

Kentucky College of Art + Design  
POLICY MANUAL  
Section V: Student Handbook

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## 5.1 Introduction

### 5.1.1 Mission

The Kentucky College of Art + Design promotes a creative and productive life through an undergraduate education in the contemporary arts.

As approved by the Board of Directors of the Kentucky College of Art + Design on December 30, 2020.

### 5.1.2 Vision

Kentucky College of Art + Design will:

- Become the only independent four-year college of art and design in the state of Kentucky.
- Provide an excellent education that prepares students for success.
- Create an inclusive learning community within which all students can grow and foster a global view.
- Develop an understanding of the power of the arts to create change.

### 5.1.3 Values

We will:

- Create a workplace where students, faculty and staff are equally heard.
- Develop practices that embrace innovation and change.
- Make decisions within a culture of open integrity.
- Act in responsible ways to protect the urban and natural environment.
- Become effective, collaborative citizens in our community and beyond.

## 5.2 Code of Student Conduct

### 5.2.1 Purpose

As members of the KyCAD community, we are engaged in the concurrent pursuit of academic and artistic excellence and social responsibility. The purpose of this Code of Student Conduct (“the Code”) is to establish standards for the ways in which we interact with each other in that pursuit, and procedures and consequences for dealing with instances in which those standards are not met.

The Code is neither a criminal nor a civil code and does not operate like one. Our expectations for our fellow community members are for a significantly higher standard of conduct than the bare minimum prescribed by law; conduct that is legal may nevertheless still be unacceptable within our community.

The standards, procedures, and consequences set forth in the Code are intended to serve primarily as an extension of KyCAD’s educational mission - to guide students in their growth as members of the KyCAD and broader communities.

### 5.2.2 Applicability

The Code applies to the on-campus conduct of all students. The Code also applies to off-campus conduct of students that, in KyCAD’s judgment, involves or affects KyCAD or other members of the KyCAD community, such as conduct in connection with:

- Academic work or other KyCAD -related educational activities and experiences such as class projects, field trips, study abroad, student teaching, or internships;
- Activities sponsored, conducted, or authorized by KyCAD or its student organizations; or
- Activities that cause or threaten harm to the health, safety, well-being, or property of KyCAD or members of the KyCAD community, including the student him- or herself.

The Code applies to all such conduct by a student while a student, even if it occurs outside of an academic term or when the student is not otherwise enrolled at KyCAD. Moreover, KyCAD continues to administer the Code with respect to any such conduct by a student while a student even if the student subsequently graduates, withdraws, takes leave, or is otherwise absent from KyCAD, and even if KyCAD does not learn of such conduct until after the student graduates, withdraws, takes leave, or is otherwise absent from KyCAD.

Students also continue to be subject to federal, state, and local laws while at KyCAD. While those laws are separate and independent from the Code and impose different standards, violations of them may also constitute violations of the Code. In such instances, KyCAD may take action under the Code independently of any other legal proceeding involving the same conduct and may impose consequences for violation of the Code even if such other proceeding is not yet resolved or is resolved in the student’s favor.

### 5.2.3 Definitions

As used in the Code:

- A. “Campus” means all lands, buildings, and facilities owned, leased, operated, or used by KyCAD.
- B. “Student” means an individual who has paid an acceptance fee, registered, or entered into any other contractual relationship with KyCAD for any form of instruction, whether or not for credit. For purposes of the Code, “student” status begins at the time of such payment, registration, or

contractual undertaking, even if the student has not yet arrived on campus or commenced instruction, and continues until such time as the student graduates or otherwise completes the relevant program, formally and permanently withdraws, or is expelled. A student who has taken a leave of absence, is on a medical leave, or has been suspended continues to be considered a “student” for purposes of the Code.

- C. “Members of the KyCAD community” means KyCAD students, faculty, staff, volunteers, and agents; visitors to the KyCAD campus; and people and entities within the vicinity of the KyCAD campus.
- D. “Clear and Convincing Standard of Proof” is the standard used to decide student conduct matters under the procedures outlined in the Code. Clear and Convincing preponderance reasonable doubt.

## 5.2.4 Community Standards

KyCAD expects its students to conduct themselves in recognition that they are members of a community engaged in the concurrent pursuit of academic and artistic excellence and social responsibility - and therefore to comply not only with base legal requirements, but also with additional, higher standards that enable and promote that pursuit. KyCAD expects that all students will treat each other, staff, and faculty with respect and civility at all times.

Towards these ends, all students must:

- Comply with all federal, state, and local laws applicable to their activities; and
- Comply with all general KyCAD rules and policies applicable to their activities.
- Not engage, or attempt to engage, in any other form of conduct that they reasonably should know is unacceptable within the KyCAD community. Representative, but not exclusive, examples of such unacceptable conduct include:

**Interference with teaching, learning, and other activities** - (a) Disrupting, obstructing, or interfering with the proper conduct of teaching and learning, other KYCAD-related activities, or other legitimate activities of other members of the KyCAD community, or (b) breaching the peace of other members of the KyCAD community. Legitimate criticism or other statement of opinion, expressed in a respectful manner, is not a violation of this provision.

**Harm to Self or Others** - a) Engaging in harassing, abusive, threatening, intimidating, endangering, fear-provoking, dishonest, deceptive, coercive, or harmful behavior toward others (including but not limited to verbal, written or through electronic means), or b) causing physical harm to one’s self or another person. Legitimate criticism or other statement of opinion, expressed in a respectful manner, is not a violation of this provision.

**Sexual misconduct** - Engaging in any form of sexual contact or conduct with another without that person’s clear, knowing, and voluntary consent. Sexual misconduct can occur between people of the same or different genders. For purposes of this provision, (a) it is the responsibility of the person seeking to initiate sexual contact or conduct to affirmatively obtain such consent, not of the intended recipient of such contact or conduct to affirmatively deny such consent, and (b) valid consent cannot be obtained from a person whose ability to make decisions is obviously substantially impaired by alcohol, drugs, or other intoxicants or by mental or physical condition; who is unaware that the sexual contact or conduct is being committed; or who is compelled or coerced to grant consent by force, threat of force, deception, or supervisory or disciplinary authority. Among the most serious types of sexual misconduct are sexual assault, domestic violence, dating violence, stalking, and sexual harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when either (a) submission to such conduct is an explicit or implicit condition of employment or academic success, or (b) submission to or rejection of such conduct is used as the basis for an employment or academic decision, or (c) such conduct has the purpose or effect of either (i) interfering with another’s ability to participate in KyCAD’s educational programs or employment opportunities, or (ii) creating an intimidating or hostile working or academic environment. Cases involving or including charges of sexual

misconduct will be reviewed and determined under Section 5.2.4 Sexual Misconduct, Assault and Harassment Policy.

**Weapons** - (a) Using, (b) displaying, or (c) possessing objects or substances whose primary purpose is to cause or threaten harm, and has no valid educational purpose. This includes but is not limited to firearms, pellet guns, ammunition, slingshots, switchblade knives, explosives, or any realistic toy or model such items, even if otherwise permitted by law; or using any other objects or substances to cause or threaten harm.

**Drugs, Alcohol, and Other Harmful Substances** - (a) Using, (b) possessing, or (c) distributing drugs or drug paraphernalia, alcohol, or other harmful substances in a manner that is prohibited by law or KyCAD policy, that is for purposes other than those for which they are intended, or that otherwise is potentially harmful to oneself or others.

**Harm to Property/Theft** - (a) Stealing, (b) destroying, (c) damaging, or (d) misusing the property or services of others, or (e) possessing or using others' property or services without their authorization.

**Unauthorized Entry** - (a) Entering or remaining in KyCAD buildings, facilities, or other premises, or (b) possessing, duplicating, or using keys or key cards to any KyCAD buildings, facilities, or other premises, without, or in excess of, appropriate authorization from KyCAD. Premises covered by this provision include but are not limited to balconies, fire escapes, and roofs of KYCAD-owned or -leased properties.

