



KEAN

A Resource Guide for Students on Sexual Misconduct

Campus Policies,
Procedures
and Services

INTRODUCTION

Sexual misconduct, including sexual harassment, sexual violence, sexual exploitation, intimate partner violence, and/or stalking are violations of Kean University's Student Code of Conduct and its sexual misconduct policy. Our commitment is embodied in institutional policies that prohibit sexual misconduct as well as our adherence to federal and state laws such as Title IX, Title VII of the Civil Rights Act of 1964 (as amended in 1991), the Clery Act, the Violence Against Women's Act (VAWA), the New Jersey Law Against Discrimination (N.J.S.A. 10:5-1 et seq.), and the State of New Jersey's Campus Sexual Assault Victim's Bill of Rights. All members of the Kean community, guests and visitors are protected by Kean University's policies and federal and state legislation regardless of sexual orientation or gender identity.

Members of the campus community, guests and visitors have a right to be free from sexual misconduct. All members of the campus community must conduct themselves in a way that does not infringe upon the rights of others. Kean University's sexual misconduct policy is intended to define expectations for appropriate conduct and outline resolution processes to address conduct that does not meet these expectations. When individuals accused of sexual misconduct are found to be in violation of the sexual misconduct policy, Kean University will impose sanctions, as noted specifically below.

Kean University has jurisdiction over acts of sexual misconduct involving members of the campus community no matter where the misconduct occurs, on or off-campus. For details on the Kean University policy, please visit www.kean.edu/policies/sexual-assault-misconduct-violence or the Annual Campus Security & Fire Safety Report at www.kean.edu/annual-campus-security-and-fire-safety-report.



IF YOU HAVE EXPERIENCED SEXUAL MISCONDUCT

1. Call 9-1-1 if you feel threatened or are in danger.
2. Go to a safe location as soon as you are able to.
3. Seek immediate medical attention if you are injured or believe you may have been exposed to the risk of an STI/STD or pregnancy.
4. Contact any of the following for assistance:
 - a. **Title IX Coordinator**
908-737-3330
affract@kean.edu
Monday–Friday, 9 a.m.–5 p.m.
 - b. **University Police**
908-737-4800
kupolice@kean.edu
24-hours/7-days a week
 - c. **Student Support Services Advocate**
908-737-4880
hsnurses@kean.edu
Monday–Friday, 9 a.m.–5 p.m.
 - d. **Health Services***
908-737-4880
hsnurses@kean.edu
Monday–Friday, 9 a.m.–5 p.m.
 - e. **Counseling and Disability Services***
908-737-4850
counseling@kean.edu
Monday–Friday, 9 a.m.–5 p.m.
 - f. **Vice President for Student Affairs**
908-737-7080
studentaffairs@kean.edu
Monday–Friday, 9 a.m.–5 p.m.
 - g. **Office of Residential Student Services**
908-737-6800
reslife@kean.edu
Monday–Friday, 9 a.m.–5 p.m.
 - h. **Office of Community Standards and Student Conduct**
908-737-5240
conduct@kean.edu
Monday–Friday, 9 a.m.–5 p.m.
 - i. **Human Resources**
908-737-3300
Monday–Friday, 9 a.m.–5 p.m.
 - j. **Union County Rape Crisis Center***
908-233-7273
 - k. **Union County Sexual Assault Response Team (SART)***
908-233-7273
 - l. **24-hour Domestic Violence Hotline***
908-355-4357

**Denotes that this resource is confidential*

Hours of operation reflect regular business hours. Note that campus officials may contact on-call staff from other departments when their offices are closed or they are otherwise unavailable to assist immediately.

It is important to preserve physical evidence that may include tissue and fluid samples, evidence of violence, sheets, towels, clothing, etc. You should avoid washing, bathing, urinating, etc. until after being examined at Kean University Health Services or the hospital, if possible. Because evidence of a sexual assault can deteriorate quickly, you should seek a medical exam as soon as possible. Evidence collection should be done within 120 hours of an assault, but fluids, hair samples and DNA can be collected for a long time thereafter. Even if you have washed, evidence can often still be obtained. After 120 hours, it may still be helpful to have medical attention, even if you are not trying to obtain evidence of an assault. Sexual assault nurse examiners are trained in the collection of forensic evidence, and can check for injuries and exposure to sexually transmitted diseases. If you are still wearing any clothes worn during the assault, wear them to the hospital, but bring a change of clothes as the hospital will keep the clothes you are wearing as evidence.

If you have changed clothes, bring the ones you were wearing during the assault to the hospital in a clean paper (not plastic) bag or a wrapped in a clean sheet. Leave sheets/towels at the scene of the assault. Police will collect them. Police typically take custody of any evidence collected at the hospital. You can choose whether or not to speak with police and/or file a criminal complaint.

SEXUAL ASSAULT RESPONSE TEAM

Union County has a sexual assault response team, also known as SART, which has staff specially trained in helping victims of a sexual assault. Victims can choose which services that they would like to use in the event of a sexual assault. SART can be contacted at 908-233-7273. You may speak with a SART representative confidentially.

Rape Care advocates are another essential component to the SART. Rape care advocates are trained to help you with the emotional aspects of an assault and to help guide you through the initial aftermath of an assault.

Health Services works closely with the Union County Sexual Assault Response Team. Health Services can contact SART upon your request. Health Services can also connect you with Counseling and Disability Services for counseling and support during this difficult time. Kean counseling services are free of charge to all Kean University students and can be reached at 908-737-4850.

