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Responsible University Office:

Student Affairs

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Involuntary Withdrawal of Students Policy

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Scope

University of Nebraska – Kearney Students, Faculty and Staff

Policy Statement

The University of Nebraska at Kearney (“University”) strives to create and maintain living and learning environments that are healthy, safe, and inclusive for all members of the campus community. Student behaviors may disrupt these environments and require the University to respond by separating students from the University to (1) protect campus community members from unreasonable risks of harm, (2) transition students responsible for disruptive behavior to an environment that is better suited to address their needs and behaviors and (3) preserve the integrity of the environment.

This policy establishes procedures to addresses student behaviors that:

- a) Pose a direct threat to the health and safety of others;1
- b) Significantly disrupts or interferes with the University’s mission-related operations and activities or the rights of others;2

- c) Indicate an actual and/or imminent unmanageable and/or acute risk of self-harm; or
- d) Indicate an inability to perform basic activities necessary to obtain an education.³

However, this policy should not be used if the student behaviors may be better addressed by disciplinary procedures established in the Student Code of Conduct. In this respect, this policy is operable when it is questionable whether the behaviors violate the Student Code of Conduct or students lack the mental or physical capacity to appreciate the nature of their behavior or meaningfully participate in disciplinary proceedings. This policy is in place for safety and/or security issues.

Before initiating involuntary withdrawal procedures outlined in this policy, the University's staff will work collaboratively with students to achieve voluntary withdrawal when such course of action is **student-initiated**, practicable, and appropriate. To this end, the University will attempt to remove or reduce barriers to withdrawal that may be associated with tuition and financial aid, housing contracts, immigration status, student employment, or other related concerns.

This policy also authorizes and empowers the Dean for Student Affairs ("Dean"), or his/her designee, ("Dean" includes designee) to impose interim measures before or during involuntary withdrawal procedures.

Reason for Policy

The University of Nebraska at Kearney ("University") strives to create and maintain living and learning environments that are healthy, safe, and inclusive for all members of the campus community. Student behaviors may disrupt these environments and require the University to respond by separating students from the University to (1) protect campus community members from unreasonable risks of harm, (2) transition students responsible for disruptive behavior to an environment that is better suited to address their needs and behaviors and (3) preserve the integrity of the environment.

Procedures

Interim Measures⁴

Based upon recommendation(s) given by the Threat Assessment Team, the Dean may immediately suspend students or restrict their activities on an interim basis to (1) protect the health and safety of students or the campus community, (2) complete an investigation related to conduct violation(s); or (3) to allow time for Violence Risk Assessment. The interim suspension may be appropriate for more than one of the foregoing reasons. An interim suspension or restrictions are

effective immediately upon delivery to students and are intended to be temporary; remaining in effect long enough to achieve the purpose for which they were instituted. Typically, interim measures will end when the Involuntary Withdrawal procedures produce a final decision or the reasons for imposing them have ceased to exist.

Students placed on interim suspension or restricted activity may appeal, in writing, to the Vice Chancellor for Academic and Student Affairs (“SVC”) the interim measure by showing cause why they should not have been suspended or restricted. The review of students’ paper submissions showing cause will be limited to:

- a) The reliability of the information concerning the student’s behavior;
- b) Whether the student’s behavior poses a danger of causing substantial, serious harm to the student or others, causing property damage, or directly impeding the rights of others or the University’s mission-related activities; or
- c) Whether the student has completed a Violence Risk Assessment in accordance with this policies procedures.

Upon receiving a student’s written request for appeal, the SVC will only decide whether the interim measure should be continued or modified, and whether involuntary withdrawal procedures should continue. This decision will be based on the totality of available evidence at the time of appeal using the preponderance of the evidence standard. The decision regarding appeal is final and may not be appealed.

Involuntary Withdrawal Procedures

When students’ behaviors pose a direct threat to the health and safety of others; significantly disrupt or interfere with the University’s mission-related operations and activities or the rights of others; indicate an unmanageable and/or acute risk of self-harm; or indicate an inability to perform basic activities necessary to obtain an education, the University’s Threat Assessment Team will conduct an individualized assessment of the risks presented by the concerning behaviors.

The Individualized Assessment will draw on all available information and will include the results of a Violence Risk Assessment that is “based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.”⁵ The Individualized Assessment will examine the reasonableness of possible accommodations to mitigate the risks associated with students’ behaviors, including whether any accommodation would cause an undue hardship for the University.

