



CAMPUS**STUDENT**CODE

Dear WVU Students:

We are pleased to provide you with the newly-revised WVU Campus Student Code. Many student leaders, faculty and staff collaborated over a year to ensure this Campus Student Code provides you with your rights as a West Virginia University student and also makes clear your responsibilities as a student. It is designed to be as student-centered as possible.

At West Virginia University, you are a member of a community of scholars. As such, the Campus Student Code provides standards for living within this living-learning community. The Code is not designed to be punitive or adversarial. It is designed to set expectations for student behavior.

Should you have any questions regarding this Campus Student Code, please contact our Office of Student Conduct at 304.293.8111. The office is located in 84 Boreman North.

Sincerely yours,



G. Corey Farris
Dean of Students



Mountaineer Creed:

As a Mountaineer, I Will:

- Practice academic and personal integrity
- Value wisdom and culture
- Foster lifetime learning
- Practice civic responsibility and good stewardship
- Respect human dignity and cultural diversity

In order to become a meaningful member of West Virginia University and the society in which I live, I dedicate my energy, my talents, and my intellect to these standards of excellence.

WEST VIRGINIA UNIVERSITY

UNIVERSITY STUDENT CONDUCT AND DISCIPLINE POLICY

BOARD OF GOVERNORS · POLICY 31

Section 1: General.

- 1.1. Scope: The purpose of this policy is to encourage West Virginia University students to engage in proactive and intentional efforts to build connections and relationships with their community and to set forth a policy regarding student conduct and discipline at West Virginia University.
- 1.2. Authority: W. Va. Code § 18B-1-6; § 18B-2A-4.
- 1.3. Effective Date: August 12, 2013.
- 1.4. Revision History: This is a revision to Policy 31, which was originally effective August 15, 2006 and amended September 8, 2006 and again April 12, 2013. The prior version remains in effect until August 11, 2013, subject to any procedures adopted in accordance with it or Policy 44.

Section 2: Preamble.

Students of West Virginia University (the “University”), whether on the main campus, its divisional campus(es), or at any of its instructional locations throughout the state of West Virginia, the nation, or the world, are citizens of a broader academic community. As such, the University expects that every member of its academic community share its historic and traditional commitment to honesty, integrity, and the search for truth. In addition, the University is concerned with the living and learning environment of all of its students. It is expected that each person will grow to have greater respect for self, others, and property. In implementing this Policy, the University is not intending to create a substitute for civil or criminal penalties. The collegiate nature of the educational mission requires that all members of the academic community unite to administer and support this Policy and to suggest change and improvement as necessary.

The University seeks to establish basic guidelines for University students to be good neighbors and expects all students to adhere to generally accepted standards of conduct for actions and events occurring within the formal boundaries of the University’s campuses and also to actions and events occurring in the communities off of the University campus. Further, students and student organizations are required to engage in responsible social conduct that reflects credit upon the University and to model good citizenship for the greater academic community. It is the University’s expectation and priority that students feel integrated into the rich fabric of this diverse community and make a positive contribution to it.

It is further expected that every member of the University’s academic community will respect the democratic process, a society based on law, and the basic tenets on which our nation was founded. Rights and responsibilities under local, state, and national law are neither abridged nor extended because of student status, and each student must be mindful of these responsibilities

The University will not request special consideration for any students charged with violations of any law on the basis of their status as students, nor will prosecution by federal, state, or local authorities necessarily preclude disciplinary action by the University.

The University has the inherent authority to discipline and to protect itself and its property. However, when such authority must be exercised, students will be provided any substantive and procedural due process rights and the right of appeal, as required by law. The student’s right to be treated with respect and dignity will be protected.

When a student is charged with a specific violation, the University will use procedures for determining if the charge is fair and accurate. This Policy enumerates and explains that specific procedures shall be used in determining the fairness and accuracy of such charges and the sanctions which might be imposed if the charges are found to be true. In adjudicating alleged violations, the process is not intended to be punitive or deterrent in the criminal sense, but rather seeks to determine whether the student is qualified to continue as a member of the University community. Thus, the standards applicable to this administrative process are, by their very nature, distinct from those found in criminal or other courts of law.

Opportunities for participation in the process and equality of treatment are afforded all students. The University does not discriminate on the basis of race, gender, age, disability, veteran status, religion, sexual orientation, color, or national origin in the administration of any of its educational programs or activities, or with respect to admission or employment. In this regard, compliance with all applicable state and federal regulations and the requirements of Title VI of the Civil Rights Act and Title IX of the Higher Education Act of 1972 is expected.

The primary mission of the University is to educate its students and prepare them for responsible and full participation in society. The implementation of this Policy is designed to ensure that University students conduct themselves in an acceptable manner in accordance with the mission and values of the University.

Section 3. Off-Campus Conduct and Community

Responsibility.

University students are expected to be good neighbors to the families, professionals, retired individuals, and others who make up the diverse communities adjacent to and near each University campus. Students who live in these neighborhoods should keep these individuals and their own personal rights in mind when living off campus. Importantly, students must understand that behavior that violates the Campus Student Code, even though it occurs off campus, may result in sanctions.

Section 4: Definitions.

- 4.1. The term “University” means West Virginia University and its divisional campuses.
- 4.2. The term “student” means all persons taking or auditing courses at the University, either full-time or part-time, pursuing undergraduate, graduate, or professional studies; persons who are not officially enrolled for a particular term but who have a continuing relationship with the University or who have been notified of their

acceptance for admission; or persons who are living in University supervised housing at any time, even if not enrolled at the University. A person will continue to be a “student” until such status is terminated upon the occurrence of one or more of the following events:

- a. Graduation (without any indication of intent to pursue post graduate activities at the University during the following semester);
 - b. Voluntary withdrawal of the student from West Virginia University; or
 - c. Involuntary dismissal (or other withdrawal of the student initiated by the University) from all programs and activities of the University, and the exhaustion of all internal grievance procedures to redress the dismissal or withdrawal (if applicable).
- 4.3. The term “University official” means any person employed by, or acting on behalf of, the University, performing assigned academic, administrative or professional responsibilities.
 - 4.4. The term “member of the University community” means an individual engaged in any University activity or program, whether on or off campus, or an individual lawfully on University property, including, but not limited to, any person who is a student, staff, faculty member, other University official, or a visitor.
 - 4.5. The term “University premises” means all land, buildings, facilities, and other property owned, leased, operated, used, supervised or controlled by the University (including adjacent streets and sidewalks).
 - 4.6. The term “student organization” means any number of students who have complied with the formal requirements for University recognition.

Section 5: Campus Student Code.

5.1. General.

The President or the President’s designee shall establish appropriate procedures for each of the University’s campuses that contain written rules and regulations concerning student conduct and discipline (the “Campus Student Code”). Each Campus Student Code shall comply with this Policy and contain within it, at a minimum, the requirements set forth here.

5.2. Campus Student Code Administrators.

On each campus, at least one professional shall be responsible for implementing and maintaining efficient administration of the Campus Student Code and performing all necessary functions mandated by the Campus Student Code and this Policy (a “Campus Student Code Administrator”). The Campus Student Code Administrator(s) shall be available to assist any student, student organization, or University official in understanding and applying the Campus Student Code and this Policy.

5.3. Statement of Jurisdiction.

Each Campus Student Code should include a statement of jurisdiction indicating that the Campus Student Code shall apply to student conduct that occurs on University premises; at University sponsored activities; to conduct that does not occur on University premises but adversely affects or interferes with the educational or orderly operation of the University, its mission, or the pursuit of its objectives; to conduct that does not occur on University premises but, in light of all of the facts and circumstances, would endanger the health, safety, or property of the University, the University community, or its neighboring communities; and to conduct that occurs on or off of University premises or property which violates federal, state, or local laws, policies of the West Virginia University Board of Governors, institutional or campus rules or regulations, directives of University officials, including failing to observe conduct which is appropriate for an academic institution.

