

# Misconduct Resolution Procedures

## KSU Department of Student Conduct and Academic Integrity (SCAI)

### A. Director of SCAI Department

The director of SCAI oversees all aspects of the department to ensure proper handling of alleged violations of the Student Codes of Conduct in addition to promoting campus awareness of issues related to student conduct and academic integrity. Duties of the SCAI director include receiving and processing allegations of violations of the Kennesaw State University Student Codes of Conduct, overseeing SCAI hearing officers and conduct investigators, assuring that student cases are properly documented, overseeing hearings before the University SCAI Hearing Panel and the student sexual misconduct hearing panel, and revising SCAI policies and procedures when necessary. An official designee selected by the Dean of students and/or SCAI director may perform and/or assist with any of these duties.

### B. Hearings

**The SCAI Department has the authority to resolve allegations of violation(s) of the KSU Student Codes of Conduct made against students and student organizations.**

1. Academic Misconduct: Depending on circumstances, an allegation of misconduct may be resolved by:

1. An informal disciplinary meeting between the student and the instructor (see II.B. below), or:
2. A disciplinary hearing before the Director of the SCAI Department, the assistant director of the SCAI Department or his/her designee, or:
3. A University Panel hearing before a panel of faculty/staff and students. Panel members make recommendations on findings and sanctions (when appropriate) to the SCAI director who makes the decision. The accused student may have a hearing before a university hearing panel only when:
  - (i) A SCAI Department staff member or his/her designee provides written notice to the student via their official KSU student email that the alleged offense is of such a serious nature that a sanction of retraction of a degree or previously awarded course credit or suspension and/or expulsion from the University may be imposed if the student is found responsible; ***and***
  - (ii) if the student requests a University Panel hearing rather than a disciplinary hearing with the director, assistant director, or designee by the stated deadline in the written notice set forth in (i) above.

2. Violation of Disciplinary Rules: Depending on circumstances, an allegation of a violation of disciplinary rules (other than violations on residence hall property) may be resolved by:

1. A disciplinary hearing before a SCAI Department staff member or his/her designee, or:

2. A University Panel hearing before a panel of faculty/staff and students. Panel members make recommendations on findings and sanctions (when appropriate) to the SCAI director who makes the decision. The accused student may have a hearing before a university hearing panel **only when**:

- (i) A SCAI Department staff member or his/her designee provides written notice to the student that the alleged offense is of such a serious nature that a sanction of suspension or expulsion from the University may be imposed if the student is found responsible **and**;
- (ii) if the student requests a University Panel hearing rather than a disciplinary hearing with the director, assistant director, or designee by the stated deadline in the written notice set forth in (i) above.

3. Violation of Disciplinary Rules on University Housing Property: Depending on circumstances, an allegation of a violation of disciplinary rules on residence hall property may be resolved by:

1. A disciplinary hearing between the student and a Residence Life professional staff member (e.g. community coordinator, graduate assistant, assistant director, associate director, director). A Residence Life professional staff member may resolve any case where suspension or expulsion from the University is **not** imposed as a sanction, *or*
2. For cases that may result in housing dismissal, a Residence Life assistant director, associate director, and/or director are authorized to hold a disciplinary hearing with the student, *or*
3. A disciplinary hearing before the SCAI director/assistant director, or designee, for cases that may result in university housing dismissal, and/or suspension or expulsion from the University, *or*
4. A University Panel hearing before a panel of faculty/staff and students. Panel members make recommendations on findings and sanctions (when appropriate) to the SCAI director who makes the decision. In cases arising from on-campus housing areas the accused student may have a hearing before a university hearing panel **only when**:
  - (i) a SCAI Department staff member or Residence Life staff member, or the designee of either of them, provides written notice to the student that the alleged offense is of such a serious nature that a sanction of suspension, or expulsion from the University may be imposed if the student is found responsible; **and**
  - (ii) if the student requests a University Panel hearing rather than a disciplinary hearing with the director/assistant director for Residence Life or SCAI director/assistant director, or designee by the stated deadline set forth in (i) above.

## C. The University SCAI Panels

The University SCAI hearing panel includes students, faculty and staff members who receive training in the University Student Codes of Conduct and SCAI policies and procedures.

### 1. Faculty/Staff Panel Members

Each academic year, a sufficient number of faculty and staff, selected by the Dean of Students or designee in coordination with the Vice President of Academic Affairs and Vice President of Student Affairs, or designees, will serve on the SCAI panel. Faculty and staff panelists will serve a one year term

with the option of serving additional terms with permission of the Dean of Students or designee.

## 2. Student Panel Members

Each academic year, a sufficient number of students, selected by the Dean of Students or designee in coordination with the Student Government Association (SGA) President, will serve on the SCAI panel. Applications, personal statements, interviews, and references are considered in the selection process. Student panel members will serve a one year term with the option of serving additional terms with permission of the Dean of Students or designee.

## 3. Duties of SCAI Hearing Panel Members

- To serve on hearing panels when so requested by the SCAI director
- To participate in education and awareness programs when so requested by the SCAI director
- To uphold the KSU Student Code of Conduct, the SCAI Panel Code of Ethics, all other university rules and regulations, and federal and state laws

## 4. SCAI Panel Code of Ethics

As the University SCAI Department exists to promote justice and fairness, thus serving the individual student, the university, and the public interest, a panel member's public and official behavior shall be beyond reproach and free from impropriety. Any member of the SCAI panel or any member of the student body, faculty or staff who suspects a panel member of violating the SCAI panel code of ethics should communicate in writing to the University SCAI director. Once the alleged ethical violation is reported, the SCAI director or designee will investigate the allegations and confer with the Vice President for Student Affairs or his or her designated representative to determine the appropriate action, which may include dismissal from the SCAI panel and/or other disciplinary sanctions, if necessary.

