

**WEST VIRGINIA UNIVERSITY
BOARD OF GOVERNORS
POLICY 31**

UNIVERSITY STUDENT CONDUCT AND DISCIPLINE POLICY

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 on~~ April 12, 2013, and [INSERT DATE]. ~~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, color, national origin, ancestry, age, physical or mental disability, marital or family status, pregnancy, veteran status, service in the uniformed services (as defined in state and federal law), religion, creed, sex, sexual orientation, genetic information, gender identity, or gender expression ~~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 any 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, including failing to engage in conduct which is appropriate for an academic institution; and 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 any H~~hearing ~~Panel~~tribunal 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 or designee(s) 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/tribunal~~, which should ensure that both the due process rights of any accused student and the fairness of the process are preserved~~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 or Reports of Discrimination, Harassment, Sexual Harassment, Sexual Misconduct, Domestic Misconduct, Stalking, and Retaliation~~Sexual Misconduct.~~

In matters or situations involving complaints of Discrimination, Harassment, Sexual Harassment, Sexual Misconduct, Domestic Misconduct, Stalking, and Retaliation~~sexual misconduct~~, all as defined in West Virginia University Board of Governors Policy 44, ~~Policy Regarding Sexual Misconduct~~, the interests of the ~~victim complainant~~ and the accused must be equally protected. The process for determining responsibility and a sanction for matters or situations in which the alleged Discrimination, Harassment, Sexual Harassment, Sexual Misconduct, Domestic Misconduct, Stalking, and Retaliation~~sexual misconduct~~, if true, would justify sanctions must ensure that the accused student and complainant ~~-victim~~ are afforded the same rights. Therefore, each campus should have a process for investigating and resolving complaints of Discrimination, Harassment, Sexual Harassment, Sexual Misconduct, Domestic Misconduct, Stalking, and Retaliation ~~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 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~~ Each Campus Student Code shall ~~have the~~ contain a right to appeal ~~any sanction imposed~~, except ~~sanctions imposed as a result of matters involving~~ 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. Moreover, in cases involving Discrimination, Harassment, Sexual Harassment, Sexual Misconduct, Domestic Misconduct, Stalking, and Retaliation, the complainant shall also have a right to appeal.

~~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 ~~H~~hearing tribunal~~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.

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