Dear Colleague:

One of our values as an institution is a commitment to both open inquiry and transparent communication between faculty and students. Such transparency — and accountability — are key ingredients in our continued commitment to, and efforts toward, improving student success, retention and progress toward graduation.

In short, at UK, we put students first in everything that we do. How we communicate is a critical piece of that steadfast commitment to students and to each other.

At the end of this email, I have provided several links to materials that have been developed by the Ombud’s office that you may find helpful as you prepare courses for the Fall 2015 semester.

I would also like to bring to your attention a number of issues that have caused concern or uncertainty over the past few semesters.

1. Procedures Regarding Excused Absences. University Senate Rule (“SR”) 5.2.4.2 provides that “[a] student shall not be penalized for an excused absence.” We have observed recent cases in which there has been confusion about the procedures that a student is to follow in order to have an absence treated as excused. Here are some practices that will help to ensure that students understand any required procedures.

   • Faculty should inform students in the course syllabus about the notification requirements for the course. Notification requirements must be at least as protective of student rights as the University Senate Rules.

   • A student must notify the Instructor of an absence within one week after the absence or prior to the absence as specified by the rules. SR 5.2.4.2.E.

   • A student must submit any written documentation supporting an excused absence within one week after the period of absence, except when the absence is for the observation of a major religious holiday. If, for example, a student has an extended, two-week absence because of serious illness, the documentation would be due within one week after the student returns to classes.

   • An absence for a major religious holiday requires advance written notification. (The amount of time required is left to each instructor’s discretion and should be stated in the syllabus.) Also, “[f]aculty shall use their judgment as to whether the [religious] observance in question is important enough to warrant” an excused absence. SR 5.2.4.2.D. That same section also provides that “the presumption should be in favor of a student’s request.” Id.

2. Appropriate Verification for an Excused Absence for Illness. According to University Senate Rule 5.2.4.2.A, a student’s absence is excused when an illness is “significant.” The Instructor of Record has “the right to request appropriate verification” of the illness. Id.

   a. Documentation Provided by University Health Services (“UHS”): Many students will rely upon UHS when they suffer from significant illness or injury during the semester. UHS has prepared a statement about class attendance and student illnesses that is useful for students and faculty. The statement discusses the important public health and policy reasons why a sufficiently ill student ought to be absent from class and also not make a visit to UHS. UHS provides in this circumstance an “Explanatory Statement of Absence from Class” that students may complete and submit to the Instructor to document an excused absence from class. UHS describes this form as the “Tier 1” document. Faculty should decide whether this Tier 1 document is acceptable as “appropriate verification” of the student’s illness. Faculty may decide that this documentation is
adequate under all circumstances or only under some defined circumstances (e.g., on two occasions during the semester). Faculty may also decide that a student's use of this form is not "appropriate verification" of the illness. Please provide students with clear directions about whether a Tier 1 excuse is acceptable and include that direction in your syllabus. An Instructor must, of course, apply any such rule consistently for all students in the class.

Tier 2 and Tier 3 documents are generated by UHS. The Tier 2 document is an email sent to the student, at the student’s request. The email confirms that the student made a medical visit to UHS. In order to provide the Instructor with verification of an illness, the student will forward the email from UHS to the Instructor of Record. The forwarded Tier 2 email informs the faculty member that she or he may confirm the UHS visit by emailing the identified sender of the confirming email and request that the sender verify the authenticity of the Tier 2 email sent to the student. The original sender will then provide confirmation that the email is not fabricated. Faculty members have informed the Ombud that Tier 2 documents may be easily fabricated and that faculty should make use of the verification offered by UHS.

The Tier 3 document is a form that the UHS emails to the student. This form “states any applicable restrictions [on the student] based on illness or injury.” Such a restriction may be that the student must be absent from class for a defined number of days.

Faculty should include in the syllabus a statement that a Tier 2 or Tier 3 document provided to the student by UHS is appropriate verification for an excused absence for illness.

b. Documentation Provided by Other Health Care Providers: Faculty members have informed the Ombud’s Office that students may be fabricating documentation to provide verification for excused absences. Faculty may want to discourage such conduct by informing students in the syllabus that the instructor will take steps to confirm the authenticity of documentation used to verify excused absences and by confirming the authenticity of documentation that is provided by students.

3. Policies Regarding Student Attendance and Class Behavior. If faculty wish to account for class attendance when determining a student’s grade, faculty must identify in the course syllabus how a student’s attendance will affect the student’s grade. For example, a faculty member may state in the syllabus that a student’s letter grade in the course will be reduced by one letter, if the student has more than four unexcused absences in the course.

If faculty wish to deter late arrival at class, faculty may state in the syllabus that a student will receive an unexcused absence if, for example, the student is late for three classes. That unexcused absence would have the effect on the student’s grade that is identified in the syllabus.

If faculty wish to penalize the late submission of required work, faculty must also identify the reductions in the syllabus.

If, however, a student notifies the faculty member that the student’s lateness is excused and provides appropriate verification for the lateness, then the student must not be penalized.

Faculty may also wish to discourage improper student behavior in class by stating in the course syllabus that a student who violates the rules for civil behavior in class will be told to leave the class and will receive an unexcused absence for that class. Again, that unexcused absence would have the effect on the student’s grade that is identified in the syllabus.

