

ARTICLE IV

POLICY GOVERNING ACCESS TO AND USE OF KCTCS COMPUTING RESOURCES

4.1 Five Dimensions:

Access to computing resources is granted to an individual by the Kentucky Community and Technical College System (KCTCS) solely for the grantee's own use. Derived from the values held by KCTCS, there are five dimensions of responsible use:

1. Privacy
2. Lawfulness
3. Integrity of Information and Information Technology
4. Equitable Distribution of Information Technology
5. Courtesy

It is unethical and a violation of the KCTCS Information and Information Technology Responsible Use policy for any person to violate these rights. All users, in turn, are expected to exercise common sense and decency (due regard for the rights of others) with respect to the public computing resources, thereby reflecting the spirit of community and intellectual inquiry at KCTCS. Access is a right that may be limited or revoked if an individual misuses the right or violates applicable KCTCS policies or state or federal laws.

4.2 Principles Governing Use of Computing Resources:

- a. User access is granted to an individual and may not be transferred to or shared with another without explicit written authorization by the Vice President responsible for Technology Solutions, a designee, or the appropriate system administrator.
- b. KCTCS expects individuals to obey laws related to information and information technology.
- c. KCTCS expects individuals to ensure the integrity of the information and information technology.
- d. KCTCS expects individuals to adhere to appropriate and efficient use of the information technology necessary to complete their assignments.
- e. KCTCS expects individuals to use information technology in a manner consistent with maintaining optimal professional and respectful work and study environments.

4.3 Examples of Violations:

Violations of these principles or any attempt to violate these principles constitute misuse. Violations include, but are not limited to:

- a. Viewing or distributing confidential or restricted information without authorization.
- b. Sharing passwords or acquiring the password of another.
- c. Failing to protect one's own account from unauthorized use, e.g., leaving a publicly-accessible computer logged on but unattended.
- d. Transferring confidential or restricted data without authorization to non-KCTCS devices, including home computers, removable memory devices, and personal digital devices.
- e. Intentionally accessing, using, viewing, distributing, modifying, obscuring, or deleting of data, including information technology administrative data without proper authorization.
- f. Creating or encouraging communications which may overload the communication network, including "email bombs," "spam," and "chain letters."
- g. Altering a communication of another individual without proper authorization.
- h. Installing on KCTCS information technology software which damages information or restricts the utility of the information technology, e.g., "computer virus."
- i. Altering existing information technology without proper authorization.

4.4 Responses to Violations:

Violation of this policy will result in action by the appropriate KCTCS office or agency. Violations of KRS 434.840 (Kentucky statutes dealing with unlawful access or use of a computer) may be referred to the Commonwealth Attorney or the police for investigation and/or prosecution. Similarly, violations of 18 U.S.C. Sec. 1030 (Federal laws dealing with unlawful access or use of a computer) may be referred to the Federal Bureau of Investigation.

4.5 KCTCS Sanctions:

KCTCS sanctions are imposed by the appropriate KCTCS authority and may include, but are not limited to, limitation or revocation of access rights and/or reimbursement to KCTCS for the computing and personnel charges incurred in detecting and proving the violation of these rules, as well as from the violation itself. Reimbursement may include compensation for staff work time related to the violation and for archiving information related to the incident. The usual rights and privileges of appeal apply. (See Section 4.7)

4.6 Investigating and Review of Charges:

When the Vice President responsible for Technology Solutions, a designee, or the appropriate college administrator has reason to believe that a violation may have occurred, the Vice President may initiate an investigation and/or suspend computing privileges for the individual(s) involved, pending further investigation. If significant KCTCS sanctions are imposed, such action, together with an explanation of the causal events, shall be reported by the Vice President to the Chancellor and the chief executive officer or designee.

In cases where a user's computing privileges are limited or revoked, a user should request a review of the action according to procedures established by KCTCS Technology Solutions before appealing through other KCTCS channels. (See Section 4.7)

4.7 Appeal Procedures:

If the case cannot be satisfactorily resolved through KCTCS Technology Solutions procedures, the following appeal process should be used.

