



Eastern Kentucky University

Policy and Regulation Library

Administrative Regulation: 10.1.1ADR

Responsible Office(s): Athletics Department

Effective: August 4, 2022

Next Review Date: August 4, 2027

Administrative Regulation: 10.1.1ADR Student-Athlete Misconduct Reporting and Determination of Suspension Policy and Protocol

Statement

All Eastern Kentucky University (“EKU” or the “University”) Athletics Department Personnel and student-athletes have a duty to report any known or alleged act of Misconduct or Serious Misconduct by a student-athlete. This Regulation will be administered in accordance with all applicable laws and regulations.

The purpose of this Regulation is to establish the duty for all Athletics Department Personnel to report, in writing, any known or alleged act of Misconduct or Serious Misconduct by a student-athlete. Student athletes have a duty to report certain identified Misconduct or Serious Misconduct. Additionally, this Regulation sets out the protocol for the determination of suspension from athletic privileges, if any, of a student-athlete for whom a report of Misconduct or Serious Misconduct has been made.

Individuals/Entities Affected

All student-athletes and Athletics Department Personnel

Related Documents and Forms

University Policies and Documents

Student Code of Conduct

Discrimination and Harassment Policy (1.4.1)

Procedures

I. Duty to Report Instances or Suspected Instances of Misconduct

A. Athletics Department Personnel

All EKU Athletics Department Personnel must report in writing any known, alleged, reported, or suspected student-athlete Serious Misconduct and/or Misconduct to the Vice President and Director of Athletics (“Director of Athletics”), or the Director of Athletics’ designee.

In addition to reporting Serious Misconduct and/or Misconduct to the Director of Athletics or designee, Athletics Department Personnel shall report:

- Violations or possible violations of EKU’s Discrimination and Harassment Policy to the Office of Institutional Equity and
- Clergy crimes (as defined in the EKU Annual Fire Safety and Security Notice of Availability) to the EKU Police Department.

All reports must be made as soon as reasonably practicable.

Failure to comply with these reporting requirements may result in disciplinary action, up to and including possible termination of employment. This requirement and other requirements in this Regulation are in addition to any contractual or legal obligations the employee has with EKU.

B. Student-Athletes

A student-athlete who is arrested, charged, or cited with any criminal offense (other than a minor traffic violation) in any jurisdiction must notify their head coach of the arrest, charge, or citation immediately, but not later than 24 hours after the event or release from jail, whichever is later. Failure to comply with this reporting requirement may result in disciplinary action, up to and including possible limitation or suspension of athletics privileges.

Each year, all current student-athletes shall fill out and submit to the Associate Athletics Director for Compliance, the Current Student-Athlete Sexual Violence and Serious Misconduct Attestation Form. A copy of this form is at Appendix B. This form will be provided to all student-athletes to be filled out prior to the offer/acceptance of any athletics scholarship/financial aid or the first practice, whichever occurs first.

All prospective and transfer student-athletes shall fill out and submit to the Associate Athletics Director for Compliance, the Prospective/Transfer Student-Athlete Sexual Violence and Serious Misconduct Attestation Form. A copy of this form is at Appendix A. Prospective and transfer student-athletes should receive this form as part of the recruitment process, prior to any planned On-Campus Visit and/or being added to any sports team, whichever comes first. All prospective student-athletes must fill out and submit the form to the Associate Athletics Director for Compliance prior to any final arrangements for an Official On-Campus Visit are made and/or prior to joining any sports team, whichever comes first. In the event a prospective student-athlete answers in the affirmative

to any question on the form, no further recruiting or planning shall occur until a formal review by the Athletics Privileges Committee.

All student-athletes are to answer each question on the appropriate form truthfully and accurately. Further, all transfer student-athletes, in filling out the form, must provide details about any proceeding that led to disciplinary action at any previous educational institution for sexual violence, domestic violence, dating violence, stalking, sexual exploitation, assault, or other behavior that the institution deemed as Serious Misconduct and/or Misconduct. If the proceeding was ongoing at the time of transfer or departure from the institution, that information must also be provided. Failure to answer fully and accurately could result in sanctions, up to and including possible limitation or suspension of athletics privileges.

