

# **WVU : Office of Student Life Student Conduct Code**

## **Student Conduct Code**

**WEST VIRGINIA UNIVERSITY  
BOARD OF GOVERNORS  
POLICY 31  
UNIVERSITY STUDENT CONDUCT CODE  
West Virginia University including Potomac State College**

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### **Section 1 General**

**1.1. Scope:** The Policy sets forth the West Virginia University Board of Governor's policy regarding Student Conduct for the WVU campuses as noted above.

**1.2. Authority:** W. Va. Code: W.V. Code §18B-1-6; §18B-2A-4.

**1.3. Effective Date:** August 15, 2006; Amended September 8, 2006

#### **1.4 Rationale for the University Student Conduct Code**

West Virginia 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, West Virginia University is concerned with the living and learning environment of all its students. It is expected that each person will grow to have greater respect for self, others, and property.

Students and student organizations are required to engage in responsible social conduct that reflects credit upon the University community and to model good citizenship in any community.

It is further expected that every member of the academic community will respect the democratic process, a society based on law, and the basic tenets on which our country was founded. All students at West Virginia University are citizens of the larger community, and as such are free to exercise their fundamental and constitutional rights. 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 his/her responsibility in this regard.

The university will not request special consideration for students charged with violations of a city, county, or state 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.

Students charged with violations of the conduct code will be provided substantive and procedural due process and the right of appeal. Their right to be treated with respect and dignity will be protected.

When a student is charged with a specific violation, the university will employ procedures for determining if the charge is fair and accurate. This document enumerates and explains specific procedures 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.

Opportunities for participation in the process and equality of treatment are afforded all students, irrespective of race, religion, age, sex, handicap, or national origin. To ensure this, state and federal regulations and the guidelines and requirements of Title VI of the Civil Rights Act and Title IX of the Higher Education Act of 1972 are followed.

The mission of West Virginia University, as further elaborated in its mission statement, is to, among other things, educate its members and prepare them for responsible and full participation in society. In implementing this Code, the university is not seeking to be punitive or adversarial. The collegiate nature of the educational mission requires that all members of the college

community unite to administer and support this Code and to suggest change and improvement as necessary.

### **1.5 The Office of Judicial Programs**

The Office of Student Judicial Affairs is located in 82 Boreman Hall North. Professional staff members of Student Life are available to assist any student, student organization, staff member, faculty member, or administrator in understanding and applying this Code. The staff member (s) therein will:

1. Advise any segment or individual within the University wishing to bring charges against one or more students;
2. Advise 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 review board and assist the chairperson and members of the committee 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 offer training opportunities for all members, both student and faculty;
6. Sit in on hearing and have administrative responsibility for maintaining all confidential files, tapes, and documents which result.

All information that comes to this office shall be held in strictest confidence as required by the Board of Governors and the Family Educational Rights and Privacy Act, 1974 (Buckley Amendment), and all records will be filed in the Office of Student Judicial Affairs.

### **1.6 Definitions**

1. The term “University” means West Virginia University Morgantown campuses, including Potomac State College of West Virginia University.
2. The term “student” includes all persons taking 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 are considered “students” as are persons who are living in University residence halls, although not enrolled in this institution. Notwithstanding the foregoing, students enrolled in programs of study at the Health Sciences Center or Law School shall not be subject to this Code solely to the extent that they are subject to a separate code of conduct applicable to their program of study, and solely as it relates to the subject matter of such a separate code of conduct.

3. The term “faculty member” means any person hired by the University to conduct classroom or teaching activities or who is otherwise considered by the University to be a member of its faculty.
4. The term “University official” includes any person employed by the University, performing assigned administrative or professional responsibilities.
5. The term “member of the University community” includes any person who is a student (including those at the Health Sciences Center), faculty member, University official or any other person employed by the University.
6. The term “University premises” includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the University (including adjacent streets and sidewalks).
7. The term “student organization” means any number of students who have complied with the formal requirements for University recognition.
8. The term “Student Code Administrator” means the University official authorized by the Vice President of Student Affairs or his/her designee to perform those duties and obligations of the position, as further described herein.
9. The term “Student Conduct Board” means a panel constituted in accordance with the terms set forth in this Code.
10. The term “shall” is used in the imperative sense.
11. The term “may” is used in the permissive sense.
12. The Vice President of Student Affairs is the person responsible for the administration of the Student Code, and for performing other duties and obligations of the position, as further described herein.
13. The term “policy” is defined as the written regulations of West Virginia University as found in, but not limited to, the Student Code, Residence Hall Handbook, the University web page and computer use policy, and Graduate/Undergraduate Catalogs or successors.
14. The term “cheating” includes, but is not limited to: (1) giving or receiving of any unauthorized assistance in taking quizzes, tests, or examinations; (2) dependence upon the aid of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments; (3) the acquisition or use, without permission, of tests or other academic material belonging to a member of the University faculty or staff; or (4) engaging in any behavior specifically prohibited by a faculty member in the course syllabus or class discussion.