4.7.1 The Role of the Chief Executive Officer in Student Disciplinary Matters:

- 4.7.1.1** When the chief executive officer or designee, after investigation into an alleged violation of the disciplinary rules, believes a student has committed a disciplinary offense defined in Section 4.3, the chief executive officer or designee shall notify and charge the student with said offense. Thereafter, the chief executive officer or designee shall notify the student of "The Rights of the Accused" (see Section 3.5.1.5), after which the chief executive officer or designee may solicit a plea of guilty or not guilty, which shall be in writing and notarized.
- 4.7.1.2** When a student enters a plea of guilty, the chief executive officer or designee shall confer with the student and outline proposed disciplinary action as defined in Section 4.5 and/or counseling. Any information obtained from the student during a counseling session is strictly confidential and inadmissible in any judicial proceeding of the college except in cases where the student withdraws from the counseling process or refuses to comply with the conditions of the counseling process.
- 4.7.1.3** The accused shall enjoy the right to choose an advisor to assist during all preliminary conferences and judicial hearings and shall be informed of this right. However, the student is not entitled to an advisor during any counseling session except at the request of the chief executive officer or designee.
- 4.7.1.4** If the chief executive officer or designee and the student are unable to resolve the matter to their mutual satisfaction in the counseling process, the chief executive officer or designee shall forward the reports and evidence concerning the case to the College Judicial Board for evaluation and possible prosecution. The chief executive officer or designee is thereafter concerned with keeping the records of the College Judicial Board and Appeals Board and in aiding the student to comply with any sanction decreed by either Board.
- 4.7.1.5** To guarantee that a student receives due process, the following elements will be made available to the parties involved:
 - 1. Published rules, regulations, and procedures (including, but not limited to, the *KCTCS Catalog* and *KCTCS Code of Student Conduct*).
 - 2. Written notice of the charge(s) violating rules and regulations.
 - 3. A hearing or oral proceeding before an administrative officer or committee.
 - 4. Information about witnesses who may give evidence to support the charge(s) and the hearing.
 - 5. Right to have counsel at the hearing to advise the student, but counsel may not participate in the hearing.
 - 6. A written record of the hearing.
 - 7. A prompt written decision within ten (10) business days following deliberations.

8. Information about appeals procedures.

- 4.7.1.6** Within the rights of the student at a college, the chief executive officer or designee may contact the parents, or other persons as the chief executive officer or designee deems appropriate in matters of discipline only if the student is less than eighteen years of age or consents.
- 4.7.1.7** All student complaints involving rights stated herein shall be reported to the chief executive officer or designee within 30 days of their occurrence. Complaints reported after this period or which otherwise come to the attention of the chief executive officer or designee may be acted upon according to the chief executive officer's determination of the circumstances.
- 4.7.1.8** The chief executive officer or designee shall investigate each student complaint to determine whether it contains merit.
- a. If the chief executive officer or designee decides that it does contain merit, the chief executive officer or designee shall use moral persuasion, negotiation, personal appeal, and the prestige of the chief executive officer's or designee's office to settle the case to the chief executive officer's or designee's satisfaction and that of the student.
 - b. When the chief executive officer or designee is unable to satisfy the complaint to the satisfaction of the student or when the chief executive officer or designee has notified the student that the complaint does not contain merit, the student has the right to appeal within 30 days to the College Appeals Board.
- 4.7.1.9** The chief executive officer or designee shall have broad investigatory powers in nonacademic cases and shall receive prompt and full cooperation from students, student organizations, faculty and administrators. The chief executive officer or designee may recommend policies or practices that should be terminated, modified or initiated to the Student Government, the Senate Council, division heads, or other appropriate persons.

4.7.2 The College Judicial Board: Each college shall have a Judicial Board, hereinafter referred to as the J-Board, with original jurisdiction over cases involving alleged violations by students and the stated college disciplinary offenses defined in Section 4.3 to 4.6.

4.7.2.1 Authority

The J-Board shall have the sole authority to determine the issue of guilt in those cases referred to it pursuant to Section 4.6. It shall have the sole authority to impose sanction(s) short of actual suspension or dismissal upon any student found guilty of a violation of college disciplinary rules defined in Section 4.3. If the J-Board believes that actual suspension or dismissal is the appropriate remedy, it shall recommend such action to the chief executive officer or designee.

4.7.2.2 Composition

The J-Board shall consist of ten students, five male and five female. The college shall make every effort to ensure proportionate ethnic diversity. There shall be two co-chairpersons, one male and one female. In order for any proceeding to be taken against a student for a violation of college rules, at least five members of the J-Board must be present to hear the case, with at least two members of each sex represented. Prior to the hearing, the student may request that the Board be comprised of the student's sex only. Any decision of the J-Board must be by a majority of the members of the Board hearing the case.

4.7.2.3 Eligibility Requirements

Any student, who is enrolled in at least six (6) hours of coursework and has earned at least twelve (12) credit hours in residence in the college and who is a student in good standing is eligible for appointment to the J-Board. Consideration will be given to academic standing of the students.

4.7.2.4 The Appointment Process

- a. The chief student affairs officer or the Student Affairs Committee shall nominate all applicants for membership and forward those who have been nominated to the President of the Student Government or equivalent organization, who, with the advice and approval of the chief executive officer of the college, shall make the final appointment of the J-Board members.
- b. Any member of the J-Board is obliged to withdraw from participation in a hearing when the member feels unable to hear the case fairly and objectively and to decide its outcome impartially on the basis of the evidence presented.
- c. Representatives of the college administration and the accused shall have the right to challenge, for cause, any member of the J-Board. Any challenge(s) shall be submitted in writing to the chief executive officer no later than twenty-four hours prior to the established date of the hearing. Any challenge(s) shall be sustained or

denied by the chief executive officer. Should such challenge(s) be sustained, the alternate shall be appointed by the chief executive officer.