Conduct from the time of application for admission through the actual awarding of a degree, even if conduct occurs before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment, is subject to the applicable Campus Student Code and this Policy. The applicable Campus Student Code shall apply to a student’s conduct even if the student withdraws from school while a disciplinary matter is pending, and even if the student’s conduct is not discovered until after a degree is awarded.

Further, each Campus Student Code shall apply to all students enrolled in undergraduate, graduate, and professional programs. Academic and professional standards of conduct may also apply to students enrolled in programs that have adopted such standards, i.e., all students are subject to this Policy and some students may be concurrently subject to additional standards as determined by the respective academic programs.

Section 6: Requirements of Each Campus Student Code.

Each Campus Student Code is expected to reflect the culture, resources, and organization of the associated campus. Regardless, each Campus Student Code shall ensure due process under the law for all students; outline necessary time frames or scheduling deadlines; clearly articulate requirements or prohibitions with respect to witnesses, evidence, or hearing matters; and include the following:

6.1. Prohibited Conduct.

All students of the University are expected and required to obey applicable laws, to comply with the policies of the West Virginia University Board of Governors, with institutional or campus rules and regulations, with directives issued by any University official acting in the course of his or her authorized duties, and to observe standards of conduct appropriate for an academic institution. These standards apply on or off of University premises or property.

Accordingly, each Campus Student Code shall list specific acts of prohibited conduct that will result in sanctions being sought by the Campus Student Code Administrator. The list of specific acts of prohibited conduct should further the goals and mission of the University and the statements located in the preamble of this Policy.

6.2. Sanctions.

It is expected that the Campus Student Code Administrator and/or the Hearing Panel will impose or seek a sanction that is fair under the circumstances. Each Campus Student Code should include and explain, at a minimum, the following sanctions: Expulsion; Suspension; Probation; Warning; Community Service; Loss of Privileges; Fines; and Restitution.



6.3. Reporting.

Each Campus Student Code must establish a manner by which allegations of a student's prohibited conduct are to be reported to the Campus Student Code Administrator.

6.4. Investigation.

Each Campus Student Code must establish a process by which allegations of a student's prohibited conduct, from any credible source, are thoroughly investigated by the Campus Student Code Administrator or his or her designee(s). To ensure a thorough investigation, the Campus Student Code Administrator shall have the authority to summon by written or electronic request any member of the University community for a meeting for the purposes of investigating and/or discussing allegations of prohibited conduct and those summoned shall be obliged to attend any such meeting. Finally, each Campus Student Code must establish a minimal threshold for allegations to proceed through the conduct process.

6.5. Procedures and Processes Required.

At a minimum, each Campus Student Code shall incorporate the following for each of the processes listed below. Based on the facts and evidence obtained during the investigation, the Campus Student Code Administrator will determine the sanction being sought, which, in turn, will determine the process to be followed. In deciding which sanction to seek, the Campus Student Code Administrator shall consult with appropriate University officials, including academic officials, so that any impact on a student's current academic program is considered.

6.5.1. Complaints Seeking Suspension or Expulsion.

Each Campus Student Code shall provide a process for determining responsibility and a sanction for matters or situations in which the alleged actions, if true, would justify a suspension or an expulsion. This process must incorporate each of the following, to the extent required by law: notice of the charge, which at a minimum shall include a brief, but detailed, statement of facts that support the allegation and put the accused student on notice of the alleged conduct and the potential sanction(s) which may result if it is determined that the accused student is responsible for the alleged prohibited conduct, and also clearly articulates whether past code violations will be considered in determining a sanction for the alleged current conduct; an agreed resolution procedure; a hearing process procedure; the procedure for selecting an impartial hearing panel, which at a minimum, shall be comprised of at least three members with at least one student and a faculty majority; a notice of outcome, which at a minimum, shall plainly state the decision and shall plainly state the rationale for the decision; in the event that the student is found responsible for violating the Campus Student Code, the notice of outcome

should include a brief statement of the facts relied upon by the decision maker, the assigned sanction, the impact that the student's past conduct may have had on the determination of the assigned sanction, and an explanation of any appeal rights; the right to counsel; and appeal.

6.5.2. Complaints Not Seeking Suspension or Expulsion – Conduct Conference.

Each Campus Student Code shall have a process for the administrative disposition of complaints not seeking suspension or expulsion through an informal conference ("Conduct Conference"). The Conduct Conference will be used for determining responsibility and a sanction for matters or situations in which the alleged actions, if true, would not justify a suspension or an expulsion and must incorporate each of the following: notice of the charge; an opportunity for an agreed resolution; opportunity to present evidence; notice of outcome; and appeal.

6.5.3. All Complaints of Sexual Misconduct.

In matters or situations involving complaints of sexual misconduct, as defined in West Virginia University Board of Governors Policy 44, Policy Regarding Sexual Misconduct, the interests of the victim and the accused must be protected. The process for determining responsibility and a sanction for matters or situations in which the alleged sexual misconduct, if true, would justify sanctions must ensure that the accused student and victim are afforded the same rights. Therefore, each campus should have a process for investigating and resolving complaints of sexual misconduct in such a manner so as to achieve a prompt and equitable resolution. This process should complement Policy 44 and any procedure implemented in support of the same.

6.5.4. Cases of Academic Dishonesty.

Cases of academic dishonesty shall be concurrently subject to this Policy and its disciplinary sanctions as well as to academic sanctions in accordance with West Virginia University Policy 15 or other applicable academic procedures. Such matters may be brought to the Student Code Administrator for investigation in accordance with the applicable Campus Student Code and/or may be addressed in accordance with Policy 15 or other applicable academic procedures.

6.6. Interim Suspension.

Each Campus Student Code will have a process for the interim suspension of students. The President or the President's designee shall be authorized to impose an interim suspension prior to a formal hearing or other disposition of allegations against a student. Such immediate interim disciplinary action may be taken as is appropriate under the circumstances for a time period and under those conditions as may be determined by the President or the President's designee when it is

necessary to ensure the safety and well-being of members of the University community or to preserve University property; to ensure the student's own physical or emotional safety and well-being; or to deter a threat of disruption or interference with the normal operations of the University.

At a minimum, the process for the interim suspension must require that written notice be given as soon as possible to a student issued an interim suspension and the matter promptly brought to hearing or other disposition.

6.7. Additional Necessary Procedures.

Subject to applicable state and federal law, the President or the President's designee shall be authorized to establish processes through which the welfare of the members of the University community shall be preserved, including a process to address any student who poses a direct threat. The processes may or may not be an integrated part of the Campus Student Code, but must ensure due process to the student giving students a reasonable opportunity to be heard and respond before a final decision can be made. The processes shall be implemented in a nondiscriminatory manner with all determinations based on an individualized assessment of a student's observed conduct, actions, and statements, and not merely on knowledge or belief that a student is or may be an individual with a disability. Further, all determinations to remove a student will be made in consultation with a qualified healthcare professional to interpret all available information, and will not be based on a slightly increased, speculative, or remote risk of substantial harm.

6.8. Appeals.

Students who are found to have violated the Campus Student Code shall have the right to appeal any sanction imposed, except sanctions imposed as a result of an agreed resolution. Each Campus Student Code shall contain provisions ensuring that all appeals will be processed according to clearly articulated requirements and time frames and shall identify to whom such appeals must be directed.

The Campus Student Code shall provide that on appeal, only the following issues may be considered:

- a) To determine whether jurisdiction was properly asserted under the Campus Student Code;
- b) To determine whether the underlying process was conducted fairly in light of the charges and evidence presented, and in conformity with prescribed procedures, such that no significant prejudice to a student resulted;
- c) To determine whether the decision reached was based on substantial evidence, that is, whether the facts in the case were sufficient to establish that a violation of the Campus Student Code occurred (this does not mean that the person to whom the appeal is directed may substitute his or her judgment for that of the original panel or administrator); or
- d) To determine whether the sanction(s) imposed were appropriate.

