

STUDENT JUDICIAL AFFAIRS @ WESTERN CAROLINA UNIVERSITY

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Code of Student Conduct

Article I. Introduction

The fundamental mission of Western Carolina University is to foster a community of scholarship in which students, faculty members, administrators, and staff members learn and apply the products of learning.

Freedom to teach and freedom to learn are inseparable in relation to academic freedom.

The freedom to learn is dependent upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. All members of the university community share the responsibility to secure and respect general conditions conducive to the freedom to learn.

Article II. Definitions

A. The term “university” means Western Carolina University unless otherwise specified as “university (system)” which means The University of North Carolina.

B. The term “student” includes all persons taking courses at the university, both full time and part time, pursuing undergraduate, graduate, or professional studies on the main campus, through distance learning, study abroad or any other classroom or academic environment which is directly a product of enrollment in said courses. Persons who are not officially enrolled for a particular term but have registered for a subsequent term, or are on campus for an orientation program are also considered “students.”

C. The term “student organization” means any number of persons who have complied with the formal requirements for university recognition. The term “student” may also be read as “student organization.”

D. The term “Vice Chancellor for Student Affairs” means the Vice Chancellor for Student Affairs and any appropriate designee.

E. The term “Associate Vice Chancellor” means the Associate Vice Chancellor for Student Affairs and any appropriate designee.

F. The term “DSJA” means the Director of Student Judicial Affairs and any

appropriate designee. The DSJA is the primary case manager and reports to the Associate Vice Chancellor for Student Affairs.

G. The term “judicial body” means any person or persons authorized by the DSJA to determine whether a student has violated this code and to recommend imposition of sanctions.

H. The term “judicial body advisor” means the DSJA or any professional in the Department of Student Judicial Affairs who is not serving as the complainant.

I. The term “university official” includes any person employed by the university, performing assigned administrative or professional responsibilities.

J. The term “appellate body” means any person or persons authorized by the Vice Chancellor for Student Affairs or the Associate Vice Chancellor for Student Affairs to consider an appeal from a judicial body’s determination that a student has violated this code or from the sanctions imposed by the judicial body.

K. The term “member of the university community” includes any person who is a student, faculty member, administrator, or any other person employed by the university. A person’s status in a particular situation shall be determined by the Vice Chancellor for Student Affairs.

L. The term “university premises” includes all land, buildings, facilities, and any other property in the possession of or owned, used, or controlled by the university (including adjacent streets and sidewalks).

M. The term “code” means the Western Carolina University Code of Student Conduct.

Article III. Authority

According to The Code of the Board of Governors (Appendix XII), “under such policies as may be prescribed by the Board of Governors and the Board of Trustees, the Chancellor shall be responsible for the regulation of student conduct.” The Vice Chancellor for Student Affairs is that person designated by the Chancellor to be responsible for policies related to student conduct. The Associate Vice Chancellor is that person designated by the Vice Chancellor to be responsible for the administration of this code. The DSJA is the person designated by the Associate Vice Chancellor to be responsible for the administration of this code. No appeal concerning this code shall lie beyond the Board of Trustees, unless it is alleged that the policy, action, or decision being appealed violates any law or constitutional provision of North Carolina or of the United States, the university (system) code, or policies of the Board of Governors.

The DSJA shall determine the composition of judicial bodies and determine which judicial body shall be authorized to hear each case.

See Article V.D. for appellate instructions.

The DSJA shall develop policies for the administration of the judicial program and procedural rules for the conduct of hearings which are consistent with

provisions of this code.

Decisions made by a judicial body shall be final, pending the normal appeal process.

A judicial body may be designated as arbiter of disputes within the student community in cases which do not involve a violation of this code. All parties must agree to arbitration and to be bound by the decision with no right of appeal.

Article IV. Rules and Regulations Regarding Conduct

A. Scope

Generally, the jurisdiction of this code shall be limited to conduct which occurs on university premises or which adversely affects the university community and/or the pursuit of its objectives. Students of the university are responsible to the university for certain actions committed off-campus. This code may apply to off-campus conduct when: a) it is required by law, b) when it is likely to interfere with the educational process the orderly operation of the university, c) the continued presence of the student on campus is likely to endanger the health, safety, or welfare of the university community, d) when the conduct clearly conflicts with the university's mission and/or aspirations. The Director of Student Judicial Affairs will make this decision on a case-by-case basis.