15. The term “plagiarism” includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.

16. The term “Complainant” means a person who submits a charge alleging that a student violated this Student Code. When a student believes that s/he has been a victim of another student’s misconduct, the student who believes s/he has been a victim will have the same rights under this Student Code as are provided to the Complainant, even if another member of the University community submitted the charge itself.

17. The term “Accused Student” means any student accused of violating this Student Code.

18. “Stalking” means engaging in a course of conduct that is directed toward another person if that conduct would cause a reasonable person to fear for the person’s safety or the safety of that person’s immediate family members or close acquaintance, and that in fact causes the person to fear for his/her safety or the safety of that person’s immediate family members or close acquaintance.

## **Article II: Judicial Authority**

A. The Student Conduct Board shall be composed of three or five members chosen from a pool which will consist 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, who will be 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.

B. Membership on the Student Conduct Board shall consist of a faculty majority and at least one student. Prior to the hearing, each party appearing before the Student Conduct Board will have an opportunity to review a list of the University Committee on Student Rights and Responsibilities members with the Office of Judicial Programs and will be given an opportunity to strike a maximum of two members from the University Committee on Students Rights and Responsibilities. 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. In all cases, the decision of a majority of the Student Conduct Board shall be the decision of the Student Conduct Board.

C. The Vice President for Student Affairs or his/her designee shall develop policies for the administration of the judicial program and procedural rules for the conduct of hearings which are not inconsistent with provisions of the Student Code.

D. Decisions made by the Student Conduct Board shall be final, pending the normal appeal process.

### **Article III: Proscribed Conduct**

#### **A. Jurisdiction of the University Student Code**

The University Student Code shall apply to conduct that occurs on University premises, at University sponsored activities, and to off-campus conduct that adversely affects the University Community and/or the pursuit of its objectives. Each student shall be responsible for his/her conduct from the time of application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if their conduct is not discovered until after a degree is awarded). The Student Code shall apply to a student's conduct, while a student as defined in this Code, even if the student withdraws from school while a disciplinary matter is pending. The Vice President of Student Affairs or his/her designee shall decide whether the Student Code shall be applied to conduct occurring off campus, on a case by case basis.

#### **B. Conduct –Rules and Regulations**

Any student found to have committed or have attempted to commit the following misconduct is subject to the disciplinary sanctions outlined in Article IV:

- 1. Acts of dishonesty, including but not limited to the following:
  - a. Plagiarism: Plagiarism is defined in terms of proscribed acts. Students are expected to understand that such practices constitute academic dishonesty regardless of motive. Those who deny deceitful intent, claim not to have known that the act constituted plagiarism, or maintain that what they did was inadvertent are nevertheless subject to penalties when plagiarism has been confirmed. Plagiarism includes, but is not limited to, the following:
    - i. Submitting as one's own work the product of someone else's research, writing, artistic conception, invention, or design; that is, submitting as one's own work any report, notebook, speech, outline, theme, thesis, dissertation, commercially prepared paper, musical piece or other written, visual, oral or electronic/computerized material that has been copied in whole or in part from the work of others, whether such source is published or unpublished;
    - ii. Incorporating in one's submission, without appropriate acknowledgment and attribution, portions of the works of others; that is, failing to use the conventional marks and symbols to acknowledge the use of verbatim and near-verbatim passages of someone else's work or failing to name the source of words, pictures, graphs, etc., other than one's own, that are incorporated into any work submitted as one's own.
  - b. Cheating and dishonest practices in connection with examinations, papers, and projects including, but not limited to:
    - i. Obtaining help from another student during examinations;
    - ii. Knowingly giving help to another student during examinations, taking an examination or doing academic work for another student, or providing one's own work for another student to copy and submit as his/her own;
    - iii. The unauthorized use of notes, books, or other sources of information during examinations;