To uphold this high standard of behavior, each member of the panel undergoes training regarding his or her obligations as a member of the KSU SCAI panel, and, by a signed statement, pledges to uphold the following code of ethics:

1. Proceedings of the University Hearing Panel and Student Smoking/Tobacco Appeals Panel shall be conducted with fitting dignity and decorum and should reflect the importance and seriousness of the hearing.
2. Panel members shall not discuss any case outside of the University SCAI panel membership. In addition, panel members shall not discuss cases with other panel members while the case's final outcome, including all appeals, is still pending, unless specific permission is granted by the SCAI director.
3. No SCAI panel member shall pursue any facts, evidence, or outcome of any case unless acting in an official capacity, with the authorization of the SCAI Department.
4. Panel members shall refrain from listening to, discussing, hearing, or expressing opinions about the merits of any case or pending case except when sitting as a member of a hearing panel to hear or consider that case, serving as an advisor in that case, or discussing the case with the SCAI director.

5. A panel member shall disqualify himself/herself from cases that might present a conflict of interest or justify the inference that a party could improperly influence him/her or unduly enjoy his/her favor.

6. A panel member shall not be swayed by partisan demands, public clamor or consideration of personal popularity or notoriety, nor be apprehensive of unjust criticism in deciding any case.

7. When considering whether a violation of the KSU Student Codes of Conduct has occurred, a panel member serving on the University Hearing Panel shall only consider the facts of the case before the panel, and not the validity of the Codes of Conduct regulation.

8. A University Panel member shall consider all relevant factors in recommending disciplinary measures.

9. Communication between a student or any other person and a panel member concerning the possible violation of a regulation is not privileged communication.

10. Panel members are not required to report or bring cases to the SCAI Department; however, if asked to act as a witness by an advisor, a panel member is required to cooperate.

11. If called as a witness, a panel member shall be totally objective in his or her testimony and shall refrain from making subjective evaluations or from expressing his or her personal beliefs.

12. A panel member who is a member of an organization brought before the SCAI Department must notify the SCAI director of his or her affiliation with the organization. While that panel member has the right to silence, as he or she is part of the accused student organization, he or she may not serve on a University Hearing panel that is hearing the case against the organization. However, a panel member who is a member of an organization brought up on SCAI charges may serve as the advisor to the organization, unless that panel member is specifically charged with an individual code of conduct violation or is an officer of the organization.

13. Panel members shall be thoroughly familiar with and adhere to this code of ethics and the policies and procedures of the SCAI Department, and shall refrain from bringing matters of federal and state law into any hearing.

14. A panel member must preserve the confidentiality of all SCAI Department matters, even after they no longer serve on the panel. A breach of this confidentiality by a former student panel member may subject that student to disciplinary charges. A breach of this confidentiality by a former faculty or staff panel member may be referred to KSU Human Resources for possible disciplinary action.

## **D. More Information about SCAI Panels**

### **1. Student Smoking/Tobacco Appeals Panel**

a. Jurisdiction: The student smoking/tobacco appeals panel considers appeals by students of citations issued for alleged violations of the KSU smoking/tobacco rules and regulations.

b. Composition: The panel will consist of three (3) members and at least one will be a student.

c. Reporting: Decisions of the student smoking/tobacco appeals meetings are reported to the SCAI case manager. All decisions are then entered into the database within a week of the meeting. A refund, when appropriate, is issued to the student's Owl Express account.

d. Further Appeals: The decision of the Student Smoking/Tobacco panel is FINAL and may not be appealed.

## 2. The SCAI University Hearing Panel

a. Jurisdiction: The SCAI University Hearing Panel considers allegations of violations of the KSU Student Codes of Conduct which are not resolved either informally with a professor (for academic misconduct allegations) or through an informal disciplinary hearing before Residence Life or SCAI personnel. Only students who, if found responsible for the charged violation(s), face a possible sanction of suspension, expulsion, or retraction of University degree or course credit previously awarded may request a hearing by the SCAI university hearing panel.

SCAI staff will make the decision as to whether or not these sanctions are possible if the student were to be found responsible for the alleged violation(s) and will notify students in writing of such possibility.

b. Composition: The panel will consist of a minimum of three (3) members and at least one will be a student. The panel members will be chosen by the SCAI director from the pool of trained panel members, or from former panel members.

c. Reporting: SCAI University Hearing Panel recommended decisions regarding alleged Codes of Conduct violations and any recommended sanctions are reported to the Director of the SCAI Department (or his or her designee) who will review the recommendations, make the final decision, and notify the parties to the case of the outcome.

d. Appeals of SCAI University Hearing Panel Decisions: A request to appeal a SCAI University Hearing Panel decision as confirmed by the SCAI director shall be submitted to the SCAI director for distribution to the appropriate appellate officer in accordance with the guidelines and as outlined in this document. This assures a central repository of all student conduct records.

## E. Handling Violations of the KSU Student Codes of Conduct

### 1. Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings

This section establishes minimum procedural standards for investigations and resolutions of alleged student conduct violations, which Kennesaw State University must incorporate into its respective student conduct policies. The purpose of this Policy is to ensure uniformity in the quality of investigations while providing for due process that affords fairness and equity in all student conduct investigations. This Policy is not intended to infringe or restrict rights guaranteed by the United States Constitution including free speech under the First Amendment, or the due process clauses of Fifth and Fourteenth Amendments.

These procedures apply to matters relating to student misconduct, except matters relating to academic dishonesty, which may be covered under separate institutional policies. Institutions shall inform students of their procedures governing student misconduct complaints and investigations.

For the purposes of this Policy the term Complainant means an individual who is alleged to be a victim of conduct that would violate any Board or other applicable institution policy. The term

Respondent means an individual who is alleged to have engaged in behavior that would violate any Board or other applicable institution policy. Other individuals who report information to an institution regarding alleged policy violations are deemed Reporters. Institutions may establish to what extent the procedures outlined in this Policy may apply to Reporters.