II. Limitation or Suspension of Athletics Privileges Pending Investigation

A. Limitation or Suspension of Athletics Privileges by the Director of Athletics

When the Office of Institutional Equity (“OIE”) decides to investigate a report of Serious Misconduct by a student-athlete or when the Office of Student Conduct and Community Standards (“OSCCS”) decides to initiate charges for alleged Serious Misconduct by a student-athlete, the initiating office must promptly provide the Director of Athletics, or designee, preliminary information about the incident. The initiating office may redact facts, including identities of witnesses, from this preliminary information to the extent necessary to protect the rights and privacy of the persons involved and/or the integrity of the investigation or conduct process. The Director of Athletics, in consultation with relevant campus officials, may limit or suspend athletics privileges based on the preliminary information, pending a determination of responsibility by the responsible office or a criminal investigation.

Nothing in this Regulation prohibits the Director of Athletics from limiting or suspending athletics privileges based upon a violation of athletic department policies or team rules.

B. Limitation or Suspension of Athletics Privileges by Head Coach

Nothing in this Regulation prohibits a head coach from limiting or suspending athletics privileges based upon a violation of athletic department policies or team rules.

C. Notification of Limitation or Suspension of Athletics Privileges

When the Director of Athletics, in consultation with relevant campus officials, has limited or suspended a student-athlete's athletic privileges pursuant to this Regulation, the Director of Athletics must promptly notify the relevant head coach, sport program administrator, and the athletic compliance office, in writing, and, as soon as practicable thereafter, the Director of Athletics must ensure that the student-athlete is notified in writing.

D. Athletics Department Liaisons during Investigation or Conduct Process

1. *Designation of Athletics Staff Liaison.* The Director of Athletics must designate an Athletics Department primary staff liaison for the Offices of Institutional Equity and of Student Conduct and Community Standards. The Director of Athletics may not designate more than one person to serve as the liaison for any particular office, but a single person may serve as the liaison for both offices. An alternate may be designated to serve in the role of a liaison if the primary liaison is unavailable.

2. *Limitation on Communication between Athletics Department and Initiating Office.* The Director of Athletics and the liaison (or alternate) serve as the only points-of-contact between the Athletics Department and the Offices of Institutional Equity or Student Conduct and Community Standards. Once a report of alleged Serious Misconduct has been made, no Athletics Department Personnel, other than the Director of Athletics and the designated liaison (or alternate), may make contact with or discuss the report or investigation with the Offices of Institutional Equity or Student Conduct and Community Standards unless otherwise personally approved in writing by the Director of Athletics (excluding investigative requests).

3. *Prohibition on Investigation by Athletics Department Personnel.* Athletics Department Personnel, including the Director of Athletics and the liaisons (or alternates), may not interfere with the investigative or conduct processes. Generally, Athletics Department Personnel may not conduct their own investigation into an incident that constitutes or may constitute Serious Misconduct or a violation of ECU's Discrimination and Harassment Policy. However, the Offices of Institutional Equity or Student Conduct and Community Standards may enlist the assistance of the Director of Athletics and/or the designated liaison (or alternate) to contact student-athletes and gather information.

With the exception of allegations that would constitute Serious Misconduct or a violation of ECU's Discrimination and Harassment Policy, the Director of Athletics may conduct an inquiry into alleged student-athlete conduct to the extent necessary to determine whether or not to suspend or limit athletics privileges immediately. This should be done only after consultation has been attempted with the designated initiating office in writing; the Director of Athletics

has supplied or attempted to supply the initiating office with all pertinent, available information before commencing the inquiry; and, the initiating office is unable to make a preliminary assessment of the conduct before the student-athlete next exercises athletic privileges.