6.9. No Reprisal or Retaliation.

Each Campus Student Code must provide that no reprisal or retaliation of any kind shall be taken by any member of the University community against any student who asserts his/her rights under this Policy.

6.10. Withholding Transcripts, Grades, and Degrees.

Each Campus Student Code shall provide that the Campus Student Code Administrator may direct the Registrar (or other appropriate campus office) to withhold the issuance of an official transcript, grade, diploma, certificate, or degree to a student, pending a hearing or conference, agreed resolution, and/or exhaustion of appellate rights if, in the opinion of the Campus Student Code Administrator, the best interests of the University would be served by this action. In the event that such action is taken pending the conclusion of Campus Student Code proceedings, the Campus Student Code Administrator shall inform the Registrar of the action within five (5) consecutive days of the conclusion of the proceedings and shall withdraw or continue such withholding, as is determined by the Hearing Panel or in any other disposition.

Section 7: Residence Life.

The President or the President's designee shall have the authority to establish a separate process to hear matters that involve Campus Student Code violations that occur within University supervised housing, whether committed by residents or nonresidents. This process may include sanctions, with the exception of expulsion or suspension.

Section 8: Classroom Behavior.

The primary responsibility for managing the classroom environment rests with the faculty. Students who engage in any prohibited or unlawful behavior that results in disruption of a class may be directed by the faculty member to leave the class for the remainder of the class period. Longer suspensions from a class, or dismissal on disciplinary grounds, must be subject to the appropriate Campus Student Code. The term "prohibited or unlawful behavior" would include behavior prohibited by a faculty member. It must be emphasized that this provision shall not be used to punish classroom dissent. The lawful expression of a disagreement with a faculty member is not in itself disruptive behavior. However, dissent must be presented in a manner consistent with the classroom environment set by the faculty. A student who believes that he or she has been treated in an arbitrary manner in this regard should contact his or her Dean of Students or the Campus Student Code Administrator.

Section 9: Student Organizations.

The President or the President's designee shall have the authority to establish a separate process to hear matters that involve Campus Student Code violations or unlawful activity that involve a student organization. This process may include sanctions, including the student organization's loss of selected rights and privileges or deactivation (loss of all privileges, including University recognition).

Section 10: Institutional Discretion.

Subject to this Policy, the President or the President's designee shall have sufficient latitude and authority to implement any reasonable process necessary for the fair and efficient administration of this Policy.



WEST VIRGINIA UNIVERSITY

STUDENT CONDUCT CODE AND DISCIPLINE PROCEDURE FOR THE MAIN CAMPUS OF WEST VIRGINIA UNIVERSITY

OFFICE OF THE VICE PRESIDENT FOR STUDENT AFFAIRS

Section 1: General.

- 1.1. Purpose: To establish written rules, regulations, and procedures concerning student conduct and discipline for the main campus of West Virginia University (the "University").
- 1.2. Authority: Board of Governors Policy 31
- 1.3. Scope: This code applies to all students associated with the main campus of West Virginia University under the authority of the West Virginia University Board of Governors.
- 1.4. Effective Date: August 12, 2013

Section 2: Definitions.

- 2.1 “Main campus” means the campus of West Virginia University, except for the divisional campuses.
- 2.2 The definitions set forth in Section 3 of West Virginia University Board of Governors Policy 31, University Student Conduct and Discipline Policy, are incorporated by reference as if fully set forth herein.

Section 3: Establishment of Student Code.

- 3.1 The Vice President for Student Affairs, as the President’s designee for the main campus of the University, hereby establishes the following written rules, regulations, and procedures concerning student conduct and discipline (the “Student Code”).

Section 4: Student Code Administrators.

- 4.1 The professional staff members of the Office of Student Conduct shall serve as the Student Code Administrators for the main campus of the University and shall be available to assist any student, student organization, staff member, faculty member, or administrator in understanding and applying the Student Code.
- 4.2 The Office of Student Conduct is located in 84 Boreman Hall North; this office shall be the official repository for all conduct-related materials concerning students associated with the main campus of the University.
- 4.3 Requests for conduct-related materials concerning students associated with the main campus of the University should be made to the Assistant Dean of the Office of Student Conduct who is the custodian of such materials.
- 4.3 The Student Code Administrators are charged with the following duties, which shall be undertaken in a manner to ensure the fair administration of this Student Code:
(1) Advise any segment or individual within the University wishing to bring charges against one or more students; (2) Inform any student against whom charges have been brought of substantive rights, due process rights, and procedures forthcoming, including the right of appeal; (3) Advise the chairperson of the appropriate hearing board and assist the chairperson and members of the hearing board in setting up the hearing, being certain that all conditions of the Board of Governors and West Virginia University for such procedures are met; (4) Prepare all papers necessary for the hearing and resultant from the hearing for appropriate dispensation and signature;

(5) Assist in the appointment of the hearing bodies and provide and/or coordinate training opportunities for all members, both student and faculty; (6) Attend hearings, present the facts and information obtained from the investigation on behalf of the University, ask questions of witnesses, and have administrative responsibility for maintaining all confidential files, tapes, and documents which result.

Section 5: Jurisdiction of the Student Code.

- 5.1 This Student Code shall apply to conduct that occurs on University premises; at University sponsored activities; to conduct that does not occur on University premises but adversely affects or interferes with the educational or orderly operation of the University, its mission, or the pursuit of its objectives; to conduct that does not occur on University premises but, in light of all of the facts and circumstances, would endanger the health, safety, or property of the University, the University Community, or its neighboring communities; and to conduct that occurs on or off of University premises or property which violates federal, state, or local laws, policies of the West Virginia University Board of Governors, institutional or campus rules or regulations, directives of University officials, including failing to observe conduct which is appropriate for an academic institution.
- 5.2 Conduct from the time of application for admission through the actual awarding of a degree, even if conduct occurs before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment is subject to this Student Code. The Student Code shall apply to a student’s conduct even if the student withdraws from school while a disciplinary matter is pending, and even if the student’s conduct is not discovered until after a degree is awarded.
- 5.3 This Student Conduct Code shall apply to all students enrolled in undergraduate, graduate, and professional programs. Academic and professional standards of conduct will also apply to students enrolled in programs that have adopted such standards, i.e., all students are subject to this Student Code and some students may be concurrently subject to additional standards as determined by the respective academic programs.

Section 6: Prohibited Conduct.

- 6.1 **General.**
All students of the University are expected and required to obey federal, state, and local laws, to comply with the policies of the West Virginia University Board of Governors, with institutional or campus rules and regulations, with directives issued by any University official, and to observe standards of conduct appropriate for an academic institution.

