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Campus Student Code

Student Conduct Code and Discipline Procedure for the Main Campus of West Virginia University

West Virginia University Division of Student Life

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Section 1: General.

1.1. Purpose: To establish written rules, regulations, and procedures concerning student conduct and discipline for the main campus of West Virginia University ("University"), including the grievance procedures that address Title IX Sexual Harassment complaints against students.

1.2. Authority: BOG Student Life Rule 6.1, Student Rights and Responsibilities; Student Conduct

1.3. Scope: This code applies to all students associated with the main campus of West Virginia University under the authority of the West Virginia University Board of Governors.

1.4. Effective Date: August 12, 2013; amended August 21, 2015; August 27, 2018; August 2020 (applying to cases after August 14, 2020); amended April 12, 2021 (only minor revisions made to calculation of days (all references to days are now calendar days) and section 6.2(u) dealing with the definition of **prohibited computer** or electronic activity); amended October 1, 2021 (one change was made to section 12.9.5.2 in order to account for a recent decision with respect to cross-examination and the applicable Title IX regulations).

Section 2: Definitions.

2.1 "Main campus" means the campus of West Virginia University, except for the divisional campuses.

2.2 The definitions set forth in Section 5 of BOG Student Life Rule 6.1, Student Rights and Responsibilities; Student Conduct, are incorporated by reference as if fully set forth herein.

Section 3: Establishment of the Campus Student Code & Title IX Grievance Procedures for Complaints Against Students.

3.1 The Dean of Students, as the President's designee for the main campus of the University, hereby establishes the following written rules, regulations, and procedures concerning student conduct and discipline ("Campus Student Code").

3.2 Section 12 of this Campus Student Code sets forth the specific grievance procedures for complaints of Sexual Harassment covered by Title IX against students.

Section 4: Campus Student Code Administrators.

4.1 The professional staff members of the Office of Student Rights and Responsibilities shall serve as the Campus Student Code Administrators for the main campus of the University and shall be available to assist any student, student organization, staff member, faculty member, or administrator in understanding and applying the Campus Student Code.

4.2 The Office of Student Rights and Responsibilities shall be the official repository for all conduct-related materials concerning students associated with the main campus of the University.

4.3 Requests for conduct-related materials concerning students associated with the main campus of the University should be made to the Office of Student Rights and Responsibilities who is the custodian of such materials.

4.4 The Campus Student Code Administrators and, where appropriate and in cases of Title IX Sexual Harassment, the Title IX Coordinator are charged with the following duties, which shall be undertaken in a manner to ensure the fair administration of this Campus Student Code: (1) Advise any group or individual within the University wishing to bring charges against one or more students; (2) Inform any student against whom charges have been brought of substantive rights, due process rights, and procedures forthcoming, including the right of appeal; (3) Advise the appropriate hearing body and assist in setting up the hearing, being certain that all conditions of the Board of Governors and West Virginia University for such procedures are met; (4) Prepare all papers necessary for the hearing and outcome from the hearing for appropriate dispensation and signature; (5) Assist in the appointment of the hearing bodies and provide and/or coordinate training opportunities as appropriate; (6) Attend hearings, present the facts and information obtained from the investigation on behalf of the University, ask questions of witnesses, and have administrative responsibility for maintaining all confidential files, audio recordings, other electronic media, and documents which result.

Section 5: Jurisdiction of the Campus Student Code.

5.1 This Campus Student Code shall apply to conduct that occurs on University premises; at University sponsored activities; to 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; 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 standards of conduct which are appropriate for an academic institution.

5.1.1 While this Campus Student Code applies to all conduct as set forth above, only that which falls under Title IX jurisdiction, as set forth in WVU BOG Rule 1.6, will be subject to the requirements of Section 12.

5.1.2 Non-Title IX Sexual Harassment and any other Rule 1.6 Misconduct, while not subject to the requirements of Section 12, will be addressed by this Code subject to the requirements of Section 11.