The action of the university with respect to any conduct shall be made independently of any off-campus authority. The prospect of criminal charges does not preclude the possibility of university jurisdiction over the case. This code not only applies to the rights and responsibilities of individual students but also to those of student organizations.

B. Prohibited Conduct

Any student found to have committed the following misconduct is subject to the disciplinary sanctions outlined in Article V. Certain acts of prohibited conduct may result in multiple charges related to a single behavior. For example, DWI/DUI is a violation of the Alcohol Policy; however it is also a behavior that threatens or endangers. Alleged violations of the Code of Student Conduct lead to a process to determine responsibility. Findings of responsibility shall be guided based on preponderance of the evidence and the judicial body's best professional judgment. If found responsible, a student's sanctions will be determined in light of his/her best interest, his/her judicial history, the interest of the Western Carolina University community, and with regard to Western Carolina's policies and practices.

1. Acts of dishonesty, including but not limited to, the following:

- (a) Cheating, plagiarism, or other forms of academic dishonesty.
- (b) Furnishing false information to any university official, faculty member, or office.
- (c) Forgery, alteration, or misuse of any university document, record, or instrument of identification.
- (d) Tampering with the election of any university-recognized student organization.
- (e) Intentionally withholding information.
- (f) Other acts of dishonesty

Note: Resolution of academic honesty complaints will normally be handled within the appropriate college according to the provisions of the Academic Honesty Policy. Records of academic dishonesty cases are maintained in the

Department of Student Judicial Affairs.

2. Disruption or obstruction of teaching, research, administration, disciplinary proceedings, or other university activities (including its public-service functions), on or off campus.

3. Physical abuse, verbal abuse, threats, intimidation, harassment, sexual harassment, stalking, coercion, and/or any other conduct which threatens or endangers the health or safety of any person (including one's self).

4. Damage to property of the university, property of a member of the university community or other personal property, including but not limited to:

- (a) Attempted or actual vandalism
- (b) Attempted or actual theft
- (c) Attempted or actual littering
- (d) Other acts of damage to property

5. Hazing, defined as an act which endangers the mental or physical health or safety of a student; annoys, frightens, scolds, or harasses a student; or which destroys or removes public or private property.

6. 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.

7. Unauthorized possession, duplication, loan, or use of keys or Cat Card to access any university premises or unauthorized entry to or use of university premises or activity.

8. Violation of any rule, regulation, or policy which may be promulgated by the Chancellor of the university or an authorized representative, by any college, department, residence hall, office, or other facility within the scope of its authority, or by the university (system), provided such rules, regulations, or policies were published, posted, or otherwise adequately publicized or the student had actual knowledge thereof.

- (a) Removal of public area furniture
- (b) Violation of smoke free area
- (c) Use of prohibited items in residence halls
- (d) Unauthorized room change
- (e) Misuse of university windows (i.e. removing/tampering with screens, leaning out of or climbing through, throwing objects from, yelling from, playing music through, etc.)
- (f) Visitation policy
- (g) Pets (please refer to the Guide to Residential Living for more details)
- (h) Violation of Residential Living policy
- (i) Violation of a departmental or office policy

9. Violation of federal, state, or local law, including but not limited to:

- (a) Use or possession of narcotics or other controlled substances
 - i. Possession or use of drug paraphernalia
 - ii. Possession with intent to manufacture, distribute, or sell narcotics or other controlled substances

Note: Any violations of the "Illegal Drugs Policy" will be resolved according to the procedures therein.

- (b) Use, possession, or distribution of alcohol beverages except as expressly

permitted by law and the university regulations:

- i. Public intoxication
- ii. Public intoxication and violent acts
- iii. DWI/DUI (may face multiple violations of code)
- iv. Serving to someone underage

(c) Any other violation of federal, state, or local law such as firearms, theft, vandalism, assault, etc.

(d) Facilitation of Article IV.B.9 (in part or in whole) (add period)

10. Any violation of the Alcohol Beverage Policy that may not be a violation of law:

(a) Possession or consumption of alcohol in areas not designated as alcohol areas

(b) Presence of kegs, party balls, or other common source containers

(c) Behaviors/games/devices which are consistent with rapid consumption, including but not limited to: beer funnels/bongs, keg stands, shotgunning/chugging, Flip Cup, Circle of Death, Beer Pong, Quarters, etc.