6.2 Specific Acts.

A student that commits any of the following acts is subject to sanction by the University:

- a) Sexual misconduct. "Sexual misconduct" is defined in West Virginia University Board of Governors Policy 44.
- b) Prohibited drug related conduct. "Drug related conduct" means (1) possessing any illicit drug, synthetic drug, or other controlled substance; (2) manufacturing any illicit drug, synthetic drug, or other controlled substance; (3) producing any illicit drug, synthetic drug, or other controlled substance; (4) distributing any illicit drug, synthetic drug, or other controlled substance; (5) selling any illicit drug, synthetic drug, or other controlled substance; or (6) possessing with the intent to distribute or sell any illicit drug, synthetic drug, or other controlled substance; or (7) being under the influence of any illicit drug, synthetic drug, or other controlled substance. It also means (8) using any prescribed drug in a manner inconsistent with the prescription; or (9) intentionally or recklessly inhaling, ingesting, or using in any manner inconsistent with its purpose any chemical, liquid, substance or other compound. "Drug related conduct" shall not include (1) any use or possession of prescription medication in accordance with a valid prescription; or (2) any University recognized research or other scholarly activity.
- c) Prohibited alcohol related conduct. "Alcohol related conduct" means violating West Virginia University Board of Governors Policy 18 or being a student (1) under the age of twenty-one, who consumes or possesses alcohol; (2) who gives alcohol to a person under the age of twenty-one; (3) driving or operating a vehicle while under the influence of alcohol; or (4) who is in public or on University premises in an intoxicated condition.
- d) Impermissible burning. "Impermissible burning" means (1) setting fire to; (2) causing a fire to be set to; or aiding, inciting, enticing, or soliciting any person to set fire to furniture, vehicles, garbage, dumpsters, garbage receptacles, construction material, rubbish, debris, brush, or any other material, unless specifically permitted. "Impermissible Burning" also means contributing or adding furniture, vehicles, garbage, dumpsters, garbage receptacles, construction material, rubbish, debris, brush, or any other material to a fire that has already been set, unless specifically permitted.
- e) Riotous behavior and hooliganism. "Riotous behavior and hooliganism" means participation in a disturbance of two or more persons acting with the common purpose to commit or incite any action that threatens, presents a danger to, or terrorizes the public. However, riotous behavior and hooliganism does not mean peaceful demonstrations, peaceful picketing, a call for a peaceful boycott, or other forms of peaceful dissent.
- f) Aiding, abetting, assisting, or facilitating prohibited behavior. "Aiding, abetting, assisting, or facilitating prohibited behavior" means to be actively associated with or actively encouraging another person or persons whose behavior is in violation of this Student Code, University policy, or the law.
- g) Assault or battery. "Assault" means attempting to commit a violent injury to another person or committing an act that places another person in reasonable apprehension of immediately receiving a violent injury. "Battery" means intentionally making physical contact of an insulting or provoking nature with another person or intentionally causing physical harm to another person.
- h) Misconduct at University athletic events, concerts, or other events. For purposes of this section only, "misconduct" means failing to follow event or venue rules or guidelines or interfering in any way with the athletic event, concert, or other event, including but not limited to throwing objects into a crowd, at another person, or onto a playing field, court, or stage, or acting in a manner that reasonably interferes with others' enjoyment of the athletic event, concert, or other event.
- i) Violating West Virginia University Board of Governors policies, institutional rules and regulations, or campus rules and regulations. A charge alleging a violation of a University policy, rule, or regulation shall identify the policy, rule, or regulation violated.
- j) Violation of federal, state, or local law. "Violation of federal, state, or local law" means engaging in conduct that violates federal, state, or local law whether such conduct takes place on campus or off campus or whether civil or criminal penalties may also be imposed for such conduct. A violation of this provision is not predicated upon a final determination by a court of law. In other words, it is not necessary for a student to have been actually found to have violated a federal, state, or local law by a court of law in order to be disciplined under this Student Code. It is only necessary that a student be found to have engaged in such prohibited acts by processes under the Student Code. It is specifically noted here that the standard of proof in the Student Code process is distinct and different from what is applied in criminal federal, state, and local law violations. A charge alleging a violation of a federal, state, or local law shall identify the federal, state, or local law violated.
- k) Endangerment. "Endangerment" means engaging in conduct that endangers the health or safety of any person, or causes a reasonable person to fear for his/her safety or the safety of another.
- l) Obstruction or disruption. "Obstruction or disruption" means acting alone or in concert with others to unreasonably obstruct, disrupt, or interfere with a teaching, educational, research, administrative, disciplinary, public service, other activity or public performance authorized to be held or conducted on or off campus, or the duties or actions of public safety officials. Obstruction or disruption includes but is not limited to misconduct in the classroom, any act that interrupts, modifies, or damages the free flow of pedestrian or vehicular traffic on University premises or at University sponsored or supervised functions, utility service or equipment, communication service or equipment, University computers, computer programs, computer records or computer networks ac-

cessible through the University's computer resources. Additionally, any student that fails to comply with lawful directions of University officials or University law enforcement officers acting in the performance of their duties is subject to discipline.

- m) Indecent exposure or obscene conduct. "Indecent exposure" means exposure of the private or intimate parts of the body in public or in private premises when such exposure may be readily observed by others without consent. "Obscene conduct" means conduct which the average individual applying contemporary University standards would find (i) taken as a whole, appeals to the prurient interest; (ii) depicts or describes in a patently offensive way ultimate sexual acts, normal or perverted, actual or simulated; and (iii) the matter, taken as a whole, lacks serious literary, artistic, political or scientific value.
- n) Theft of, using without authorization, destroying, defacing, or mutilating property of another. "Theft" means the taking of possession of the property of another without consent.
- o) Prohibited computer or electronic activity. "Prohibited computer or electronic activity" means (1) unauthorized entry into a file to use, read, change the contents, or other purpose; (2) unauthorized transfer of a file; (3) unauthorized use of another individual's identification and password; (4) use of a computer or other electronic device to unreasonably interfere with the work of another student, faculty member, or University official; (5) use of a computer or other electronic device to send obscene or abusive messages; (6) use of a computer or other electronic device to unreasonably interfere with the normal operation of the University's network; or (7) use of a computer or other electronic device in violation of copyright laws.
- p) Tampering with emergency response equipment. "Tampering with emergency response equipment" means interfering with or unnecessarily using a fire-alarm system, sprinklers, smoke detectors, fire-fighting equipment, or any other public safety or emergency call device.
- q) Making false reports. "Making false reports" means reporting an emergency, crime, fire or that a bomb or other explosive has been placed on premises when knowing such a report is wrong or inaccurate.
- r) Hazing. "Hazing" means any action or situation which (1) endangers or adversely affects the mental or physical health or safety of another person or persons; (2) would cause extreme embarrassment or adversely affect the dignity of another person or persons; or (3) causes another person or persons to destroy or remove public or private property. This includes, but is not limited to, any brutality of a physical nature, such as whipping, beating, branding, forced consumption of any food, alcohol, drug or other substance, any activity which would subject an individual or individuals to extreme mental stress, such as sleep deprivation or forced exclusion from social contact. Hazing with or without the consent

of a student is prohibited. Initiations or activities of student organizations are prohibited from including any feature that is dangerous, harmful, or degrading to the student. A violation of this prohibition renders both the organization and participating individuals subject to discipline. Any student who knowingly witnesses or acquiesces in the presence of hazing is also subject to discipline.

- s) Stalking. "Stalking" means following, contacting, making credible threats against, or other unwanted conduct, whether in person or other electronic means, directed at another person knowing or having reason to know that the following, contacting, credible threats, or other unwanted conduct caused the other person to reasonably fear for his/her safety or suffer significant emotional distress.
- t) Harassment. "Harassment" means repeated or continual disturbance, irritation, bullying, or annoyance of another person by any means that is sufficiently severe, pervasive, or persistent as to substantially disrupt or interfere with the orderly operation of the University or the rights of another to participate in or benefit from a University program.
- u) Academic dishonesty. The term "academic dishonesty" means plagiarism; cheating and dishonest practices in connection with examinations, papers, and/or projects; and forgery, misrepresentation, or fraud as it relates to academic or educational matters.
 - 1) The term "plagiarism" means the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment, including, but not limited to, the unacknowledged use of materials prepared by another individual engaged in the selling of term papers or other academic materials.
 - 2) The terms "cheating and dishonest practices in connection with examinations, papers, and/or projects" means (i) giving or receiving of any unauthorized assistance in taking quizzes, tests, examinations, or any other assignment for a grade; (ii) depending upon the aid of sources beyond those authorized by the instructor in quizzes, tests, examinations, writing papers, preparing reports, solving problems, or carrying out other assignments; (iii) the acquisition or use, without permission, of tests or other academic material belonging to a member of the University faculty or staff; or (iv) engaging in any behavior specifically prohibited by a faculty member in the course syllabus or class discussion.
 - 3) The terms "forgery, misrepresentation, or fraud as it relates to academic or educational matters" means (i) wrongfully altering, or causing to be altered, the record of any grade or other educational record; (ii) use of University documents or instruments of identification with the intent to defraud; (iii) presenting false data or information or intentionally misrepresenting one's records for admission, registration, or withdraw-

al from the University or from a University course; (iv) knowingly presenting false data or information or intentionally misrepresenting one's records for personal gain; (v) knowingly furnishing the results of research projects or experiments for the inclusion in another's work without proper citation; or (vi) knowingly furnishing false statements in any University academic proceeding.