III. Mandatory Indefinite Suspension of Athletics Privileges

A student-athlete is immediately, completely, and indefinitely suspended from athletics privileges, including but not limited to practice, competition, and workouts, when the student-athlete has:

1. been found responsible for Serious Misconduct (as defined herein); or
2. been arrested, cited, or charged with or indicted for a felony, or a crime under foreign law involving conduct that would constitute a felony under Kentucky or federal law.

Upon imposing an indefinite suspension, the Director of Athletics must promptly notify the relevant head coach, sport program administrator, and the athletic compliance office of the suspension and, as soon as practicable thereafter, the Director of Athletics must ensure that the student-athlete is notified in writing.

Notwithstanding the above, a student-athlete is no longer mandatorily indefinitely suspended if the charge or indictment for a felony or a crime under foreign law involving conduct that would constitute a felony under Kentucky or federal law is dismissed or withdrawn or reduced to a misdemeanor.

IV. Lifting Suspensions and Revising Limitations on Athletics Privileges

A. Effect of Appeal and Exculpatory or Mitigating Information

1. No appeal will be afforded when a mandatory indefinite suspension has been imposed on a student-athlete; however, a student-athlete may appeal other limitations or suspensions of athletics privileges imposed under this Regulation by the Director of Athletics, in consultation with relevant campus officials. To do so, a student-athlete shall submit a written request for appeal to the Director of Athletics within five (5) business days of the limitation or suspension of athletics privileges being issued. An appeal may be made only on justifiable grounds including:

- A. Irregularity in proceedings; or
- B. Sanctions inconsistent with the nature of the violation; or
- C. Additional pertinent information not available at the time the limitation or suspension of athletics privileges was imposed.

The University Athletics Committee, or a subcommittee thereof, adjudicates all appeals under this Regulation. The student-athlete will be notified in writing, within five (5) business days, informing them of the decision regarding the appeal.

2. A student-athlete may appeal a decision or sanction(s) of the OIE or the OSCCS in accordance with the Discrimination and Harassment Policy or Code of Student Conduct, respectively. Any limitation or suspension of athletics privileges remains in effect during the pendency of any such appeal. Any change to the decision or sanction(s) on appeal will be reported to the Director of Athletics for consideration in consultation with relevant campus officials.

B. Lifting a Suspension; Revising a Limitation on Athletics Privileges

Suspensions other than those which are mandatory, indefinite suspensions may be lifted and limitations on athletic privileges may be revised only as follows:

1. *By the Director of Athletics.* The Director of Athletics, in consultation with relevant campus officials, may lift a suspension or revise a limitation on athletics privileges imposed by the Director of Athletics or head coach so long as the Director of Athletics has complied with the duty under this Regulation, if any, to report Serious Misconduct and/or Misconduct as well as violations or possible violations of ECU's Discrimination and Harassment Policy and Clery crimes. Any revision under this section shall not impact prior limitations imposed by the relevant designated investigating office.

2. *By the Head Coach.* With the consent of the sport program administrator or Director of Athletics, the head coach may lift a suspension or revise a limitation on athletics privileges imposed by the head coach for a violation of athletic department policies or expectations or team rules so long as the head coach has complied with the duty, if any, under this Regulation to report Serious Misconduct and/or Misconduct as well as violations or possible violations of ECU's Discrimination and Harassment Policy and Clery crimes and so long as athletics privileges have not been otherwise suspended or limited under this Regulation.

3. *Notification of the Change by the Director of Athletics.* In the event a suspension is lifted or a limitation on athletics privileges is revised, the Director of Athletics must promptly notify in writing the relevant head coach, sport program administrator, and the athletic compliance office and, as soon as practicable thereafter, notify in writing the impacted student-athlete.

Definitions

These definitions apply to terms as they are used in this Policy.