You have the choice of how to proceed. Options include:

- 1) Do nothing until you are ready
- 2) Pursue resolution by the University, and/or
- 3) Initiate criminal proceedings,
- and/or 4) Initiate a civil process against the perpetrator.

You may pursue whatever combination of options is best for you. If you wish to have an incident investigated and resolved by Kean University, students should contact the Office of Community Standards and Student Conduct or the Title IX Coordinator. Employees should contact Human Resources. Kean University procedures will be explained. Those who wish incidents to be handled criminally should contact Kean University Police or the local police where the assault occurred. A campus official is available to accompany students in making such reports, if desired. Contact the Vice President for Student Affairs for more information at 908-737-7080.



ABOUT CONFIDENTIALITY

To make informed choices, all parties should be aware of confidentiality and privacy issues, as well as institutional mandatory reporting requirements.

Confidential reporting: If reporting students wish that details of an incident be kept confidential, they should speak with campus mental health counselors and/or health service providers on the Kean campus. Their services are free of charge. Clergy members, chaplains or off-campus rape crisis center staff also maintain confidential information.. Local resources such as crisis centers are also confidential and have no duty to report your information to the University.

Mandated reporting: All employees not designated as confidential above, are mandated reporters for all the details they are aware of about an incident. Unless an employee is identified as a confidential resource, they must report the incident to the Kean University Title IX Coordinator. They share this information with the Title IX Coordinator. Giving a mandated reporter notice of an incident constitutes official notice to the institution. Incidents of sexual misconduct will be taken seriously when official notice is given to the institution. Such incidents will be investigated and resolved in a prompt and equitable manner under the University's resolution procedures, which are discussed in a later section of this brochure.

You may request confidentiality and/or that the Title IX Coordinator provides you with remedies and resources without initiating a formal resolution process. The Title IX Coordinator will weigh your request for confidentiality against the institutional need to address and remedy discrimination under Title IX. Generally,

Kean University will be able to respect your wishes unless it believes there is a threat to the community based on the use of weapons, violence, pattern, predation or threatening conduct by the person being accused.

In cases where your request for confidentiality is granted, the University will offer you all available resources, supports and remedies. You are not obligated to pursue formal resolution in order to access the resources that are available. If the University decides it is obligated to pursue formal resolution based on the notice you have given, you are not obligated to participate in the resolution process. However, the ability of the University to enforce its policies may be limited as a result of your decision not to participate.

Duties with respect to minors (those under age [18]) may require reporting to state agencies and/or local law enforcement. As a result, confidentiality cannot be guaranteed.

Immunity for Victims: Kean University encourages community members who may have experienced gender based or sexual misconduct to report the incident. Sometimes victims are hesitant to report to University officials because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. To encourage reporting, Kean University pursues a policy of offering victims amnesty from policy violations related to the incident when appropriate.

SEXUAL MISCONDUCT: RISK REDUCTION FOR INTIMATE PARTNER VIOLENCE, STALKING, SEXUAL HARASSMENT AND SEXUAL VIOLENCE

While victim-blaming is never appropriate and Kean University fully recognizes that only those who commit sexual misconduct are responsible for their actions, Kean University provides the suggestions that follow to help members of the campus community reduce their risk of being victimized and their risk of committing acts of sexual misconduct.

REDUCING THE RISK OF VICTIMIZATION

- ✓ Make any limits and/or boundaries you may have known as early as possible.
- ✓ Tell a sexual aggressor “no,” as clearly and firmly as possible.
- ✓ Remove yourself, if possible, from an aggressor’s physical presence.
- ✓ Reach out for help, either from someone who is physically nearby or by calling someone. Bystanders around you may be waiting for a signal that you need help.
- ✓ Take affirmative responsibility for your alcohol and/or drug consumption, understanding that alcohol and drugs can increase your vulnerability to sexual victimization.
- ✓ Look out for your friends, and ask them to look out for you. Respect them, and ask them to respect you, but be willing to challenge each other about high-risk choices.

REDUCE THE RISK OF BEING ACCUSED OF SEXUAL MISCONDUCT

- ✓ Show your potential partner respect if you are in a position of initiating sexual behavior.
- ✓ If they say “no”, accept it and don’t push. If you want a yes, ask for it, and don’t proceed without clear permission.
- ✓ Communicate your intentions to your potential sexual partner clearly, and give that person a chance to share their intentions and/or boundaries with you.
- ✓ Respect personal boundaries. If you are unsure what’s okay in any interaction, ask.
- ✓ Avoid ambiguity. Don’t make assumptions about consent, about whether someone is attracted to you, how far you can go with that person, or if the individual is physically and mentally able to consent. If you have questions or are unclear, you don’t have consent.
- ✓ Don’t take advantage of the fact that someone may be under the influence of drugs or alcohol, even if that person chose to become that way. Their loss of control does not put you in control.
- ✓ Be on the lookout for mixed messages. That should be a clear indication to stop and talk about what your potential partner wants or doesn’t want to happen. They may be undecided about how far to go with you, or you may have misread a previous signal.
- ✓ Respect the timeline for sexual behaviors with which others are comfortable, and understand that everyone is entitled to change their minds.
- ✓ Recognize that even if you don’t think you are intimidating in any way, your potential partner may be intimidated by or fearful of you, perhaps because of your sex, physical size, or a position of power or authority you may hold.
- ✓ Do not assume that someone’s silence or passivity is an indication of consent. Pay attention to both verbal and non-verbal signals to avoid misreading intentions.
- ✓ Understand that consent to one type of sexual behavior does not automatically grant you consent to other types of sexual behaviors. If you are unsure, stop and ask.
- ✓ Understand that exerting power and control over another through sex is unacceptable conduct.

