



Board of Governors Rule

Student Life
Student Rights & Responsibilities; Student Conduct
Responsible Unit: Student Life
Adopted: November 9, 2018
Effective: December 6, 2018
Revision History: Prior BOG Policy 10 (Originally effective September 6, 2002; amended April 12, 2013); Prior BOG Policy 31 (Originally effective August 15, 2006; amended September 8, 2006, April 12, 2013, and December 18, 2015)
Review Date: April 2022

BOG STUDENT LIFE RULE 6.1 STUDENT RIGHTS AND RESPONSIBILITIES; STUDENT CONDUCT

SECTION 1: PURPOSE & SCOPE.

- 1.1 West Virginia University encourages students to engage in proactive and intentional efforts to build connections and relationships with their community. The University expects that every member of its academic community shares its historic and traditional commitment to honesty, integrity, and the search for truth.
- 1.2 This Rule establishes general guidelines on student life at the University, including a statement on student rights and responsibilities. Additionally, this Rule establishes student conduct expectations for all University students and provided guidelines when student discipline is appropriate.
- 1.3 This Rule applies to all students of West Virginia University, West Virginia University Institute of Technology, and West Virginia University Potomac State College.

SECTION 2: STUDENT RIGHTS.

- 2.1 ***Freedom of Expression and Assembly.*** Students enjoy the freedoms of expression and assembly. In exercising these freedoms, students have certain rights and responsibilities, including, but not limited to, the following:
 - 2.1.1 To have access to campus resources and facilities, in accordance with applicable University policies and University operational needs;
 - 2.1.2 To espouse causes;

- 2.1.3 To inquire, discuss, listen to, and evaluate;
 - 2.1.4 To listen to any person through the invitation of organizations recognized by the institution;
 - 2.1.5 To have a free and independent student press which adheres to the canons of responsible journalism;
 - 2.1.6 To not violate the rights of others in matters of expression and assembly; and
 - 2.1.7 To abide by policies, rules and regulations of the Board of Governors and the University as well as any federal, state, and local statutes and ordinances pertaining to freedom of expression and assembly.
- 2.2 ***Freedom of Association.*** Students may organize whatever associations they deem desirable and are entitled to affiliate with any group or organization for which they meet membership qualifications. However, University recognition of student organizations shall be at the University's sole discretion and shall be limited to those whose purposes comport with the educational mission of the institution.
- 2.3 ***Right to Privacy.*** Students are entitled to several rights of privacy, including, but not limited to, the following:
- 2.3.1 Confidential communication on a one-to-one relationship with faculty, administrators, counselors, and other institutional staff as permitted and in accordance with other University policies;
 - 2.3.2 Respect for personalty, including freedom from unreasonable and unauthorized searches of student living quarters;
 - 2.3.3 Confidentiality of academic and disciplinary records in accordance with the Family Educational Rights and Privacy Act of 1974 and implementing regulations.

SECTION 3: ADMINISTRATION AND JURISDICTION FOR CODE OF STUDENT CONDUCT.

- 3.1 ***Code of Student Conduct Administrator.***
- 3.1.1 The President shall appoint a University employee on each campus to serve as the University's Code of Student Conduct Administrator.
 - 3.1.2 The Administrator shall design and administer a comprehensive student conduct program that:

- 3.1.2.1 Develops and administers a Code of Student Conduct that contain written rules and regulations concerning the University's expectations for student conduct and when student discipline is appropriate;
- 3.1.2.2 Reviews and investigates potential violations of the Code of Student Conduct;
- 3.1.2.3 Identifies and addresses systemic patterns of student conduct violations;
- 3.1.2.4 Develops appropriate training, education, and communication regarding this Rule and the Code of Student Conduct to Members of the University Community, including the prohibited conduct, the process for review, investigation, and implementation of discipline and developmental education for students.

3.2 ***Jurisdiction.***

- 3.2.1 The Code of Student Conduct shall apply to all Students enrolled in undergraduate, graduate, and professional programs.
- 3.2.2 The Code of Student Conduct shall apply to student conduct that:
 - 3.2.2.1 occurs on University premises or in connection with a University sponsored activity;
 - 3.2.2.2 occurs off-campus and would unreasonably interfere with the educational or orderly operation of the University community, its mission, or its objectives determined by a reasonable person; or
 - 3.2.2.3 occurs off-campus and in light of all of the facts and circumstances, would endanger the health and safety of the University community.
- 3.2.3 The Code of Student Conduct shall apply to student conduct that occurs 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, during the academic year, or during periods between terms of actual enrollment.
- 3.2.4 The Code of Student Conduct also 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.