## 2. Reports of Student Misconduct

Institutions must provide clear notice to students and other campus community members as to how to file complaints of misconduct.

Complaints to the appropriate department and/or person(s) should include as much information as possible – such as: (1) the type of misconduct alleged; (2) the name and contact information of the individual(s) accused of misconduct; (3) the date(s), time(s), and place(s) of the misconduct; (4) the name(s) and contact information of any individual(s) with knowledge of the incident; (5) whether any tangible evidence has been preserved; and (6) whether a criminal complaint has been made.

Information from complaints may be shared as necessary to investigate and to resolve the alleged misconduct. Complaints shall be investigated and resolved as outlined below. The need to issue a broader warning to the community in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) shall be assessed in compliance with federal law.

Where appropriate, Complainants may file a law enforcement report as well as an institutional report, but are not required to file both.

1. **Confidentiality:** Where a Complainant (where applicable) requests that their identity be withheld or the allegation(s) not be investigated, the institution should consider whether or not such request(s) can be honored while still promoting a safe and nondiscriminatory environment for the institution and conducting an effective review of the allegations. The institution should inform the requesting party that the institution cannot guarantee confidentiality and that even granting requests for confidentiality shall not prevent the institution from reporting information or statistical data as required by law, including the Clery Act.
2. **Retaliation:** Anyone who has made a report or complaint, provided information, assisted, participated or refused to participate in any investigation or resolution under applicable Board or institution policy shall not be subjected to retaliation. Anyone who believes they have been subjected to retaliation should immediately contact the appropriate department or individual(s) for that institution. Any person found to have engaged in retaliation shall be subject to disciplinary action, pursuant to the institution’s policy.
3. **False Complaints/Statements:** Individuals are prohibited from knowingly giving false statements to an institution official. Any person found to have knowingly submitted false

complaints, accusations, or statements, including during a hearing, in violation of applicable Board or institution policy shall be subject to appropriate disciplinary action (up to and including suspension or expulsion) and adjudicated pursuant to the institution's policy.

4. **Amnesty:** Students should be encouraged to come forward and report violations of the law and/or student code of conduct notwithstanding their choice to consume alcohol or drugs. Information reported by a student during the conduct process concerning their consumption of drugs or alcohol will not be voluntarily reported to law enforcement; nor will information that the individual provides be used against the individual for purposes of conduct violations. Nevertheless, these students may be required to meet with staff members regarding the incident and may be required to participate in appropriate educational program(s). The required participation in an educational program under this amnesty procedure will not be considered a sanction.

Nothing in this amnesty procedure shall prevent a university staff member who is otherwise obligated by law (the Clery Act) to report information or statistical data as required.

### 3. Process for Investigating and Resolving Disputed Student Conduct Reports

**Jurisdiction:** Kennesaw State University shall take necessary and appropriate action to protect the safety and well-being of its community. Accordingly, student conduct should be addressed when such acts occur on institution property, at institution-sponsored or affiliated events, or otherwise violate the institution's student conduct policies, regardless as to where such conduct occurs. If the student has admitted responsibility and has voluntarily decided to participate in the informal process, the procedures outlined in this section will not apply.

**Access to Advisors:** The Respondent and Complainant (where applicable), as parties to these proceedings, shall have the right to have an advisor (who may or may not be an attorney) of the party's choosing, and at their own expense, for the express purpose of providing advice and counsel. The advisor may be present during meetings, hearings, and proceedings during the investigatory and/or resolution process at which his or her advisee is present. The advisor may advise their advisee in any manner, including providing questions, suggestions, and guidance on responses to any questions posed to the advisee, but shall not participate directly during the investigation or hearing process.

**Initial Evaluation of Student Conduct Reports:** Regardless of how an institution becomes aware of alleged misconduct, the institution shall ensure a prompt, fair, and impartial review and resolution of complaints alleging student misconduct. Where a report of student misconduct has been made to the appropriate department and/or person, the institution shall review the complaint to determine whether the allegation(s) describes conduct in violation of the institution's policies and/or code of conduct. If the reported conduct would not be a violation of the institution's policies and/or code of conduct, even if true, then the report should be dismissed. Otherwise, a prompt, thorough, and impartial investigation, and review shall be conducted into each complaint received to determine whether charges against the Respondent

should be brought.

Any report that involves allegation(s) of conduct that could lead to the suspension or expulsion of the Respondent(s) in an initial violation must be promptly reported to the System Director of Equity & Investigations (“System Director”) by the institution. The System Director will work with the institution to determine whether any interim measure(s) are necessary, to assign an investigator and may collaboratively supervise the investigation with the appropriate institution professional (e.g., the Title IX Coordinator, Dean of Students). If an allegation is not initially identified as one that could lead to suspension or expulsion of the Respondent(s), but facts arise during the course of the investigation that would require notice to the System Director, then the institution shall report that case to the System Director or their designee prior to proceeding.

### **Interim Measures**

Interim measures may be implemented by the institution at any point after the institution becomes aware of the alleged student misconduct and should be designed to protect any student or other individual in the USG community. To the extent interim measures are imposed, they should minimize the burden on both the Complaint (where applicable) and the Respondent, where feasible. Interim measures may include, but are not limited to:

1. Change of housing assignment;
2. Issuance of a “no contact” directive;
3. Restrictions or bars to entering certain institution property;
4. Changes to academic or employment arrangements, schedules, or supervision;
5. Interim suspension; and
6. Other measures designed to promote the safety and well-being of the parties and the institution’s community.

An interim suspension should only occur where necessary to maintain safety and should be limited to those situations where the respondent poses a serious and immediate danger or threat to persons or property. In making such an assessment, the institution should consider the existence of a significant risk to the health or safety of the Complainant (where applicable) or the campus community; the nature, duration, and severity of the risk; the probability of potential injury; and whether less restrictive means can be used to significantly mitigate the risk.

