

West Virginia University at Parkersburg Board of Governors

**POLICY D-46
CODE OF STUDENT CONDUCT**

Section 1. General:

- 1.1 Scope: The Policy sets forth the West Virginia University at Parkersburg Board of Governor's policy regarding Student Conduct for WVU at Parkersburg.
- 1.2 Authority: W. Va. Code: W.V. Code §18B-1-6; §18B-2A-4.
- 1.3 Effective Date: December 15, 2006
(Transferred from WVU Board of Governors on July 1, 2008)
- 1.4 Rationale for the WVU at Parkersburg Code of Student Conduct

West Virginia University at Parkersburg 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 at Parkersburg 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 college 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 at Parkersburg 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 college 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 college.

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 college 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 at Parkersburg, 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 college 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.

Section 2. Definition of Student

- 2.1 Any person who has been admitted to West Virginia University at Parkersburg 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 rules, regulations, or policies of the West Virginia University at Parkersburg Board of Governors or the institution.

Section 3. Jurisdiction of the Code of Student Conduct

- 3.1 The Code of Student Conduct shall apply to conduct that occurs on WVU at Parkersburg premises, at WVU at Parkersburg sponsored activities, and to off-campus conduct that adversely affects the WVU Parkersburg 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 Code of Student Conduct 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 Dean of Students or his/her designee shall decide whether the Code of Student Conduct shall be applied to conduct occurring off campus, on a case by case basis.

Section 4. Standards of Conduct

- 4.1 The following are instances of misconduct, subject to disciplinary and other appropriate action hereunder:
 - 4.1.1 Unauthorized possession or duplication of keys to college-owned or college-controlled property.
 - 4.1.2 Smoking in areas which are indicated as restricted or "non-smoking" areas.
 - 4.1.3 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.
 - 4.1.4 Unauthorized occupancy of college buildings.
 - 4.1.5 Attempted or actual theft, malicious destruction or alteration of college, faculty, staff or student property or equipment.
 - 4.1.6 Possession, use or distribution of alcohol or any illicit drugs or controlled substances, except as permitted by law; public intoxication.
 - 4.1.7 Intentional false reporting of a fire or bomb or other explosive device that allegedly has been placed on school property. Intentionally activating a false fire alarm or tampering with any type of safety equipment, including fire alarms, fire extinguishers, and smoke detectors.

4.1.8 Dishonesty including fraud, forgery or knowingly furnishing false statements. (Charges of academic dishonesty, such as cheating and plagiarism, are addressed in, and governed by, WVU at Parkersburg Board of Governors Policy No.D-47, "Student Academic Rights and Responsibilities at WVU at Parkersburg.")

4.1.9 Disorderly, lewd, indecent or obscene conduct on college-owned or controlled property or at college-sponsored or supervised functions; breach of the peace.

4.1.10 Illegal or unauthorized possession or use of firearms, guns, knives, other weapons, explosives, dangerous chemicals, fireworks or other items with potential to cause harm, or use of any such item, even if legally possessed, in a manner that harms, threatens or causes fear to others.

4.1.11 Physical or verbal abuse, intimidation, threats, or harassment of any kind to another person or group of persons, or action which threatens or endangers the health, well being or safety of any person.

4.1.12 Abuse of the Code of Student Conduct and hearing procedures; violation of prior disciplinary rulings or sanctions.

4.1.13 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. See "Prohibition of Hazing," found in WVU at Parkersburg Answer Book [#VI-3C](#).

4.1.14 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. (See WVU Board of Governors Policy A-44, Sexual Harassment.)

4.1.15 Misuse of the college computer system as defined in "Appropriate Use of Computer Resources" (found in WVU at Parkersburg Answer Book [#VII-1](#)), including, but not limited to, the following:

- a. disruption or interference with the normal use of the computers, computer-related equipment, data, or programs of individuals, the Network or the college;
- b. use of this equipment, data, or programs in performance of any act listed as prohibited in this document;
- c. attempts to breach security in any manner;
- d. use of a computer account for other than the purpose for which assigned.

4.1.16. Failure to comply with the lawful directions of any college official, staff member or student employee who is acting in the performance of their duties or who has responsibility in the absence of a particular official.

4.1.17 Violation of federal, state or local law .

4.1.18 Violation of any published college policies, rules or regulations published in hard copy or available electronically on the college website.

4.1.19 Inciting others to commit any of the acts listed above; involvement as an accessory to any of these acts; assisting or encouraging others to engage in violation.