- 3.3 ***Additional Academic or Professional Requirements.*** Academic and professional standards of conduct may also apply to Students enrolled in programs that have adopted such standards.

- 3.4 ***Academic Dishonesty or Misconduct.*** The President may establish a separate policy and procedure than the Code of Student Conduct for violations of academic dishonesty or misconduct.
- 3.5 ***Residence Life.*** The President may establish a separate resolution procedure for violations of the Code of Student Conduct that occur within University supervised housing, whether committed by residents or nonresidents. This resolution procedure may include sanctions, with the exception of expulsion or suspension.
- 3.6 ***Student Organizations.*** The President may establish a separate resolution procedure for violations of the Code of Student Conduct that involve a student organization. This resolution procedure may include sanctions, including the student organization's loss of University recognition.
- 3.7 ***Classroom Behavior.*** The primary responsibility for managing the classroom environment rests with the faculty. Students who engage in 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.
- 3.7.1 However, 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. A Student who believes that he or she has been treated in an arbitrary manner in this regard should contact the Dean of Students.
- 3.7.2 Longer suspensions from a class, or dismissal on disciplinary grounds, must be consistent with the Code of Student Conduct.
- 3.8 ***Involuntary Withdraw of a Student.*** The President may establish a process to address any Student who poses a direct threat and immediately require that the Student withdraw from the University. The process shall ensure due process to the Student, including giving the Student a reasonable opportunity to be heard and respond before a final decision can be made. The process shall be implemented in a nondiscriminatory manner with all determinations based an individualized assessment of a Student's observed conduct, actions, and statements, and not merely on knowledge or belief that a Student is or may be an individual with a disability. Further, all determinations to remove a Student will be made in consultation with a qualified healthcare professional to interpret all available information, and will not be based on a slightly increased, speculative, or remote risk of substantial harm.

SECTION 4: REQUIREMENTS OF CODE OF STUDENT CONDUCT.

- 4.1 ***Prohibited Conduct.*** The Code of Student Conduct shall list specific acts of prohibited conduct by Students that may result in sanctions. At minimum, all Students are 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 faculty, staff, or official acting in the course of his or her authorized duties, and to observe standards of conduct appropriate for an academic institution.

- 4.2 **Reporting.** The Code of Student Conduct shall establish a manner by which allegations of a Student's prohibited conduct are to be reported to the Administrator.
- 4.3 **Investigation.** The Code of Student Conduct shall establish a process by which allegations of a Student's prohibited conduct are thoroughly investigated by the Administrator.
 - 4.3.1 Members of the University Community shall cooperate with the Administrator during the investigation and any subsequent hearing or procedure regarding allegations of prohibited conduct.
- 4.4 **Threshold Standard for Bringing Charges.** The Code of Student Conduct shall establish a minimal threshold standard for allegations to proceed through the conduct process.
- 4.5 **Applicable Sanctions.** The Code of Student Conduct shall include, at minimum, the following sanctions: Expulsion; Suspension; Probation; Warning; Community Service; Loss of Privileges; and Restitution. Any imposed sanction should be fair under the circumstances. Based on the facts and evidence obtained during the investigation, the Administrator will determine the sanction to seek, in consultation as appropriate with other University officials, so that any impact on a student's current academic program is considered.
- 4.6 **Complaints Seeking Suspension or Expulsion.** The Code of Student Conduct shall provide a process for determining responsibility for allegations, if true, would justify a suspension or an expulsion. At minimum, this process shall include:
 - 4.6.1 notice of the charge, which 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;
 - 4.6.2 an opportunity for an agreed resolution;
 - 4.6.3 a hearing process procedure, including the opportunity to present evidence;
 - 4.6.4 the procedure for selecting an impartial decision maker(s), which should ensure that both the due process rights of any accused Student and the fairness of the process are preserved;
 - 4.6.5 a notice of outcome, which at a minimum, shall plainly state the decision and shall plainly state the rationale for the decision;