- iv. Obtaining without authorization an examination or any part thereof.
  - c. Forgery, misrepresentation, or fraud:
    - i. Forging or altering, or causing to be altered, the record of any grade in a grade book or other educational record;
    - ii. Use of university documents or instruments of identification with intent to defraud; ;
    - iii. Presenting false data or intentionally misrepresenting one's records for admission, registration, or withdrawal from the university or from a university course;
    - iv. Knowingly presenting false data 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;
    - vi. Knowingly furnishing false statements in any university academic proceeding.
- 2. Disruption or obstruction of, or leading or inciting others to disrupt or obstruct, teaching, research, administration, disciplinary proceedings, other University activities, including its public-service functions on or off campus, or other authorized non-University activities when the act occurs on University premises.
- 3. Physical abuse, verbal abuse, threats, intimidation, coercion and/or other conduct which threatens or endangers the health or safety of any person. Engaging in harassment or repeated unwanted contact, rising to the level of illegal harassment, including, but not limited to, stalking.
- 4. Attempted or actual theft of and/or damage to property of the University or property of a member of the University community or other personal or public property.
- 5. Hazing, which means to recklessly or intentionally cause any action or situation which endangers the mental or physical health or safety of another person or causes another person to destroy or remove public or private property for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a team, a group or student organization. The express or implied consent of the victim will not be a defense. Knowingly witnessing or acquiescing in the presence of hazing are not neutral acts; they are violations of this rule.
- 6. Sexual Offenses, including, but not limited to:
  - a. Sexual intercourse with, and/or sexual intrusion against, a person capable of giving consent, without such person's consent, or a person incapable of giving consent;
  - b. Sexual assault or abuse, statutory or acquaintance rape, sexual harassment.
- 7. Failure to comply with directions of University officials or law enforcement officers acting in performance of their duties and/or failure to identify oneself to these persons when requested to do so.
- 8. Unauthorized possession, duplication or use of keys to any University premises or unauthorized entry to or use of University premises.
- 9. Violation of any published University policies, rules or regulations in hard copy or available electronically on the University website.
- 10. Violation of any federal, state, or local law.

- 11. Use, possession, or distribution of narcotic or other controlled substances except as expressly permitted by law.
- 12. Use, possession, manufacturing, or distribution of alcoholic beverages (except as expressly permitted by University regulations), or public intoxication. Alcoholic beverages may not, in any circumstance, be used by, possessed by or distributed to any person under twenty-one (21) years of age.
- 13. Illegal or unauthorized possession of firearms, explosives, other weapons, or dangerous chemicals on University premises or use of any such item, even if legally possessed, in a manner that harms, threatens or causes fear to others.
- 14. Improper obstruction of the free flow of pedestrian or vehicular traffic on University premises or at University-sponsored or supervised functions.
- 15. Conduct which is disorderly, lewd, or indecent; breach of peace; or aiding, abetting, or procuring another person to breach the peace on University premises or at functions sponsored by, or participated in by, the University.
- 16. Theft or other abuse of computer time, including but not limited to:
  - a. Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.
  - b. Unauthorized transfer of a file.
  - c. Unauthorized use of another individual's identification and password.
  - d. Use of computing facilities to improperly interfere with the work of another student, faculty member, or University official.
  - e. Use of computing facilities to send obscene or abusive messages.
  - f. Use of computing facilities to improperly interfere with normal operation of the University computing system.
  - g. Use of computing facilities and resources in violation of copyright laws.
  - h. Any violation of the University Computer Use Policy.
- 17. Abuse of the University Student Code of Conduct and hearing procedures, including but not limited to:
  - a. Failure to obey the notice from a Student Conduct Board or University official to appear for a meeting or hearing for violations of the University Code of Student Conduct.
  - b. Falsification, distortion, or misrepresentation of information before a Student Conduct Board.
  - c. Disruption or interference with the orderly conduct of a judicial proceeding.
  - d. Institution of a student conduct code proceeding in bad faith.
  - e. Attempting to discourage an individual's proper participation in, or use of, the judicial and other proceedings associated with the University Student Code of Conduct.
  - f. Attempting to influence the impartiality of a member of a Student Conduct Board prior to, and/or during the course of, the judicial proceeding.
  - g. Harassment (verbal or physical) and/or intimidation of a member of a Student Conduct Board prior to, during, and/or after a judicial proceeding.
  - h. Failure to comply with the sanction(s) imposed under the student code.
  - i. Influencing or attempting to influence another person to commit an abuse of the judicial system.



- 18. Actions which cause or attempts to cause a fire or explosion, falsely reporting a fire, explosion or an explosive device, tampering with fire safety equipment or intentionally failing to evacuate university buildings during a fire alarm.