SEXUAL MISCONDUCT VIOLATIONS

The following are the definitions of conduct prohibited by the Kean University sexual misconduct policy.

SEXUAL HARASSMENT

Sexual Harassment is:

- unwelcome,
- sexual, sex-based and/or gender-based verbal, written, online and/or physical conduct.

HOSTILE ENVIRONMENT

A hostile environment is created when sexual harassment is:

- sufficiently severe, or
- persistent or pervasive, and
- objectively offensive that it:
 - unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the university's educational [and/or employment], social and/or residential program.

Sanctions for sexual harassment range from warning through expulsion/termination.

RETALIATION

Retaliation is:

- Any materially adverse action,
- Taken against a person participating in a protected activity,
- Because of their participation in that protected activity
 - subject to limitations imposed by the 1st Amendment and/or Academic Freedom.

Sanctions for retaliation range from warning through expulsion/termination.

NON-CONSENSUAL SEXUAL CONTACT

Non-Consensual Sexual Contact is:

- any intentional sexual touching,
- however slight,
- with any object,
- by a person upon another person,
- that is without consent and/or by force

Sanctions for Non-Consensual Sexual Contact range from warning through expulsion/termination.

NON-CONSENSUAL SEXUAL INTERCOURSE

Non-Consensual Sexual Intercourse is:

- any sexual intercourse
- however slight,
- with any object,
- by a person upon another person,
- that is without consent and/or by force

Sanctions for Non-Consensual Sexual Intercourse typically result in suspension or expulsion/termination.

SEXUAL EXPLOITATION

- Occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and
- that behavior does not otherwise constitute one of other sexual misconduct offenses.

Sanctions for Sexual Exploitation range from warning through expulsion/termination.

INTIMATE PARTNER VIOLENCE

Intimate Partner Violence, defined as:

- violence or emotional and/or psychological abuse between those in an intimate relationship to each other;

Sanctions for Intimate Partner Violence range from warning through expulsion/termination.

STALKING

Stalking is defined as:

- Repetitive and Menacing
- Pursuit, following, harassing and/or interfering with the peace and/or safety of another

Sanctions for Stalking typically result in suspension or expulsion/termination.



YOUR RIGHTS

Kean University strives to provide fair and equitable resolution processes that include both formal and informal options.

REPORTING

- Reporting Parties have the right to notify law enforcement of incidents and to receive assistance from campus personnel in doing so.
- Reporting Parties may decline to report to law enforcement if they so wish.
- Reporting students have the right to have their allegations investigated and resolved internally by Kean University.

FAIRNESS

- All members of the campus community have the right to have reported sexual misconduct addressed according to the published Kean University procedures.
- All parties have equal opportunities to have a support person of their choosing [or offered by the institution] present throughout all resolution proceedings [including intake, interviews, hearings, etc.]. This support person can be an advisor, advocate, attorney, family member, friend, faculty member, etc.
- All parties have the right to written notice of the outcome of sexual misconduct resolution proceedings as specified under federal law.
- Reporting Parties and witnesses will receive amnesty for minor infractions (e.g., alcohol and drug violations) that are secondary to incidents of sexual misconduct.
- All parties have a right to be free from retaliation.

SUPPORT

- Reporting and responding parties have a right to be notified of their ability to access campus counseling and health services
- Reporting and responding parties have a right to be notified of on- and off-campus support, including interim measures and accommodations.
- All parties will receive the information and assistance needed to effectively participate in all proceedings.
- Reporting Parties have the right to seek orders of protection, no contact orders, restraining orders, or similar lawful orders issued by criminal, civil, or tribal courts and may seek the help of University Police in requesting and/or enforcing such orders.

REMEDIES

Kean University may take whatever steps are deemed necessary to appropriately respond to allegations of sexual misconduct, protect students' rights, and keep members of the campus community safe from further harm. These measures include, but are not limited to:

- Issuing interim suspensions pending a hearing,
- Reporting incidents to local police and/or prosecutors.
- Referral to counseling and health services
- Employee Assistance Program Referral
- Educational programming to the Kean community
- Altering the housing situation of the reporting or responding party
- Altering work arrangements for employees
- Providing campus escorts
- Providing transportation assistance
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

These measures are available regardless of whether a Reporting Party seeks formal resolution or makes a criminal report to police.

CONSENT

Consent is informed, active and voluntary permission for specific sexual activity. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity.

Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.

Previous relationships or prior consent cannot imply consent to future sexual acts.

MORE ABOUT CONSENT

CONSENT { *Knowing, voluntary, and clear permission, through word or action, to engage in mutually agreed upon sexual activity or contact.* }

Since different people may experience the same interactions differently, each party is responsible for making sure that their potential partner has provided ongoing, clear consent to engaging in any sexual activity or contact.

A person may withdraw consent at any time during sexual activity or contact through words or actions. If that happens, the other party must immediately cease the activity or contact. Attempting to pressure the other person into sexual activity continuing constitutes coercion, which is also considered to be sexual misconduct.

Silence or the absence of resistance alone does not constitute consent. A victim is not required to resist for an offense to be proven.

Consent to some forms of sexual activity (e.g., kissing, fondling, etc.) should not be construed as consent for other kinds of sexual activities (e.g., intercourse).