- v) Tampering with or falsifying an official record. "Tampering with or falsifying an official record" means altering or assisting in the altering of any official record of the University or submitting false information or omitting requested information that is required for or related to an application for admission, the awarding of a degree, or any official record of the University. This conduct may result in a prohibition against readmission, revocation of degree, and/or withdrawal of diploma.
- w) Intrusion of Privacy. "Intrusion of privacy" means unreasonably invading the private domain or seclusion of another by any means, including observation, videotaping, audio taping, photographing, or capturing the actions, image, audio, or likeness of any other member of the University community without permission or knowledge, when such member of the University community has a reasonable expectation of privacy.
- x) Possession of deadly weapons or destructive devices. "Possession of deadly weapons or destructive devices" means possessing or using any type of deadly weapon, firearm, imitation firearm, ammunition, explosive, firework, dangerous chemical, or other destructive device while on University premises. "Firearm" means any item which will or is designed to or may readily be converted to expel a projectile by the action of an explosive. "Deadly weapon" means any device, instrument, material, substance, or object, whether animate or inanimate, designed to be used to produce serious bodily injury or death or is readily adaptable to such use. This provision does not apply to those individuals specifically permitted by University policy or procedure to possess such items.
- y) Trespass or Unauthorized Use of Keys or Other Access Devices. "Trespass" means to enter or remain without lawful purpose in any University building, room, structure, facility, vehicle, construction area, roof top, or other University related premises. "Unauthorized use of keys or other access devices" means to possess, duplicate, or use a key or other access device, including an electronic keycard or other device used to grant access, to any University building, room, structure, facility, vehicle, construction area, roof top, or other University related premises without proper authorization.
- z) Knowingly violating the terms of a disciplinary sanction imposed in accordance with the Student Code.
- aa) Attempting to engage in an act prohibited by the Student Code. An "attempt" is defined as conduct that, if successful, would constitute or result in the prohibited conduct. Any student who abandons an attempt or prevents the prohibited

conduct from occurring under circumstances that demonstrate a complete and voluntary renunciation of the prohibited conduct will not be subject to disciplinary action.

- bb) Abuse of the Student Code. A student who engages in any of the following actions is subject to discipline for abuse of the Student Code:
 1. Failure to obey the notice from a Student Code Administrator or other University official to appear for a meeting or hearing concerning violations of the Student Code.
 2. Falsification, distortion, or misrepresentation of information at any point in the student conduct process.
 3. Disruption or interference with the orderly conduct of a Student Code proceeding.
 4. Initiating a Student Code proceeding in bad faith.
 5. Attempting to discourage or discouraging an individual's proper participation in, or use of, Student Code proceedings.
 6. Retaliating against an individual because of the individual's participation in, or use of, Student Code proceedings.
 7. Attempting to influence or influencing the impartiality of a member of a Hearing Panel prior to, and/or during the course of, a Student Code proceeding.
 8. Harassment (verbal or physical) and/or intimidation of a member of a Hearing Panel prior to, during, and/or after any Student Code proceeding.
 9. Influencing or attempting to influence another person to commit an abuse or violation of the Student Code.
 10. Failing to comply with one or more sanctions imposed under the Student Code.

Section 7: Sanctions.

- 7.1 It is expected that the Student Code Administrator and/or the Hearing Panel will impose or seek a sanction that is fair under the circumstances. A student who receives a period of suspension as a disciplinary sanction is subject to further disciplinary action for prohibited conduct that takes place during the period of suspension. Sanctions available for violations of the Student Code include:
 - a) Expulsion: Permanent separation of the student from the University. Permanent notification will appear on the student's transcript. The student may be denied access to University premises, provided that such restrictions are stipulated in the Outcome Letter and bear a reasonable relationship to the violation.
 - b) Suspension: Separation of the student from the University for a specified period of time. Permanent notification will appear on the student's transcript. The

student may be denied access to University premises and to all other University activities or privileges for which the student might otherwise be eligible, provided that such restrictions are stipulated in the Outcome Letter and bear a reasonable relationship to the violation. Suspended time will not count against any time limits for completion of a degree.

- c) Probation: A written reprimand for prohibited conduct that specifies a designated period of time and includes the probability of more severe disciplinary sanctions if, during the designated probationary period, the student violates any applicable law or fails to comply with the policies of the West Virginia University Board of Governors, with institutional or campus rules and regulations or with directives issued by any University official acting in the course of his or her authorized duties.
- d) Warning: A notice in writing to the student that the student is violating or has violated Board of Governors policies, institutional rules and regulations, or the Student Code, and that any further prohibited conduct may result in more severe disciplinary action.
- e) Loss of Privileges: Denial of specified privileges for a designated period of time.
- f) Restitution: Students may be required to make payment to the University or to other persons, groups, or organizations for loss, damage, or injury incurred as a result of a violation of any Student Code. This may take the form of appropriate service and/or monetary or material replacement.
- g) Other Sanctions: Other sanctions may be imposed instead of or in addition to those specified. For example, students may be subject to dismissal from University housing for disciplinary violations which occur in the residence halls. Likewise, community service, educational classes, and other work or research projects may also be assigned.

7.2 Attempts to commit acts prohibited by a Student Code may be punished to the same extent as completed violations.

7.3 Sanctions for prohibited conduct occurring off campus shall not be more severe than for similar on-campus conduct.

Section 8: Interim Suspension.

8.1 Imposition of Interim Suspension. The Student Code Administrator may impose an interim suspension prior to a formal hearing or other disposition of allegations against a student when the Student Code Administrator has reasonable cause to believe that a student's presence on University premises presents: (a) a significant risk of substantial harm to the student, other individuals, or property; or (b) an ongoing threat of disrupting the normal operations of the University.

8.2 Conditions of Interim Suspension. Such immediate interim disciplinary action may be taken as is appropriate under the circumstances for a time period and under those conditions as may be determined by the Student Code Administrator in order to ensure the safety and well-being of members of the University community or to preserve University property; to ensure the student's own physical or emotional safety and well-being; or to deter a threat of disruption or interference with the normal operations of the University. During an interim suspension, the suspended student may be denied access to all or some of the property owned or controlled by the University and to some or all other University activities or privileges for which the student might otherwise be eligible, provided that such restrictions are stipulated in the interim suspension notice.

8.3 Procedure for Interim Suspension.

- a) Notice. If the Student Code Administrator imposes an interim suspension, then the student will receive written confirmation of the interim suspension. The notice will state the facts and circumstances warranting the interim suspension, the conditions of the interim suspension, and the student's rights.
- b) Review. Within three (3) business days of the imposition of the interim suspension, the student may petition the Vice President for Student Affairs or designee to review the reliability of the information concerning the alleged harm or ongoing threat. The petition for review must be in writing and may include evidence supporting the student's position that the student does not pose or no longer poses a significant risk of substantial harm to the individual, others, or property or an ongoing threat of disrupting the normal operations of the University.
- c) Final Determination. If, after considering the petition for review and evidence, the Vice President for Student Affairs or designee affirms the decision to interim suspend, the matter will proceed promptly to a hearing without undue delay, unless additional time is requested by the student. However, if, after considering the petition for review and evidence, the Vice President for Student Affairs or designee determines that the student has established by a preponderance of the evidence that the student does not pose or no longer poses a significant risk of substantial harm to the individual, others, or property or an ongoing threat of disrupting the normal operations of the University, the interim suspension will be lifted and the matter will proceed according to the normal process, up to and through a hearing, if required.