### C. Violation of Law and West Virginia University Discipline

- 1. When a student is charged by federal, state, or local authorities with a violation of law, the University will not request or agree to special consideration for that individual because of his or her status as a student. Proceedings under this Student Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the Vice President of Student Affairs or his/her designee.
- 2. If the alleged offense is also the subject of a proceeding before a Student Conduct Board under the Student Code, however, the University may advise off-campus authorities of the existence of the Student Code and of how such matters will be handled internally within the University community.
- 3. The University will cooperate fully with law enforcement and other agencies in the enforcement of criminal law on campus and with the conditions imposed by the criminal courts for the rehabilitation of student violators.
- 4. Individual students and faculty members, acting in their personal capacities, remain free to interact with governmental representatives as they deem appropriate.

## **Article IV: Student Conduct Code Policies**

### A. Charges and Hearings

- 1. Any member of the University community may file charges against any student for misconduct. Charges shall be prepared in writing and directed to the Student Code Administrator. Any charge should be submitted as soon as possible after the event takes place or the discovery of the same, but in no event later than ninety (90) days after the event takes place or the discovery of the same.
- 2. In cases where suspension or expulsion is a possible outcome, the Student Code Administrator shall refer the case to the Student Conduct Board. In all other cases, the Student Code Administrator shall seek to determine whether the charges can be disposed of administratively by mutual consent or refer the matter to the Student Conduct Board. In the event that the charges are disposed of by mutual consent, that decision shall be final and there shall be no subsequent proceedings.
- 3. All charges shall be presented by the Student Code Administrator to the Accused Student in written form. Unless the matter is disposed of administratively pursuant to IV, A, 2 above, a time shall be set by the Student Code Administrator for a hearing, not fewer than five nor more than fifteen calendar days after the student has been notified. Maximum time limits for scheduling of hearings may be extended at the discretion of the Student Code Administrator, where adherence to such limits would be impracticable.
- 4. Hearings shall be conducted by the Student Conduct Board according to the following guidelines except as provided by article IV (A)(7) below:
  - a. Hearings shall be conducted in private except as otherwise authorized by the Student Code Administrator.

- b. The Complainant, Accused Student and their advisors, if any, shall be allowed to attend the entire portion of the Student Conduct Board Hearing at which information is received (excluding deliberation). Admission of any other person to the Student Conduct Board Hearing shall be at the discretion of the Student Conduct Board and/or the Student Code Administrator.
- c. In hearings involving more than one Accused Student, the chairperson of the Student Conduct Board, in his or her discretion, may permit the hearings concerning each student to be conducted separately.
- d. The Complainant and the accused shall each have the right to bring, at his or her own expense, an advisor to the hearing. Except as otherwise expressly set forth herein, the advisor must be a member of the University community. Each of the Complainant and the Accused Student is responsible for presenting his or her own case and, except as otherwise expressly set forth herein, advisors are not permitted to speak or to participate directly in any hearing before a Student Conduct Board. In cases where expulsion is likely to be sought, the advisor may be an attorney who may directly participate in the hearing, provided the Student Code Administrator is notified of such at least two weekdays in advance of the hearing. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the Student Conduct Board Hearing because delays will not normally be allowed due to the scheduling conflicts of an advisor.
- e. The Complainant, the Accused and the Student Conduct Board may arrange for witnesses to present pertinent information to the Student Conduct Board. The University will make all reasonable efforts to arrange the attendance of relevant witnesses who are identified by the Complainant, Accused Student and/or Student Conduct Board at least two weekdays prior to the Student Conduct Board Hearing. The Complainant, the Accused and the Student Conduct Board may ask relevant questions to a witness, or a party to the hearing. This will be conducted in a format identified by the chairperson of the Student Conduct Board. The chairperson of the Student Conduct Board shall have the authority to decide any questions regarding relevancy or admissibility that may arise during the hearing.
- f. Pertinent records, exhibits, and written statements may be accepted as evidence for consideration by a Student Conduct Board at the discretion of the chairperson.
- g. All procedural questions are subject to the final decision of the chairperson of the Student Conduct Board.
- h. After the hearing, the Student Conduct Board shall determine, by majority vote, whether the student has violated each section of the Student Code for which the student has been charged.
- i. In cases where expulsion is likely to be sought, the Student Conduct Board's determination shall be made on the basis of whether there is clear and convincing evidence that the Accused Student violated the Student Code. For all other cases, such determination shall be made on the basis of whether it is more likely than not that the Accused Student violated the Student Code.
- j. This Code prescribes the rules of process, procedure and evidence applicable to Student Code proceedings. Such proceedings shall not be subject to federal, state or local rules of process, procedure and evidence, such as are applied in criminal

or civil court. The Vice President for Student Affairs or his/her designee shall have the authority to develop guidelines related to such proceedings, to the extent not inconsistent with this Code. Similarly, the chairperson of the Student Conduct Board shall have the authority to determine questions of process, procedure and evidence at a hearing, in a manner not inconsistent with the rules and guidelines referenced above.