Being or having been in a dating relationship with the other party does not mean that consent for sexual activity exists. Previous consent to sexual activity does not imply consent to sexual activity in the future.

To legally give consent in New Jersey, individuals must be at least 16 years old.

Force: Defined as the direct or indirect use of physical violence and/or imposing physically on someone to gain sexual access. Force, unless part of mutually-permissible, is a clear demonstration of a lack of consent.

Incapacitation: This is defined as a state in which individuals are unable to make rational, reasonable decisions because they lack the capacity to understand the “who, what, when, where, why, or how” of a situation or interaction. Individuals cannot give sexual consent if they are unable to understand what is happening, or if they are disoriented, helpless, asleep, or unconscious for any reason. That applies even if it is because they voluntarily consumed alcohol or drugs. Unless consent is “knowing,” it is not valid. Individuals engaging in sexual activity who know or should have known that the other party is incapacitated are engaging in sexual misconduct.

The possession, use, distribution and/or administration of any incapacitating substances is prohibited.

The fact that a Responding Party was intoxicated and therefore did not realize that the Reporting Party was incapacitated does not excuse sexual misconduct.

PROCEDURES

The University's procedures are detailed fully at:
www.kean.edu/policies/sexual-assault-misconduct-violence

GENDER BASED HARASSMENT AND SEXUAL MISCONDUCT STUDENT GRIEVANCE PROCEDURES

INTAKE

In the event of an allegation of gender based harassment or sexual misconduct involving a student, the following procedures are used to resolve and redress the incident: The Office of Community Standards and Student Conduct is designated by the Title IX Coordinator to formally investigate allegations of sexual misconduct, intimate partner violence and stalking involving students. Notice of a formal complaint can be made in person or orally to a Title IX Deputy, but the University strongly encourages submission of allegations by way of incident report. Incident reports can be submitted at <https://cm.maxient.com/reportingform.php?KeanUniv>. The incident report should clearly and concisely describe the alleged incident(s), when and where it occurred, and the desired remedy sought. Any supporting documentation and evidence should be referenced within the incident report. Additionally, the reporting party should submit any supporting materials as quickly as is practicable.

Upon receipt of an incident report, the Office of Community Standards and Student Conduct will confer with the Title IX Coordinator on appropriate interim action(s), including accommodations for the reporting party and respondent. Every effort will be made to connect both the reporting and responding parties to available campus resources and support during the resolution process.

Additionally, the Vice President for Student Affairs, or designee, is authorized to place the respondent on interim suspension for reasons related to physical or emotional safety and well-being, to protect the integrity of the investigation and/or for reasons relating to the safety and well-being of students, faculty, staff, or University property. In some cases, the respondent may be permitted to attend classes but be suspended from all other campus activities. This determination will be made by the Vice President for Student Affairs based upon his/her knowledge of the potential threat posed by the respondent's presence on campus. In the event that an interim temporary suspension is issued, the respondent will have the right to appeal to the Vice President of Student Affairs or designee. The appeal must be submitted to the Vice President of Student Affairs or designee in writing within three business days of the issuance of the temporary suspension.

PRELIMINARY INQUIRY

After issuing appropriate accommodations, an initial determination is made as to whether to move the allegations forward to a formal investigation. This decision is made by the Title IX Coordinator, taking into account the nature of the allegations and the reporting party's wishes. If the decision is made to move forward, the Title IX Coordinator refers the allegations to the Director of the Office of Community Standards and Student Conduct. The Title IX Coordinator or the Director of the Office of Community Standards and Student

Conduct will then open a formal case and assign investigator(s). The investigator(s) will receive annual training on how to investigate sexual misconduct, intimate partner violence and stalking allegations as well as on Kean University's sexual misconduct policies and procedures.

INVESTIGATION

Upon receipt of the allegations, the investigator(s) will develop a strategic investigation plan to make a thorough, reliable and impartial inquiry into the allegations. The investigator(s) will prepare the notice of alleged policy violation(s) on the basis of the initial investigation and meet with the reporting and responding parties to obtain written statements.

The investigator(s) will then establish a witness list, evidence list, intended timeframe and order of interviews for all involved parties, including witnesses. All correspondence, written statements, documentation, and evidence regarding the investigation will be compiled by the investigator(s) in a Document File that is part of the formal case. Kean University will protect the confidentiality of participants throughout the resolution process, consistent with the provisions of federal law. Title IX-related resolutions are not subject to publicly available record keeping (e.g., FOIA) provisions. Any release of information about a resolution will be accomplished without the inclusion of identifying information about the parties, to the extent permissible by law.

The investigator(s) will make every effort to complete the investigation promptly, and without unreasonable deviation from the intended timeline. The investigator(s) will write an investigative report detailing the findings of responsibility, if any, as

well as the rationale behind the findings. All findings of responsibility are based on a preponderance of the evidence standard. The investigator(s) will present the investigative report and findings to the responding party, who may accept the findings, accept the findings in part and reject them in part, or may reject all findings. The investigator(s) will then present the investigative report and findings and update the reporting party in a separate meeting who may accept the findings, accept the findings in part and reject them in part, or may reject all findings.

After conferring with the reporting party and respondent, the investigator(s) will present the investigative report and recommendations to the Director of the Office of Community Standards and Student Conduct. If the Director of the Office of Community Standards and Student Conduct determines that the allegations do not warrant further action, the matter will be closed. Such determinations are appropriate where the allegations do not violate the Code of Student Conduct, and/or when there is insufficient evidence to support a reasonable belief that the Code may have been violated.