Section 5. Disciplinary Action

5.1 Violation of these standards may result in the initiation of a disciplinary complaint against the student by another student, by a faculty or staff member, or by any academic or administrative officer of the college and subsequent disciplinary action by the college.

5.1.1 Submit complaints to the Dean of Students in writing. 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.

5.1.2 The Dean of Students shall conduct a preliminary investigation for the purpose of ascertaining whether the charges may be disposed of informally. If charges cannot be resolved informally, or if the sanction of suspension or expulsion is likely to be sought, a time shall be set for a hearing not fewer than five or more than thirty working days after the student has been notified. Maximum time limits for scheduling of hearings may be extended at the discretion of the Dean of Students, where adherence to such limits would be impracticable.

5.2 The possible disciplinary actions of the college are listed and defined as follows:

5.2.1 An **official warning** indicates that the behavior of the student does not meet the expectations of the college and notifies the student that his/her conduct should be more appropriate in the future.

5.2.2 **Activity restriction/loss of privileges** means that college privileges may be restricted, and participation in extra-curricular activities may be limited or denied.

5.2.3 **Probation** indicates that additional misconduct may result in suspension or expulsion as determined in a second disciplinary action. While on probation, college privileges may be restricted, and participation in extra-curricular activities may be limited or denied.

5.2.4 **Fines.** Previously established and published fines may be imposed.

5.2.5 **Restitution.** Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

5.2.6 **Discretionary Sanctions.** Work assignments, service to the University or other related assignments, determined at the discretion of the Dean of Students.

5.2.7 **Interim Suspension.** In certain circumstances, the Dean of Students or his/her designee may impose a University suspension prior to the hearing before the Disciplinary Hearing Board. 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. During the interim suspension, student shall be denied access to the campus (including classes) and/or all other University activities or privileges for which the student might otherwise be eligible, as the Dean of Students or his/her designee may determine to be appropriate. The interim suspension does not replace the regular process, which shall proceed on the normal schedule, up to and through a hearing with the Disciplinary Hearing Board, if required.

- 5.2.8 **Suspension** means separation of the student from the college 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.
- 5.2.9 **Expulsion** means permanent separation from institution, including termination of any remaining right or privilege to receive some benefit or recognition or certification.
- 5.3 The following sanctions may be imposed upon team, group, or student organization:
- Those sanctions listed above under 5.2.1, 5.2.2, 5.2.3, 5.2.4, 5.2.5, and 5.2.6.
 - Loss of selected rights and privileges for a specified period of time.
 - Deactivation. Loss of all privileges, including college recognition, for a specified period of time.
- 5.4 In cases which would not result in suspension or expulsion for the Accused, the Dean of Students may determine whether to impose disciplinary action which may be in the form of activity restrictions, loss of privileges, probation or other corrective measures.
- 5.5 In the event that the Dean of Students makes such a determination, each of the Complainant and the Accused shall have the right, but not the obligation, to appeal the decision, or the sanction imposed as a result thereof, to the Disciplinary Hearing Board.
- 5.6 If the Complainant or the Accused desires to appeal such decision or sanction, the Dean of Students must be notified in writing within five working days following notice of the decision or sanction.
- 5.7 If no appeal is made as contemplated herein, then the proceeding is closed. Any decision and sanction imposed becomes part of the record of the Accused and may be distributed to others, as, and to the extent, allowed by law.
- 5.8 All cases that could result in suspension or expulsion must be submitted to the Disciplinary Hearing Board for a formal hearing.

Section 6. Student Rights

- 6.1 Any student involved in a hearing or the appeal process will be afforded proper due process. This includes, but may not be limited to, a written statement of the charges, a fair hearing, and the opportunity to present relevant evidence.
- 6.2 Each of the Complainant and the Accused shall have the right to bring an advisor (who, except as otherwise provided herein, shall be a member of the college community) to the hearing, only in an advisory role. In cases where expulsion is likely to be sought, the advisor may be an attorney who may directly participate in the hearing. Students retain attorneys in such cases at their own expense and must notify the Hearing Panel at least forty-eight hours prior to the hearing if an attorney will be present at the proceedings.