- 5. There shall be a single record, such as a tape recording or summary notes, of all Student Conduct Board Hearings before a Student Conduct Board (not including deliberations). Deliberations shall not be recorded. The record shall be the property of the University. Access thereto shall be provided only in compliance with the Family Educational Rights and Privacy Act (20 U.S.C. 1232g), and in accordance with any other applicable terms set forth by the Vice President for Student Affairs or his/her designee.
- 6. Except in the case of a student charged with failing to obey the summons of a Student Conduct Board or University official, no student may be found to have violated the Student Code solely because the student failed to appear before a Student Conduct Board. In all cases, the evidence in support of the charges shall be presented and considered.
- 7. The Student Conduct Board may accommodate concerns for the personal safety and/or well-being of the Complainant, Accused Student, and/or a witness during the hearing by providing separate facilities, by using a visual screen, and/or by permitting participation by videophone, closed circuit television, video conferencing, videotape, or other means, where and as determined in the sole judgment of the Vice President of Student Affairs or his/her designee to be appropriate.
- 8. If the charge involves an organization allegedly engaged in unlawful activity, the case may be referred to the Office of Student Organization Services. Procedures which may be followed in such instances will be identified by that office. If in the judgment of the Assistant Dean of Student Organizations, individual members of any such organization are particularly involved in an allegation, charges against the individuals may be brought and heard simultaneously with charges against the organization.

## B. Sanctions

- 1. The following sanctions may be imposed upon any student found to have violated the Student Code:
  - a. Warning – A notice in writing to the student that the student is violating or has violated institutional regulations.
  - b. Probation – A written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to be violating any institutional regulation(s) during the probationary period.
  - c. Loss of Privileges – Denial of specified privileges for a designated period of time.
  - d. Fines – Previously established and published fines may be imposed.
  - e. Restitution – Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

- f. Discretionary Sanctions – Work assignments, service to the University or other related discretionary assignments (such assignments must have the prior approval of the Student Code Administrator).
- g. Residence Hall Suspension – Separation of the student from the residence halls for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
- h. Residence Hall Expulsion – Permanent separation of the student from the residence halls.
- i. West Virginia University Suspension – Separation of the student from the University for a definite period of time not to exceed one year, after which the student is eligible to return. Conditions for readmission may be specified.
- j. West Virginia University Expulsion – Permanent separation of the student from the University.
- k. Revocation of Admission and/or Degree – Admission to or a degree awarded from the University may be revoked for fraud, misrepresentation, or other violation of University standards in obtaining the admission or degree, or for other serious violations committed by a student prior to graduation.
- l. Withholding Degree – The University may withhold awarding a degree otherwise earned until the completion of the process set forth in this Student Conduct Code, including the completion of all sanctions imposed, if any.
- m. The Grade of Unforgivable Failure (UF).
- 2. More than one of the sanctions listed above may be imposed for any single violation.
- 3. Other than University expulsion, revocation or withholding of a degree, or the grade of unforgivable failure, disciplinary sanctions imposed hereunder shall not be made part of the student's permanent academic record, but shall become part of the student's disciplinary record. Upon graduation, the student's disciplinary record may be expunged of disciplinary actions other than residence hall expulsion, University suspension, University expulsion, revocation or withholding of a degree, or the grade of unforgivable failure, upon application to the Student Code Administrator. Cases involving the imposition of sanctions other than residence hall expulsion, University suspension, University expulsion, revocation or withholding of a degree, or the grade of unforgivable failure shall be expunged from the student's confidential record seven (7) years after final disposition of the case.
- 4. The following sanctions may be imposed upon team, group, or student organization:
  - a. Those sanctions listed above in Section B., 1., a through f.
  - b. Loss of selected rights and privileges for a specified period of time.
  - c. Deactivation. Loss of all privileges, including University recognition, for a specified period of time.
- 5. The role of the Student Conduct Board will be to determine whether or not a student has violated the Student Code of Conduct and to impose sanctions as set forth in this Code. The Chair of the Student Conduct Board shall advise the accused in writing of its determination and the sanction(s) imposed, if any.

### C. Interim Suspension

In certain circumstances, the Vice President of Student Affairs or his/her designee may impose a University or residence-hall suspension prior to the hearing before a Student Conduct Board .