(d) Any display of alcohol paraphernalia by individuals under the age of 21 is prohibited. Further, any public display of alcohol paraphernalia (specifically and only empty beer cans, bottles, or alcohol bottles used for decoration) is prohibited. T-shirts, hats, banners, posters, etc. are not considered paraphernalia. Paraphernalia is considered anything that would indicate possession at one time, such as bottles, empty bottles, bottles for decorative use, bottle caps, empty cans, beer boxes/cartons, etc.

(e) Facilitation of Article IV.B.10 (in part or in whole.)

11. Illegal or unauthorized possession of harmful or dangerous items, including but not limited to:

(a) Firearms

(b) Other weapons, including but not limited to air soft guns, BB guns, paintball guns, sling shots, knives, martial arts equipment, etc.

(c) Fireworks

(d) Explosives

(e) Dangerous chemicals including but not limited to mace, pepper spray, etc.

(f) Other possession of an illegal, unauthorized, harmful, or dangerous item

12. Participation in a campus demonstration which disrupts the normal operations of the university and infringes on the rights of other members of the university community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area; intentional obstruction which unreasonably interferes with freedom of movement, either pedestrian or vehicular, on campus.

13. Obstruction of the free flow of pedestrian or vehicular traffic on university premises or at university-sponsored functions.

14. 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 the university, or at functions in which members of the university community participate.

15. Violation of Fire Safety including but not limited to:

- (a) Failure to properly evacuate during a fire alarm
 - (b) Intentional sounding of a false alarm
 - (c) Improper use of fire prevention equipment on university premises
 - (d) Unauthorized setting of fires on university premise
 - (e) Any other violation of fire safety
16. Gambling.
17. Snowballing on any university premises other than the intramural fields.
18. 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 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 interfere with normal operation of the university computing system.
 - (g) Use of the computing facilities for the purpose of private enterprise.
 - (h) Any violation of computer center policy (see University Policy #52).
 - (i) Illegal downloading/file sharing (educational outreach assessments: \$50 for music; \$100 for video games and movies, etc.)
19. Abuse of the judicial or disciplinary procedures, including but not limited to:
- (a) Failure to obey the summons of a judicial body or university official.
 - (b) Falsification, distortion, or misrepresentation of information before a judicial body.
 - (c) Disruption or interference with the orderly conduct of a disciplinary proceeding.
 - (d) Institution of a disciplinary proceeding knowingly without cause.
 - (e) Attempting to discourage an individual's proper participation in, or use of, the disciplinary proceedings outlined in this code.
 - (f) Attempting to influence the impartiality of a member of a judicial body prior to, and/or during the course of, the disciplinary proceeding.
 - (g) Harassment and/or intimidation of a member of a judicial body, complainant, or witness prior to, during, and/or after a disciplinary proceeding.
 - (h) Failure to comply with the sanction(s) imposed under this code.
 - (i) Influencing or attempting to influence another person to commit an abuse of the disciplinary system.
20. Aiding, abetting, or facilitating any prohibited conduct listed.
21. Sexual misconduct, including but not limited to:
- (a) Sexual assault—engaging in vaginal, oral, or anal intercourse with, or inflicting other sexual invasion upon, any person without that person's consent. "Other sexual invasion" is defined as the intentional touching of an unwilling person's genitalia, groin, breast, buttocks, or clothing covering them, or forcing an unwilling person to touch another's intimate parts as listed above. An action is "without that person's consent"
 - when inflicted upon a person who has not freely and actively given consent.

- when consent is given as a response to force or the threat of force.
- when inflicted upon a person who one knows (or reasonably should know) to be physically incapacitated by the use (voluntarily or involuntarily) of alcohol and/or other drugs, including “date rape” drugs to the extent that they are either unconscious, unaware, or otherwise physically helpless.

(b) Nonconsensual sexual contact—engaging in any other physical contact not described in the above definition of sexual assault which is performed in a sexual context and without a person’s consent as defined above.

(c) Sexual exploitation—taking nonconsensual, unjust, or abusive sexual advantage of another for one’s own advantage or benefit; or to benefit or advantage anyone other than the one being exploited; and that behavior does not otherwise constitute rape, sexual assault, or sexual harassment.