5.2 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 this Campus Student Code. The 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.

5.3 This Student Conduct Code shall apply to all students enrolled in undergraduate, graduate, and professional programs; and to all student organizations, as further outlined in Section 15. Academic and professional standards of conduct will also apply to students enrolled in programs that have adopted such standards, i.e., all students are subject to this Campus Student Code and some students may be concurrently subject to additional standards as determined by the respective Colleges, Schools, and academic programs.

Section 6: Prohibited Conduct.

6.1 General.

All students of the University and, to the extent applicable, all student organizations are expected and required to obey federal, state, and local 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, and to observe standards of conduct appropriate for an academic institution.

6.2 Specific Acts.

A student and, to the extent applicable, any student organization that commits any of the following acts is subject to action by the University under the Campus Student Code:

a) **Title IX Sexual Harassment.** "Title IX Sexual Harassment" is defined in West Virginia University Board of Governors Governance Rule 1.6. The definition can be found here, in full, here: <https://policies.wvu.edu/finalized-bog-rules/bog-governance-rule-1-6-rule>. In summary, it means Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, or Stalking that occurs within Title IX jurisdiction as set forth in Section 12 of Rule 1.6. Formal Complaints of Title IX Sexual Harassment are subject to the grievance procedures located in Section 12.

b) **Sexual Harassment.** "Sexual Harassment" is defined in West Virginia University Board of Governors Governance Rule 1.6. The definition can be found here, in full, here: <https://policies.wvu.edu/finalized-bog-rules/bog-governance-rule-1-6-rule>. In summary, it means Sexual Harassment, Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking, which is not covered by Title IX jurisdiction.

c) **Prohibited drug related conduct.** "Prohibited drug related conduct" means (1) possessing; (2) manufacturing; (3) producing; (4) distributing; (5) selling; (6) possessing with the intent to distribute or sell; or (7) being under the influence of any illicit drug, synthetic drug, or other controlled substance. It also means (8) using any prescribed drug in a manner inconsistent with the prescription; (9) driving or operating a vehicle while under the influence of any illicit drug, synthetic drug, or other controlled substance; or (10) intentionally or recklessly inhaling, ingesting, or using in any manner inconsistent with its purpose any chemical, liquid, substance or other compound.

Prohibited alcohol related conduct. "Prohibited alcohol related conduct" means violating West Virginia University Board of Governors Policy 18 (or its successor) or being a student (1) under the age of twenty-one, who consumes or possesses alcohol; (2) who gives alcohol to a person under the age of twenty-one; (3) who drives or operates a vehicle while under the influence of alcohol; (4) who is in public or on University premises in an intoxicated condition; (5) who possess an open container of alcohol, regardless of their age, in or on any public sidewalk, street, or other place; or (6) failure of a student organization to take all necessary steps to ensure that no person under the legal drinking age is provided alcoholic beverages at a function it sponsors or within any property or transportation it owns, operates, or rents.

d) **Impermissible burning.** "Impermissible burning" means (1) setting fire to; (2) causing a fire to be set to; or (3) aiding, inciting, enticing, or soliciting any person to set fire to furniture, vehicles, garbage, dumpsters, garbage receptacles, construction material, rubbish, debris, brush, or any other material, unless specifically permitted. "Impermissible Burning" also means contributing or adding furniture, vehicles, garbage, dumpsters, garbage receptacles, construction material, rubbish, debris, brush, or any other material to a fire that has already been set, unless specifically permitted.

e) **Riotous behavior and hooliganism.** "Riotous behavior and hooliganism" mean participation in a disturbance of two or more persons acting with the common purpose to commit or incite any action that threatens, presents a danger to, or terrorizes the public. However, riotous behavior and hooliganism does not mean peaceful demonstrations, peaceful picketing, a call for a peaceful boycott, or other forms of peaceful dissent.