- 1. Interim suspension may be imposed only: a) to ensure the safety and well-being of members of the University community or preservation of University property; b) to ensure the student's own physical or emotional safety and well-being; or c) if the student poses a definite threat of disruption of or interference with the normal operations of the University.
- 2. During the interim suspension, students shall be denied access to the residence halls and/or to the campus (including classes) and/or all other University activities or privileges for which the student might otherwise be eligible, as the Vice President of Student Affairs or his/her designee may determine to be appropriate.
- 3. The interim suspension does not replace the regular process, which shall proceed on the normal schedule, up to and through a Student Conduct Board Hearing, if required.

#### D. Appeals

- 1. A decision reached by the Student Conduct Board concerning acts of academic dishonesty, as described in III, B, 1, a, b and c of this Code, may be appealed by Accused Students or Complainants to the University Provost or his/her designee within five (5) school days of the decision. All other decisions or sanctions, including those concerning violations of III, B, 1, c which do not involve academic dishonesty, may be appealed by Accused Students or Complainants to the Vice President of Student Affairs or his/her designee within five (5) school days of the decision. Such appeals shall be in writing and shall be delivered to the Student Code Administrator or his or her designee.
- 2. Except as required to explain the basis of new evidence, an appeal shall be limited to review of the record of the initial hearing and supporting documents for one or more of the following purposes:
  - a. To determine whether jurisdiction as established in the Student Code was properly asserted.
  - b. To determine whether the original hearing was conducted fairly in light of the charges and evidence presented, and in conformity with prescribed procedures giving the complaining party a reasonable opportunity to prepare and present evidence that the Student Code was violated, and giving the Accused Student a reasonable opportunity to prepare and to present a rebuttal of those allegations.
  - c. To determine whether the decision reached regarding the Accused Student 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.
  - d. To determine whether the sanction(s) imposed were appropriate for the violation of the Student Code which the student was found to have committed.
  - e. To consider new evidence, sufficient to alter a decision or other relevant facts not brought out in the original hearing, because such evidence and/or facts were not known to the person appealing at the time of the original hearing.
- 3. The University Provost or his /her designee, or the Vice President of Student Affairs or his/her designee, as applicable, shall respond to the appeal, and deliver his/her decision thereon, within thirty (30) days of his/her 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.

- 4. If an appeal is upheld by the University Provost or his/her designee, or the Vice President of Student Affairs or his/her designee, as applicable, the matter shall be remanded to the original Student Conduct Board and Student Code Administrator for re-opening of the hearing to allow reconsideration of the original determination and/or sanction(s). If an appeal is not upheld by the University Provost or his/her designee, or the Vice President of Student Affairs or his/her designee, as applicable, the matter shall be considered final and binding upon all involved.
- 5. In cases involving appeals by students accused of violating the Student Code, review of the sanction by the University Provost or his/her designee, or the Vice President of Student Affairs or his/her designee, as applicable, may not result in more severe sanction(s) for the Accused Student.

#### **Article V: Interpretation and Revision**

A. Any question of interpretation regarding the Student Code shall be referred to the Vice President of Student Affairs or his or her designee for final determination.

B. The Student Code shall be reviewed and/or revised under the direction of the Student Code Administrator.

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#### **APPENDIX 1 - CODE OF ETHICAL STANDARDS**

Members of review boards play a sensitive role within the institutional governance structure. Thus, it is important that the members maintain high performance and ethical standards. The following code is designed to safeguard the rights of students and to uphold the integrity of the disciplinary procedure as a whole:

- 1. The name or status of students involved in disciplinary situations shall not be discussed with anyone outside the review board membership except as otherwise required by this Code, by law or court order.
- 2. Even in the case of open hearings, hearing body members shall refrain from public comment on the proceedings, and in no instance shall the closed deliberations of the hearing body be discussed, nor shall confidential information be revealed except as otherwise required by this Code, law or court order.
- 3. The votes cast by members of the hearing body shall be treated as confidential and shall not be shared outside the hearing room except as otherwise required by this Code, law or court order.
- 4. The chairperson of the hearing body or designee shall be the official spokesperson for the hearing body. The final decision of the hearing body on any matter will be conveyed to the student charged only by the spokesperson or professional staff member in the Office of Student Judicial Affairs. However, answers to general questions about the disciplinary system and hearing procedures may be provided by a hearing body member as part of his/her mission in the intended educational process.
- 5. Members of review bodies shall serve as models for students by upholding university regulations and performing their duties in an exemplary manner. Any such member found guilty of violating a university policy or regulation is subject to temporary suspension

from the review body for a specific time, is ineligible to participate in the body's duties, and must reapply for membership through established procedures.