4.7.2.5 *Terms of Office*

Students selected for membership on the J-Board will serve one year terms or, at the discretion of the chief executive officer, a term not exceeding three semesters.

4.7.2.6 *Absence*

Three unexcused absences in any one semester shall constitute automatic dismissal from the J-Board. The J-Board, acting as a unit, may make such additional regulations regarding absences as it may deem appropriate. All requests for excused absences shall be made to the chief executive officer whose decision shall be final.

4.7.2.7 *Temporary Appointments to the Judicial Board*

If a sufficient number of the members of the College Judicial Board are not present at any time when that Board has duties to perform, the President of the Student Government Association or equivalent organization, with the advice and consent of the chief executive officer of the college, shall make such temporary appointments as are necessary to ensure that the required number of members are present. Such temporary appointments need not be preceded by the recommendations otherwise provided herein.

4.7.3 The College Appeals Board: There shall be a College Appeals Board with appellate jurisdiction over all decisions of the College Judicial Board and over decisions of any faculty members on matters of college academic offenses.

4.7.3.1 *Jurisdiction on Cases of Disciplinary Offenses*

- a. Within 30 days after receipt of the decision of the College J-Board, any accused student may appeal in writing to the chief executive officer for review by the College Appeals Board of the J-Board's finding of guilt or for review of the nature or severity of the sanction imposed or recommended by the J-Board. The chief executive officer shall forward the appeal to the Chairperson of the College Appeals Board for the appropriate action.
- b. If the chief executive officer believes that the sanction imposed by the J-Board was inappropriate for the offense committed, the chief executive officer may request a review thereof by the College Appeals Board. Such a request shall be directed to the Chairperson of the College Appeals Board within 30 days of the decision by the J-Board.

4.7.3.2 *Disposition of Cases of Disciplinary Offenses*

- a. If the student appeals on the issue of fact regarding commission of the offense, the College Appeals Board shall review the evidence, and its decision shall be final.
- b. If the student requests a review of the sanction, the College Appeals Board shall recommend what it believes to be the appropriate sanction to the chief executive officer who shall set the sanction.
- c. Any decision and/or recommendation by the College Appeals Board must be by a majority of those members sitting on the case.

4.7.3.3 *Composition of the College Appeals Board:*

(The composition of this Board can only be changed by the Kentucky Community and Technical College System Board of Regents.)

The College Appeals Board shall consist of six members: two full-time students and four full-time faculty members. In addition, two student alternates and two faculty alternates shall be selected on the same basis and with the same requirements as the regular members. All members of the Appeals Board and/or their alternates shall be expected to meet within 48 hours after notice from the Chair.

Appeals Board members shall meet the following criteria:

- a. Each student member must have earned at least 24 semester credit hours at the college, must have had one full year residence in the college, and must be in good academic standing. Each student member will be appointed by the chief executive officer or designee upon recommendation of the chief student affairs officer. Appointments shall be for one-year terms. A student may not serve concurrently on both the Appeals Board and the Judicial Board.

- b. The faculty members shall be elected to staggered three-year terms by the faculty. The Chair of the Appeals Board shall be elected by the Appeals Board members.

A quorum for the conduct of business will be five members, no fewer than three of whom are faculty members.

4.7.3.4 Authority of the KCTCS Board of Regents in Cases Involving Suspension or Expulsion of a Student:

Suspension or expulsion decisions may be appealed to the KCTCS Board of Regents pursuant to KRS 164.370 (see section 2.6.2.1.).

4.8 Temporary Sanctions:

In the event that the chief executive officer (upon consultation with the chief student affairs officer) has reasonable cause to believe that a student's presence may result in injury to the student, others, or college property, or in the event that the student has been charged with a crime so serious as to threaten the welfare of the college community, the chief executive officer may impose such temporary sanctions necessary to protect members of the college community or its property including expulsion from college property. Upon taking such action, the chief executive officer shall notify the College Appeals Board and the affected student of his or her rights to be heard. The student may appeal the chief executive officer's decision to the College Appeals Board in writing within 30 days. If requested in the written appeal, the Chairperson shall call a meeting of the Board to hear the case within 48 hours or as soon as practicable thereafter. The Board shall consider the student's academic needs to attend class, use the library, and fulfill other academic responsibilities in making its recommendation. This Board may recommend to the Chancellor changes or extensions of the chief executive officer's action. The Chancellor then shall determine the sanctions to be imposed. Such temporary sanctions shall be enforced only for such time as the conditions requiring them exist. Accordingly, the college official who made the final determination of the sanction to be imposed shall have jurisdiction for the purpose of reconsidering this sanction in the light of new circumstances. Alternatively, the circumstances shall be reviewed by the Board whenever there are indications that they have changed and upon an appeal in writing from the student involved.