**Failure to Comply/Noncompliance** - (a) Failing to comply with the instructions or admonitions of KyCAD officials, (b) obstructing them in the course of performing their duties, (c) refusing to provide them with identification when requested, or (d) failing to comply with the terms of any consequences imposed under the Code or any behavioral contracts entered into under or apart from the Code. KyCAD officials covered by this provision include but are not limited to KyCAD Staff and Faculty, and/or any other persons acting on behalf of the college.

**Dishonest Conduct** - (a) Furnishing false information or (b) making a false report to KyCAD officials, (c) falsifying, altering, or misusing KyCAD records, (d) committing any violation of the Academic Code of Student Conduct, (e) creating recordings of any meetings, class lectures, or critiques without the express consent of the meeting holder or instructor, lecturer, guest critic, or other persons who are being to be recorded.

**Interference with Code Administration** -Interfering with or retaliating against anyone for participating in the administration of the Code.

### **Inherent Authority**

The College reserves the right to take necessary and appropriate action to protect the safety and well-being of the campus community. The Code applies to incidents that take place on College premises, at College-sponsored activities, or applicable to the college.

The Vice President of Academic Affairs or designee may determine that acts prohibited by the Code, but not committed on College premises, could also be grounds for disciplinary action. Such action will be taken if a student acts in a way that substantially interferes with or endangers the College community, or for behavior with significant potential to disrupt the educational environment. Such acts include, but are not limited to, drug trafficking, hazing and acts or threats of violence against persons.

The Vice President of Academic Affairs is fully empowered to address behavior that significantly interferes with the ability of other students to pursue an orderly course of study.

Consistent with the Code of Conduct, should it be determined that the welfare of the student and community is being compromised by such behavior, the Vice President of Academic Affairs may exercise necessary discretionary authority of the office to protect the educational processes and the institution. This may include one or more of the following steps:

1. Notify parents or other responsible persons
2. Notify police
3. Request professional health and/or psychological evaluation
4. Seek protective custody
5. Establish a Behavioral Contract that outlines specific strategies and interventions the student will engage in to prevent future disturbance
6. Require that the student be withdrawn from the College
7. Any other action necessary to meet the needs of the community

## 5.3 Disciplinary Procedures

Because the purposes of the Code are different from the purposes of law, the procedures by which the Code is implemented are, by design, more informal and less adversarial than those of a court. The following procedures generally will be followed in reviewing and determining allegations of misconduct under the Code. Cases involving or including charges of sexual misconduct will be reviewed and determined under the separate KyCAD Sexual Misconduct Procedures. At KyCAD's discretion, however, any of these procedures may be supplemented or modified as appropriate to the situation, provided that the respondent will at a minimum always be given notice of the charges presented, a description of the evidence supporting those charges, and an opportunity to be heard with respect to those charges.

1. **Initiation** - Any member of the KyCAD community may submit a report of an alleged violation of community standards Office of Academic Affairs. Reports should be submitted as soon as practicable following discovery of the suspected misconduct. Absent extraordinary circumstances, reports for all violations (other than sexual misconduct) must be submitted within six months following discovery of the violation of the community standard.

Office of Academic Affairs  
Kentucky College of Art + Design  
505 W. Ormsby Ave  
Louisville, KY 40203  
Phone: (502) 430-6191 ext. 12

2. **Assignment of Conduct Administrator** - Upon receipt, a complaint will be forwarded to the Coordinator of Student Conduct and will be assigned to a Conduct Administrator for review, investigation, and determination whether to proceed. Any full-time faculty or staff member may serve as a Conduct Administrator. The Coordinator of Student Conduct may, however, choose to appoint an appropriate Conduct Administrator who is not employed or affiliated with the college board.
3. **Review and Investigation** - The Conduct Administrator will review the report to determine whether it alleges a violation of community standards under the Code and, if so, will begin the student conduct process. The process may include meeting with pertinent parties and/or others who may have relevant information; obtaining written statements from relevant persons; and/or seeking other potentially relevant records or information.

All members of the KyCAD community are expected to cooperate with the conduct process.

A complainant or respondent who does not provide a full and complete statement of the facts and any other requested information will not be granted access to the statements and information provided by others until any hearing at which such statements and information are presented.

4. **Choice of Action (COA)** - In cases in which the Office of Student Conduct decides that there is evidence of a violation that warrants referral to the Conduct Process, the respondent will be contacted to schedule the preliminary meeting with the appropriate administrator. (Communication regarding conduct procedures and meetings will be through the student's KyCAD e-mail account.) The preliminary meeting will serve to inform the student of the details of the alleged misconduct and educate the respondent about the Conduct Process. The respondent will have the opportunity to ask questions and make statements. Failure to respond to a request for a preliminary meeting will not delay the conduct process. In such cases, the conduct administrator may proceed without the respondent's participation.

In the event of extenuating circumstances, the Office of Student Conduct or Conduct Administrator may grant additional time for the choice of action. Note: if at the time of notification about a

referral the respondent is withdrawn or not available in-person, the Student Conduct Process may be deferred until the respondent returns, re-enrolls, or voluntarily waives his or her any such deferral. The Choice of Action Form (COA) explains the options available to the respondent.

## Definitions of Processes

Below are the various paths a student may take when engaging the student conduct process at KyCAD as outlined in the COA. Students are expected to check their KyCAD e-mail accounts regularly; their failure to do so or to respond to any kind of notice will not prevent the student conduct process from proceeding.

- A. **Mediation** - Mediation is an informal process in which the parties to an interpersonal conflict attempt to resolve that conflict themselves, with the assistance of a neutral mediator who guides the discussion but does not impose a solution. Mediation is an option only if both the complainant and the respondent are willing to approach mediation in a spirit of cooperation, and if they and the Hearing Officer all agree that it is appropriate to the matter at hand. If mediation is selected, the Coordinator of Student Conduct will designate a mediator. Please note that mediation is only best-suited to for interpersonal issues.

A successful mediation normally will usually result in a written agreement between the parties outlining the resolution they have achieved and their expectations for the future; violation of that agreement may result in further proceedings under the Code. If the mediator determines at any point that further mediation is inappropriate, or if the mediation is unsuccessful, the matter may then be referred to the formal student conduct process.

- B. **Administrative Conference** - In an administrative conference, the charges are heard and determined by a sole Conduct Administrator (CA) and usually in a 1:1 setting. As in Conduct Board Meetings, Accused Students and the Conduct Administrator may present and question witnesses. Any witnesses must have relevant information pertaining to the case and be submitted to the appropriate hearing officer 48 hours prior to the hearing date. No “character witnesses” are allowed in the hearings, but at the discretion of the Conduct administrator may submit letters of support. The CA applies the Clear and Convincing Standard of Proof, but does so in a relatively informal procedure consisting primarily of discussion. However, a respondent’s failure or refusal to appear, participate, and cooperate at an administrative conference will not prevent the Conduct Administrator from making a determination.

The Respondent or the Conduct Administrator may request the Vice President of Academic Affairs to have charges be hard by a Conduct Board instead of in an administrative conference. The Vice President of Academic Affairs will refer more serious charges to a Conduct Board meeting.

- C. **Conduct Board Meeting** - The VP of Academic Affairs will appoint the hearing board of three individuals, usually faculty or staff. The VP of Academic Affairs may, however, choose to appoint members of the hearing board whom are not employed or affiliated with the college. The members of the hearing board will appoint a Chair.

No one may serve on a Conduct Board who has a significant conflict of interest or bias with respect to the case to be heard; however, prior knowledge of the participants in the case or of the conduct that is the subject of the case does not in itself constitute a conflict of interest or bias.

In general, KyCAD’s Conduct Board Meetings follow an investigatory rather than an adversarial model, with the Chair rather than the parties taking the lead, active role. Conduct Board hearings generally follow the following outline of procedures:

- (1) Notice - The respondent will be given written notice of the charges to be heard and the place and time of the hearing at the preliminary meeting (see Choice of Action).