If further action is warranted, the Director of the Office of Community Standards and Student Conduct will (a) conduct a student conduct conference and issue appropriate sanctions as warranted or (b) determine that a student conduct hearing is necessary under its respective procedures to determine whether the responding party committed the alleged policy violations and issue appropriate sanctions.

STUDENT CONDUCT HEARING PROCESS

1. Notification of a Student Conduct Hearing will be provided by the Office of Community Standards and Student Conduct to the reporting party and the responding party by email to the student's official @kean.edu account. All such notice is presumptively delivered whether the student reads the mail/email or not, as all students are required to regularly check their email accounts. The notice will include:
 2. The name of the reporting party;
 3. The nature of the alleged violations, including the specific code sections alleged to have been violated, applicable conduct procedures and the sanctions that may result;
 4. The time and place of the hearing. All Student Conduct Hearings will be scheduled during regular business hours (9 a.m. – 5 p.m.);
 5. The right to have witnesses. The University may arrange for witnesses to be present or assign to the reporting party and the responding party the responsibility to contact his/her witnesses and arrange for their participation.
6. All student witnesses are asked to complete and sign a FERPA consent form no less than 48 hours prior to the hearing. Both the reporting party and the responding party must provide a list of witness names and a statement of their witness's anticipated testimony; all witnesses must be confirmed by the Office of Community Standards and Student Conduct no later than 48 hours prior to the hearing.
6. The right to have an advisor. The advisor may not be a witness at the hearing or otherwise participate in the hearing;
7. The right to present relevant information;
8. The names of others who will be present at the hearing (if known), including the names of the hearing officer; and a copy of the procedure for challenging the hearing officers on the basis of partiality. If the alleged policy violations involve sexual misconduct, intimate partner violence or stalking, the hearing officer assigned must also receive annual training relating to the hearing process, investigation and resolution of Title IX cases.



9. Notice that a Document File and Investigative Report with statements from the reporting party, responding party and witnesses and any other documentary information will be available to the responding party, the reporting party, and their advisors for review at least three (3) days prior to the Student Conduct Hearing. An appointment is required to review the Document File and Investigative Report. Copies may be made available upon specific request.

SEXUAL MISCONDUCT HEARING OFFICERS

Student Conduct Hearings for violations of the Code will be conducted by a trained member(s) of the University faculty, staff, or consultant designated by the Office of Community Standards and Student Conduct. Student Conduct Hearing Officers in cases involving sexual misconduct, intimate partner violence and stalking will receive annual specialized training specific to these policy violations and the resolution process.

HEARING PARTICIPANTS

The hearing will be closed to all members of the campus and outside

community except those directly involved with the incident.

The reporting and responding party each have the right to be assisted by an advisor of their choice who is not a witness to the incident. An advisor or legal counsel may be present to advise only and may not participate. Advisors who interfere with the proceedings can be excused by the hearing officer.

An audio recording of the hearing is made and kept by the Office of Community Standards and Student Conduct.

Only persons involved in the hearing process will be permitted in the vicinity of the hearing. It is expected that participants and advisors will respect the dignity and privacy of Kean community members and keep private that which transpires during the hearing, in accordance with federal law.

Student witnesses, when called by the University on behalf of the reporting party, the responding party, or the University, are required to participate in the hearing process.



The hearing process will be conducted in the following manner:

1. All participants and advisors will be introduced to the hearing officer.
2. All participants and advisors will be introduced to the audio technician.
3. The hearing officer will recite all Code sections alleged to have been violated.
4. The responding party will state whether he/she is responsible, not responsible, or responsible with an explanation for the alleged misconduct. Responsible with an explanation means the student admits to the actions but believes there were circumstances that should be taken into consideration by the hearing officer in the determining responsibility and/or assigning remedies.
5. Statements regarding their respective positions may be given by the reporting party and the responding party. The Hearing Officer may place reasonable time limitations on the statements.
6. The University reserves the right to assign a representative of the Office of Community Standards and Student Conduct to present the Investigative Report.
7. Relevant records, documents, and written statements may be accepted and considered by the hearing officer. The hearing officer will receive a copy of the Investigative Report for review and consideration.
8. The reporting and responding party may be present throughout the entirety of the proceeding

except for the deliberation phase. The reporting party, the responding party and the Office of Community Standards and Student Conduct representative will be able to present witnesses who will be subject to questioning. Witnesses will be asked to remain until the end of the hearing in the event they must be called back for clarification of their testimony. In the event that a witness is unavailable, a signed statement from the witness may be admitted. Any such statements will be shared with the parties prior to the hearing, and the responding party will be given full opportunity to respond to the written statement at the hearing.

9. Witnesses will appear separately and will leave the hearing room after their testimony is completed. Witnesses are not permitted to leave the vicinity of the hearing room until permission has been granted by the hearing officer, and witnesses are instructed not to communicate with other witnesses outside the hearing during the proceedings.
10. All parties may question each other and the witnesses, and the hearing officer may direct questions as appropriate to any participant, or require that all questions go through the hearing officer. Other accommodations may be utilized to ensure that the hearing is a safe space for participants. The reporting and responding party may present concluding remarks. The Hearing Officer may place reasonable time limitations on the statements.
11. At the conclusion of the

hearing, the hearing officer will advise the reporting and responding party that the determination will be given, in writing, to the appropriate parties.

