably possible.

4. The IEOE, in consultation with the Hearing Officer, shall create the formal hearing file. Copies of the formal hearing file shall be made available to all parties and the Hearing Panel members at least three (3) business days prior to the hearing and shall contain the Title IX investigator's report, list of witnesses, preliminary questions submitted by parties, and any other related information.

5. Both the respondent and the complainant shall have the right to call relevant and necessary witnesses. Witnesses participate in a hearing to provide information to and answer questions from the Hearing Panel regarding the personal knowledge they have of the incident at issue. The members of a Hearing Panel may ask questions of the parties and all witnesses. The respondent and the complainant (not the advisors) shall also be given an opportunity to examine and cross-examine witnesses who testify at the hearing.

6. Witnesses shall be excluded from hearings, except for the period of their own testimony.

7. The complainant and the respondent have the right to be assisted by a support individual(s) of his/her choice and at his/her own expense. Support individual(s) are not permitted to speak or to participate directly in any hearing.

8. The hearing shall be closed to the public. The complainant, respondent, and their support individual(s), if any, are allowed to attend the entire portion of the hearing, excluding deliberations.

9. The Hearing Officer is responsible for maintaining order and determining the sequence of events during a hearing. The Hearing Officer may direct any person who fails to comply with procedures during the hearing or disrupts or obstructs the hearing to leave the hearing.
10. All questions of law, whether substantive, evidentiary, or procedural, shall be addressed to and ruled upon by the Hearing Officer.

11. After the Hearing Panel has reviewed the evidence presented at the hearing, the Panel shall determine whether the respondent has violated any section of AR 6:2.

12. The Hearing Panel’s determination shall be made on the basis of the preponderance of evidence standard. Preponderance of Evidence means that it is more likely than not (50.1% certain) that the Respondent is responsible for the alleged act.

13. When a Hearing Panel determines the respondent is responsible for a violation of AR 6:2, the Panel shall immediately convene a supplemental proceeding to determine a recommended sanction(s). During the supplemental proceeding, both the respondent and the complainant may submit relevant evidence or make relevant statements regarding the appropriateness of a specific sanction. The past disciplinary record of the respondent shall only be supplied to the Hearing Panel during the supplemental proceeding to consider sanctions.

14. The Hearing Panel shall recommend sanctions to the Dean of Students (students) or the appropriate dean, director, or unit administrator (employees). The sanctions shall be ultimately determined and imposed by the Dean of Students (students) or the appropriate dean, director, or unit administrator (employees); however, the Panel’s recommendation shall be considered in determining and imposing sanctions. The Dean of Students, deans, directors, and unit administrators are not limited to sanctions recommended by the Hearing Panel.

15. All hearings, with the exception of the deliberations, shall be recorded. The recording is the property of the University.

16. A respondent or complainant may request to postpone the hearing for reasonable cause. The respondent or complainant shall submit to the Hearing Officer a written request for postponement, including the reason(s) for the request, no later than five (5) business days prior to the scheduled hearing unless an unforeseen circumstance occurs. Delays of a meeting or hearing are not normally allowed because of scheduling conflicts of a support individual. The Hearing Officer may accept or deny the request, after considering the nature of the request and the incident at issue.

17. If a respondent or complainant fails to appear before the Hearing Panel, the information regarding the allegation shall be presented and a determination of finding shall be made in the respondent’s absence.

18. The complainant, respondent, or a witness may request reasonable accommodations to address concerns for the personal safety that may include providing separate facilities, using a visual screen, or by permitting participation by telephone, videophone, closed circuit television, video conferencing, videotape, audio tape, written statement, or other appropriate means.

19. After the hearing, the Hearing Panel shall prepare a written summary of its findings of fact, determination of responsibility, recommended sanctions if any, and an explanation of the rationale for the decision. The report shall be submitted to the Dean of Students (for students) or the appropriate dean, director, or unit administrator (for employees), who shall send a copy of the report to both the respondent and complainant via the individual’s University email address no more than seven (7) business days following a hearing, unless circumstances exist that would delay issuance of the written outcome.

VII. RECOMMENDED SANCTIONS
The chart below outlines the recommended sanctions for specific violations of AR 6.2. Additional sanctions not specifically listed below may also be imposed when appropriate.

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<th>Recommended Range of Sanctions (STUDENTS)</th>
<th>Recommended Range of Sanctions (EMPLOYEES)</th>
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<td>Sexual Assault</td>
<td>Suspension, Dismissal, Revocation of Admission and/or Degree</td>
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<td>Dating Violence or Domestic Violence</td>
<td>Disciplinary Probation, Counseling Assessment, Social Restrictions, Social Suspension, Suspension, Dismissal, Revocation of Admission and/or Degree</td>
<td>Probation, Counseling Assessment, Suspension, Termination</td>
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3. Whether new information, or other relevant facts not presented at the hearing, would have altered the outcome of the hearing and such information and/or facts were not known to the person appealing at the time of the original hearing.

E. Notification of Appeal: If the respondent or complainant files an appeal, the IEEO and/or the other party involved in the complaint shall be notified of the appeal and provided an opportunity to file a response. A response shall be filed within five (5) business days of being notified of the appeal.

F. Appeal Record: In considering an appeal, the SMAB shall conduct a review of the existing documentary and verbatim record, including but not limited to:

1. The hearing file;
2. The written recommendations of the Hearing Panel;
3. The recording or transcript of the formal hearing;
4. The letter of appeal; and
5. Response from the IEEO and/or the other party involved in the complaint, if any.

G. SMAB Decision: Upon review of all of the information, the SMAB has the authority to do one of the following:

1. Uphold the findings and recommendations made by the Hearing Panel;
2. In the cases of social suspension, suspension, or expulsion (students), or suspension or termination (employees) modify the sanction; or
3. Remand the case back to a Hearing Panel.

H. Remanded Cases: An appeal can only be remanded to a Hearing Panel due to procedural error or new information.

1. For issues of reversible error, the Hearing Officer shall appoint a new Hearing Panel to reconsider the case; or
2. For issues of new information, the original Hearing Panel resumes the hearing.

I. SMAB Decision: The SMAB Chair shall communicate the outcome to the appealing party, the IEEO, the Dean of Students (students), the appropriate dean, director, or unit administrator (employees) and when appropriate, the other participating student or employee.

1. For students, the decision of the SMAB is final and binding upon all involved.
2. For employees, the decision of the SMAB may be appealed pursuant to applicable law (KRS 164.230) and/or University regulations GR I.F and GR X.B.1.f.

IX. Amendment of These Procedures

In order to have the flexibility to amend the procedures as necessary to correspond to changes in the law or regulatory guidance, the President, in consultation with the General Counsel, may amend these procedures as necessary. The President shall report any material amendments to the Board of Trustees.