If the student does not attend a preliminary meeting, the notice will be sent to the respondent's KyCAD e-mail address.

- (2) General Conduct of and Participation in Conduct Board Meeting - The meeting will be presided over and administered by the Chair, who will determine the order and method of proceeding; who may exercise control to prevent needless consumption of time, disruption, harassment, intimidation, or other conduct not conducive to the review and determination of the charges; and who may exclude from the hearing any person who engages in such conduct.

The hearing generally will be closed to anyone other than the respondent and the complainant, their respective permitted advisors, and (during their testimony) any witnesses, but the Chair may in his or her discretion permit others to attend if he or she deems that their presence may be helpful to the review and determination of the charges or that there are other compelling reasons for their presence. Advisors may attend and will have a passive role.

- (3) Advisors - Both the complainant and the respondent are entitled to one advisor of their choosing to guide and accompany them throughout the process. The advisor may be a friend, mentor, family member, attorney, or any other supporter a party chooses to advise them. If the student wishes, the Coordinator of Student Conduct will provide the parties with a list of KyCAD faculty, staff, and student advisors. Advisors may not be called as witnesses in a hearing.

The role of the advisor is to support and accompany the student throughout investigation, determination, and appeal processes; advisors in KyCAD's student conduct process are passive in nature. The students in the case speak on their own behalf and participation is limited solely to the students. All communication regarding the case is made directly with the students. Please note that the Chair reserves the right to dismiss the advisor at any time from the proceedings if the Chair feels that the advisor's behavior is in direct conflict of the guidelines outlined within.

- (4) Witnesses - Both parties may request the presence of witnesses at the hearing. Such requests must be submitted to the Coordinator of Student Conduct in writing at least 48 hours before the hearing and must describe the requested witnesses' expected testimony.

The Coordinator of Student Conduct may refuse to allow a requested witness if the Coordinator of Student Conduct determines that the expected testimony is not sufficiently relevant to the charges, would be duplicative of other testimony, or would otherwise not be significantly helpful to the review and determination of the charges. The Coordinator of Student Conduct may also call additional witnesses on his or her own initiative.

KyCAD faculty, staff, and students are strongly encouraged to comply with calls to serve as witnesses, but their failure to do so will not prevent a hearing from proceeding unless the Coordinator of Student Conduct determines that proceeding in their absence would materially impair the Conduct Board's ability to review and determine the charges.

- (5) Presentation of Information - The rules of evidence used in civil or criminal trials are not applicable to hearings under the Code. The Chair may ask the Conduct Administrator to present a summary of his or her investigation and any relevant incident reports, witness statements, or other relevant documents; may present any other information or documents that, and call any other witnesses who, he or she deems relevant and appropriate; will control the manner, nature, and order of questioning; and may exclude any information and testimony that he or she determines is irrelevant, duplicative, or otherwise inappropriate.

Witnesses may be questioned by the Chair as well as members of the Conduct Board. The parties may suggest lines of questioning to the Chair, but will not be permitted to question witnesses directly unless the Chair, in his or her discretion, determines that doing so would significantly aid in the review and determination of the charges.

If the Chair deems it appropriate for convenience, privacy, health and safety, well-being, or other legitimate reason, witnesses may be questioned outside the presence of the respondent and/or complainant, provided that the respondent and/or complainant is appropriately apprised of the information presented.

Ordinarily, information concerning the respondent's prior record, if any, will not be presented to a Conduct Board unless and until the Conduct Board has determined to recommend that the respondent be found in violation of one or more community standards or policies; however, such information may be presented to a Conduct Board earlier in cases involving either alleged failure to comply with the consequences imposed for a prior violation or past misconduct sufficiently similar to the alleged new misconduct to suggest that the pattern of misconduct is habitual.

At the conclusion of the presentation of information and witnesses, the Conduct Administrator, respondent and/or complainant may make concluding comments.

- (6) Deliberation, Recommendations and, Final Determinations - Following the presentation of information and witnesses, the Conduct Board will make a determination on the charges based on a standard of clear and convincing proof.

If the recommendation is that the respondent be found in violation of one or more charges, the Conduct Board will also recommend appropriate sanctions to be imposed and may seek and hear additional information including the respondent's prior record, if any, and any further comments from the respondent before sanctioning.

The Conduct Board engages in its deliberations in a closed session with the Coordinator of Student Conduct but without the complainant/respondent or any of their advisors.

The Chair will make a recommendation in writing to the Coordinator of Student Conduct who may accept, reject or modify it. Any decision made by the Coordinator of Student Conduct that results in suspension or expulsion, must be approved by the Vice President of Academic Affairs or their designee.

- (7) Notification - A notification to share and discuss the outcome will be sent to the respondent's KyCAD e-mail account by the Coordinator of Student Conduct. An appointment will be made to discuss next steps in the process.

The complainant may also be notified of the final determination to the extent permitted by the Family Educational Rights and Privacy Act.

### 5.3.1 Appeals

Both the respondent and the complainant have the right to appeal. Such appeal may be made only on one or more of the following grounds:

- There was significant procedural error of a nature sufficient to have materially and detrimentally affected the outcome.
- There is significant new evidence of which the appellant was not previously aware, that the appellant could not have discovered through the exercise of reasonable diligence, and the absence of which was sufficient to have materially and detrimentally affected the outcome.

- The consequences imposed are grossly disproportionate to the violations found to have occurred. Appeals shall not be based upon, or granted due to, dissatisfaction with an imposed sanction by itself.

### 5.3.1.1 Appeal Process

Appeal requests must be filed within seven business days of delivery of the conference/hearing's final decision. Appeals must be sent from their KyCAD email. Appeals that are not related to the above three bases and or authored by the appealing student will not be considered.

Any appeal must be submitted to the Assistant Vice President of Academic Affairs or designee within seven business days of the date of the notification letter; in the absence of a timely appeal, the original outcome or determination will be final and conclusive. A statement of appeal must be in writing, must specify the grounds on which the appeal is based, and must set forth and explain in detail any relevant information.

Upon receipt of an appeal that complies with these requirements, the Vice President of Academic Affairs or designee may at his or her discretion decide it on the basis of the statement of appeal and the record; consult with the conduct administrator, or anyone else he or she deems appropriate; and/or grant the appellant a conference to explain his or her appeal in person. The Assistant Dean may accept or reject the appeal and/or may refer the case back to the Conduct Board for further or new proceedings.

Notification of the resolution of the Dean or designee's appeal will be made in writing sent to the appellant's KYCAD e-mail account. The non-appealing party may also be notified of the resolution of the appeal to the extent permitted by the Family Educational Rights and Privacy Act.

### 5.3.1.2 Deferral of Consequences Pending Appeal

The submission of an appeal does not by itself prevent or defer implementation of the consequences imposed by the Conduct Administrator. However, at the request of the appellant, the Vice President of Academic Affairs or his or her designee may, in his or her discretion and for good cause, defer implementation of some or all of those consequences during the pendency of the appeal.

## 5.3.2 Sanctions

Sanctions imposed under the Code are intended to be primarily educational in nature and should be commensurate with the violations found to have occurred.

In determining the sanctions to be imposed, the Conduct Administrator or Conduct Board may take into account any aggravating factors, such as any past misconduct by the student, any failure of the student to comply fully with previous sanctions, the actual and potential harm caused by the violation, the degree of intent and motivation of the student in committing the violation, and the severity and pervasiveness of the conduct that constituted the violation; and any mitigating factors, such as sincere acceptance by the student of responsibility for the student's misconduct, steps undertaken proactively and voluntarily to remedy the harm caused by that misconduct, and evidence of positive growth and learning by the student upon reflection of that misconduct.

Impairment resulting from the voluntary use of alcohol or drugs (other than as medically necessary) will be considered an aggravating, and not a mitigating, factor.