Examples of Sexual Exploitation include, but are not limited to prostituting another student, nonconsensual video or audio taping of sexual activity, going beyond the boundaries of consent (such as letting friends surreptitiously watch you having consensual sex), engaging in voyeurism, and inducing incapacitation with the intent to rape or sexually assault another person or with the intent to create opportunity for a third party to rape or sexually assault another person.

22. Any violation of the Code of Student Conduct by one’s non-Western Carolina University guest. “Guest” is defined as any non-student present on University premises at the invitation and/or hosting of the student.

C. Violation of Law and Its Relationship to University Discipline

1. If a student is charged only with an off-campus violation of federal, state, or local laws but not with any other violation of this code, disciplinary action may be taken and sanctions imposed for misconduct which demonstrates flagrant disregard for the university community. In such cases, no sanction may be imposed unless the student has been found guilty in a court of law or has declined to contest such charges, although not actually admitting guilt (e.g., “no contest” or “nolo contendere”).

2. University disciplinary proceedings may be instituted against a student charged with violation of a law which is also a violation of this code; for example, if both violations result from the same factual situation, without regard to the pendency of civil litigation in court or criminal arrest and prosecution. Proceedings under this code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.

3. 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. The university will cooperate fully with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators.

Article V. Procedures for the Resolution of Conduct Code: Violations
(Revised 5/4/07)

Charges and Hearings

The Department of Student Judicial Affairs recognizes due process as paramount and central to the educational philosophy of the student judicial process. The DSJA views this process as a partnership in education between the student and the

university. Therefore, all parties have an important role to play.

- **Student Role:** to engage in the process when they have allegedly violated the code. If students choose not to engage in the process, their case will be forwarded to a hearing within thirty (30) calendar days (Article V.A.2.).
- **DSJA Role:** In order for due process to take place, there must be notice and a hearing (or mutual resolution). The DSJA will make every effort to ensure one's procedural due process beyond basic notice and hearing. However, the DSJA reserves the right to extend or modify timelines on a case-by-case basis. Examples of situations that might result in timeline modifications could include: the end of the semester, university closure, holidays, etc.

1. Any person may file charges against any student for misconduct. Charges shall be prepared in writing and directed to the DSJA. Any charge should be submitted as soon as possible after the event takes place. Written charges may take the form of law enforcement agency reports, residence hall reports, and written statements from individuals, etc. E-mail communications are acceptable but not recommended due to the non-confidential nature of that form of communication.

2. Based on the information contained in a written report, the DSJA may conduct an investigation to determine if the charges have merit. If the charges have merit, they can be disposed of administratively by a mutual resolution between the judicial body and the accused student on a basis acceptable to the DSJA. This determination shall be made within thirty (30) calendar days after the initiation of the allegation. Such disposition shall be final, and there shall be no subsequent proceedings. The charged student will receive written confirmation of the administrative disposition of the case, and a copy of the correspondence will become a part of the student's disciplinary file.

3. If the charges cannot be disposed of by mutual resolution: the DSJA may serve in the same matter as the judicial body or a member thereof. When a mutual resolution is not met, it is the student's responsibility to set up a meeting with the DSJA within ten (10) calendar days of the attempt to mutually resolve. In the meeting with the DSJA, formal charges shall be presented in writing to the accused student. Notice of charges shall (a) set out the rule or rules which have been allegedly violated; (b) state the alleged action or behavior; (c) list the names of any witnesses intended to be called by the charging party (if known by the DSJA and the charging party is not the DSJA); (d) advise the student of his/her rights and of the hearing procedure, including the right to request removal of any hearing officer/judicial body member perceived to have a bias in the case; (e) inform the student if suspension/expulsion is a possible sanction in this case. The removal request must be in writing and must include the basis for the bias claim. The judicial body, without participation by the involved member, shall evaluate the removal request and render a decision within five (5) calendar days of the removal request. A hearing officer/judicial body member who has a conflict with, bias about, or an interest in a case must recuse him/herself. If the individual refuses to recuse him/herself, the DSJA or Associate Vice Chancellor for Student Affairs will make the recusal decision.

4. A time shall be set for the hearing no less than ten (10) nor more than fifteen (15) calendar days after the student has been notified in writing while meeting with the DSJA. The student may request in writing an earlier hearing. Maximum time limits for scheduling of hearings may be extended at the discretion of the DSJA.