Section 9: Conduct Process.

9.1 Complaints or Allegations of Misconduct.

9.1.1 Any member of the University community who believes that a violation of the

Student Code has occurred may file a complaint with the Office of Student Conduct. Complaints of student misconduct should be submitted to the Office of Student Conduct as soon as possible following the alleged misconduct or the date on which the individual knew or should have known of the misconduct.

9.1.2 Regardless of whether a formal complaint is ever filed, allegations of student misconduct, from any credible source, will be reviewed by the Student Code Administrator, or other appropriate personnel.

9.1.3 No complaint or allegation of student misconduct will be investigated more than ninety (90) days after the alleged misconduct took place or after the alleged misconduct should have been discovered, unless good cause is shown for the delay.

9.2 Investigation.

9.2.1 The Student Code Administrator shall investigate each formal complaint or allegation of student misconduct from a credible source. The Student Code Administrator may summon by written or electronic request any member of the University community for a meeting for the purposes of investigating and/or discussing allegations of prohibited conduct, whether such allegations have been formally submitted or have otherwise been made known to the Student Code Administrator.

9.2.2 If, after investigating the complaint or allegation of student misconduct, the Student Code Administrator finds that there are reasonable grounds to conclude that the student violated the Student Code, then charges will be brought against the student.

9.2.3 If, after investigating the complaint or allegation of student misconduct, the Student Code Administrator does not find that there are reasonable grounds to conclude that the student violated the Student Code, then the complaint or allegation will be dismissed. In the event the complaint or allegation is dismissed, the Student Code Administrator shall indicate the reason for the dismissal and notify the accused student in writing.

9.3 Notice of the Charge.

9.3.1 If there are reasonable grounds to conclude that a violation of the Student Code has occurred, then the Student Code Administrator shall prepare a formal written charge of alleged prohibited conduct (the “Charge”).

9.3.2 The Charge shall be provided to any student suspected of prohibited conduct as soon as possible after the investigation is concluded, but in no event later than ninety (90) days after the complaint or allegation was submitted to the Office of Student Conduct. This time limit may be extended for good cause shown.

9.3.3 The Charge shall be addressed to the student who allegedly violated the Student Code (the “Accused Student”) and shall include a brief outline of the facts upon which the Charge is based and potential sanctions which may result if the Accused Student is found responsible.

9.3.4 In deciding which sanctions to seek, the Student Code Administrator shall consult with the appropriate University officials and ensure that the sanctions sought are commensurate with the alleged violations and the Accused Student’s prior student code of conduct violations, if any.

9.3.5 The Charge shall be delivered electronically to the Accused Student through the University’s designated student e-mail system regardless of where the student resides. Additionally, a copy of the Charge shall be sent via campus mail to any student who resides on campus or via regular mail to any student who resides off campus.

9.3.6 The Charge shall include written notice to the Accused Student that prior student code violations may be considered in the determination of sanctions and that the Accused Student will be provided an opportunity to address any such information.

9.3.7 The Charge shall identify a date and time for the Accused Student to meet with the Student Code Administrator, or other appropriate personnel, to discuss the Student Code, its procedures, and the remedial options available to the Accused Student, including whether the Student Code Administrator and the Accused Student can agree on the facts and, if warranted, identify a mutually-agreeable sanction to be imposed.

9.4 Agreed Resolution.

9.4.1 In all situations, including where suspension or expulsion is an available sanction, the Student Code Administrator and the Accused Student may agree on the facts and, if warranted, identify a mutually-agreeable sanction(s) to be imposed. In such a case, the agreed upon facts and sanction(s) shall be reduced to writing, dated, and signed by the Accused Student (“Agreed Resolution”).

9.4.2 An Agreed Resolution shall be final and not subject to any subsequent proceedings, unless the Accused Student submits a written objection to cancel the Agreed Resolution to the Student Code Administrator within one (1) calendar day of the date it was signed. If the Accused Student objects to the Agreed Resolution and no further agreement can be reached, the matter shall proceed in accordance with 9.4.3 or 9.4.4 below.

9.4.3 In situations where the Student Code Administrator and the Accused Student cannot agree on the facts and the sanction(s) to be imposed and neither expulsion nor suspension is sought as a sanction, the case shall continue to a Conduct Conference.

9.4.4 In situations where the Student Code Administrator and the Accused Student cannot agree on the facts and the sanction(s) to be imposed and expulsion or suspension is sought as a sanction, the case shall be referred to a Hearing Panel for formal review.

9.5 Conduct Conference.

9.5.1 The administrative disposition of complaints not seeking suspension or expulsion shall be handled by an informal conference between the Accused Student and the Student Code Administrator (“Conduct Conference”). The Conduct Conference will be used for determining responsibility and a sanction for matters or situations in which the alleged actions, if true, would not justify a suspension or an expulsion.

9.5.2 Opportunity to Present Evidence. During a Conduct Conference, an Accused Student will be given an opportunity to present evidence to the Student Code Administrator to determine whether the Accused Student is responsible for violating the Student Code as accused.

9.5.3 Notice of Outcome. After consideration of the evidence, the student is entitled to written notification of the outcome of the Conduct Conference (“Outcome Letter”). The Student Code Administrator’s determination of responsibility shall be based on a preponderance of the evidence. Each Outcome Letter shall plainly state the decision and shall plainly state the rationale for the decision; in the event that the student is found responsible for any part of the Charge, the Outcome Letter will include a brief statement of the facts relied upon by the Student Code Administrator, the assigned sanction, and an explanation of appeal rights.

9.5.4 Appeal. The Outcome Letter that is issued following a Conduct Conference may be appealed in accordance with Section 10 below.

9.6 Pre-Hearing Procedures for Charges Seeking Expulsion or Suspension.

9.6.1 Scheduling. When necessary, a hearing shall be scheduled by the Student Code Administrator not fewer than ten (10) nor more than fifteen (15) calendar days following the attempt to reach an Agreed Resolution. Maximum time limits for scheduling of hearings may be extended at the discretion of the Student Code Administrator.

9.6.2 Hearing Notice.

- a) The Student Code Administrator shall prepare a written notice of hearing (a “Hearing Notice”) that sets forth the date, time, location of the scheduled hearing, and anticipated witnesses that will be relied upon by the University to prove the alleged conduct.

- b) Identification of witnesses by the Student Code Administrator is not a guarantee or assurance that such witnesses will appear or be called at the hearing.

- c) The Hearing Notice shall be sent to the Accused Student, any member of the University community who was directly impacted by the alleged misconduct (the “Victim(s)”) (if any), and all witnesses identified by the Student Code Administrator’s investigation.

- d) The Hearing Notice shall be delivered electronically using the University’s designated student e-mail system to the Accused Student and any other student-witnesses regardless of where the student resides. A copy of the Hearing Notice shall also be sent via campus mail if the Accused Student and/or witness(es) reside on campus or via regular mail if the Accused Student and/or witness(es) reside off campus.

9.6.3 Request for Separate Hearings. For matters involving more than one Accused Student, the students may request separate hearings; such requests shall be granted by the Student Code Administrator unless such arrangements cannot be accommodated for good cause.