- 6. Before any hearing, the chairperson of the hearing board is obligated to ask if any hearing board member has prior knowledge about the case, Complainant or student charged which will impair his/her ability to render an impartial decision. It is the responsibility of the hearing board member to make the chairperson aware of any personal relationship with the Complainant or student charged (e.g., kinship, close friendship, fraternal, or organizational affiliation). A hearing board member with any such knowledge or relationship shall recuse himself/herself from the applicable case. Any disputes or questions regarding recusal shall be resolved by the chairperson of the hearing board.
- 7. Each member of the hearing board will make the chairperson aware of any concurrent college service in which she/he is engaged which may present a conflict of interest. The existence of such conflict of interest shall be determined by the chairperson in consultation with other members of the hearing body in session and the member will be excused from hearing and deliberating in case of conflict, or from membership if the conflict is general.

*Note: This Student Code includes adaptations in part or whole from The Journal of College and University Law written by Edward N. Stoner II and John Wesley Lowery.*

## **Policy Regarding Academic Rights and Responsibilities of Students**

WEST VIRGINIA UNIVERSITY  
BOARD OF GOVERNORS  
POLICY 15  
STUDENT ACADEMIC RIGHTS  
West Virginia University and Regional Campuses

### **Section 1. General.**

- 1.1. Scope. -- Policy regarding academic rights and responsibilities of students.
- 1.2. Authority. -- W. Va. Code §18-26-8
- 1.3. Effective Date. -- September 5, 2003

### **Section 2. Academic Rights and Responsibilities of Students.**

2.1. The institutions and their constituent academic units shall define and promulgate the academic requirements for admission to the institution, for admission to limited enrollment programs and for admission to professional and graduate degree programs (where offered); the criteria for maintenance of satisfactory academic progress, for the successful completion of the program, for the award of a degree or certification, for graduation; the requirements or criteria for any other academic endeavor; and the requirements for student honesty and originality of expression.

2.2. A student, by voluntarily accepting admission to the institution or enrolling in a class or course of study offered by the institution, accepts the academic requirements and criteria of the institution. It is the student's responsibility to fulfill course work and degree or certificate

requirements and to know and meet criteria for satisfactory academic progress and completion of the program.

### **Section 3. Academic Rights.**

3.1. Concomitant with the academic standards and responsibilities established pursuant to Section 3 of these rules, each student shall have the following academic rights:

- 3.1.1. The student shall be graded or have his/her performance evaluated solely upon performance in the course work as measured against academic standards. The student shall not be evaluated prejudicially, capriciously, or arbitrarily. The student shall not be graded nor shall his/her performance be evaluated on the basis of his/her race, color, creed, sex or national origin.
- 3.1.2. Each student shall have the right to have any academic penalty, as set out in Section 4.2 of these rules below and more specifically defined by his/her institution, reviewed.
- 3.1.3. Each student shall have access to a copy of the college or university catalog or program brochure in which current academic program requirements are described (e.g., required courses, total credit requirements, time in residence requirements, special program requirements, minimum grade point average, probation standards, professional standards, etc). Students have the right to receive from the instructor written descriptions of content and requirements for any course in which they are enrolled (e.g., attendance expectations, special requirements, laboratory requirements including time, field trips and costs, grading standards and procedures, professional standards, etc.).
- 3.1.4. The instructor of each course is responsible for assigning grades to students enrolled in the course, consistent with the academic rights set out in the preceding sections.

### **Section 4. Application of Policy to Students.**

4.1. Student -- any person who has been admitted to an institution to pursue a course of study, research, or service, who is currently engaged in an institutionally sponsored activity, and who has some right or privilege to be on the campus or in the facilities of the institution, or to use the same, in connection with study, research, or service, or who yet has some right or privilege to receive some benefit or recognition or certification from the institution, under the Rules, Regulations, or policies of the Board of Governors or the institution.

4.2. A student, as defined in this policy, shall be subject to any applicable penalties for failure to comply with the academic requirements and standards promulgated by the institution and/or its constituent academic units according to Section 2.1 of these rules. Students are expected to adhere to these academic standards in all academic settings, classrooms, laboratories, clinics and any other activities which are part of academic requirements.

### **Section 5. Academic Requirements and Consequences of Failure to Meet Requirements.**

5.1. The institution and its constituent academic units shall define and promulgate the academic requirements, criteria and standards as set out in Section 2.1 of these rules above. Normally, students may finish a program of study according to the requirements under which they were



admitted to the program. However, requirements are subject to change at any time, with reasonable notice provided to the students.