5. Hearings shall be conducted by a judicial body according to the following guidelines. Note: At any time a student may request that the DSJA assign another judicial body member to serve in that capacity. The DSJA will consider these requests on a case-by-case basis.

(a) Hearings normally shall be conducted in private.

(b) Admission of any person to the hearing shall be at the discretion of the judicial body and/or the DSJA.

(c) Charges against multiple students involved in the same incident may be heard in a single hearing only if the accused students consent to such a proceeding.

(d) The complainant and the accused have the right to be assisted by any adviser they choose, at their own expense. The complainant and/or the accused is responsible for presenting his/her own case. Advisers are permitted only to speak to their advisee and are not otherwise allowed to participate in the hearing, unless the advisee chooses to have them speak as a witness.

(e) The DSJA and the judicial body must assure that the accused student has the capability to present his/her evidence and defense at the hearing. The method for assuring this capability may vary depending on the nature of the case. Upon a determination of incapability, the DSJA must advise the accused to seek assistance or may assign an adviser to the accused.

(f) A meeting (evidence exchange meeting) to review/exchange evidence shall take place at least twenty-four hours (24) prior to the hearing. This upholds the rights of the complainant and the accused to review any written evidence that will be used at the hearing and to obtain a list of witnesses intended to be called. Admissibility of any evidence brought forth after the evidence exchange meeting and before/during the hearing must be agreed to by the judicial body, the complaining party and the accused. Please note that the introduction of any new evidence after the evidence exchange meeting may delay the start or extend the time of a hearing.

(g) Pertinent records, exhibits, and written statements may be accepted as evidence for consideration by a judicial body to the extent that the evidence is relevant, credible, not prejudicial to the fairness of the proceedings, and does not otherwise infringe upon the rights of other students.

(h) All procedural questions are subject to the final decision of the chairperson of the judicial body. The chairperson of the judicial body may consult with the judicial body advisor.

(i) During the closed deliberations of the hearing, the judicial body shall determine by majority vote (if the judicial body consists of more than one person) whether the student has violated each section of the code with which the student has been charged.

(j) The judicial body's determination shall be made on the basis of whether it is more likely than not (a preponderance of the evidence) that the accused student violated the code.

(k) The following order of presentation is recommended for use in formal hearings. The order may be changed at the discretion of the chairperson.

1. Presentation of formal charges.

2. Opening statement by the complainant.

3. Opening statement of the accused.

4. Presentation of evidence and witnesses by the complainant and cross-examination by the accused.

5. Presentation of evidence and witnesses by the accused and cross examination by the complainant.

6. Closing statements by the complainant and then by the accused.
7. The judicial body will then go into closed deliberations to determine responsibility.
8. When deliberations are complete, the complainant and accused student is recalled and the chairperson verbally delivers the finding of the judicial body.
9. In cases where the student is found not responsible, the hearing is then officially complete and all persons are released.
10. In cases where the student is found responsible, the judicial body will recall the complainant and the accused student and will allow for victim impact statements and/or character witnesses.
11. In cases where the finding is responsible, the judicial body will return to closed deliberation to determine sanctions (Article V.A.8.).
12. There shall be a single verbatim record, such as a recording, of all hearings before a judicial body. The record shall be the property of the university.
13. In all cases, the evidence in support of the charges shall be presented and considered. Thus, if the accused student chooses not to be present at his/her hearing, the hearing will continue in absentia. A student's absence at his/her hearing is not a violation of the code; however it prevents that student's voice from being heard.
14. During the closed deliberations of the hearing, the judicial body shall deliberate to determine if the accused is responsible for violations of the code. If responsibility for a violation is found, the judicial body will impose appropriate sanctions as outlined in Article V, Section B. After a finding of responsibility and before determination of sanctions, the judicial body may review evidence, testimony, impact statements, character witnesses, previous judicial history, and the university policies to determine appropriate sanctioning.
Note: If the judicial body determines that expulsion is an appropriate sanction, that finding must be in the form of a recommendation to the Vice Chancellor for Student Affairs, who makes the final administrative decision in all expulsion cases. Final administrative decision must be reached within forty-five (45) calendar days of the hearing and transmitted in writing to the student within ten (10) calendar days of the final administrative decision.
15. In cases other than those which result in a recommendation of expulsion, the final administrative decision must be transmitted to the student in writing within ten (10) calendar days of the date the decision is made, and it must contain a brief summary of the evidence upon which the decision is based and appeal rights must be specified by the DSJA.
16. In cases of alleged sex offenses or other acts of violence against a person, the complainant and the accused are entitled to the same opportunities to have others present during the hearing, and each shall be informed of the outcome of any disciplinary proceeding.