One or more of the following sanctions may be imposed when a student has been found to have violated the Code:

- A. **Formal Warning** - Written notice that further, repeated, or other misconduct may result in more serious consequences.
- B. **Restitution/Fines** - A requirement that the student compensate those harmed by the student's actions and/or pay KyCAD a specified fine intended to deter future such misconduct.
- C. **Probation** - Probation indicates that a student's behavior has raised serious questions about the student's ability to remain a member of the KyCAD community. Probation is for a designated period of time, and includes the probability of more severe sanctions if the student is found to be in violation of any institutional policy during the probationary period. The student must demonstrate the ability to comply with rules and other requirements stipulated for the probationary period. Probation is a specified period during which:
  - the student may be barred from holding any leadership positions or participating in KyCAD - sponsored social or recreational events and activities; and
  - any other appropriate conditions or restrictions may be imposed.
- D. **Suspension** - The separation of the student from KyCAD for a specified period of time, at the end of which the student may petition for readmission. During the specified period, the student may not enroll in KyCAD classes, may not participate in any KyCAD-sponsored events and activities, will be denied all other privileges normally afforded students, must vacate the campus by a specified time, and may not reenter the campus without the written permission of the Vice President of Academic Affairs. The student may also be required to fulfill additional specified conditions before readmission will be granted. A suspension may be noted on the student's transcript until such time, if any, as the student is readmitted.
- E. **Expulsion** - The permanent separation of the student from KyCAD, without possibility of readmission. A student who has been expelled may not enroll in KyCAD classes, may not participate in any KyCAD-sponsored events and activities, will be denied all other privileges normally afforded students, must vacate the campus by a specified time, and may not reenter the campus without the written permission of the Vice President of Academic Affairs. An expulsion will be noted permanently on a student's transcript.
- F. **Other Sanctions or Restrictions** - Any other consequences, restrictions, or conditions deemed appropriate under the circumstances of the student's misconduct, which may include but is not limited to required letters of apology or reflection statements, mandatory participation in relevant programs or evaluations, no-contact or no-entry requirements/restrictions, loss of specified privileges, registration holds or restrictions, revocation of a degree, and/or, to the extent permitted by the Family Educational Rights and Privacy Act, notification to the student's parents or others. All other sanctions must have the prior approval of the Coordinator of Student Conduct, or his or her designee.

#### Standard of Proof

The standard of proof for incidents of non-academic misconduct is a preponderance of evidence. Preponderance of evidence is defined as information that a reasonable person would find persuasive or more likely than not to have occurred. The technical rules of evidence applicable to civil and criminal cases shall not apply when resolving incidents as outlined in the Code.

### 5.3.3 Additional Standards, Procedures, and Consequences

In addition to the options set forth as the inherent authority of KyCAD in the Code of Conduct, the following consequences may be imposed without or before the institution of any of the procedures specified in the Code:

- A. **Informal Admonition** - An oral or written admonition issued by a KyCAD official resulting from the student's apparent misconduct. No formal charge, hearing, or other procedure is required before the issuance of an informal admonition. An informal admonition will not be considered to be, or reported as, a disciplinary sanction, but may be considered in any subsequent hearings, either as the basis for a charge of noncompliance under Community Standards of the Code or as an aggravating factor in determining the appropriate consequence for violation of another, separate violation of the Code.
- B. **Interim Suspension, Restriction, or Prohibition** - A temporary suspension of a student from all or designated portions of campus, restriction of a student from participation in designated programs and activities, or prohibition of a student from having contact with designated persons during the pendency of a proceeding under the Code.

Any such consequence may be imposed by the Vice President of Academic Affairs or designee whenever he or she has reasonable cause to believe that the student poses a significant risk of substantial harm to the health, safety, or well-being of others or to property, and may include and be subject to any additional terms and conditions that the official imposing the consequence deems necessary or appropriate in light of the potential harm.

Additionally, when an interim suspension, restriction or prohibition is put in place, students may lose the ability to continue in Student Leadership Positions and/or to take part in campus-sponsored activities, which include but are not limited to clubs, or social programming. Reinstatement of these privileges is at the discretion of the Vice President of Academic Affairs or his or her designee.

Any such consequence will remain in effect until the conclusion of the relevant proceeding, including any appeals, or such earlier time as the official imposing the consequence determines, in his or her discretion, that it is no longer necessary or appropriate.

- C. **Administrative Withdrawal, Suspension, Restriction, or Prohibition** - The withdrawal of a student from KyCAD, suspension of a student from all or designated portions of campus, restriction of a student from participation in designated programs and activities, or prohibition of a student from having contact with designated persons, with or without additional terms and conditions.

Any such consequence may be imposed by the Vice President of Academic Affairs or designee whenever he or she finds that:

- (1) There is clear and convincing evidence that the student poses a significant risk of substantial harm to the health, safety, or well-being of the student, others, or property, and
- (2) The consequence to be imposed is the least restrictive measure sufficient to address the risk posed.

It is not a prerequisite to the imposition of any such consequence that the student be charged with or suspected of violating any of the standards of conduct set forth in the Code.

Before imposing any such consequence, the Vice President of Academic Affairs must notify the student that such a consequence is being considered and give the student an opportunity to respond, unless the nature of the perceived risk requires immediate action, and may consult with any other persons whom the Vice President of Academic Affairs deems appropriate under the circumstances.

A student who has been subjected to such a consequence may petition the Vice President of Academic Affairs at any time for modification or removal of the consequence. Any such petition must include supporting evidence that the reasons for the imposition of the consequence no longer exist and will not recur and that the student meets all normal requirements for readmission. Upon receipt of such a petition, the Vice President of Academic Affairs will evaluate the evidence and may consult with the student and/or others he or she deems appropriate. The Vice President of Academic Affairs may on that basis deny the petition, grant the petition in whole or in part under specified conditions, or grant the petition in whole or in part without condition.

- D. Dismissal from Class Session** - KyCAD Faculty may at their discretion dismiss a student from the academic classroom, studio, or other educational experience if a student's behavior, conduct, or communication is disruptive to the instructor's ability to provide academic instruction or maintain decorum in that class session or experience. It should be noted that this is NOT dismissal from the course, just the class period or experience in which the student was disruptive. Following the dismissal, the instructor should make a referral to the Vice President of Academic Affairs.
- E. Withdrawal from a Course** - The Vice President of Academic Affairs may grant such withdrawal upon request of the relevant faculty member, and after consultation with both the relevant instructor and relevant student, if the Vice President of Academic Affairs determines that the student has engaged in substantial disruption of the class to the detriment of teaching and learning, has continued to do so after warning, and is unwilling or unlikely to stop doing so voluntarily.

## 5.4 Procedures for Student Complaints and Grievances

### 5.4.1 Administrative Issues

This category includes any campus matters involving administrative decisions regarding student records, financial affairs, library usage, campus privileges, etc.

#### **Complaint Procedure**

Should a complaint/grievance arise, the following steps should be taken:

1. The student shall prepare a written complaint to the individual/office involved and, within 5 days following submission of the complaint, shall meet with a representative(s) from the office involved to discuss the complaint. Complaints must be submitted within 90 days of the event or action that gave rise to the complaint.
2. If no resolution is reached during the meeting required by step 1, the student shall prepare a written report of the issue and the meeting, and the office involved shall prepare a written response. The written complaint and subsequent response(s) will be submitted to the Dean or Director of the office involved within 5 business days following the meeting required by step 1.
3. The Dean or Director overseeing the office involved shall make a decision within 5 business days following receipt of the signed statement and response and shall notify in writing the student and the office involved thereof. That decision is final.

### 5.4.2 Academic Issues

This section outlines grading policies including process for disagreement with assigned grade, the policies on academic and professional integrity and procedures for instances of a possible breach, and appeals procedure regarding academic and professional integrity decisions.

#### 5.4.2.1 Disagreement in Grade Assigned

In instances where a student disagrees with a grade given on an assignment or class, procedure is outlined in Policy Manual Section 4, subsection 4.7.1 and in the Academic Catalog.