After the Individualized Assessment is completed, if the Threat Assessment Team believes involuntary withdrawal is the most advisable response to students’ behaviors, the Dean will assign a three-person committee of Threat Assessment Team members to meet with the student subject to involuntary withdrawal for the purposes of explaining the reasons involuntary withdrawal seems appropriate and providing the student an opportunity to be heard on the matter. The following provisions will apply to the meeting:

- a) Notice of the Meeting: The Dean will provide the student subject to involuntary withdrawal with written notice of the meeting that includes:
1. Date, time and place of the meeting (minimum 3 university business days in advance);
 2. The members of the Threat Assessment Team comprising the committee;
 3. A succinct explanation about the basis for the proposed withdrawal;
 4. Information about relevant or applicable University policies;
 5. A statement explaining the purpose of the meeting, and that the student may present information they believe supports a decision to not withdraw the student. This statement will inform the student they may present medical information that suggest withdrawal is unnecessary;
 6. A statement indicating that the student may ask questions to individuals who present information at the meeting;
 7. An invitation to bring an advisor of their choosing with an accompanying statement indicating the advisor may only advise or speak to the committee on the student's behalf when the student lacks the capacity to participate effectively.
 8. A statement establishing the expectation that the student will provide any information they intend to share with the committee at least 24 hours in advance of the meeting.
- b) Meeting Management: The meeting is intended to be collaborative and conversational. The Committee is not bound to follow any rules of procedure, rules of evidence, or a particular sequence for presenting information. However, the Dean will designate a chairperson among the three Threat Assessment Team members to control and facilitate the meeting. Anyone who disrupts the meeting may be excluded by the chairperson. The meeting is private and will be closed to the public.
- c) Meeting Outcome: The committee will deliberate and consider the following potential outcomes:
1. Involuntary Withdrawal is appropriate;
 2. Involuntary Withdrawal is not appropriate;
 3. Voluntary Withdrawal is agreeable to the student and the committee in light of the information shared at the meeting. Note: Students will have two business days to change their mind after agreeing to a voluntary leave.
- The Committee will rely upon the preponderance of the evidence standard to determine if involuntary withdrawal is appropriate. Therefore, the Committee will ascertain whether it is more likely than not that involuntary withdrawal is the most appropriate course of action to address the concerning behavior(s).
- d) Committee's Decision: The Committee will notify the student, in writing, of the outcome of the meeting no later than two university business days after the meeting. If the committee determines involuntary withdrawal is not appropriate, no further action will be taken under this policy. If the committee determines involuntary withdrawal is appropriate or voluntary withdrawal is agreeable, it will include conditions or requirements that must be satisfied before the student may return to the University. Any return conditions or requirements will be based on the individual circumstances of the student to be withdrawn, and the length of the withdrawal period will be commensurate to the unique factors and conditions

identified in the Individualized Assessment. The written decision will also inform that student that they may appeal the Committee's decision.

An involuntary withdrawal or a voluntary withdrawal is not considered a conduct action, but it may be considered in subsequent conduct proceedings involving the student.

e) Conditions for Return: The Committee may impose any of the following conditions or requirements that will need to be completed before or at the time of re-enrollment:

1. A requirement that the student at the time of assessment currently does not present a risk of harm to others, the University community, or themselves as determined by a qualified professional. The student will no longer present a risk of harm if the medical/psychological condition that underlies the concerning behaviors no longer exists or has been adequately treated to remove a substantial likelihood of reoccurrence.

The Threat Assessment Team may require the student to be evaluated by a healthcare professional of its choosing, or permit the student to select a licensed and qualified professional with the understanding that if the student chooses the provider they must provide a signed release permitting the Threat Assessment Team to review the findings and recommendations of that provider/professional. If the Threat Assessment Team reasonably concludes the findings and recommendations of the student's chosen provider/professional to be inconclusive or incomplete, it may decline to permit the student to return or require the student be evaluated by a provider/professional selected by the Threat Assessment Team.

2. A requirement the student agree to provide relevant medical records of the treatments the student has received tailored to the behaviors that resulted in an involuntary or voluntary withdrawal;
3. A requirement to refrain from the behaviors that led to the involuntary withdrawal or the voluntary withdrawal;
4. A requirement that the student work with campus service providers in good faith to sustain a health management plan.

f) Appeal: Students may appeal the Committee's decision to the SVC, or his/her designee ("appellate authority"). The SVC or designee(s) are responsible for reviewing appeals of the Involuntary Withdrawal procedures. The following provisions guide the appellate review:

1. The Committee's decision and interim measures, if any, will remain in effect while an appeal is pending;
2. The appeal process will be conducted entirely by paper, unless the appellate authority determines their review will be aided by in-person meetings or interviews.
3. Students must submit their appeals in writing within five (5) university business days of receiving the Committee's decision.