B. Sanctions

Note: if a student is found responsible through mutual resolution or a hearing, his/her judicial history will be taken into consideration. Drug and/or alcohol violations are cumulative while a student at Western Carolina University.

1. The following sanctions may be imposed upon any student found to have

violated the code. Sanctions may include, but are not limited to:

(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 and a restriction by which a student is permitted to remain in the university. 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 regulations during the probationary period.

(c) Loss of Privileges—Denial of specified privileges for a designated period of time.

(d) Financial Sanctions:

1. Administrative Cost—Related to the working cost associated with resolving or addressing the alleged violation (such as the relocation of lobby furniture to its proper location or the time for staff to remove people from a building during a fire alarm).

2. Restitution—Serves as compensation for loss, damage or injury. Restitution may take the form of appropriate service and/or monetary/material replacement.

3. Educational Outreach Assessment (EOA)—A sanction that, although financial in nature, is not considered punitive; rather, it provides a tangible learning opportunity for students. Through this sanction the student becomes an active contributor to the education of not just him/herself but also his/ her peers.

(e) Discretionary Sanctions—Work assignments, service to the university, or related discretionary assignments.

(f) Educational Sanctions—Provide a specific service, participate in a specific program, receive specific instruction, or complete a research assignment. The student is responsible for related expenses.

(g) Academic dishonesty sanctions:

1. Lowering or changing student's grade on a project, exam or other piece of academic work

2. Lowering or changing student's grade in course

3. Requiring student to perform additional or substitute work assignment (to be determined by instructor)

4. Assigning student grade of "F" or "0" on the specific project, exam or other piece of academic work

5. Failing student in course

6. Transferring of student to another section of the course (with Dept. Chair's approval)

7. Suspension from the University

8. Expulsion from the University

(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) University Suspension*—Separation of the student from the university for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified. The sanction of University Suspension is recorded in the University of North Carolina Suspension and Expulsion database and will reflect the period of the suspension.

(j) University Expulsion*—Permanent separation of the student from the university and any University of North Carolina System institution.

* These sanctions will be recorded in the University of North Carolina

Suspension/ Expulsion database and will reflect the period and type of separation. Please note: one's name is not removed upon conclusion of the period of separation but the database does reflect the separation end date. If a student is suspended/expelled from Western Carolina University he/she will receive "W"'s for all classes.

2. More than one of the sanctions listed above may be imposed for any single violation.

3. Other than university expulsion, disciplinary sanctions shall not be made part of the student's permanent academic record but shall become part of the student's confidential disciplinary record. Cases involving the imposition of sanctions other than university suspension or university expulsion shall be expunged from the student's confidential record five years after the disposition of the case, or one (1) year after the student graduates, whichever is longer.

4. The following sanctions may be imposed upon groups or organizations:

- (a) Those sanctions listed above in Section B. 1, a through g.
- (b) Suspension of all activities of the organization, except those required by the university, for a specified period of time.
- (c) Suspension of university recognition for a specified period of time.
- (d) Revocation of university recognition with no opportunity for university recognition in the future.

5. Minimum Sanctions. The following minimum sanctions are prescribed for specific behaviors:

- (a) Alcohol:
 - * Article IV.B.9b. – Use, possession, or distribution
 - 1st offense: four (4) months probation, educational program/assignment, \$100 EOA, parental notification
 - 2nd offense: eight (8) months probation, educational program/assignment, \$175 EOA, parental notification, ten (10) hours community service
 - * Article IV.B.9b.i. – Public Intoxication/disruptive behavior
 - 1st offense: four (4) months probation, educational program/assignment, \$100 EOA, parental notification
 - 2nd offense: eight (8) probation or suspension from the residence hall for a period up to either (8) months, educational program/assignment, parental notification, \$175 EOA, minimum 10 hours community service.
 - * Article IV.B.9b.ii or iii. – DWI/DUI or Violent acts when drinking
 - 1st offense: eight (8) months probation, educational program/assignment, \$175 EOA, parental notification, ten (10) hours community service
 - 2nd offense: suspension or expulsion from the residence hall, parental notification
 - * Article IV.B.9b.iv. – Serving to someone underage
 - 1st offense: four (4) months, educational program/assignment, \$100 EOA, parental notification
 - 2nd offense: eight (8) probation or suspension from the residence hall for a period up to either (8) months, educational program/assignment, parental notification, \$175 EOA, minimum 10 hours community service.
 - * Article IV.B.9d. – Facilitation of IV.B.9
 - 1st offense: two (2) months probation, educational program/assignment, parental notification
 - 2nd offense: four (4) months probation, educational program/assignment,