#### 5.4.2.2 Academic Dishonesty

All members of the KyCAD community have a responsibility to report any instance of academic misconduct. Members of the KyCAD community who breach the College's Policy on Academic Misconduct are subject to disciplinary action.

Definition "Academic misconduct" includes any type of cheating in relation to any formal academic exercise including but not limited to the following: plagiarism, fabrication, deception, bribery, impersonation, or assisting others in academic misconduct.

##### *5.4.2.2.1 Procedure for Instance of a Possible Breach in Academic Integrity*

Students, faculty and staff have the duty to report any possible instance of academic dishonesty to the Vice President of Academic Affairs. When a faculty member (responsible for the course, program, etc.) becomes aware of a possible instance of academic dishonesty, she or he is responsible for initiating the following procedure:

1. The faculty member will investigate the matter thoroughly. This investigation may include, but is not limited to, a review of the student's work and the use of available resources to analyze the paper or assignment.

2. The faculty should discuss the matter first with the student in breach of the College's Policy on Academic Misconduct and provide the student with an opportunity to present an explanation and to discuss possible consequences.
3. If the faculty and student are unable to resolve the issue, the faculty should contact the Vice President of Academic Affairs, in writing, with the details of the breach and recommendation for disciplinary action.
4. After review and investigation, the Vice President of Academic Affairs will notify the student and the faculty member of their decision in writing. This response will state the final determination.
5. All disciplinary actions taken will be reported to the Vice President of Academic Affairs and recorded in the student's official file in the Office of the Registrar.

### 5.4.3 Discrimination Issues

This category includes any issues relating to possible discrimination because of race, color, national origin, age, disability, religion, sex, pregnancy, sexual orientation, gender identity, marital status, military status, veteran status or other protected status in accordance with Section 504 or Title IX.

#### 5.4.3.1 Non-Discrimination Policy

Kentucky College of Art + Design is an equal opportunity educational institution. The College does not discriminate against otherwise qualified individuals on the basis of race, color, national origin, age, disability, religion, sex, pregnancy, sexual orientation, gender identity, marital status, military status, veteran status or other protected status. The VP of Academic Affairs is responsible for the coordination of the College's efforts to meet its obligations under section 504 of the Rehabilitation Act and Title IX and their implementation regulations.

##### 5.4.3.1.1 Procedure

All student issues relating to potential violation of this policy are to be brought in writing to the attention of the VP of Academic Affairs.

The VP of Academic Affairs shall investigate the allegations, seek a written response from all parties in question, interview appropriate witnesses and obtain relevant evidence. If the VP of Academic Affairs can determine a finding based on a preponderance of evidence, they will do so and issue any resolution of the situation or appropriate sanctions.

If the VP of Academic Affairs is unable to make a determination based on a preponderance of evidence or if any party seeks to formally appeal the findings/resolution/sanctions issued by the VP of Academic Affairs, then the following process is followed:

1. The VP of Academic Affairs will appoint a special hearing board of three individuals, usually faculty or staff. The VP of Academic Affairs may, however, choose to appoint members of the hearing board whom are not employed or affiliated with the college. Students must understand that a hearing is not a judicial procedure and court rules are not followed. The preponderance of evidence standard is utilized by the College.
2. All parties involved will receive notification of the hearing board meeting at least 5 days prior. The board will review the information provided by the VP of Academic Affairs original investigation and may seek additional statements or ask clarifying questions from all parties involved or may allow statements to be presented in writing, video or other means. All parties will be able to review statements and evidence including statements of witnesses. A record of the meeting will be made and kept on file in the VP of Academic Affairs' office. This special hearing board will make a decision and send written notification to those involved within 10 business days. The decision of the hearing board is final.
3. Should an individual wish to have a support person present with them during the hearing they may do so by informing the VP of Academic Affairs. If the support person is legal counsel, that person's counsel must contact the office of The President prior to the hearing and KyCAD may also invite

legal counsel. If an individual is represented by counsel, The President must also be present at the hearing. Neither counsel will participate in the proceedings but may render advice to clients.

4. If the VP of Academic Affairs is the College employee alleged to have violated the policy prohibiting discrimination, then the President or designee shall oversee the investigation and enforcement of this policy.

#### 5.4.4 Sexual Misconduct, Assault and Harassment Policy

The Kentucky College of Art + Design is committed to creating and providing a learning, living and working environment free from gender-based discrimination. Gender-based discrimination, including Sexual Misconduct (as defined in this policy) committed by members of our community, guests and visitors will not be tolerated. All members of our community, including guests and visitors, are expected to conduct themselves in a manner that does not infringe on the rights of others.

The College complies with state and federal statutes, including Title IX of the federal Higher Education Amendment of 1972, which prohibits discrimination on the basis of sex under any education program or activity. Sexual assault and sexual harassment are forms of sex discrimination prohibited by Title IX.

Any student, faculty or staff member who has concerns about sexual discrimination, including any concerns pertaining to Sexual Misconduct, is encouraged to seek assistance from our coordinator (listed below).

The Title IX Coordinator provides information about resources for assistance and about options for addressing concerns. Those options may vary depending on the nature of the complaint, whether the complainant is a student, faculty or staff member, the wishes of the complainant regarding confidentiality, and whether the complainant prefers to proceed formally or informally. This process plays an integral role in fulfilling the College's commitment to provide a positive learning, teaching and working environment for the entire community.

Title IX Coordinator  
Moirra Scott Payne, President  
Kentucky College of Art + Design  
505 W. Ormsby Ave.  
Louisville, KY 40203

Email: [mpayne@kycad.org](mailto:mpayne@kycad.org)  
Phone: (502) 430-6191 ext. 11

Due to the sensitive nature of sexual misconduct concerns, as well as federal requirements, the following policies and procedures pertain specifically to sexual misconduct matters at the College. The College strictly prohibits sexual misconduct of any kind.

##### 5.4.4.1 Reporting an Incident

This policy outlines options for a student who believes they may have been or currently are a Complainant of sexual misconduct by a student, visitor, or employee within the college community. Sexual misconduct offenses include but are not limited to: sexual harassment, sexually abusive contact sexual exploitation, or stalking.

Any member of the KyCAD community may report an incident directly to the following:

- Student sexual misconduct falls under the guidelines of the Code of Conduct and should be referred to the Vice President of Academic Affairs at (502) 430-6191 ext. 12.

- For complaints against employees, contact the Human Resources Office or the Office of the President at (502) 430-6191 ext. 11.
- For complaints against a visitor, contact the Office of the President at (502) 430-6191 ext. 11.
- In an emergency situation, students should call 911.

Students are always encouraged to report incidents of sexual assault or any act of violence to the Louisville Metro Police Department by calling 911.

When an allegation of misconduct is brought to the attention of a College official and a student is found to have violated the Code of Conduct, sanctions will be issued.

A Code violation is not required in order to provide certain accommodations for the student reporting the concern. Possible remedies include but are not limited to the following: "No Contact" orders; possible changes to academic situations as appropriate; counseling services, escort services; medical services; academic support services; and notification of right to file complaint with local law enforcement.

If it is found that a violation of the policy prohibiting sexual misconduct has occurred, the College will take prompt and effective steps to end the sexual misconduct, prevent its recurrence, and address its effects. This policy was developed to outline student expectations, reporting options, and resources.

A person who receives a complaint is required to provide information regarding the College's policy on sexual harassment, sexual violence and sexual assault; provide complaint resolution procedures; and offer options for addressing a complaint.

The College may recommend interim steps as deemed necessary to protect the safety, well-being, and privacy of the complainant, respondent, and any other member of the College community who may be directly or indirectly involved.

The College will take immediate steps to end the sexual misconduct, prevent recurrence or retaliation, and correct any effects on the complainant or those involved in the complaint process.