Before an interim suspension is issued, the institution must make all reasonable efforts to give the Respondent the opportunity to be heard on whether the Respondent’s presence on campus poses a danger. If an interim suspension is issued, the terms of the suspension take effect immediately. The Respondent shall receive notice of the interim suspension and the opportunity

to respond to the interim suspension.

Within three business days of receiving a challenge the institution will determine whether the interim suspension should continue.

## **Investigation**

Throughout any investigation and resolution proceedings, a party shall receive written notice of the alleged misconduct, shall be provided an opportunity to respond, and shall be allowed to remain silent or otherwise not participate in or during the investigation and resolution process without an adverse inference resulting. If a party chooses to remain silent or otherwise not participate in an investigation, the investigation may still proceed and policy charges may still result and be resolved. Timely and equal access to information that will be used during the investigation will be provided to the Complainant (where applicable) and Respondent.

### ***Potential Outcome may be Suspension or Expulsion***

Where the potential sanctions for the alleged misconduct may involve a suspension or expulsion (even if such sanctions were to be held “in abeyance,” such as probationary suspension or expulsion) the institution’s investigation and resolution procedures must provide the additional minimal safeguards outlined below.

1. The Complainant (where applicable) and Respondent shall be provided with written notice of the complaint/allegations, pending investigation, possible charges, possible sanctions, and available support services. The notice should also include the identity of any investigator(s) involved. Notice should be provided via institution email to the address on file.
2. Upon receipt of the written notice, the Respondent shall have at least three business days to respond in writing. In that response, the Respondent shall have the right to admit or to deny the allegations, and to set forth a defense with facts, witnesses, and supporting materials. A non-response will be considered a general denial of the alleged misconduct. Any Complainant (where applicable) shall also be provided three business days to respond to or to supplement the notice.
3. If the Respondent admits responsibility, the process may proceed to the sanctioning phase or may be informally resolved, if appropriate.
4. If at any point the investigator determines there is insufficient evidence to support a charge or to warrant further consideration of discipline, then the complaint should be dismissed.
5. An investigator shall conduct a thorough investigation and should retain written notes and/or obtain written or recorded statements from each interview. The investigator shall

also keep a record of any party's proffered witnesses not interviewed, along with a brief, written explanation of why the witnesses were not interviewed.

6. The initial investigation report shall be provided to the Respondent and the Complainant (where applicable). This report should clearly indicate any resulting charges (or alternatively, a determination of no charges), as well as the facts and evidence in support thereof, witness statements, and possible sanctions, as well as options for adjudication (informal hearing, formal hearing, or, where applicable, hearing before a university panel). For purposes of this Policy, a charge is not a finding of responsibility, but indicates that there is sufficient evidence to warrant further consideration and adjudication.
7. The final investigation report should be provided to the misconduct panel or hearing officer for consideration in adjudicating the charges brought against the Respondent. A copy shall also be provided to the respondent and Complainant (where applicable) before any hearing. The investigator may testify as a witness regarding the investigation and findings, but shall otherwise have no part in the hearing process and shall not attempt to otherwise influence the proceedings outside of providing testimony during the hearing.

#### Resolution/Hearing for potential Suspension/Expulsion

In no case shall a hearing to resolve charge(s) of student misconduct take place before the investigative report has been finalized.

Where the Respondent indicates that they contest the charges, the matter shall be set for a hearing and once the investigative report has been finalized and copies provided to the Respondent and Complainant (where applicable); however, the Complainant (where applicable) and Respondent may have the option of selecting informal resolution as a possible resolution in certain student misconduct cases where they mutually agree, except where deemed inappropriate by the Vice President for Student Affairs (or their designee) or the System Director.

Where a case is not resolved through informal resolution or informal resolution is not available due to the nature of the charges, the Respondent shall have the option of having the charges heard either by an administrator (Hearing Officer) or a Hearing Panel. If an administrative hearing is requested, the university shall use their discretion to determine whether the case should be heard by a Hearing Panel. Notice of the date, time, and location of the hearing shall be provided to the Respondent and Complainant (where applicable) at least five business days prior to the hearing. Notice shall be provided via institution email where applicable. Hearings shall be conducted in person or via conferencing technology as reasonably available. Additionally, the following standards will apply to any such hearing:

The Respondent and Complainant (where applicable) shall have the right to present witnesses and evidence to the hearing officer or panel. Witness testimony, if provided, shall pertain to knowledge and facts directly associated with the case being heard. The Respondent and Complainant (where applicable) shall have the right to confront any witnesses, including the

other party, by submitting written questions to the Hearing Officer or Hearing Panel for consideration. Advisors may actively assist in drafting questions. The Hearing Officer or Hearing Panel shall ask the questions as written and will limit questions only if they are unrelated to determining the veracity of the charge leveled against the Respondent(s). In any event, the Hearing Officer or Hearing Panel shall err on the side of asking all submitted questions and must document the reason for not asking any particular questions.

1. Where the Hearing Officer or Hearing Panel determines that a party or witness is unavailable and unable to be present due to extenuating circumstances, the Hearing Officer or Hearing Panel may establish special procedures for providing testimony from a separate location. In doing so, the Hearing Officer or Hearing Panel must determine whether there is a valid basis for the unavailability, ensure proper sequestration in a manner that ensures testimony has not been tainted, and make a determination that such an arrangement will not unfairly disadvantage any party. Should it be reasonably believed that a party or witness who is not physically present has presented tainted testimony, the Hearing Officer or Hearing Panel will disregard or discount the testimony.
2. Formal judicial rules of evidence do not apply to the investigatory or resolution process.
3. The standard of review shall be a preponderance of the evidence.
4. Institutions should maintain documentation of the proceedings, which may include written findings of fact, transcripts, audio recordings, and/or video recordings.
5. Following a hearing, both the Respondent and Complainant (where applicable) shall be simultaneously provided a written decision via institution email (where applicable) of the outcome and any resulting sanctions. The decision should include details on how to appeal, as outlined below. Additionally, the written decision must summarize the evidence relied on in support of the outcome and the rationale for the resulting sanction. The same form will be completed, regardless of whether the student opts for a hearing panel or an administrative proceeding.