Section 7. Disciplinary Hearing Board Composition

- 7.1 If applicable, a Hearing Panel shall be selected by the Accused and the Complainant from the membership of the Disciplinary Hearing Board.
- 7.2 The Disciplinary Hearing Board is constituted of eleven members including faculty, administrative staff, support staff and student representatives. Each member is appointed by the Dean of Students at the

beginning of the academic year for a one-year term from nominations from various segments of the college community. The membership includes the following:

- 7.2.1 Two Administrative Representatives nominated by the President.
 - 7.2.2 Three Student Representatives nominated by Student Government.
 - 7.2.3 Three Faculty Representatives nominated by Faculty Senate.
 - 7.2.4 Three Staff Representatives nominated by Staff Council.
- 7.3 If no nominations are made within two weeks of the request, the Dean of Students shall appoint members as needed. Vacancies on the Board are filled by the Dean of Students in the same manner as the original appointment.
- 7.4 Each proceeding before the Board shall be heard by a Hearing Panel consisting of five members. There shall be one administrative, one faculty, one staff, and two student members on the Panel. The Hearing Panel shall be chosen by the parties to the proceeding, each striking names in turn with the Accused striking first. If either party to the proceeding is a member of the Hearing Board, he or she shall strike his or her name on the first round.

Section 8. Disciplinary Hearing and Appeal Procedure

- 8.1 Hearings and appeals regarding disciplinary complaints brought hereunder are dealt with in accordance with the following procedures:
- 8.1.1 The Dean of Students shall meet with the Accused and the Complainant for selection of the Hearing Panel within five (5)* working days following receipt of the notice of intent to appeal, or the formal determination that suspension or expulsion is likely to be sought or that a hearing is otherwise warranted. If the Dean of Students is a party to the proceeding, the Executive Dean of Academic Affairs shall effect this step and step 2 below.
 - 8.1.2 The Dean of Students shall notify the selected members of the Disciplinary Hearing Board of their selection for the Hearing Panel. The Dean of Students shall schedule the first meeting within fifteen (15)* working days following selection of the Panel. All members of the Disciplinary Hearing Panel and the parties to the proceeding shall be sent a written notice of the meeting time at least ten working days prior to the meeting.
 - 8.1.3 At least five (5)* working days prior to the hearing, each member of the Panel is furnished a written summary statement from all parties involved.
 - 8.1.4 At the hearing, witnesses may be called by the Panel or by the parties to the proceeding.
 - 8.1.5 All hearings are private.
 - 8.1.6 There shall be a complete and accurate record of the hearing. The record shall be the property of the college. 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 college.

- 8.1.7 The proceedings hereunder 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 college shall have the authority to develop guidelines related to such proceedings, to the extent not inconsistent with this Code. Similarly, the chairperson of the Hearing Panel 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.
- 8.1.8 Within three (3)* working days after the hearing, the Hearing Panel shall issue its determination on the charges and sanctions, if any. In cases where the sanction of expulsion is likely to be sought, the Hearing Panel's determination shall be made on the basis of whether there is clear and convincing evidence that the Accused violated the Code of Student Conduct. For all other cases, such determination shall be made on the basis of whether it is more likely than not that the Accused violated the Code of Student Conduct. Pertinent records, exhibits, written statements, and any other relevant information may be accepted as evidence for consideration by the Disciplinary Hearing Panel at the discretion of the chairperson. The decision of the Hearing Panel shall be provided in writing to the parties and to the Dean of Students. All hearing records shall be submitted to the Dean of Students.
- 8.1.9 The decision of the Hearing Panel is final in all cases where it serves as an appellate venue to a determination made by the Dean of Students hereunder. In all other cases, the Hearing Panel's decision and/or sanctions may be appealed by the Accused or the Complainant to the Campus President within five (5)* working days of the decision. Such appeals shall be in writing and shall be delivered to the Dean of Students, who will deliver the notice of appeal and the hearing records to the Campus President for review.
- 8.1.10 Except as required to explain the basis of new evidence, an appeal to the Campus President, as contemplated herein, 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 Code of Student Conduct 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.
- 8.1.11 The Campus President 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. Review of the sanction by the Campus President may not result in more severe sanction(s) for the accused student.

*Specified time intervals may be extended, at the discretion of the Dean of Students, where adherence to such limits would be impracticable or if any members selected for the Hearing Panel are not available on campus during the specified period. The Dean of Students shall notify all parties concerned in writing if such extensions are necessary.

Section 9. Confidentiality

- 9.1 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 is designed to safeguard the rights of students and to uphold the integrity of the disciplinary procedure as a whole:
 - 9.1.1 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.
 - 9.1.2 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.
 - 9.1.3 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.