9.6.4 Evidence & Witnesses.

- a) At least two (2) days prior to the scheduled hearing, the Accused Student shall submit to the Student Code Administrator and the Student Code Administrator shall send to the Accused Student the names, applicable contact information, and purpose of any witnesses that they intend to rely on at the hearing.

- b) At least two (2) academic days prior to the scheduled hearing, the Accused Student shall submit to the Student Code Administrator and the Student Code Administrator shall submit to the Accused Student all documentary evidence (pertinent records, information, and written statements) that is to be considered by the Hearing Panel.

- c) Prospective witnesses, other than the Victim(s) or other Accused Students, may be sequestered from the hearing during other witnesses’ testimony. Cell phones and other electronic devices may be secured by reasonable means determined by the Chair prior to hearing in order to eliminate texting or e-mailing information about the hearing to other witnesses. The devices will be returned to each witness after they have been excused from the hearing.

9.7 Selection of the Hearing Panel for Charges Seeking Expulsion or Suspension.

9.7.1 Members of the University Committee on Students Rights and Responsibilities shall constitute the pool of potential members of the University community who will ultimately evaluate the facts and circumstances related to each specific matter of student misconduct (“Hearing Panel”). The University Committee on Students Rights and

Responsibilities consists of: one faculty chairperson; no less than eleven additional faculty members; and no less than eleven students, five of whom will be graduate or professional and who are nominated by the President of the Student Government Association and approved by the Student Board of Governors in the spring of each year to serve a one-year term, from June 1 to May 31. For so long as the membership of the University Committee on Student Rights and Responsibilities is consistent with this section, that Committee shall serve as the pool for each Hearing Panel.

- 9.7.2** Each Hearing Panel shall be composed of three or five members chosen from University Committee of Student Rights and Responsibilities.
- 9.7.3** Individuals selected to serve on a Hearing Panel shall maintain high ethical standards and in so doing, agree to be bound by a Code of Ethical Standards prepared by the Student Code Administrator, and attached here as Appendix 1.
- 9.7.4** At a minimum, each Hearing Panel shall be comprised of at least one student and a faculty majority.
- 9.7.5** One faculty member on a Hearing Panel shall serve as the Chair of the Hearing Panel (the “Chair”).
- 9.7.6** Prior to the hearing, the Accused Student will have an opportunity to review a list of the University Committee on Student Rights and Responsibilities members and will be given an opportunity to strike a maximum of two members from consideration for the Hearing Panel that will hear the Accused Student’s case. Each remaining member of the University Committee on Students Rights and Responsibilities shall recuse themselves if, for any reason, their ability to render an unbiased decision is compromised.
- 9.8** Hearing Procedures for Charges Seeking Expulsion or Suspension.

Hearings shall be conducted according to the following:

- a) Hearings shall be conducted in private.
- b) The Student Code Administrator will present the facts and information obtained from the investigation to the Hearing Panel on behalf of the University.
- c) The Accused Student, Victim, and Student Code Administrator may make statements and ask questions of witnesses.
- d) All procedural questions are subject to the final decision of the Chair of the Hearing Panel.
- e) Formal rules of evidence shall not apply, nor shall deviations from prescribed procedures necessarily invalidate a decision or proceeding, unless significant

prejudice to a student or the University results. Rather, the Chair shall have the authority to decide any issues regarding relevancy or admissibility that may arise during the hearing.

- f) The Chair shall have the authority to discharge or to remove any person whose presence is deemed unnecessary or obstructive to the proceedings.
- g) The Hearing Panel may ask questions of a witness. Questioning of witnesses will be conducted in a format identified by the Chair.
- h) Consideration of all evidence by the Hearing Panel shall be at the discretion of the Chair.

9.9 Attendance.

If an Accused Student, after receiving a Hearing Notice, does not appear for a hearing, the hearing will proceed without the Accused Student. However, no inference may be drawn against an Accused Student for failing to attend a hearing and no decision shall be based solely on the failure of the Accused Student to attend the hearing.

9.10 Legal Counsel or Advisors.

The Accused Student and the Victim, if any, may have an advisor accompany him or her to a hearing for charges seeking suspension or expulsion. The advisor may be an individual that is either a member of the faculty, staff, or a student at West Virginia University. Advisors may not participate in the proceedings and are only present to advise the Accused Student and the Victim.

In lieu of an advisor, the Accused Student may be represented by legal counsel at a hearing for charges seeking suspension or expulsion. Any lawyer appearing at a hearing on a student’s behalf shall be licensed to practice law in the State of West Virginia and can actively participate in the hearing.

A student should select an advisor or legal counsel whose schedule allows attendance at the scheduled date and time for the hearing. Delays will not normally be allowed due to the scheduling conflicts of an advisor or legal counsel. Further, failure to secure an advisor or legal counsel will not cause a hearing to be postponed or canceled.

9.11 Deliberations.

After the portion of the hearing concludes in which all pertinent information has been received, the Hearing Panel shall privately deliberate whether the Accused Student is responsible as charged. After determining whether the student is responsible for the alleged conduct by the Hearing Panel, the Accused Student shall be verbally notified of the finding by the Hearing Panel.

9.12 Standard of Proof.

The Hearing Panel's determination of responsibility shall be based on a preponderance of the evidence. "Preponderance of the evidence" means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

9.13 Imposition of Sanctions.

In the event that an Accused Student has been found "Responsible" on any charge, the Hearing Panel shall receive additional information regarding the student's academic transcript and student conduct history, request proposed sanctions from both the Accused Student and the Victim (if any), and hear impact statements by both the Accused Student and the Victim (if any). After receiving the aforementioned information, the Hearing Panel shall deliberate and agree on the sanction(s) in private. After a sanction has been determined by the Hearing Panel, the Accused Student shall be verbally notified of the sanction(s) by the Hearing Panel.

9.14 Outcome Letter.

At the conclusion of the hearing, the student is entitled to written notification of the outcome of the hearing (an "Outcome Letter"). Each Outcome Letter shall plainly state the decision and shall plainly state the rationale for the decision; in the event that the student is found responsible for any part of the Charge, the Outcome Letter will include a brief statement of the facts relied upon by the Hearing Panel, the assigned sanction(s), and an explanation of any appeal rights.

9.15 Transcript of the Proceedings.

9.15.1 All hearings will be recorded. The University will maintain the audio recordings of all hearings (not including deliberations) which remain the property of the University. Participants are prohibited from making their own recordings. Upon written request, an Accused Student shall be provided access only in compliance with the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g (2012)) and pursuant to any other conditions for access as may be deemed necessary by the Vice President for Student Affairs or his/her designee.

9.15.2 All hearings are recorded using technology chosen by the Student Code Administrator; however, alternative recording methods, i.e., a court reporter, may be requested by an Accused Student, provided, however, that the Accused Student shall bear the full expense of the alternative recording method. To accommodate such a request, all involved students must provide written consent in advance of the scheduled hearing.

Section 10: Appeals Process.

10.1 Students who have violated the Student Code, as determined by a Hearing Panel or a Student Code Administrator, may appeal the decision and/or the imposed sanction within ten (10) days from the date that the Outcome Letter is sent. If the student does not submit an appeal within the prescribed time, the sanction(s) will be applied, no appeal will be considered and the matter will be concluded.

10.2 A written appeal and supporting documents, if any, shall be submitted to the Office of the Vice President for Student Affairs with a copy to the Student Code Administrator.

10.3 Normally, sanctions are stayed pending the appeal outcome. However, if there is a perceived danger to University property or to the University community, interim sanctions such as residence hall removal or suspension from the University may remain in place until the appeal process is complete.