### ***Potential Outcome is NOT Suspension or Expulsion***

Where the potential sanctions for the alleged misconduct will **not** result in suspension or expulsion (even if such sanctions were to be held “in abeyance,” such as probated housing dismissal or suspension), the institution will provide an informal resolution procedure with the following minimal safeguards outlined below.

1. The Respondent shall be provided with written notice of the alleged policy violations (charges) and a pre-scheduled appointment to meet with a university official from Residence Life or Student Conduct and Academic Integrity. Notice should be provided via institution email to the address on file.

2. In that notice, the Respondent will have the option to accept responsibility for the alleged violations and have an Informal Resolution hearing with an assigned university official to discuss sanctions, or the Respondent may contest the alleged violations and have an Administrative Hearing with said university official.
3. Respondents retain their rights to review the report(s) and evidence, submit additional evidence (including, but not limited to, witness statements, photographs, screenshots, etc.), and have an advisor present, as outlined in this procedures document. Formal judicial rules of evidence do not apply to the informal resolution processes.
4. The standard of review shall be a preponderance of the evidence.
5. The respondent will receive a written decision via institution email of the outcome and any resulting sanctions following the Informal Resolution hearing or Administrative Hearing. A written decision notification will be sent to the respondent regardless of whether the student opts for an Informal Resolution or an Administrative Hearing.

### **Possible Sanctions**

In determining the severity of sanctions or corrective actions the following should be considered: the frequency, severity, and/or nature of the offense; history of past conduct; an offender's willingness to accept responsibility; previous institutional response to similar conduct; strength of the evidence; and the wellbeing of the university community. The institution will determine sanctions and issue notice of the same, as outlined above.

The broad range of sanctions includes, without limitation: expulsion; suspension for an identified time frame or until satisfaction of certain conditions or both; temporary or permanent separation of the parties (e.g., change in classes, reassignment of residence, no contact orders, limiting geography of where parties can go on campus) with additional sanctions for violating no-contact orders; required participation in sensitivity training/awareness education programs; required participation in alcohol and other drug awareness and abuse prevention programs; counseling or mentoring; volunteering/community service; loss of institutional privileges; delays in obtaining administrative services and benefits from the institution (e.g., holding transcripts, delaying registration, graduation, diplomas); additional academic requirements relating to scholarly work or research; financial restitution; or any other discretionary sanctions directly related to the violation or conduct.

For suspension and expulsion, the institution must articulate, in its written decision, the substantial evidence relied upon in determining that suspension or expulsion were appropriate. For purposes of this Policy substantial evidence means evidence that a reasonable person might accept to support the conclusion.

### **Recusal/Challenge for Bias**

Any party may challenge the participation of any institution official, employee or student panel member in the process on the grounds of personal bias by submitting a written statement to the institution's designee setting forth the basis for the challenge. The designee shall not be the same individual responsible for investigating or adjudicating the conduct allegation. The written challenge should be submitted within a reasonable time after the individual knows or reasonably should have known of the existence of the bias. The institution's designee will determine whether to sustain or deny the challenge and, if sustained, the replacement to be appointed.

#### **4. The SCAI Conduct Process and Procedures for Academic Misconduct Allegations**

##### **Reporting and Classifying an Alleged Violation**

Any individual who witnesses or otherwise discovers evidence that a KSU student has engaged in academic misconduct may report the matter to the Department of Student Conduct and Academic Integrity (SCAI) for investigation.

It is almost always the faculty member teaching the class in which the violation allegedly occurred who contacts SCAI concerning such offenses. Accordingly, it is strongly recommended that students who learn that a classmate has engaged in such misconduct should report the matter to their professor as soon as possible. Generally, at that point, it is the faculty member who contacts SCAI to report the case.

Once SCAI receives information that an alleged incident of academic misconduct has taken place, it is the responsibility of Director of SCAI, or designee, to evaluate the purported offense and evidence supporting the allegation. This analysis may lead to a determination that there is insufficient evidence to pursue the investigation, because the behavior alleged, even if proven, would not violate the Code of Academic Integrity (e.g.: for reasons such as mistaken identity or allegations of behavior that falls outside the code). In addition, the Director of SCAI, or designee, has the discretion to choose not to pursue Code of Academic Integrity charges or to refer a complaint elsewhere for resolution based on the totality of the circumstances involved.

If it is determined that sufficient evidence of academic misconduct exists to warrant disciplinary action, the next step is for the SCAI Director, or designee, to check SCAI records for any prior history of academic misconduct by the accused student. The SCAI Director, or designee, then communicates this information to any faculty member reporting the alleged violation. When a case is reported by someone other than a KSU professor, the SCAI Director, or designee, does not share the accused student's academic misconduct record.

There are two overall methods by which an academic misconduct case that goes forward can proceed. The first and most common is an informal disciplinary meeting between the instructor and student. Only students with no prior history of committing academic misconduct at KSU are eligible to resolve their cases informally. Any completed informal agreement involving a student who is later discovered to have had a history of academic misconduct automatically nullifies the informal resolution and escalates the charges to a formal hearing. See **Conduct Process and Guidelines for Informal Resolution** (below) for details on what informal disciplinary meetings entail.

If a student withdraws from a course before a pending case of academic misconduct against that student can be resolved, the student usually forfeits the opportunity for informal resolution (thereby escalating the case to a formal hearing). However, if the instructor permits, the student may still be given a chance for an informal disciplinary meeting at which the student may take responsibility and receive the Incident on File sanction (see below).