#### 5.4.4.2 Sexual Misconduct

Sexual misconduct is a more comprehensive term that includes forcible and non-forcible sex offenses, but is not limited to: rape, sexual assault, indecent exposure, obscene phone calls, sexual abuse, forcible fondling, sexual battery, conduct that contributes to sex offenses, as well as attempts to perform such acts. Verbal consent to any form of sexual activity by both parties, without force, threat of force or intimidation, or coercion is required. Sexual acts against a person who is unconscious, sleeping, or otherwise unable to give consent are prohibited. Acts of complicity (e.g. spiking drinks, getting someone drunk for the purpose of committing a sex offense, being a silent bystander, etc.) also violate the policy.

Sexual Misconduct Offenses May Include but Are Not Limited To:

- Sexual Harassment
- Sexually Abusive Contact
- Sexual Exploitation
- Stalking

Definitions:

- A. "Sexual Harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Conduct constitutes sexual harassment when:

- submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, or participation in a College-sponsored education program, or activity;
  - submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such an individual; or
  - such conduct has the purpose or effect of unreasonably interfering with an individual's employment or academic performance or creating an intimidating, hostile, or offensive working or educational environment.
- B. "Sexually Abusive Contact" means sexual intercourse; anal intercourse; oral intercourse; touching of the genitals, breast, buttocks, or inner thighs; sodomy, or any other physical conduct or touching of a sexual nature without consent and/or by force. Examples include but are not limited to: Intentional contact with the breasts, buttock, groin, or genitals, mouth or other orifice; or touching another with any of these body parts; or making another touch you or themselves with one any of these body parts. Vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.
- C. "Sexual Exploitation" is the taking of non-consensual or abusive sexual advantage of another:
- by a person(s), or the inducement of another person to do the same,
  - for one's own advantage or benefit,
  - or to benefit or advantage anyone other than the one being exploited.
  - A form of sexual exploitation could include transmitting, recording or photographing the image or voice of another person without his/her knowledge or consent while in an environment that is considered private or where there is an expectation of privacy, such as a residence or bathroom. Other examples of sexual exploitation include but are not limited to the following: prostituting an individual; engaging in voyeurism; knowingly transmitting an STI or HIV to another student; or exposing one's genitals in non-consensual circumstances.
- E. "Stalking" means a course of behavior directed at a specific person(s) involving repeated (two or more occasions) visual or physical proximity, non-consensual communication, expressed or implied threats of death or bodily harm, or a combination thereof, causing a reasonable person fear. Stalking behaviors may include persistent patterns of leaving or sending the person(s) unwanted items or gifts ranging from seemingly romantic to bizarre, following the person(s), or lying in wait for the person(s), or harassing the person(s) via the internet or other forms of online and computer communications (i.e., cyberstalking).

#### *5.4.4.1.2 Reporting a Sexual Misconduct Complaint*

The purpose of reporting a complaint is to inform the College that sexual misconduct may have, is, or may be occurring, and to provide information sufficient to identify the parties involved. Any person with knowledge of sexual harassment can report the information to:

Title IX Coordinator  
 Moira Scott Payne, President  
 Kentucky College of Art + Design  
 505 W. Ormsby Ave.  
 Louisville, KY 40203

Email: [mpayne@kycad.org](mailto:mpayne@kycad.org)

Phone: (502) 430-6191 ext. 11

## Time Period for Filing a Complaint

Prompt reporting of a complaint to a College Official is strongly recommended to allow rapid response and resolution. It is recommended that the complaint be filed within one hundred eighty days (180) of the incident. However, in its discretion, the President may investigate any allegation of sexual misconduct brought to its attention.

## Interim Protective Orders

The College owes a duty to care for the students within its charge and, for this reason, must make every effort to ensure the safety and well-being of all students. Title IX Coordinator or his/her designee may issue an interim "no contact" order to help ensure that the Complainant is not harassed by the alleged assailant. All forms of contact between the alleged Complainant and assailant will be prohibited. Harassment by either party or their acquaintances will also be prohibited. Such interim measures will be in effect through the end of the student conduct hearing process and may be extended after the hearing at the President and/or Honor Board's discretion.

## Academic Considerations

Should the Complainant and alleged assailant be enrolled in the same class, alternative class assignments may be made when reasonably available, and if requested by the Complainant.

## Informal Complaint Resolution

The primary goal or objective of informal complaint resolution is to stop the behavior and resolve the conflict. While informal complaint resolution is underway an informal complaint may advance to formal complaint resolution at any time. There are several options available in resolving a complaint through informal complaint resolution:

**Direct:** The complainant may immediately voice his or her concern to the person(s) whose actions he or she finds offensive. The complainant should document the incident(s) for his or her own records and include the date of the incident(s) and the name(s) of anyone who was involved. The complainant should also include the name(s) of anyone who may have witnessed the incident(s) or who may have overheard the incident(s).

Another option is the complainant may submit his or her complaint in writing to the person(s) who offended him or her. The written complaint should:

1. Describe the incident
2. Explain how it made you feel
3. State that you want it to stop

The complainant should keep a copy of the written reports. If the behavior does not stop, the complainant should submit a copy of the written complaint to the Vice President of Academic Affairs Office.

**Indirect:** The complainant may request that the Vice President of Academic Affairs Office or designee act as mediator to bring all parties together to resolve the issue. However, in cases involving sexual violence or assault, mediated resolution is not appropriate.

A person who acts as a mediator under these guidelines is required to submit a written report of the incident and any action taken to the Vice President of Academic Affairs.

Resolution at this level may include, but is not be limited to, an agreement in which one or more of the parties involved agree(s) to seek counseling or accept disciplinary action, or any other such action as may be warranted by the circumstances of each case and as determined by the Vice President of Academic Affairs Office as required by the Title IX Coordinator.

If there is no mediated solution after 10 days, or if the respondent does not comply with the mediated solution, formal complaint resolution may be initiated. If the complainant does not wish for a formal resolution, the Vice President of Academic Affairs Office will take that feedback into consideration before determining if a respondent should be charged with violating the Code of Conduct.

The Vice President of Academic Affairs Office shall determine whether any action should be taken in response to the report. The Vice President of Academic Affairs Office will inform the respondent within five (5) business days of notification that an informal complaint has been filed and the nature of the complaint. This option may allow the complainant to maintain anonymity.

The complainant may at any time file a formal complaint that the student respondent should be charged with violating the Code of Conduct.

### **Formal Complaint Resolution**

The complainant may file formal allegations that the respondent student violated the Code at the onset, or if the outcome of informal complaint resolution was not satisfactory, either party may elect to proceed directly to formal complaint resolution. While informal complaint resolution is underway, an informal complaint may advance to formal complaint resolution at any time.

During a formal complaint resolution process, the College will conduct an adequate, reliable, and impartial investigation. The formal complaint resolution requires that the complainant submit the complaint in writing (letter, statement, and/or email) to the Vice President of Academic Affairs Office. Upon receipt of the complaint, an investigation will be initiated.

### **Rights of Complainant**

The Complainant's rights include, but are not necessarily limited to, the following:

- The right to remain silent. If the Complainant decides to exercise his/her right, the process may continue and a decision be made based on the remaining evidence. The individual will be made aware of the results of the investigation/hearing regardless of their willingness to participate.
- The right to confer with an advocate of not more than one person to be chosen by the Complainant from the Kentucky College of Art + Design campus community (student, faculty, or staff member) to help prepare information to present at the hearing. This advocate may be present at the hearing, but only to answer questions that the Complainant may have during the course of the proceedings. The advocate may not speak at the hearing unless specifically requested to do so by the chairperson of the hearing panel.
- The right to make his or her statement without being in the presence of the Respondent in the hearing.
- The right to make a "Complainant Impact Statement," which is an oral statement that describes the effect that the incident has had on the Complainant emotionally or

physically. The right to not have his or her past sexual history with other persons other than the Respondent discussed during the hearing.