Any such policies on class attendance and behavior must, of course, be applied consistently for all students in the class. Moreover, SR 6.1.2 requires that faculty must respect the right of each student to voice opinions that conflict with the Instructor’s opinion and the opinion of other students. Students must, however, express their opinions in a manner that is respectful, civil, and not disruptive to the class.

4. Policy on Excessive Number of Total Student Absences. Senate Rules include only one rule that addresses the issue of excessive absences. SR 5.2.4.2 provides, in relevant part, that “if a student has excused absences in excess of one-fifth of the class contact hours for that course, a student shall have the right to petition for a ‘W,’ and the Instructor of Record may require the student to petition for a ‘W’ or take an ‘I’ in the course.”
Four aspects of this rule are notable. The rule applies only to the number of excused absences. The rule does not provide for the aggregation of excused and unexcused absences. The rule provides that a student may be required to withdraw or receive a grade of I, in the event of excessive excused absences. The rule does not provide that a student will receive a failing grade in the event of excessive absences.

Notwithstanding the clear terms of this rule, some course syllabi provide that if a student is absent for any reason from more than one-fifth (or 20%) of class meetings, the student will receive a failing grade. In the event that a student’s total absences from class include excused absences, this course syllabus provision would likely conflict with S.R. 5.2.4.2, which states that “[a] student shall not be penalized for an excused absence.” The Senate Rules require that faculty distinguish between excused and unexcused absences when absences affect a student’s grade. As was discussed earlier in this memo, faculty may reduce a student’s grade for one or more unexcused absences. Faculty must describe any such rule in the syllabus and apply that rule to all students in the class.

5. Limits on Activities Permitted During Dead Week. SR 5.2.4.6 imposes important limits on the activities that are permitted during “[t]he last week of instruction of a regular semester.” This “Dead Week” for the Spring 2016 semester is April 25-29.

The Ombud’s office continues to receive student complaints that faculty are not conforming to the limits on Dead Week activities defined by the Senate Rules. The Senate Rules are as follows:

- No written exams or quizzes, including final examinations, may be scheduled during Dead Week. However, make-up tests may be scheduled.
- No project / lab practical / paper / presentation deadline or oral/listening examination may be scheduled during the Dead Week unless it was scheduled in the syllabus AND the course has no final examination (or assignment that acts as a final examination) scheduled during finals week. A course with a lab component may schedule the lab practical of the course during Dead Week if the lab portion does not also require a Final Examination during finals week.
- Assigned graded homework that is a routine part of the course and is announced in the course syllabus may be completed during Dead Week.

6. Required Change to Student’s Final Exam Time. The Ombud's Office is sometimes contacted by students when they are facing problems in moving the time of a final examination. Senate Rules define two occasions when a student has a right to have the time of a final exam changed. The first situation is described by Senate Rule 5.2.4.7, which provides that: "Any student with more than two final examinations scheduled on any one date shall be entitled to have the examination for the class with the highest catalog number rescheduled at another time during the final examination period. In case this highest number is shared by more than one course, the one whose departmental prefix is first alphabetically will be rescheduled. The option to reschedule must be exercised in writing to the appropriate Instructor of Record or his/her designee two weeks prior to the last class meeting."

The second situation is described by Senate Rule 5.2.4.8, which provides that: "A student for whom two examinations have been scheduled for the same time shall be entitled to have the examination for the class with the higher catalog number rescheduled. In case both classes have the same number, the one whose departmental prefix is alphabetically first will be rescheduled. This rescheduling must be requested of the appropriate instructor in writing at least two weeks prior to the scheduled examination."

If you are the instructor in a course whose examination is to be moved under the terms of these University rules, please arrange for administering the exam at an alternate time.

7. Student Review of Exams and Other Course Materials. The Ombud’s Office receives student reports that faculty are sometimes unwilling to provide students with access to the content of graded exams or other course work. A student’s academic record contains completed examinations and course work. The Family Educational Rights and Privacy Act (FERPA) of 1974, as amended, provides that a student’s examinations and course work form part of the student’s academic record. FERPA requires that students have
access to the academic record, which means that students have a legal right to review their examinations. FERPA provides that access to the academic record must be provided within 45 days.

Section VII of the Senate Rules defines the Code of Faculty Responsibility. Part of that Code, Senate Rule 7.2.2, requires that faculty “return to, discuss with, or make available to students all papers, quizzes and examinations within a reasonable period of time.” This Rule effectively restates the FERPA obligations regarding course materials. The “reasonable period of time” required for student review ensures that students have the opportunity to review their exam answers in time to study for an upcoming exam. That reasonable time may be less than the 45 days provided in FERPA.

8. Disability Resource Center: If a student with a documented disability requires academic accommodations for your course, the student must provide you with a Letter of Accommodation from the UK Disability Resource Center (DRC). If the student is not registered with the DRC, she or he may contact David T. Beach (dtbeac1@uky.edu). The DRC is located in Suite 407 of the Multidisciplinary Science Building, 725 Rose Street, 0082. The phone and fax numbers have not changed. To contact the DRC by phone, please call V/TDD (859) 257-2754.

The links below include references to the University Senate Rules as appropriate. Should you have questions or concerns involving academic policies, please contact the Academic Ombud Services Office at Ombud@uky.edu or 859-257-3737. You may also visit our website or our office at 109 Bradley Hall. Our office is a neutral, confidential, independent, and informal resource for faculty and students.

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Academic Ombud