12. The responding party's prior student conduct record will be a factor in determining the appropriate sanction(s).
13. The reporting party will not be notified of the outcome of the hearing EXCEPT in cases of violence, sexual misconduct, or offense that fall under Title IX, once the decision of the hearing officer has been issued.
14. For each separate offense, the hearing officer will determine whether the responding party is responsible or not responsible. The decision will be based upon an evaluation of the information presented and a determination as to whether the Code was more likely than not to have been violated (a preponderance of the evidence standard). For each violation, the hearing officer will impose an appropriate remedy and/or sanction.
15. The rules of evidence applicable to the courts do not apply to Code proceedings of this University community. Fair process applicable to this process is as defined in these procedures.
16. The Director of Community Standards and Student Conduct or designee may implement changes to these proceedings as needed that do not jeopardize the material fairness owed to the parties.

REMEDIES AND SANCTIONS

The following remedies and sanctions may be imposed when responding parties have been found responsible for violation of the Code. In addition, other remedies and sanctions may be fashioned at the discretion of the hearing officer:

1. Written Warning to the offender that the conduct must stop and any continuation may be a basis for more severe action.
2. Letter of Reprimand.
3. Probation – Notice that further violation of the Code may result in expulsion. Also, the decision may place some additional restrictions on membership in student organizations and/or participation in activities or may establish special restitution and service requirements.
4. Suspension:
 - a. Specific Period – Revocation of the privilege of attending the University and using its facilities for a specific period not to exceed two academic years.
 - b. Indefinite Period – Revocation of the privilege of attending the University and using the facilities pending the satisfying of specific conditions. The Vice President for Student Affairs will determine whether the conditions have been satisfied.
5. Residence Hall Suspension - Revocation or restriction of privileges for the use

of, access to, and/or residence in University Residence Halls

6. Facilities Restriction -- Revocation or restriction of privileges for the use of some but not all University facilities
7. Expulsion – Permanent termination of student status and rights to be present on University property and attend/participate in University-sponsored events
8. Referral to civil or criminal authorities

Any of the following may accompany a remedy and sanction:

9. Restitution requiring individuals to restore or replace within a specified time, property which has been damaged, defaced, lost, or stolen.
10. Service assignment requiring an individual to perform services for the community or the University
11. Referral to appropriate psychological or psychiatric service for evaluation, mandated assessment, or other special help.
12. Fines for drug and alcohol violations as outlined in the Annual Campus Security and Fire Safety Report at www.kean.edu/annual-campus-security-and-fire-safetyreport.
13. A Campus-Wide Notice of No Trespass will accompany a sanction of suspension or expulsion from the University.
14. A Residence Life Notice of No Trespass will accompany any

restriction imposed or related to residential living or visitation of the residence halls.

15. Campus-Wide No Contact Order: The Vice President of Student Affairs may impose a Campus Wide No-Contact Order between parties when the fear of retaliation and/or harassment may be present. Specific instructions will accompany the Campus Wide No-Contact Order outlining to all parties the expected behavior including face to face contact, correspondence, e-mail, instant message or telephone. Friends and relatives are also not permitted to have any contact on behalf of either party. B. Underage students found in violation of the University's Alcohol Policy and/or sanctioned for the possession or distribution of illegal drugs will be subject to the University parental notification policy. (See FERPA Policies and Procedures in the Annual Campus Security and Fire Safety Report). In addition, Kean University reserves the right, in accordance with FERPA, to make public notification of the final results of certain student conduct actions (See FERPA Policy in the Annual Campus Security and Fire Safety Report). Such notification may include the name of the student offender and the type of violation, but will not disclose the names of any other students who were involved as reporting parties or witnesses without their consent.

APPEAL PROCEDURES

- A. Where a student is found responsible for a violation of the Code that may lead to a sanction less serious than suspension or expulsion, the student can appeal in writing to the Review Committee for Appeals within five (5) business days from the date of the hearing officer's determination.

A person will have the right to request a review based on any of the following grounds:

- 1) A sanction that falls outside the sanction range commonly assigned for the offense
 - 2) A material deviation from written procedures that jeopardized the fairness of the process
 - 3) A demonstrable bias by the hearing officer
 - 4) New information, unavailable at the time of the hearing, that could be outcome determinative
- B. In the case of suspension or expulsion, the student can appeal in writing to the Vice President for Student Affairs within five (5) business days of the receipt of the hearing officer's determination.
- C. In the case of suspension or expulsion, the student will not be permitted to be on campus or attend classes pending the outcome of the appeal unless implementation of the sanction is delayed by the Vice President for Student Affairs due to extraordinary circumstances.
- D. The Office of Community Standards and Student Conduct will share the appeal with the other party (e.g., if the

respondent appeals, the appeal is shared with the reporting party who may also wish to file a response), and then the Office of Community Standards and Student Conduct will draft a response memorandum (also shared with all parties). All appeals and responses are then forwarded to the Vice-President for Student Affairs for initial review to determine if the appeal meets the limited grounds and is timely. The original finding and sanction will stand if the appeal is not timely or substantively eligible, and the decision is final. If the appeal has standing, the documentation is forwarded for consideration. The party requesting appeal must show error as the original finding and sanction are presumed to have been decided reasonably and appropriately.