- 4.6.6 in the event that the Student is found responsible for violating the Code of Student Conduct, 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;
- 4.6.7 the right to counsel (at the Student's expense); and
- 4.6.8 an appeal.
- 4.7 ***Complaints Not Seeking Suspension or Expulsion (Conduct Conference).*** The Code of Student Conduct shall have a process for the administrative disposition of complaints not seeking suspension or expulsion through an informal conference ("Conduct Conference").
- 4.7.1 The Conduct Conference will be used for determining responsibility and a sanction for allegations, if true, that would not justify a suspension or an expulsion.
- 4.7.2 This process shall, at minimum, include: notice of the charge; an opportunity for an agreed resolution; opportunity to present evidence; notice of outcome; and appeal.
- 4.8 ***Complaints involving Discrimination, Harassment, Sexual Harassment, Sexual Misconduct, Domestic Misconduct, Stalking, and Retaliation.*** For complaints involving Prohibited Conduct as defined in West Virginia University Board of Governors Governance Rule 1.6, the interests of the complainant and the accused must be equally protected. Moreover, the disposition process shall complement BOG Governance Rule 1.6 and any procedure implemented in support of that Rule and shall be administered to achieve a prompt and equitable resolution.
- 4.9 ***Interim Suspension and Other Temporary Measures.*** The Code of Student Code shall establish a process for the interim suspension of students and any other necessary temporary measures prior to a formal hearing or other disposition of allegations against a Student.
- 4.9.1 Such immediate interim action may be taken as is appropriate under the circumstances for a time period and under those conditions as 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.
- 4.9.2 At a minimum, the process for the interim suspension shall require written notice (electronic or hard copy) be given as soon as possible to a Student issued an interim suspension and that the matter be promptly brought to hearing or other disposition.
- 4.10 ***Appeal.*** The Code of Student Conduct shall allow for an appeal and include appropriate parameters for such an appeal.

- 4.11 ***No Reprisal or Retaliation.*** The Code of Student Conduct shall 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 or her rights under this Rule or applicable law.
- 4.12 ***Withholding Transcripts, Grades, and Degrees and Other Account Holds.*** The Code of Student Conduct shall provide that the 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 or issue another enrollment or account hold to a Student, pending conclusion of a Code of Student Conduct proceeding. If such an action is taken, the Administrator shall inform the Registrar as soon as practical of the conclusion of the proceedings and shall remove the hold, if consistent with the final disposition of the proceedings.

SECTION 5: DEFINITIONS.

- 5.1 “Administrator” mean the Code of Student Conduct Administrator or his or her designee.
- 5.2 “Member of the University Community” means (i) an individual engaged in any University activity or program, whether on or off campus; (ii) any individual lawfully on University property; (iii) any individual that is a University student, faculty, staff, University official, University volunteer, or a University visitor; and (iv) any vendor or contractor, including that vendor’s or contractor’s employees and independent contractors, who are working on campus.
- 5.3 “President” means the President of West Virginia University or his or her designee.
- 5.4 “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).
- 5.5 “University Official” means any person employed by, or acting on behalf of, the University, performing assigned academic, administrative or professional responsibilities.
- 5.6 “Student Organization” means any number of students who have complied with the formal requirements for University recognition.
- 5.7 “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).
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SECTION 6: DELEGATION.

- 6.1 The Board of Governors delegates to the President the authority to adopt additional internal policies and procedures to effectuate the implementation of this Board of Governors Rule, including sufficient latitude and authority to implement any reasonable process necessary for the fair and efficient administration of this Rule. Any actions taken pursuant to this delegation must be consistent with the guidelines provided by this Rule.
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SECTION 7: AUTHORITY.

- 7.1 W. Va. Code § 18B-1-6; W. Va. Code § 18B-2A-4.
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SECTION 8: SUPERSEDING PROVISIONS.

- 8.1 This Rule supersedes and replaces former Board of Governors Policy 10 and Policy 31 and any other Rule of Higher Education Policy Commission which relates to the subject matter contained within this Rule. This Rule also repeals and supersedes and replaces any internal University policy or procedure which relates to the subject matter contained within this Rule.