The second method for resolving academic misconduct charges is a formal hearing, whether adjudicated by a hearing officer (as is the default) or by a panel. Students with any prior record of committing academic misconduct at KSU must resolve any new allegations of academic misconduct formally. Even on a first offense, if the instructor feels the offense is of such an egregious nature, the case, in consultation and with agreement from SCAI, may be forwarded for a formal hearing. Similarly, if a professor attempts to resolve a case informally and is unsuccessful in doing so (i.e. the student says he or she is not responsible, but the professor still believes the evidence indicates misconduct took place), then the case automatically escalates to a formal hearing. See **Conduct Process and Guidelines for Formal Resolution** (below) for in-depth information on formal hearings.

### **Conduct Process and Guidelines for Informal Resolution**

- 1. Notification:** The faculty accuser (or less commonly, the Director of SCAI, or designee) sends the accused student notice via official KSU student email of a mandatory meeting at a particular date, time, and location. Such meetings should be conducted face-to-face, unless the student lives so far away as to make this unreasonable.
- 2. Who Must Attend:** Informal disciplinary meetings usually bring together the accused student and the accuser professor. However, professors may choose to meet with the student along with the aid of a facilitator who may be a fellow instructor, colleague, department representative, etc. In some circumstances, the instructor may ask the department chair (or designee) to serve as a facilitator for the meeting in their absence. If an allegation lacks a professor accuser or the professor/department chair (or designee) cannot reasonably meet with the accused student (this should be a rare occurrence), a SCAI staff member may meet with the student and conduct the entire informal disciplinary meeting. Unlike hearings, informal disciplinary meetings cannot be conducted without an accused student's participation, as the entire point of these meetings is to give eligible students the chance to reflect on, respond to, and, if appropriate, take responsibility for the alleged offense.
- 3. Who May Attend:** If the accuser (and facilitator, if present) allows, other parties may be permitted to observe the informal disciplinary meeting as a courtesy to the accused student, such as the student's parents or lawyer. However, the accused student must sign a FERPA waiver allowing the observer(s) to be present, and such parties may not participate in the informal disciplinary meeting in any way except at the direct request of the accuser and/or facilitator. Observers who attempt to interject themselves into the meeting despite instructions to refrain from doing so will be asked to leave.
- 4. Informal Disciplinary Meeting Steps:**

- a. At the start of the informal disciplinary meeting, the accuser and/or facilitator explains what the meeting is, why the meeting was scheduled, and the three possible outcomes (see below).
- b. At some point early in the meeting, the accuser explains the specific allegation(s) of academic misconduct and presents the evidence supporting the charge. Both the accuser and/or facilitator may ask questions of the accused to obtain the student's perspective and/or explanation.
- c. In speaking about the purported violation, the facilitator and/or accuser should also speak to the broader ethical implications surrounding the alleged misconduct, particularly when those ethics can be connected with the professional ethics associated with the student's major.
- d. At some point early in the meeting, accused students must receive a reasonable opportunity to explain their point of view on the matter and present any relevant information in their own defense.
- e. At some point during the meeting, the accuser and/or facilitator should share specifics on the informal resolution (sanction) they are seeking to remedy the academic misconduct. The accuser chooses an academic sanction appropriate to the offense from the options below.
- f. After the accused student has had a chance to speak and answer questions, the accuser should ask the student if they take responsibility for the academic misconduct as discussed by accepting the proposed informal resolution. After noting their answer, the informal disciplinary meeting is over. If the student has questions on record retention those questions can be forwarded to SCAI.
- g. Unless the accuser decides to drop charges (see below), the accuser now completes an online academic misconduct incident form documenting the specifics of the alleged misconduct. Whether the student accepted the informal resolution or not is also captured on the incident form as are the specifics of the informal resolution. The completed form, along with an attached copy of any supporting evidence the accuser has gathered, must be sent to SCAI, by hitting submit at the bottom of the incident form, in order to create a formal disciplinary record and/or initiate a formal hearing process, as appropriate to the case. The academic misconduct incident form can be found on the SCAI website at <http://scai.kennesaw.edu/forms/academic-misconduct.php>.

## 5. Possible Outcomes:

- a. If the student denies engaging in academic misconduct and convinces the accuser that there is not a preponderance of evidence to support the allegation, then charges should be dropped and the informal disciplinary meeting ends. No further action should be taken against the student pertaining to a dismissed allegation, but professors may still choose to penalize a student's grade for failing to adhere to assignment directions even if they decide that the problem doesn't rise to the level of academic misconduct (e.g. a citation error that isn't serious enough to count as

- plagiarism).
- b. If the student refuses to accept the resolution proposed by the accuser, but the accuser still believes a preponderance of evidence exists to support the allegation, the informal disciplinary meeting ends. The accuser or facilitator explains that the case cannot be resolved informally, and that it will be referred to SCAI for a formal hearing. See **Conduct Process and Guidelines for Formal Resolution** for more details. The accused student should be reminded to check their KSU student email regularly for a notification of hearing letter from SCAI.
  - c. If the student takes responsibility for the academic misconduct by accepting the informal resolution proposed by the accusing professor, then the accuser can move forward with documenting the informal disciplinary meeting on the SCAI academic misconduct incident report form.

**Academic Sanctions:** When professors select academic sanctions, they may include any combination of the following options. It is common to solicit the student's input on what constitutes fair sanctioning. However, the final determination of sanctions still rests entirely with the accuser. Although individual professors may differ from one another in how they sanction particular offenses, they are expected to demonstrate internal consistency and thus be able to articulate any substantial deviation from their own precedent of similar cases. More detailed sanctioning guideline suggestions can be found on the SCAI website. Professors may consult with SCAI staff ahead of or during informal disciplinary meetings for assistance in crafting appropriate sanctions that align with university precedent.