The ONLY grounds for appeal are as follows:

1. If the appeals officer determines that new evidence should be considered, it will return the complaint to the original Hearing Officer to reconsider in light of the new evidence, only. The reconsideration of the Hearing Officer is not appealable.
2. If the appeals officer determines that a material procedural [or substantive] error occurred, it may return the complaint to the original Hearing Officer with instructions to reconvene to cure the error. In rare cases, where the procedural [or substantive] error cannot be cured by the original Hearing Officer (as in cases of bias), the appeals officer may order a new hearing on the complaint with a new hearing officer. The results



of a reconvened hearing cannot be appealed. The results of a new hearing can be appealed, once, on the four applicable grounds for appeals.

3. If the appeals officer determines that the sanctions imposed are disproportionate to the severity of the violation, the appeals officer will return the complaint to the Office of Community Standards and Student Conduct, which may then increase, decrease, or otherwise modify the sanctions; this decision is final.

The procedures governing the hearing of appeals include the following:

1. All parties should be informed of the status of the requests for the appeal, the status of the appeal consideration, and the results of the appeal decision;
2. Every opportunity to return the appeal to the original hearing officer for reconsideration (remand) should be pursued;
3. Appeals are not intended to be full rehearing of the complaint (*de novo*). In most cases, appeals are confined to a review of the written

documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal;

4. This is not an opportunity for appeals officers to substitute their judgment for that of the original hearing officer merely because they disagree with its finding and/or sanctions. Appeal decisions are to be deferential to the original Hearing Officer—making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so;
5. Sanctions imposed are implemented immediately unless the Director of Community Standards and Student Conduct stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
6. The Appeals Officer will render a written decision on the appeal to all parties within seven (7) business days* from hearing of the appeal. The Appeals Officer's decision to deny appeal requests is final.

SEXUAL MISCONDUCT STUDENT SANCTION STATEMENT

Any student found responsible for violating the Code as it relates to sexual misconduct (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations.

Any student found responsible for violating the Code where intercourse has occurred will likely face a recommended sanction of suspension or expulsion. Any student found responsible for violating the policy on sexual exploitation or sexual harassment will likely receive recommended sanction ranging from warning to expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations.

The hearing officer reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. Neither the initial hearing officers nor conduct officers will deviate from the range of recommended sanctions unless compelling justification exists to do so.





GENDER BASED DISCRIMINATION, HARASSMENT, AND SEXUAL MISCONDUCT PROCESS FOR EMPLOYEES

The University does not permit discrimination or harassment in our programs and activities on the basis of race, color, national origin, sex, gender identity, sexual orientation, disability, age, religion, or any other characteristic protected by institutional policy or state, local, or federal law.

Kean employees who wish to report a concern or complaint relating to discrimination or harassment may do so by reporting the concern to the University Title IX Coordinator: Dr. Charlie Williams, Director Affirmative Action Programs Townsend Hall, Room 133 (908) 737-3330 Individuals with complaints of this nature have the right to file a formal complaint with the United States Department Education, Office for Civil Rights. The on-line complaint process for the Office of Civil Rights is available at www.ed.gov/ocr.

KEAN UNIVERSITY VAWA PREVENTION AND AWARENESS PROGRAMMING

Kean University does not tolerate gender based harassment or sexual misconduct in any form- on its campus. As part of its commitment to eradicating gender based harassment and sexual misconduct on campus, Kean University provides annual education, training and programming to all students, faculty and staff, with a specific emphasis on Kean specific resources and prevention and response strategies. Training and programmatic efforts target specifically identified concerns within the Kean community and the nation at large.

- **Bystander Intervention:** The University offers bystander intervention programming to students in an effort to ensure that each member of the campus community is invested in creating a safe campus environment. Program participants are instructed on safe options for preventing harm and intervening when a risk of sexual misconduct exists. More information on Kean University's Bystander Education programming can be found at <http://stepupprogram.org/>.
- **Education and Training:** Annually, faculty, staff and incoming students are provided with education and training on awareness and risk reduction of sexual misconduct, interpersonal violence, stalking and consent in compliance with the Violence Against Women Act. This education and training is often provided by leading national experts.
- **Ongoing Campaigns:** Ongoing awareness and prevention campaigns are provided throughout the school year to students, faculty and staff. These campaigns include national events such as It's On Us as well as local events such as the Union YMCA's Empty Place at the Table.



KEAN OCEAN

Although any Kean University student may utilize the resources at any campus location, local resources are also available to students who take classes at the Kean Ocean campus in Toms River, NJ.

IF YOU HAVE EXPERIENCED SEXUAL MISCONDUCT

1. Call 9-1-1 if you are threatened or are in danger.
 2. Go to a safe location as soon as you are able to.
 3. Seek immediate medical attention if you are injured or believe you may have been exposed to the risk of an STI/STD or pregnancy.
 4. Contact any of the following for assistance:
 - a. **Title IX Coordinator**
Kean University
908-737-3330
affiract@kean.edu
Monday–Friday, 9 a.m.–5 p.m.
 - b. **Ocean County College Campus Security**
732-255-0451
24-hours/7-days a week
 - c. **Community Medical Center***
99 NJ-37, Toms River, NJ 08755
732-557-8000
24-hours/7-days a week
 - d. **Counseling Services***
Kean Ocean / Ocean County College
732-255-0400 x2945
Monday–Thursday, 9 a.m.–7 p.m.
Friday 9 a.m.–4 p.m.
 - e. **Vice President for Student Affairs**
Kean University
studentaffairs@kean.edu
908-737-7080
Monday–Friday, 9 a.m.–5 p.m.
 - f. **Office of Community Standards and Student Conduct**
Kean University
conduct@kean.edu
908-737-5240
Monday–Friday, 9 a.m.–5 p.m.
 - g. **Human Resources**
Kean University
908-737-3300
Monday–Friday, 9 a.m.–5 p.m.
 - h. **St. Francis Counseling Service, Sexual Abuse and Assault Program***
732-370-4010
 - i. **Ocean County Crisis Intervention Helpline***
732-240-6100
 - j. **Providence House-Domestic Violence Services***
732-244-8259
- *Denotes that this resource is confidential*

Hours of operation reflect regular business hours. Note that campus officials may contact on-call staff from other departments when their offices are closed or they are otherwise unavailable to assist immediately.