f) **Aiding, abetting, assisting, or facilitating prohibited behavior.** "Aiding, abetting, assisting, or facilitating prohibited behavior" means to be actively associated with or actively encouraging another person or persons whose behavior is in violation of this Campus Student Code, University policy, or the law.

g) **Attempting or Causing Physical Harm to Another.** "Attempting or Causing Physical Harm to Another" means attempting to commit a violent injury to another person or committing an act that places another person in reasonable apprehension of immediately receiving a violent injury. It also means intentionally making physical contact of an insulting or provoking nature with another person or intentionally causing physical harm to another person.

h) **Misconduct at University athletic events, concerts, or other events.** For purposes of this subsection only, "misconduct" means failing to follow event or venue rules or guidelines or interfering in any way with the athletic event, concert, or other event, including, but not limited to, throwing objects into a crowd, at another person, or onto a playing field, court, or stage, or acting in a manner that reasonably interferes with others' enjoyment of the athletic event, concert, or other event.

i) **Violation of West Virginia University Board of Governors policies, institutional rules and regulations, or campus rules and regulations, including those adopted for the health and safety of the University community.** "Violation of West Virginia University Board of Governors policies, institutional rules and regulations, or campus rules and regulations" means engaging in conduct that violates West Virginia University Board of Governors policies, institutional rules and regulations, or campus rules and regulations, including any violation of published University housing and residence life rules or policies and any policies, rules, or regulations adopted for the health and safety of the University community, such as those designed specifically for COVID-19, which can be found here: <https://www.wvu.edu/return-to-campus/policies/health-and-safety>. A charge alleging a violation of a University policy, rule, or regulation shall identify the policy, rule, or regulation violated.

j) **Violation of federal, state, or local law.** "Violation of federal, state, or local law" means engaging in conduct that violates federal, state, or local law whether such conduct takes place on campus or off campus or whether civil or criminal penalties may also be imposed for such conduct. A violation of this provision is not predicated upon a final determination by a court of law. In other words, it is not necessary for a student to have been actually found to have violated a federal, state, or local law by a court of law in order to be disciplined under this Campus Student Code. It is only necessary that a student be found to have engaged in such prohibited acts by processes under the Campus Student Code. It is specifically noted here that the standard of proof in the Campus Student Code process is distinct and different from what is applied in criminal federal, state, and local law violations. A charge alleging a violation of a federal, state, or local law shall identify the federal, state, or local law violated.

k) **Endangerment.** "Endangerment" means engaging in conduct that endangers the health or safety of any person or causes a reasonable person to fear for his/her safety or the safety of another.

l) **Obstruction or disruption.** "Obstruction or disruption" means acting alone or in concert with others to unreasonably obstruct, disrupt, or interfere with a teaching, educational, research, administrative, disciplinary, public service, other activity or public performance authorized to be held or conducted on or off campus, or the duties or actions of public safety officials. Obstruction or disruption includes, but is not limited to, (1) misconduct in the classroom or other university setting; (2) any act that interrupts, modifies, or damages the free flow of pedestrian or vehicular traffic on University premises or at University sponsored or supervised functions; (3) any act that damages or interferes with a utility service or equipment, , such as on the University's PRT, communication service or equipment, University computers, computer programs, computer records or computer networks accessible through the University's computer resources; or (4) any action of a student that fails to comply with lawful directions of University officials or law enforcement officers acting in the performance of their duties.

m) **Indecent exposure.** "Indecent exposure" means exposure of the private or intimate parts of the body in public or in private premises when such exposure may be readily observed by others without consent.

n) **Obscene conduct.** "Obscene conduct" means conduct which the average individual applying contemporary University standards would find (i) taken as a whole, appeals to the shameful or morbid interest in sex; (ii) depicts or describes in a patently offensive way ultimate sexual acts, normal or perverted, actual or simulated; and (iii) the matter, taken as a whole, lacks serious literary, artistic, political or scientific value.