- **Athletics Department Personnel:** All individuals who work in or are assigned to the Athletics Department, including, but not limited to, staff, coaches, administrators, graduate assistants, student employees, student assistants, interns, outside consultants, and volunteer coaches.
- **Current Student-Athlete Sexual Violence and Serious Misconduct Attestation Form:** Form provided to all current student-athletes each year containing specific questions aimed at providing the athletics department and the University with information regarding possible issues Misconduct and/or Serious Misconduct in the student-athlete's background. A copy of this form is at Appendix B.
- **Misconduct:** Includes conduct that:
 1. constitutes a threat of or an attempt to commit Serious Misconduct; or
 2. violates federal law, the law of Kentucky, or the law of the state or nation where the conduct occurred; or
 3. violates a policy governing student conduct of the educational institution at which the student-athlete was enrolled when the conduct occurred.
- **Official On-Campus Visit:** A visit in which the University pays for a prospective student-athlete or their parents to visit the campus
- **Prospective/Transfer Student-Athlete Sexual Violence and Serious Misconduct Attestation Form:** Form provided to all transfer and prospective student-athletes as part of the recruitment process, prior to any planned On-Campus Visit and/or being added to any sports team, whichever comes first. This form contains specific questions aimed at providing the athletics department and the University with information regarding possible issues Misconduct and/or Serious Misconduct in the student-athlete's background. A copy of this form is at Appendix A.
- **Serious Misconduct:** Includes:
 1. any felony conviction; or
 2. a criminal conviction for or an educational institution's finding of responsibility for conduct constituting sexual assault, sexual exploitation, or other similar sexual crime or misconduct, or stalking; or
 3. a criminal conviction for or an educational institution's finding of responsibility for domestic, family, or dating violence involving persons who are or were related by blood, marriage, or adoption or who have or have had a dating, romantic, or intimate relationship; or
 4. a criminal conviction for or an educational institution's finding of responsibility for the unlawful possession or use of a firearm; or
 5. a criminal conviction for or an educational institution's finding of responsibility for assault or another act of violence; or

6. a criminal conviction for or an educational institution's finding of responsibility for participating in sports wagering activities.
- **Student Athletes:** Students who are varsity athletes (as opposed to club or intramural athletes)

Responsibilities

- **Athletics Department Personnel**
 - All Athletics Department Personnel must report Serious Misconduct and/or Misconduct as required by this Regulation.
- **Office of Institutional Equity (“OEI”)**
 - When the Office of Institutional Equity decides to investigate a report of Serious Misconduct alleged to have been committed by a student-athlete, a representative of that staff must promptly provide the Director of Athletics or the Athletics Department primary staff liaison preliminary information about the incident.
- **Office of Student Conduct and Community Standards (“OSCCS”)**
 - When the Office of Student Conduct and Community Standards decides to initiate a charge of Serious Misconduct alleged to have been committed by a student-athlete, a representative of that staff must promptly provide the Director of Athletics or the Athletics Department primary staff liaison preliminary information about the incident.
- **Student Athletes**
 - A student-athlete who is arrested, charged, or cited with any criminal offense in any jurisdiction (other than a minor traffic violation) must report in accordance with this Regulation. Student-athletes also shall complete, as appropriate, the Current Student-Athlete Sexual Violence and Serious Misconduct Attestation Form or Prospective/Transfer Student-Athlete Sexual Violence and Serious Misconduct Attestation Form, both defined and incorporated herein.
- **Vice President and Director of Athletics or Designee**
 - The Director of Athletics must promptly notify, in writing, the relevant head coach, the sport program administrator, and the athletic compliance office when the Director of Athletics has limited or suspended a student-athlete's athletic privileges. As soon as practicable thereafter, the Director of Athletics must ensure that the student-athlete is notified, in writing, of the limitation or suspension. Additionally, the Director of Athletics must communicate this Regulation annually to all athletics staff, coaches, graduate assistants, student employees, student assistants, interns, outside consultants who work directly with students, and volunteer coaches.

Violations of the Policy

Failure to comply by University employees may result in disciplinary action, up to and including possible termination of employment.

Failure to comply by student-athletes may result in sanctions, up to and including possible limitation or suspension of athletics privileges.

Interpreting Authority

University Counsel.