- The right to call witnesses (other than character witnesses) to testify at the hearing. However, the hearing panel may establish a reasonable limit to the number of witnesses.
- The right to read the written statements of all involved.
- The right to have witnesses (other than character witnesses) submit written statements.
- The right to withdraw a complaint at any time prior to the imposition of sanctions.
- The right to appeal the decision according to the regular judicial procedures.

### **Rights of Accused**

The rights of the Respondent include, but are not necessarily limited to, the following:

- The right to remain silent. If the Respondent decides to exercise this right, the process will continue, and a decision will be made based on the remaining evidence.
- The right to confer with an advocate of not more than one person to be chosen by the Respondent from the Kentucky College of Art + Design campus community (student, faculty, or staff member) to help prepare information to present at the hearing.
- This advocate may be present at the hearing, but only to answer questions that the Respondent might have during the course of the proceedings. The advocate may not speak at the hearing unless specifically requested to do so by the chairperson to the Hearing Panel.
- The right to make his or her statement without being in the presence of the Complainant in the hearing.
- The right to be informed of the charges in writing, the time and place of the offense, and the name of his or her Complainant.
- The right to not have his or her past sexual history with other persons other than the Complainant discussed during the hearing.
- The right to call witnesses (other than character witnesses) to testify at the hearing. However, the hearing panel may establish a reasonable limit to the number of witnesses.
- The right to read the written statements of all involved.
- The right to have witnesses (other than character witnesses) submit written statements.
- The right to appeal the decision according to the regular judicial procedures.

### **Student Conduct Procedures for Allegations of Sexual Misconduct**

The adjudication of sexual misconduct cases is complicated by several factors including: the nature of the offense; the fact that the alleged Complainant and perpetrator may know one another, have classes together, or live in the same residence, apartment complex, or living unit; the event may have occurred sometime before it was reported, and, in some cases, the use/abuse of alcohol or drugs by either or both individuals. Both the accuser and the Respondent shall be informed of the outcome of any campus student conduct proceeding alleging a sex offense. However, in accordance with the provisions of the Family Educational Rights and Privacy Act, the Complainant must be informed that the information provided may not be shared with any other person without the assailant's signed written consent.

### **Purpose and Scope of the Investigation**

The formal complaint resolution begins with an investigation of the facts. This fact-finding process is completed as expeditiously as possible. The Vice President of Academic Affairs generally allows 45 business days to process the complaint. The Vice President of Academic Affairs may extend the amount of time needed to process the complaint as deemed necessary, upon notice to both parties.

The investigative process is an internal College process; therefore, it is not open to other persons, including counsel from outside of the College community. However, the complainant and respondent may meet with internal and/or external advisors, including counsel from outside the College community, throughout the process.

In addition to interviewing the complainant and respondent, the investigator may interview witnesses as provided by the complainant, respondent, and/or anyone whom he or she feels may offer relevant information. Additional information may also be gathered, such as records and documents deemed necessary.

Information of prior sexual misconduct and/or sexual harassment of the respondent may be considered, but prior sexual activities of either the respondent or the complainant, which are not relevant to the current issue, will not be permissible.

Upon completion of the investigation, a case summary report will be completed in order to document the scope of the investigation as well as a determination (based on the preponderance of the evidence) of whether the evidence supports the allegation(s) of the complaint. These confidential findings will be submitted to the appropriate administrator(s) to render any disciplinary action (as appropriate) that is deemed necessary. The complainant as well as the respondent will receive a copy of the findings.

#### Independent Action

The College reserves the right to investigate inappropriate activities or behaviors even in the absence of an allegation brought forward by an individual.

### Guidelines for the Respondent

If you are a person accused of sexual misconduct (respondent), the complaint should be taken seriously and, where applicable, any offending behavior should cease immediately. You should not retaliate against the complainant or have others retaliate against the complainant on your behalf. You should document your version of the alleged incident. You should include the date and name of any person who may have been involved in the alleged incident. You should include the name of any person who may have witnessed the alleged incident or who may have overheard the alleged incident. You should document any conversations or communications regarding the alleged incident or conduct of which you are accused.

### Clarification of Consent

- Consent for sexual contact must be clearly understood and obtained prior to sexual activity, including the escalation of any ongoing sexual activity.
- Consent for sexual contact is an active state that is informed, knowing and voluntary.
- Someone who is incapacitated (due to use of drugs, alcohol, when a person is asleep, unconscious, or because of intellectual or other disability that prevents the person from having the ability to give consent) cannot consent.
- Silence, or an absence of resistance, cannot be interpreted as consent.
- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another person.
- Consent can be given by words or actions, as long as those words or actions create clear and mutually understandable permission regarding the conditions of sexual activity.
- Consent to one form of sexual activity cannot imply consent to other forms of sexual activity, even within the same intimate situation. Previous relationships or consent cannot imply consent to future sexual acts. Consent cannot be procured by use of physical force, threats, intimidating behavior or coercion.

- Consent can be withdrawn at any time.

**Title IX Mandatory Reporters at Kentucky College of Art + Design Include the Following:**

- All Deans, Department Chairs, and Directors
- Assistant or Associate Deans
- Any employee in a supervisory or management role
- Any faculty or staff member responsible for supervising any activities or programs that include direct contact with students outside of the classroom (including faculty advisors to recognized student organizations)
- Any contracted security personnel

Some forms of harassment and discrimination may violate federal and state laws, and a complainant or respondent may choose to contact the following agencies regarding their complaint:

Kentucky Commission on Human Rights  
332 W. Broadway, 7th Floor  
Louisville, KY 40202  
Phone: (502) 595-4024 or 1-800-292-5566  
Email: [kchr.mail@ky.gov](mailto:kchr.mail@ky.gov)

Federal Equal Employment Opportunity Commission  
600 Dr. Martin Luther King, Jr. Place  
Suite 268  
Louisville, Kentucky 40202  
Phone: 1-800-669-4000  
TTY: 1-800-669-6820  
[www.eeoc.gov](http://www.eeoc.gov)

**Confidentiality**

**Privacy and Reporting**

Students should be aware of confidentiality, privacy, and mandatory reporting requirements in order to make informed choices.

If one desires that details of the incident be kept confidential, the resources listed below are appropriate. In addition, members of the clergy and chaplains are allowed by law to keep reports confidential. However, seeking support from any of these resource organizations is not considered an official report of sexual violence, sexual misconduct, intimate partner violence, sexual harassment, sexual exploitation or stalking to the College, but the individuals at these resource organizations can help facilitate a report and advocate for a Complainant.

One may seek advice from certain individuals who are not required to tell anyone else private, personally identifiable information unless there is cause or fear for your safety or the safety of others. These are individuals whom the College has not specifically designated as "responsible employees" for purposes of putting the institution on notice and for whom mandatory reporting is not required, other than in the stated limited circumstances, such as statistical reporting for the Clergy Act.

**Recommended Action**

The purpose of the following material is to provide information and assistance to Complainants of sexual assault and sexual misconduct, and persons who may come in contact with a Complainant. The College encourages reporting all incidents of sexual assault or misconduct to

College administration. On-campus sexual assault or sexual misconduct should also be reported as quickly as possible to a campus resource person.

Making decisions and regaining control are important to the healing process after an offense. The choice of how to proceed after the assault belongs largely with the Complainant.

The following are a number of factors to consider.

### **Medical Attention**

Medical attention is critical. Even if the Complainant ultimately decides not to report the assault, it is still very important to seek immediate medical attention for possible internal injuries or sexually transmitted diseases. Also, the collection of medical evidence becomes critical in the event of prosecution. Therefore, it is important to seek medical attention promptly and to refrain from: taking a shower or washing any part of the body; douching; brushing teeth; drinking liquids; changing clothes or changing sheets before seeking medical help; and putting anything in the mouth (gum, cigarettes, mints).