10.4 The Vice President of Student Affairs or designee, shall review the record and supporting documents to consider only the following:

- a) To determine whether jurisdiction was properly asserted under this Student Code;
- b) To determine whether the underlying proceeding was conducted fairly in light of the charges and evidence presented, and in conformity with prescribed procedures, such that no significant prejudice to a student or the University resulted;
- c) To determine whether the decision reached was based on substantial evidence, that is, whether the facts in the case were sufficient to establish that a violation of the Student Code occurred; and
- d) To determine whether the sanction(s) imposed were appropriate.

10.4.1 The Vice President of Student Affairs or designee shall consider the appeal and deliver a decision within thirty (30) days of receipt of such appeal, except where adherence to such time period would be impracticable, in which case such time period shall be extended as warranted by the particular circumstances.

10.4.2 The Vice President of Student Affairs or his/her designee may decide to:

- a) Deny the appeal;
- b) Modify, reduce or otherwise limit the sanction(s) imposed;
- c) Direct the Office of Student Conduct to provide a new proceeding, or allow the student to have his or her case handled beginning at any specific stage of the Student Conduct process; or
- d) Remand the matter to the original decision maker with specific instructions that shall be carried out.

10.4.3 Under no circumstances shall more severe sanctions be imposed on appeal than were provided for by the Hearing Panel.

10.4.4 If an appeal is not upheld by the Vice President of Student Affairs or his/her designee, as applicable, the matter shall be considered final and binding upon all involved.

Section 11: Charges of Sexual Misconduct.

11.1 This Student Code is intended to complement West Virginia University Board of Governors Policy 44, Policy Regarding Sexual Misconduct, and any procedure implemented in support of Policy 44; to the extent that a conflict arises, Policy 44 and its implementing procedure shall govern.

11.2 In charges of sexual misconduct, as defined in Policy 44, the Victim is granted the same rights afforded to the Accused Student under this Student Code in order to achieve a prompt and equitable resolution.

11.3 Sexual misconduct charges will be handled in accordance with the provisions set forth in this Student Code except to the following extent:

a) Investigation.

Allegations of a student's alleged sexual misconduct, from any credible source, will be thoroughly investigated by the Student Code Administrator under the direction of the President's designee. Such an investigation will take place in the same manner set forth in Section 9.2, except that the decision whether there are reasonable grounds to conclude that the Accused Student committed sexual misconduct will be made jointly by the President's designee and the Student Code Administrator.

At a minimum, the Student Code Administrator must make sufficient inquiry to determine if there is basis for further investigation. A recommendation based on this information will be made to the President's designee. If the President's designee and the Student Code Administrator agree there are not reasonable grounds to conclude that the Accused Student committed sexual misconduct, the Student Code Administrator will notify, in writing, both the Accused Student and Victim and the matter will be closed. This notification will be filed with the President's designee. If there is not concurrence, the investigation will proceed.

b) Charge.

1. If, after investigating the complaint or allegation of sexual misconduct, there are reasonable grounds to conclude that the Accused Student violated the Student Code, the Student Code Administrator, under the direction of the President's designee, will apprise the Accused Student and the appropriate University departments, offices, units, or employees of the allegation by providing a written notice of the Charge.
2. In the Charge, the Student Code Administrator, under the direction of the President's designee, shall notify the Accused Student and all other applicable University departments, offices, units, or employees that retaliation is prohibited and that it should be reported if it occurs.
3. The Charge will also be provided to the Victim.

c) Interim Remedial Measures for Complaints of Sexual Misconduct Against Students.

If a complaint against a student is received and it is apparent that immediate action must be taken to stop the sexual misconduct or alleviate any issues that arise as a result of the complaint, then, following the issuance of the Charge or as soon as necessary, the appropriate WVU departments, offices, units, or employees shall implement interim remedial measures immediately. Such measures shall continue until the sexual misconduct investigation is complete or until the measures taken are deemed no longer necessary. Such measures may include, but are not limited to, interim suspension from the institution for the Accused Student; temporary removal from residence halls or other University sponsored events and activities for either the Accused Student or the Victim, as appropriate; altering academic, housing, or other employment arrangements for either the Accused Student or the Victim; issuance of a temporary trespass warning to the Accused Student; and "no contact" orders whereby the parties may be directed to refrain from contact with one another.

d) Agreed Resolution.

In non-violent sexual misconduct allegations, there will be an opportunity for an Agreed Resolution in situations where an Accused Student elects not to dispute facts upon which the charge of sexual misconduct is based and both the Accused Student and Victim agree to the sanctions which are assessed, subject to the approval of the President's designee.

e) Hearing Procedures.

At any hearing, both the Accused Student and the Victim must have an equal access to information and opportunity to present relevant witnesses and other evidence. However, the Accused Student is not permitted to question the Victim directly. Rather, the Accused Student must submit all questions that the Accused Student wishes to ask of the Victim to the Chair of the Hearing Panel, who will then ask the questions. Or, in the alternative, the Accused Student's legal counsel may question the Victim directly.

The Victim shall receive an Outcome Letter that specifies whether or not sexual misconduct occurred and, if so, sanctions relevant to the Victim.

f) Legal Counsel.

At any hearing where the Accused Student is provided the opportunity to have legal counsel present, the Victim may also be represented by legal counsel. Any lawyer appearing at a hearing on a student's behalf shall be licensed to practice law in the State of West Virginia and can actively participate in the hearing.

g) Appeal.

Both the Accused Student and the Victim may file an appeal as set forth in this Student Code.

Section 12: Withholding Transcripts, Grades, and Degrees.

The Student Code Administrator may direct the Registrar to withhold the issuance of an official transcript, grade, diploma, certificate, or degree to an Accused Student, pending a hearing or conference, agreed resolution, and/or exhaustion of appellate rights if in the opinion of the Student Code Administrator, the best interests of the University would be served by this action. In the event that such action is taken pending the conclusion of the proceedings, the Student Code Administrator shall inform the Registrar of the action within five (5) consecutive days of the conclusion of the proceedings and shall withdraw or continue such withholding, as is determined by the Hearing Panel or in any other agreed-upon disposition.

Section 13: No Reprisal or Retaliation.

No reprisal or retaliation of any kind shall be taken by any member of the University community against any student who asserts his/her rights under this Student Code.

Section 14: Disclosure of Final Results.

If a student is found to have violated a specific act set forth in this Student Code and

that act constitutes a crime of violence or non-forcible sex offense, as defined by 34 C.F.R. § 99.39 (2012), then, pursuant to 34 C.F.R. § 99.31(a)(14)(i) (2012) and the University's Family Educational Rights and Privacy Act notification, the University may disclose the final results of the proceedings. For purposes of this disclosure, "final results" means the name of the student, the basic nature of the violation the student was found to have committed, and a description and duration of any sanction imposed against the student.

Section 15: Student Organizations.

- 15.1 For purposes of this Student Code, the term "student organization" means any group of students who have complied with the formal requirements for University recognition.
- 15.2 If the charge involves a student organization allegedly engaged in specific acts of prohibited activity, the matter may be referred to the Office of Student Organization Services. Procedures which may be followed in such instances will be identified by that office. However, if individual members of any such student organization are involved in specific acts of prohibited activity, then charges against the individuals may be brought in accordance with this Student Code and heard simultaneously with charges against the student organization.
- 15.3 The following sanctions may be imposed upon a student organization: warning, probation, loss of selected rights and privileges for a specified period of time, fines, restitution, and deactivation (loss of all privileges, including University recognition, for a specified period of time).

Section 16: Campus Discretion.

Subject to Board of Governors Policy 31 and the prior approval of the President or the President's Designee, the Vice President for Student Affairs shall have sufficient latitude and authority to implement any reasonable measures necessary for the fair and efficient administration of this Student Code.

A student and the Student Code Administrator may agree in advance to minor deviations from this Policy. Such deviations are not then subject to appeal. Other minor deviations are acceptable as long as such deviations are not found upon appeal to be materially harmful to the Accused Student.



For information or questions pertaining to the Campus Student Code contact:

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