Policy Adoption Review and Approval

Policy Issued

<u>Date</u>	<u>Entity</u>	<u>Action</u>
August 4, 2022	President	Approved

Appendix A



EKU Sports Communications
Alumni Coliseum 115
Richmond, KY 40475
Phone: 859.622.2006
Fax: 859.622.5108
www.EKUSports.com

**PROSPECTIVE/TRANSFER STUDENT-ATHLETE
SEXUAL VIOLENCE AND SERIOUS MISCONDUCT ATTESTATION FORM**

Student-Athlete Name:

Current School:

Sport:

Incoming Freshman **2-yr Transfer** **4-yr Transfer** **Grad Transfer**

1. Please list all high schools and colleges/universities you have attended, including current school above (no online schools).

School 1:

School 2:

School 3:

School 4:

2. At any of the schools you have attended as listed in #1 above, have you ever been disciplined, suspended, or placed on probation for any reason?

Yes **No**

If Yes, explain:

3. Do you currently have a pending Title IX, legal, or any other disciplinary proceedings that has not been resolved?

Yes **No**

If Yes, explain:

4. Have you ever been arrested?

Yes **No**

If Yes, explain:

5. Have you had in the past or do you currently have any criminal charges pending against you?

Yes **No**

If Yes, explain:

6. If you answered "Yes" to question 5 above, have you been accused and/or convicted of any legal issues listed below?

- | | | |
|---|-------------------------------------|------------------------------------|
| a. Acts of violent or sexual nature in the past? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| b. Possession or use of a firearm? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| c. Dating violence? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| d. Stalking? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

e. Assault?

Yes

No

f. Sports Wagering?

Yes

No

g. Other Felony Crime?

Yes

No

My signature below verifies that:

- I have read and understood this form.
- The answers in this form are true and accurate to the best of my knowledge.
- I understand that failure to truthfully and accurately respond to any of the questions above could result in sanctions, up to and including loss of athletic eligibility.
- I will notify my head coach should my answers to any of the above change during the academic year.
- I give ECU permission to look into any of the above-disclosed matters which may include contacting officials/employees at previous institutions.

Student-Athlete Name (printed)

Date

Student-Athlete Signature

Student ID Number

Appendix B



EKU Sports Communications
Alumni Coliseum 115
Richmond, KY 40475
Phone: 859.622.2006
Fax: 859.622.5108
www.EKUSports.com

**CURRENT STUDENT-ATHLETE
SEXUAL VIOLENCE AND SERIOUS MISCONDUCT ATTESTATION FORM**

Student-Athlete Name:

Sport:

- Freshman Sophomore Junior Senior
 Graduate Student
-

1. Please list all high schools and colleges/universities you have attended, including EKU (no online schools).

School 1:

School 2:

School 3:

School 4:

2. At any of the schools you have attended as listed in #1 above, have you ever been disciplined, suspended, or placed on probation for any reason?

- Yes No

If Yes, explain:

3. Do you currently have a pending Title IX, legal, or any other disciplinary proceedings that has not been resolved?

- Yes No

If Yes, explain:

4. Have you ever been arrested?

- Yes No

If Yes, explain:

5. Have you had in the past or do you currently have any criminal charges pending against you?

- Yes No

If Yes, explain:

6. If you answered "Yes" to question 5 above, have you been accused and/or convicted of any legal issues listed below?

- | | | |
|--|------------------------------|-----------------------------|
| a. Acts of violent or sexual nature in the past? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| b. Possession or use of a firearm? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| c. Dating violence? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| d. Stalking? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

e. Assault?

Yes

No

f. Sports Wagering?

Yes

No

g. Other Felony Crime?

Yes

No

My signature below verifies that:

- I have read and understood this form.
- The answers in this form are true and accurate to the best of my knowledge.
- I understand that failure to truthfully and accurately respond to any of the questions above could result in sanctions, up to and including loss of athletic eligibility.
- I will notify my head coach should my answers to any of the above change during the academic year.
- I give ECU permission to look into any of the above-disclosed matters which may include contacting officials/employees at previous institutions.

Student-Athlete Name (printed)

Date

Student-Athlete Signature

Student ID Number