o) **Directing Unconstitutionally Protected Fighting Words at Another.** "Fighting words" means personally abusive epithets which, when addressed to the ordinary citizen, are, as a matter of common knowledge, inherently likely to provoke violent reaction.

p) **Incitement.** "Incitement" means any behavior intended and likely to provoke imminent unlawful action.

q) **Directing a True Threat at Another.** "True threat" means behavior or statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.

r) **Defamation.** "Defamation" means a false written or oral statement that damages another's reputation, which is an assertion of fact capable of being proven false and not a mere opinion.

s) **Theft.** "Theft" means the taking of possession of the property of another without consent.

t) **Damage, vandalism, or misuse of property.**

u) **Prohibited computer or electronic activity.** "Prohibited computer or electronic activity" means (1) unauthorized entry into a file to use, read, change the contents, or other purpose; (2) unauthorized transfer of a file; (3) unauthorized use of another individual's identification and password; (4) use of a computer or other electronic device to unreasonably interfere with the work of another student, faculty member, or University official; (5) use of a computer or other electronic device to send obscene messages; (6) use of a computer or other electronic device to unreasonably interfere with the normal operation of the University's network; or (7) use of a computer or other electronic device in violation of copyright laws.

v) **Tampering with emergency response equipment.** "Tampering with emergency response equipment" means interfering with or unnecessarily using a fire-alarm system, sprinklers, smoke detectors, fire-fighting equipment, or any other public safety or emergency call device.

w) **Making false reports.** "Making false reports" means reporting an emergency, crime, fire or that a bomb or other explosive has been placed on premises when knowing such a report is wrong or inaccurate.

x) **Hazing.** "Hazing" means any action or situation which (1) endangers or adversely affects the mental or physical health or safety of another person or persons; (2) would cause extreme embarrassment or adversely affect the dignity of another person or persons; or (3) causes another person or persons to destroy or remove public or private property. This includes, but is not limited to, any brutality of a physical nature, such as whipping, beating, branding, forced consumption of any food, alcohol, drug or other substance, any activity which would subject an individual or individuals to extreme mental stress, such as sleep deprivation or forced exclusion from social contact. Hazing with or without the consent of a student is prohibited. Initiations or activities of student organizations are prohibited from including any feature that is dangerous, harmful, or degrading to the student. A violation of this prohibition renders both the organization and participating individuals subject to discipline. Any student who knowingly witnesses or acquiesces in the presence of hazing is also subject to discipline.

y) **Harassment.** "Harassment" is defined in West Virginia University Board of Governors Governance Rule 1.6. The definition can be found here, in full, here: <https://policies.wvu.edu/finalized-bog-rules/bog-governance-rule-1-6-rule>. In summary, it means conduct that creates a Hostile Environment and is based upon an individual's 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. In no event shall this provision be used to discipline a student for speech protected by the First Amendment. As noted above, Sexual Harassment (Hostile Environment) is covered under Title IX Sexual Harassment if it occurs on Title IX jurisdiction.

z) **Discrimination.** "Discrimination" is defined in West Virginia University Board of Governors Governance Rule 1.6. The definition can be found here, in full, here: <https://policies.wvu.edu/finalized-bog-rules/bog-governance-rule-1-6-rule>. In summary, it means conduct that is based upon an individual's 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 and excludes an individual from participation, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in a University program or activity.

a) **Retaliation.** "Retaliation" is defined in West Virginia University Board of Governors Governance Rule 1.6. The definition can be found here, in full, here: <https://policies.wvu.edu/finalized-bog-rules/bog-governance-rule-1-6-rule> . In summary, it means to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege at the University because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Code or Rule 1.6.

bb) **False Statements.** Making a materially false statement in bad faith in the course of a grievance proceeding under Rule 1.6 or this Code is prohibited. A determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

cc) **Academic dishonesty.** Academic dishonesty is prohibited by the University and is typically handled in accordance with <https://provost.wvu.edu/governance/academic-standards-resources/academic-integrity-policy> .