- a. **Assignment Grade Penalty:** Penalize the student's grade for the specific assignment containing academic misconduct (to a maximum penalty of a "0" grade for the assignment).
- b. **Course Grade Penalty:** Penalize the student's course grade for the course in which the violation took place (to a maximum penalty of automatic failure for the course).
- c. **Re-Do Assignment:** Require the student to re-do the assignment containing academic misconduct (in full or in part), likely with either a grade penalty or capped maximum grade assessed to be fair to students who didn't engage in academic misconduct. Any opportunity to revise an assignment should have a clear due date and should list a consequence for failing to provide a corrected work (usually a "0" grade for the assignment).
- d. **New Assignment:** Require a new assignment of some kind. This can take the form of an ethics paper, reflection paper, etc. However, it can also be a new course content focused assignment that replaces the assignment in which academic misconduct occurred. Any opportunity to revise an assignment should have a clear due date and should list a consequence for failing to provide a corrected work (usually a "0" grade for the assignment).
- e. **Other Academic Sanction:** A professor may construct any other genuinely academic sanction deemed appropriate to the offense. The sanction must

serve to remove a student's unfair advantage and/or otherwise clearly help the student learn from the violation as an educational experience and thereby improve overall as a student.

- f. **Incident on File:** When students admit responsibility at a disciplinary conference, but there is no course associated with the violation (e.g. if the student is not enrolled in a class but provides unauthorized assistance to another student who is enrolled in a course), no real academic sanctions may be imposed by the informal disciplinary meeting facilitator upon the accused. However, the accused student may still take responsibility to have the incident go on file as a first offense case of academic misconduct, hopefully deterring repeat offenses. As noted previously, students who withdraw from a course before resolving a pending allegation of academic misconduct related to that course normally escalate the case to a formal hearing, but may be accorded the opportunity for an informal disciplinary meeting at the discretion of the accuser, in which case "Incident on File" is the only possible sanction.
- g. **Ethics Training:** With the permission of the Director of SCAI (or designee), a student may be required to complete a workshop, seminar, or other educational experience focused on academic integrity. The guidelines, deadline for completion, and any follow-up action will be determined by SCAI.

**No Appeal:** Students cannot appeal the sanctions of an informal disciplinary meeting. Once a student accepts responsibility for the academic misconduct incident by agreeing to an informal resolution, the agreement is binding and the student cannot recant their agreement without triggering an automatic escalation to a formal administrative hearing with SCAI.

### **Conduct Process and Guidelines for Formal Resolution**

1. Upon receiving a completed academic misconduct incident form, the director of SCAI (or designee) shall determine whether enough evidence exists to proceed with the case. If so, a notice of hearing will be sent by KSU student email to the accused student, containing the information below.
  - a. Date, time, and place of the hearing.
  - b. The section(s) of the Code of Academic Integrity allegedly violated and information about the circumstances of the allegation.
  - c. Information on how the responding student may review the case information/evidence before the hearing.
  - d. A statement that the accused student may choose to have a hearing before a panel instead of a hearing with an administrator if the accused notifies the appropriate administrator by a deadline stated in the notice. This notice will only be included if the sanction of suspension, expulsion, or revocation of degree is a potential outcome for being found responsible.

2. The administrator conducting the hearing (or the person bringing the charge when there is a hearing panel) will review the information and evidence supporting the allegation of academic misconduct against the student and then allow the accused student to give an explanation of the incident and present witnesses if they have information relevant to the issue of whether or not the accused student violated the Code of Academic Integrity.
3. Every decision as to whether the accused student violated the Code of Academic Integrity will be based on a preponderance of the evidence/information available. This means that if the administrator (or hearing panel) finds the accused responsible for violations s/he/they must have determined that it is more likely than not that the accused is in violation. Panel recommendations are based on a majority vote.
4. The SCAI administrator will select appropriate sanctions if the accused student is found responsible for violations and will inform the accused in writing sent to his or her University email of the result of the hearing. Alternatively, if there is a panel hearing, the panel will make sanction recommendations which must be confirmed by the director of SCAI and the director will inform the accused student in writing sent to his or her University email of the result of the panel hearing.
5. If suspension, expulsion, or revocation of degree are sanctioned, there is the possibility of appeal. Information on how to appeal will be included in the decision letter sent to the accused student. The appeal must still meet all the grounds for appeal. Details on appealing can be found below.

This overview gives a general idea of how the University's conduct proceedings for academic misconduct allegations work, but it should be noted that not all situations are of the same severity or complexity. Thus, these procedures are flexible, and are not exactly the same in every situation, though consistency in similar situations is a priority. <sup>1</sup>

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<sup>1</sup> A KSU student may take courses through the USG eCore (Georgia's College Core Curriculum. . . Online) program. <https://ecore.usg.edu/>

ECore has its own academic honesty policy <https://ecore.usg.edu/exams/honesty.php> and procedures <https://ecore.usg.edu/students/guide/dishonesty.php> which apply to eCore classes taken by students. If a student is found in violation of the eCore academic honesty policy, then the KSU student's violation will be reported to the KSU Student Conduct and Academic Integrity (SCAI) Department [scai@kennesaw.edu](mailto:scai@kennesaw.edu) for inclusion in the student's conduct file at Kennesaw State University.

## 5. Appeals

### Non-Academic Misconduct Appeals

Appeals may be allowed in any case where sanctions are issued, even when such sanctions are held "in abeyance," such as probated housing dismissal and suspension.

### ***Appeals for Suspension/Expulsion Sanction***

Where the sanction imposed includes a suspension or expulsion (even for one held in abeyance), the following appellate procedures must be provided.

The Respondent (and in cases involving sexual misconduct or other forms of discrimination and/or harassment, the Complainant) shall have the right to appeal the outcome on any of the following grounds: (1) to consider new information, sufficient to alter the decision, or other relevant facts not brought out in the original hearing (or appeal), because such information was not known or knowable to the person appealing during the time of the hearing (or appeal); (2) to allege a procedural error within the hearing process that may have substantially impacted the fairness of the hearing(or appeal), including but not limited to whether any hearing questions were improperly excluded or whether the decision was tainted by a conflict of interest or bias by the Title IX Coordinator, Conduct Officer, investigator(s), decision makers(s); or (3) to allege that the finding was inconsistent with the weight of the information.