5.2. A student who fails to meet the academic requirements or standards, including those for academic honesty as defined by the institution and its constituent academic units according to Section 2.1 of these rules, may be subject to one or more of the following penalties:

- 5.2.1. A lower grade or failure of the course or exclusion from further participation in the class (including laboratories or clinical experiences), all of which may be imposed by the instructor.
- 5.2.2. Academic probation as determined and defined by the institution and its constituent academic units.
- 5.2.3. Academic suspension as determined and defined by the institution and its constituent academic units.

5.3. Academic dismissal is defined as termination of student status, including any right or privilege to receive some benefit or recognition or certification. A student may be academically dismissed from a limited enrollment program and remain eligible to enroll in courses in other programs at the institution, or a student may be academically dismissed from the institution and not remain eligible to enroll in other courses or programs at the institution.

5.4. A student may appeal any penalty according to the procedures in Section 6 of these rules below. Each institution and its constituent academic units shall determine and specify the point at which penalties, excluding those specified in Section 6.3.1 of these rules, may be imposed. Each instructor determines the point at which the penalties specified in Section 6.3.1 of these rules may be imposed. Each institution and its constituent academic units shall determine the method(s), if any, by which a student may correct the condition(s) leading to imposition of these penalties and thereby have them removed.

## **Section 6. Appeals.**

6.1. Each institution and its constituent academic units shall establish policies and procedures by which a student may appeal or challenge any academic penalties imposed by a faculty member or by the institution or one (1) of its constituent academic units, including those described in Section 5.2 of these rules above.

6.2. Additional procedures may include but not be limited to:

- 6.2.1. Appeals of a grade penalty or exclusion from class;
- 6.2.2. Appeals of final course grades;
- 6.2.3. Appeals of imposition of academic probation;
- 6.2.4. Appeals of imposition of academic suspension;
- 6.2.5. Appeals of dismissal from undergraduate programs;
- 6.2.6. Appeals of dismissal from graduate programs;
- 6.2.7. Appeals of dismissal from professional degree programs; and
- 6.2.8. Appeals of dismissal from the institution.

6.3. Policies and procedures relating to appeals of academic penalties shall be governed by due process and shall include, as a minimum:

- 6.3.1. Written notice to the student (1) of his/her failure to meet or maintain an academic standard, (2) of the methods, if any, by which the student may correct the failure, and (3) of the penalty which may be imposed.
- 6.3.2. An opportunity for the student to meet with the faculty member(s) or other individual(s) who have judged his/her performance to be deficient, to discuss with these faculty member(s) or other individual(s) the information forming the basis of the judgment or opinion of his/her performance, to present information or evidence on his/her behalf, and to be accompanied at any such meeting by an advisor of his/her choice from the institution. Such advisors may consult with but may not speak on behalf of their advisees or otherwise participate directly in the proceedings, unless they are given specific permission to do so by the individual or committee conducting the appeal.
- 6.3.3. An opportunity for the student to appeal the decision or judgment of faculty members through the established institutional appeals procedure within thirty (30) calendar days after written notice of the decision or judgment.
- 6.3.4. An opportunity to appeal to the president of the institution or his/her designee within thirty (30) calendar days after the receipt of written notice of the decision or judgment.
- 6.3.5. The decision of the president or his/her designee regarding an academic appeal is final.

## **Section 7. Appeals Procedures for Academic Dismissal.**

7.1. The appeal will be subject to the following conditions:

- 7.1.1. The appeal must be filed within thirty (30) calendar days after written notice of the decision.
- 7.1.2. The appeal to the appropriate academic officer or appeals committee is not adversarial in nature; the formal rules of evidence do not apply.
- 7.1.3. The student may be advised by a person of his/her choice from the institution; likewise, the faculty member, academic officer, or committee recommending academic dismissal may have an advisor from the institution. Such advisors may consult with but may not speak on behalf of their advisees or otherwise participate directly in the proceedings, unless they are given specific permission to do so by the individual or committee conducting the appeal.
- 7.1.4. Witnesses may be called by any of the parties involved.
- 7.1.5. A record of the appeal shall be prepared in the form of summary minutes and relevant attachments and will be provided to the student upon request.
- 7.1.6. The decision of the president or his/her designee regarding academic dismissal is final.

## **Section 8. Publication.**

8.1. All standards, criteria and procedures of the institution shall be published in one or more appropriate institutional publications such as catalogs, student handbooks, academic pamphlets,

and handouts. Such requirements are subject to change with reasonable notice provided to the students.

Should you have any questions or concerns, please contact [Dr. Melanie Cook](#) or [LiDell Evans](#), or by calling the Office of Student Judicial Affairs.

**Office of Student Judicial Affairs**

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