dd) **Tampering with or falsifying a record.** "Tampering with or falsifying a record" means altering or assisting in the altering of any education record, record of the University or submitting false information or omitting requested information that is required for or related to an application for admission, the awarding of a degree, or any record of the University. This conduct may result in a prohibition against readmission, revocation of degree, and/or withdrawal of diploma.

ee) **Intrusion of Privacy.** "Intrusion of privacy" means unreasonably invading the private domain or seclusion of another by any means, including observation, videotaping, audio taping, photographing, or capturing the actions, image, audio, or likeness of any other member of the University community without permission or knowledge, when such member of the University community has a reasonable expectation of privacy.

ff) **Possession of deadly weapons or destructive devices.** "Possession of deadly weapons or destructive devices" means possessing or using any type of deadly weapon, firearm, imitation firearm, ammunition, explosive, firework, dangerous chemical, or other destructive device while on University premises. "Firearm" means any item which will or is designed to or may readily be converted to expel a projectile by the action of an explosive. "Deadly weapon" means any device, instrument, material, substance, or object, whether animate or inanimate, designed to be used to produce serious bodily injury or death or is readily adaptable to such use. This provision does not apply to those individuals specifically permitted by University policy or procedure to possess such items.

gg) **Unauthorized Entry or Use.** "Unauthorized Entry or Use" means to enter or remain without consent or lawful purpose in any building, room, structure, facility, vehicle, construction area, roof top, or other premises.

hh) **Unauthorized Use of Keys or Other Access Devices.** "Unauthorized use of keys or other access devices" means to possess, duplicate, or use a key or other access device, including an electronic keycard or other device used to grant access, to any building, room, structure, facility, vehicle, construction area, roof top, or other related premises without proper authorization.

ii) **Attempting to engage in an act prohibited by the Campus Student Code.** An "attempt" is defined as conduct that, if successful, would constitute or result in the prohibited conduct. Any student who abandons an attempt or prevents the prohibited conduct from occurring under circumstances that demonstrate a complete and voluntary renunciation of the prohibited conduct will not be subject to disciplinary action.

jj) **Deceptive Organizational Practices.** "Deceptive Organizational Practices" means (1) fraudulently or improperly holding out an organization as being recognized by the University when in fact the organization is not officially recognized by the Division of Student Life and has not followed the applicable recognition requirements; (2) any behavior that intentionally or carelessly misleads potential new members of the organization; or (3) failing to utilize organization funds or dues consistent with the purpose in which those funds or dues were collected.

kk) **Abuse of the Campus Student Code.** "Abuse of the Campus Student Code" means any of the following:

1. Failure to obey the notice from a Campus Student Code Administrator or other University official to appear for a meeting or hearing concerning violations of the Campus Student Code.
2. Falsification, distortion, or misrepresentation of information at any point in the student conduct process.
3. Disruption or interference with the orderly conduct of a Campus Student Code proceeding.
4. Initiating a Campus Student Code proceeding in bad faith.
5. Attempting to discourage or discouraging an individual's proper participation in, or use of, Campus Student Code proceedings.
6. Retaliating against an individual because of the individual's participation in, or use of, Campus Student Code proceedings.
7. Attempting to influence or influencing the impartiality of a member of a Hearing Adjudicator prior to, and/or during, a Campus Student Code proceeding.
8. Harassment (verbal or physical) and/or intimidation of at the hearing tribunal or Conduct Administrator prior to, during, and/or after any Campus Student Code proceeding.
9. Influencing or attempting to influence another person to commit an abuse or violation of the Campus Student Code.
10. Failing to comply with one or more sanctions imposed under the Campus Student Code.
11. Failure to comply with a University directive.
12. Knowingly violating the terms of a disciplinary sanction imposed in accordance with the Campus Student Code.