\$100 EOA, parental notification

* Article IV.B.10a. – Possession/consumption in areas not designated as alcohol areas

1st offense: four (4) months probation, educational program/assignment,

\$100 EOA, parental notification

2nd offense: eight (8) months probation, educational program/assignment,

\$175 EOA, parental notification, ten (10) hours community service

* Article IV.B.10b. – Keg, party ball, or other common source container

1st offense: suspension from residence hall for up to four (4) months, parental notification

2nd offense: expulsion from residence hall, parental notification

* Article IV.B.10c – Rapid consumption behaviors/games/devices

1st offense: eight (8) months probation, educational program/assignment,

\$175 EOA, parental notification, ten (10) hours community service

2nd offense: suspension or expulsion from the residence hall, parental notification

* Article IV.B.10d. – Paraphernalia

1st offense: three (3) months probation, educational program/assignment,

\$50 EOA

2nd offense: four (4) months, educational program/assignment, \$100 EOA

* Article IV.B.10e. – Facilitation of IV.B.10

1st offense: two (2) months probation, educational program/assignment, parental notification

2nd offense: four (4) months probation, educational program/assignment,

\$100 EOA, parental notification

Any third offense may result in residential suspension/expulsion. It may also include, but is not limited to, suspension or expulsion from the university and parental notification. Failure to attend assigned educational programs or complete sanctions may result in additional disciplinary action. Any offense that occurs while a student in on probation may result in suspension or expulsion from residence halls.

(b) Drugs (refer to Illegal Drugs Policy):

* Article IV.B.9a. – Use/possess - Schedule I-II: Controlled substance (including but not limited to heroin, mescaline, LSD, opium, cocaine, amphetamine, methaqualone, etc.)

1st offense: university suspension, parental notification

2nd offense: university expulsion, parental notification

* Article IV.B.9a. – Use/possess – Schedule III-VI: Controlled substances (including but not limited marijuana, codeine, steroids, pentobarbital)

1st offense: eight (8) months probation, educational program/assignment, \$200 EOA, parental notification, fifteen (15) hours community service, regular drug testing and counseling

2nd offense: university suspension or expulsion, parental notification

* Article IV.B.9a.i. – Use/possess drug paraphernalia

1st offense: six (6) months probation, educational program/assignment, \$100 EOA

2nd offense: twelve (12) months probation, educational program/assignment, \$175 EOA, fifteen (15) community service, parental notification

3rd offense: possible university suspension/expulsion

* Article IV.B.9a.ii. – Trafficking – Schedule I-II

1st offense: university expulsion, parental notification

* Article IV.B.9a.ii. – Trafficking – Schedule III-VI

1st offense – university suspension for a period of at least one (1) semester or its equivalent, parental notification

2nd offense – university expulsion, parental notification

C. Interim Suspension

In certain circumstances, the DSJA may impose a university or residence hall suspension prior to the disposition of a case. When these circumstances arise, a student's right to due process will be upheld. The interim suspended student can mutually resolve his/her case or choose to go to a hearing. In these situations, the results of a student's case may have an impact on his/her grades. Depending on the particular circumstances of a case and its disposition, the student may receive an "I", an evaluative grade, or a "W."

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 wellbeing; 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 DSJA may determine to be appropriate.