WENZHOU-KEAN UNIVERSITY

Although any Kean University student may utilize the resources available at any campus location, local resources are also available to students who take classes at the Wenzhou-Kean University campus in China.

IF YOU HAVE EXPERIENCED SEXUAL MISCONDUCT

1. Call 1-1-0 if you feel threatened or are in danger.
2. Go to a safe location as soon as you are able to.
3. Seek immediate medical attention if you are injured or believe you may have been exposed to the risk of an STI/STD or pregnancy.
4. Contact any of the following for assistance:

a. **Executive Vice Chancellor**

Wenzhou-Kean University
(86) 577-5587-0801
Monday–Friday, 9 a.m.–5 p.m.

b. **Wenzhou-Kean University Security**

0577-5580110 or 0577-55870033

c. **Wenzhou-Kean University Health Services**

0577-55870120

d. **Suntree Counseling***

0557-0558701026

e. **Wenzhou-Kean University Residential Life**

0577-55870132

f. **Wenzhou-Kean University Office of Community Standards and Student Conduct**

0577-55870133

Monday–Friday, 9 a.m.–5 p.m.

**Denotes that this resource is confidential*

Hours of operation reflect regular business hours. Note that campus officials may contact on-call staff from other departments when their offices are closed or they are otherwise unavailable to assist immediately.

KEAN UNIVERSITY WELLNESS RESOURCES

Department of Public Safety and Police

Downs Hall
908-737-4800
kupolice@kean.edu
24 hours per day, 7 days per week

Heath Services

Downs Hall, room 126
908-737-4880
hsnurses@kean.edu
Monday–Friday, 9 a.m.–5 p.m.

Counseling Center

Downs Hall, room 127
908-737-4850
counseling@kean.edu
Monday–Friday, 9 a.m.–5 p.m.

Office of Student Conduct and Community Standards

Miron Student Center, room 317
908-737-5240
conduct@kean.edu
Monday–Friday, 9 a.m.–5 p.m.

STUDENT SUPPORT SERVICES ADVOCATE

WHAT IS A STUDENT SUPPORT SERVICES ADVOCATE?

CAN A STUDENT SUPPORT SERVICES ADVOCATE HELP ME?

The Office of the Vice President for Student Affairs has staff who provide free, confidential advocacy services to students who may have experienced or allegedly been involved in an incident of sexual misconduct, sexual harassment, domestic violence, or other gender- based or sex- based harassment or violence. Kean University's Student Support Services Advocate is exempt from the duty to report personally identifiable information relating to incidents of sexual misconduct to University administrators or to law enforcement, and will only facilitate the reporting of such information with the student's consent. The Student Support Services Advocate will provide policy guidance and facilitate services and resources, including counseling and academic and housing accommodations. The Advocate will explain administrative policies and procedures as well as the role of law enforcement. Students who wish to speak to an advocate should contact Health Services at 908-737-4880 or email hsnurses@kean.edu.

If you are unsure of what to do or who to talk to, please contact the Student Support Services Advocate for assistance. A Student Support Services Advocate will offer guidance, assistance and support to both a student who may have experienced sexual misconduct or a student who is allegedly involved in perpetrating an incident of sexual misconduct or gender-based discrimination.



LOCAL 24 HOUR HOTLINES

Union County

Trinitas Hospital 24 hour hotline: 908-351-6684

Union Country Rape Crisis Center Hotline: 908-233-7273

Union County Domestic Violence Hotline: 908-355-4357

Ocean County

**St. Francis Counseling Service,
Sexual Abuse and Assault Program**

24 hour hotline: 732-370-4010

Ocean County Crisis Intervention Helpline: 732-240-6100

STATE/NATIONAL 24 HOUR HOTLINES

NJ Statewide Domestic Violence Hotline: 1-800-572-7233

**New Jersey Coalition Against Sexual Assault (NJCASA)
Hotline:** 1- 800-601-7200

NJ Hopeline: 1-855-654-6735

National Suicide Prevention Hotline: 1-800-273-8255

Veterans Crisis 24 hour Hotline: 1-800-273-8255 (Press 1)

KEY CONTACTS

TITLE IX COORDINATOR

Townsend Hall, room 133
908-737-3330

DEPARTMENT OF PUBLIC SAFETY AND POLICE

Downs Hall
908-737-4800

COMMUNITY STANDARDS AND STUDENT CONDUCT

Miron Student Center, room 317
908-737-5240



Updated 1/2/18

This policy was revised on 1/2/18 and supercedes previously enacted policies.

Kean University is committed to establishing and maintaining a diverse campus community. Equal opportunity and diversity represent principles which are integrally woven into the University's mission. Kean University is committed to providing equal opportunity in employment and education, as well as equity of conditions for employment and education, to all employees, students and applicants without regard to race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability. Sexual harassment is a form of unlawful gender discrimination and will not be tolerated.

Kean University follows the New Jersey State Policy Prohibiting Discrimination in the Workplace.



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