4. Students' written appeals must identify at least one of the following justifications:
 - a. The Committee did not follow the procedures outlined in this policy, and the departure resulted in an unfair proceeding; or
 - b. The decision to involuntarily withdraw the student was not sufficiently supported by the available information.
 5. Students' written appeals must also be supported by evidence or documentation that demonstrates the justification they have identified.
 6. The appellate authority's review and decision will be based upon the preponderance of evidence standard.
 7. The appellate authority may decide to take any of the following actions:
 - a. Uphold the Committee's decision;
 - b. Modify the Committee's decision regarding return conditions;
 - c. Reverse the Committee's decision and terminate the involuntary withdrawal; or
 - d. Reverse the Committee's decision and return it to the Committee for further consideration consistent with the appellate authority's reasons for reversal.
 8. The appellate authority will have no more than ten (10) University Business days to review the appeal and issue a written decision.
 9. If students do not submit an appeal within the permitted time or the appeal fails to raise a justification, the Committee's decision will be final. The appellate authority's decision to uphold, modify, or terminate withdrawal will be final.
- g) Re-admission or Re-enrollment: If students intend to return to the University after an involuntary or voluntary withdrawal under this policy, they must be able to demonstrate they no longer pose a risk of harm to others, the campus community, or themselves. The following process will permit the University to verify students no longer pose a risk of harm:
1. Students must communicate with the Dean in writing that they would like to return and supply documentation that demonstrates they have complied with all conditions of return;⁶
 2. The Dean or representative(s) of the Threat Assessment Team will review students' request and documentation, and meet with the student to discuss their wishes to return;
 3. The Dean and Threat Assessment Team may consider the following factors in whether to permit students to return to the University:
 - a. The extent to which students' documentation demonstrates precise and complete compliance with the conditions of return specified in the committee's decision letter;
 - b. Students' academic and conduct record while previously enrolled;
 - c. The extent to which students' conduct adversely impacted others in the campus community;
 - d. Input provided by healthcare and/or other professionals with whom students have consulted;
 - e. The ability to work with the limitations and boundaries of care available at the University or within the local community;

- f. Students' conduct during the period they have been withdrawn (e.g. employment, treatment, attendance at other higher education institutions, criminal records etc.)
 - g. The amount of time between the effective date of the withdrawal and the date of the request;
 - h. The resolution of any alleged Code of Conduct violations; and
 - i. The reasonableness of any requested accommodations;
 - j. Other relevant data available.
4. If the Dean or Threat Assessment Team authorizes return, students will need to complete application for readmission if necessary and satisfy current admission requirements.
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Referral for Violence Risk Assessment

The Dean or the Threat Assessment Team may refer or mandate a student complete a Violence Risk Assessment by a campus professional during an interim suspension, prior to an Individualized Assessment or involuntary withdrawal meeting, or as a condition of return and re-enrollment. Depending on the nature of the concerning behaviors, a professional/provider with relevant expertise may be required to perform the assessment (e.g. the risk of interpersonal violence may require a risk assessment).

If the Dean or Threat Assessment Team permit the student to select the professional/provider who performs the assessment, they may not be a family member of the student, or have any other relationship with the student or the student's family that may compromise the professional/providers objectivity. To confirm this, the Dean or Threat Assessment Team must approve a professional/provider selected by the student.

The University may require the assessment to be completed at the student's expense even though they have not chosen the professional/provider. The University will provide notice of the mandated assessment and will be given a copy of this policy. The assessment must be completed within 10 school days from the date the notice of mandated assessment is delivered to the student. An extension may be granted if the provider/professional is unable to accommodate the referral in the specified time. As part of the mandate, the student must agree to sign a release or waiver permitting the professional/provider to give a copy of the assessment results to the Dean and Threat Assessment Team and to discuss the results if needed.

If a student fails to complete the assessment within the allotted time or declines to release the assessment results to the Dean or Threat Assessment Team, may be withdrawn on an interim basis or be subject to disciplinary proceedings or both.

Definitions

¹ NCHERM Model Voluntary/Involuntary Medical/Psychological Withdrawal Policy, Procedures and Protocol 2 (2010)
<https://www.ncherp.org/documents/ModelWithdrawalandSuicideProtocol2010.pdf>.

² Id.

³ University Initiated Withdrawal (UIW), Iowa State University Officer of the Registrar, (2017) <https://www.registrar.iastate.edu/students/withdrawal/wdpolicy>. Basic activities include: attending class, communicating with faculty, advisors and service providers; making and keeping appointments; submitting assignments completing essential self-care tasks; and observing common standards of etiquette or behavior for public settings

⁴ This section is nearly a verbatim replication of the NCHERM policy.

⁵ Department of Justice, Regulations for Title II of the ADA, See 28 CFR Part 35 § 35.139

⁶ NCHERM Model Voluntary/Involuntary Medical/Psychological Withdrawal Policy, Procedures and Protocol 2 (2010)
<https://www.ncherp.org/documents/ModelWithdrawalandSuicideProtocol2010.pdf>.

⁷ A letter from a licensed healthcare provider that addresses the student's (1) readiness to return, (2) progress in treatment, and (3) how that conclusion has been reached would suffice as long as the student also provides a release to the healthcare provider to speak with the Threat Assessment Team if questions arise during the review of the letter.

Additional Contacts

Subject	Contact	Phone	Email
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Related Information

The UNK Student Code of Conduct --
<https://www.unk.edu/offices/reslife/documents/university-of-nebraska-at-kearney-student-code-of-conduct.pdf>

History

This is a new policy for UNK, this is a type of policy that many universities across the United States are using and/or are implementing.