Emergency rooms in the Commonwealth of Kentucky are authorized and required to provide service. These services can be provided by a physician, sexual assault nurse examiner, or another qualified medical professional. Physical evidence of a criminal sexual assault must be collected from the alleged victim's person as soon as possible. Having evidence collected will help to keep all options available to a victim but will not obligate the victim to any course of action. The evidence collected may assist the authorities should the victim decide later to pursue criminal charges.

University of Louisville Hospital  
Emergency Room: (502) 562-4064  
530 South Jackson Street  
Louisville, KY 40202

### **Counseling**

Counseling is a very important step in helping someone who has been sexually assaulted regain control of his/her life. Sexual assault is an extremely traumatic experience that needs professional attention. The College urges students involved in a sexual assault to meet with a counselor. Among other things, counselors can help Complainants decide what further steps may be taken following an assault. Local resources include the Center for Women and Families.

Center for Women and Families  
Crisis Line: (877) 803-7577  
927 South 2nd Street  
Louisville, Kentucky 40201

### **Kentucky Law Requiring Mandatory Reporting**

Kentucky law requires that any person who suspects that a minor child (under 18) is the Complainant of abuse or neglect must immediately contact a local law enforcement agency or other agency authorized by statute. KRS 620.030.

Kentucky law also requires that any person who suspects that a person is a Complainant of spousal abuse must also immediately report this information to the appropriate agency. KRS 209A.030.

### 5.4.4.3 Sexual Harassment

Sexual harassment will not be tolerated in the College community. It subverts the mission of the College and threatens the well-being, educational experiences, and careers of students, faculty, and staff. It is especially threatening in the context of a teacher-student or supervisor-supervisee relationship, in that it can exploit the power inherent in the position of teacher or supervisor regarding grades, recommendations and success in a program. Any member of the student body of the College who believes that he or she has been or is being subjected to sexual harassment should consult with the Title IX Coordinator.

#### Definition of Sexual Harassment Prohibited Actions

It is a violation for any member of the College community to engage in sexual harassment. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made:

- either explicitly or implicitly a term or condition of a student's status in a program, course or activity;
- submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting an individual; and/or
- such conduct has the purpose or effect of unreasonably interfering with a student's educational performance, or creating an intimidating, hostile educational environment.

#### Examples of Sexual Harassment

Any sexual attention that is unwelcome could constitute sexual harassment. Specific acts of sexual harassment include, but are not limited to:

- physical assault;
- propositions of a sexual nature;
- direct or implied threats that submission to sexual advances is a condition of employment, promotion, good grades, recommendations, etc.; and
- unwelcome physical or verbal conduct of a sexual nature which an individual perceives as undesirable, or offensive, including but not necessarily limited to sexually explicit jokes, statements, and questions or unsolicited remarks about sexual activity or experience.

#### Inadvertent and Isolated Offenses

A member of the College community who exhibits a singular or isolated act of conduct expressed in the above cited example may simply lack the sensitivity to know that these actions or statements are creating discomfort or may be humiliating to others. Any member of the College community who becomes aware of such activity is encouraged to caution the individual directly about the questionable conduct in a discreet and confidential manner.

#### Procedures

The underlying philosophy of this student sexual harassment policy is one of correction rather than punishment, although specific sanctions, depending on the nature and severity of the incident(s), ranging from a letter of reprimand, suspension, termination of campus employment, or expulsion are possible outcomes if the formal grievance procedures of the College are invoked. Nevertheless, the guiding principles of this policy are to: respond in a timely manner to a reported incident of sexual harassment; take whatever measures are appropriate; take all reasonable measures to prevent the incident from recurring.

The College has established mediation and resolution procedures in order to respond immediately to a sexual harassment complaint and investigate it fully. The procedure is

designed to mediate and resolve such complaints promptly and fairly. Similarly, a formal grievance structure for handling complaints that cannot be resolved through mediation is also available. In general, any individual with supervisory authority who obtains knowledge of an incident of sexual harassment occurring within his or her area is expected to take the proper steps immediately to address the situation.

## **Sexual Harassment Mediation & Resolution Procedures**

### **Unofficial**

It is often the case that a student of the College, believing that he/she may be experiencing a form of sexual harassment, will attempt to resolve the situation on one's own, or consult with another individual within the College community. The Title IX Coordinator can assist students seeking unofficial resolution by assigning a member of the Leadership Team to act as an advisor to the student. With the aid of the advisor, the individual may attempt to resolve the situation in an informal and unofficial manner. The advisor, acting with discretion and in confidence, may assist the individual in reviewing the situation in the context in which it occurred, aid the individual in identifying the problem, and review the options for resolution that are available.

### **Official**

If the matter cannot be resolved through the unofficial, informal method cited above, or if the student chooses not to obtain the help of an unofficial advisor, the complainant may file an official complaint with the Title IX Coordinator.

The role of the Title IX Coordinator will be to fact-find, mediate, and resolve the complaint, if possible. The Coordinator or his/her designee will handle complaints independently and follow these procedures:

1. be available to dialogue with the complainant or other concerned individuals and the individual Respondent to determine the nature of the incident related to sexual harassment and the context in which it occurred;
2. conduct a discreet inquiry into the complaint, gathering and examining all relevant facts;
3. mediate and resolve the complaint informally if possible;
4. inform the parties of the formal grievance procedures available when no resolution is forthcoming or if either party is dissatisfied with the progress of the mediation;
5. keep confidential all information gathered during the investigation, and all processes of mediation and resolution; and
6. prepare a record of the complaint, the investigation and findings, the mediation and resolution, if any.

If the matter has been resolved through mediation, and no further incident occurs regarding the Respondent individual within this period, the record will be destroyed. After a successful mediation, if the behavior is reported as continuing, the record will be retained and can be made available to the appropriate formal grievance body. If the matter has not been successfully mediated and either party wishes to proceed with formal grievance procedures, the official College resource person will submit the record of the attempted mediation to the formal grievance structure to be utilized in the particular case.

## **Grievance Procedures**

In as much as a formal grievance procedure is expected to be used as a last resort, it is assumed that all efforts to resolve the complaint through the mediation and resolution procedures cited above have been conducted. Formal grievance procedures for students are found in the Policy Manual and Catalog. If the alleged perpetrator of harassment is a faculty or staff of the College, then President is informed and the relevant policy of the Faculty or Staff Handbook applied.

## **Confidentiality**

Sexual harassment is a matter of grave concern for both the complainant and the accused; therefore, all procedures designed to deal with sexual harassment should be handled with the utmost sensitivity. All mediations/resolution procedures, as well as formal grievance procedures, shall be held in strict confidence to reasonably insure the privacy of all parties concerned (complainant, accused, and witnesses, if any) and to offer as much protection of the careers and reputations of the parties involved as possible.

## **Retaliation**

Students are encouraged to express their feelings in a responsible manner regarding a problem of sexual harassment. Any member of the College community who attempts to interfere, restrain, coerce, discriminate against, or harass (whether overtly or covertly) any individual responsibly pursuing a complaint of sexual harassment will be subject to prompt and appropriate disciplinary action through the appropriate policy e.g., Code of Conduct, Handbooks or Policy Manuals.

## **False and Malicious Charges**

The use of this policy for false or malicious purposes is strictly prohibited. Any student who exercises bad faith and brings a false, malicious charge of sexual harassment against another member of the College community will be subject to appropriate disciplinary action.

## **Dissemination of Policy**

Incoming students and employees are informed about ways to prevent Sexual Misconduct, through new student orientation and new employee orientation programs. Additionally, campus-wide programs to prevent such incidents are conducted during the academic year through informational campaigns, events and/or workshop opportunities.

## **Inherent Authority**

The College reserves the right to take necessary and appropriate action to protect the safety and well-being of the campus community. See the Code of Conduct concerning this inherent authority.

## **Standard of Proof**

The standard of proof for incidents of non-academic misconduct is a preponderance of evidence. Preponderance of evidence is defined as information that a reasonable person would find persuasive or more likely than not to have occurred. The technical rules of evidence applicable to civil and criminal cases shall not apply when resolving incidents as outlined in the Code.