The appeal must be made in writing, must set forth one or more of the bases outlined above, and must be submitted within five business days of the date of the final written decision. The appeal should be made to the institution's President or their designee.

The appeal shall be a review of the record only, and no new hearing with the Respondent or any Complainant is required. The President or their designee may affirm the original finding and sanction, affirm the original finding but issue a new sanction of greater or lesser severity, remand the case back to any lower decision maker to correct a procedural or factual defect, or reverse or dismiss the case if there was a procedural or factual defect that cannot be remedied by remand. The President or their designee's decision shall be simultaneously issued in writing to the parties within a reasonable time period. The President or their designee's decision shall be the final decision of the institution.

Should the Respondent or Complainant (where applicable) wish to appeal the final institutional decision, they may request review by the Board of Regents in accordance with the Board of Regents' Policy on Discretionary Review.

Appeals received after the designated deadlines above will not be considered unless the institution or Board of Regents has granted an extension prior to the deadline. If an appeal is not received by the deadline the last decision on the matter will become final.

### ***Appeals for University Housing Dismissal Sanction***

The Respondent shall have the right to appeal a sanction of a University Housing Dismissal on any of the following grounds: (1) to consider new information, sufficient to alter the decision, or other relevant facts not brought out in the original conduct hearing, because such information was not known or knowable to the person appealing during the time of the conduct hearing; (2) to allege a procedural error within the conduct process that may have substantially impacted the fairness of the conduct hearing, including but not limited to whether the decision

was tainted by a conflict of interest or bias by the hearing officer/panel, investigator(s), decision makers(s); or (3) to allege that the finding was inconsistent with the weight of the information. Dissatisfaction with the decision is not proper grounds for an appeal.

The appeal must be submitted in writing, sent from the Respondent's official KSU email, must identify one or more of the aforementioned grounds and include a brief statement explaining why the Respondent has chosen to file the appeal. The appeal must be submitted within 5 business days of the date of the final decision letter (outcome letter). The appeal must be sent to Executive Director of Housing, Residence Life, & Strategic Analysis or their designee.

The appeal shall be a review of the record only, and no new hearing with the Respondent is required. The Executive Director or their designee may affirm the original finding and sanction, affirm the original finding but issue a new sanction of greater or lesser severity, remand the case back to any lower decision maker to correct a procedural or factual defect, or reverse or dismiss the case if there was a procedural or factual defect that cannot be remedied by remand. The Executive Director or their designee's decision will be issued in writing to the Respondent within 10 university business days. The Executive Director or their designee's decision shall be the final decision of the institution.

Appeals submitted after the designated deadline will not be considered unless the institution has granted an extension prior to the deadline. If an appeal is not received by the deadline the last decision on the matter will become final.

#### *Request To Remain in University Housing Pending Appeal Outcome*

If a Respondent chooses to submit an appeal of the University Housing Dismissal, the Respondent can also submit a separate request asking permission to remain in University Housing pending the outcome of the appeal.

This request must be submitted separately from the sanction appeal and must address why moving out would cause a hardship to the student. This request must be in writing, sent from Respondent's official KSU student email. This separate request must be submitted to the Executive Director of Housing, Residence Life, & Strategic Analysis (or their designee). The request must be submitted within 5 business days of the date of the final decision letter (outcome letter).

Once received, the request will be reviewed during university business hours. Making such a request does not guarantee that a Respondent will be permitted to remain in University Housing while the sanction appeal is being reviewed. A decision will be sent to the Respondent's official KSU student email within 2 business days.

#### **Academic Misconduct Appeals**

Where the sanction imposed includes a suspension or expulsion (even for probated status), the

following appellate procedures must be provided.

The Respondent shall have the right to appeal the outcome on any of the following grounds: (1) to consider new information, sufficient to alter the decision, or other relevant facts not brought out in the original hearing (or appeal), because such information was not known or knowable to the person appealing during the time of the hearing (or appeal); (2) to allege a procedural error within the hearing process that may have substantially impacted the fairness of the hearing (or appeal), including but not limited to whether any hearing questions were improperly excluded or whether the decision was tainted by a conflict of interest or bias by the Title IX Coordinator, Conduct Officer, investigator(s), decision maker(s); or (3) to allege that the finding was inconsistent with the weight of the information.

The appeal must be made in writing, and must set forth one or more of the bases outlined above, and must be submitted within five business days of the date of the final written decision. The appeal should be made to the institution's Vice President for Student Affairs or their designee.

The appeal shall be a review of the record only, and no new hearing with the Respondent or any Complainant is required. The Vice President, or their designee, may affirm the original finding and sanction, affirm the original finding but issue a new sanction of greater or lesser severity, remand the case back to the decision-maker to correct a procedural or factual defect, or reverse or dismiss the case if there was a procedural or factual defect that cannot be remedied by remand. The Vice President or his or her their designee shall then issue a decision in writing to the respondent within a reasonable time period.

The decision of the Vice President or his or her designee may be appealed in writing within five business days (as determined by the date of the decision letter) to the President of the institution solely on the three grounds set forth above.

The President may affirm the original finding and sanction, affirm the original finding but issue a new sanction of greater or lesser severity, remand the case back to any lower decision maker to correct a procedural or factual defect, or reverse or dismiss the case if there was a procedural or factual defect that cannot be remedied by remand. The President decision shall be simultaneously issued in writing to the parties within a reasonable time period. The President's decision shall be the final decision of the institution.

Should the Respondent or Complainant (where applicable) wish to appeal the President's decision, they may request review by the Board of Regents in accordance with the Board of Regents' Policy on Discretionary Review.

Appeals received after the designated deadlines above will not be considered unless the institution or Board of Regents has granted an extension prior to the deadline. If an appeal is not received by the deadline the last decision on the matter will become final.