D. Appeals

1. A decision reached by the judicial body or a sanction imposed by the judicial body may be appealed, by the accused student or the complainant, to an appellate body. In the case of a suspension or expulsion, the student must deliver to the Associate Vice Chancellor for Student Affairs written notification of the "Intent to Appeal" form within forty-eight (48) hours of the decision. A formal notice of appeal shall be in writing and shall be delivered to the appellate body within five (5) calendar days of the decision. Upon receipt of the appeal, the appellate body must render a decision within five (5) calendar days, and notice of the appellate decision must be communicated within ten (10) calendar days of the decision. Normally, if the decision is rendered by a judicial body other than the Associate Vice Chancellor for Student Affairs, the Associate Vice Chancellor for Student Affairs shall be the next level of appeal. Any decision of the Associate Vice Chancellor for Student Affairs can be appealed to the Vice Chancellor for Student Affairs. Any decision of the Vice Chancellor for Student Affairs can be appealed to the Chancellor. The same appellate timeline shall be followed through each level of the appeal process. At all times, the DSJA reserves the authority to make exceptions to timelines on a case-by-case basis (e.g. university closure, holidays, ends of semester, etc.). In the event there is a vacancy at the Associate Vice Chancellor, Vice Chancellor or Chancellor level, the DSJA shall determine the next level of appeal. In the event there is a vacancy in the DSJA the Associate Vice Chancellor shall determine the next level of appeal. Legal counsel shall be consulted as appropriate.

2. Except as required to explain the basis of new evidence, an appeal shall be limited to review of the verbatim record of the initial hearing and supporting documents for one or more of the following purposes to be included in the letter

of appeal:

(a) To determine whether the original hearing was conducted fairly: in light of the charges and evidence presented, in conformity with prescribed procedures, and giving both parties a reasonable opportunity to prepare and to present a rebuttal of allegations

(b) To determine whether the decision reached regarding the accused student was based on substantial evidence: whether the facts in the case were sufficient to establish that a violation of the code occurred

(c) To determine whether the sanction(s) imposed was (were) appropriate for the violation(s) of the code which the student was found responsible

(d) To consider new evidence: sufficient to alter a decision, other relevant facts not brought out in the original hearing, evidence and/or facts that were not known to the person appealing at the time of the original hearing.

3. If an appeal is upheld by an appellate body, the appellate body may either over-turn the original judicial body's decision of responsibility or adjust the sanctions.

4. In case involving appeals by students accused of violating the code, review of the sanction by the appellate body may not result in more severe sanctions for the accused student. Instead, following an appeal, the appellate body may, upon review of the case, reduce or adjust, but not increase, the sanctions imposed by the original judicial body.

5. Procedures for appellate reviews are determined by the appellate body and/or the Vice Chancellor for Student Affairs and shall be communicated to the appealing student in advance of the appellate review by the DSJA. If the appeal is denied, the student must comply with the original sanctions. If the imposed deadlines for the sanctions need modification, in light of the duration of the appeal process, the students must make the request for an extension in writing to the DSJA within forty-eight (48) hours of the notification of the appeal findings.

Article VI. Interpretation and Revision

A. Interpretation: any question of interpretation regarding the code shall be referred to the Vice Chancellor for Student Affairs for final determination.

B. Revision: The code may be reviewed and amended annually under the direction of the Vice Chancellor of Student Affairs.

Student Judicial Action Hold

A Student Judicial Action Hold (SJAH) prevents a student from completing the following university processes; pre-registration, registration, drop/add, withdrawal, graduation, receiving transcripts, etc. The SJAH is placed on a student's account for a variety of reasons including non-response to a university official, lack of completion of judicial sanctions, allegations that may result in suspension/expulsion, or otherwise failing to engage in the student judicial process (Article V.A-Student Role).

Preliminary Student Judicial Action Hold (Procedures for Students Facing Disciplinary Charges Who Wish to Withdraw from the University)

The Department of Student Judicial Affairs (DSJA) is committed to the efficient and thorough completion of all cases resulting from allegations of violations of the Student Code of Conduct. Students with pending disciplinary charges will not

be allowed to withdraw from the university until their cases are resolved through the Department of Student Judicial Affairs.

1. In cases that may result in a suspension or expulsion, as determined by the DSJA, a preliminary SJAH will be placed on a student's transcript.
2. The SJAH is intended to ensure that the case proceeds through the student judicial process prior to the student's withdrawal and application to or enrollment at another institution of higher learning.
3. In other cases (cases which have not been flagged with a preliminary SJAH), the DSJA will check regularly with the Advising Center to get an update of students who recently withdrew either officially or unofficially from Western Carolina University.
4. Upon receipt of the recent withdrawal list, the DSJA will cross-reference the names to any outstanding judicial cases and immediately place a SJAH on those student accounts.
5. The SJAH will remain on a student's account until the student judicial process has been concluded.

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