Section 7: Sanctions.

7.1 It is expected that the University will impose or seek a sanction that is fair under the circumstances. To that end, a student found responsible for a violation or violations of the Campus Student Code shall be subject to sanctions commensurate with the offense with consideration given to any aggravating and mitigating circumstances, including the student's conduct record. A student who receives a period of suspension as a disciplinary sanction is subject to further disciplinary action for prohibited conduct that takes place during the period of suspension. Sanctions available for violations of the Campus Student Code include any of the following:

a) **Expulsion:** Permanent separation of the student from the University. Permanent notification will appear on the student's transcript. The student may be denied access to University premises, provided that such restrictions are stipulated in the Outcome Letter and bear a reasonable relationship to the violation. If a student is expelled, the student will not receive a refund of any tuition or fees that have been paid to the University. This is reserved for persistent violations of the Campus Student Code or a single violation of marked severity.

b) **Suspension:** Separation of the student from the University for a specified period of time. Permanent notification will appear on the student's transcript. The student may be denied access to University premises and to all other University activities or privileges for which the student might otherwise be eligible, provided that such restrictions are stipulated in the Outcome Letter and bear a reasonable relationship to the violation. Suspended time will not count against any time limits for completion of a degree. If a student is suspended, the student will not receive a refund of any tuition or fees that have been paid to the University. Any student who is serving a suspension may be subject to a review and evaluation meeting prior to re-enrolling to ensure that all conditions of the suspension have been satisfied and that the student is prepared for return. This is reserved for persistent violations of the Campus Student Code or a single violation of marked severity that may not rise to the level of expulsion.

c) **Deferred Suspension:** The student will be given a certain set of expectations, but any suspension will be deferred and does not go into effect as long as the student complies with all requirements during the interim period. In those cases where the student completes all expectations during the interim period, the student's record will show that the sanction was never imposed. In the event that a student fails to comply with a sanction and the Office of Student Rights and Responsibilities has decided to seek the suspension, the student will be given written notice of the apparent failure to comply and of the intent to suspend, and provided an opportunity to be heard prior to a final decision, consistent with this Code.

d) Probation: A written reprimand for prohibited conduct that specifies a designated period of time and includes the probability of more severe disciplinary sanctions if, during the designated probationary period, the student violates any applicable law or fails to comply with the policies of the West Virginia University Board of Governors, with institutional or campus rules and regulations or with directives issued by any University official acting in the course of his or her authorized duties.

e) Warning: A notice in writing to the student that the student is violating or has violated Board of Governors policies, institutional rules and regulations, or the Campus Student Code, and that any further prohibited conduct may result in more severe disciplinary action.

f) Loss of Privileges: Denial of specified privileges for a designated period of time.

g) Restitution: Students may be required to make payment to the University or to other persons, groups, or organizations for loss, damage, or injury incurred as a result of a violation of any Campus Student Code. This may take the form of appropriate service and/or monetary or material replacement. Once restitution is satisfied, the student must provide documentation to the Office of Student Rights and Responsibilities.

h) Revocation: Admission to the University may be revoked for a violation of the Code if the violation was committed before the student arrives on campus. Likewise, a degree awarded from the University may be revoked for a violation of the Code if the violation was committed before the student graduates.

i) Other Sanctions: Other sanctions may be imposed instead of or in addition to those specified. For example, students may be subject to dismissal from University housing for disciplinary violations which occur in the residence halls. Likewise, community service, educational classes, fines (if such fines are established by the Office of Student Rights and Responsibilities), and other work or research projects may also be assigned.

j) No Contact Order: Students may be issued a permanent no contact order, which is a directive to refrain from any intentional contact, whether direct or indirect, with one or more designated persons or group(s) through any means, including, but not limited to, personal contact, e-mail, telephone, social media or third parties.

7.2 Attempts to commit acts prohibited by a Campus Student Code may be punished to the same extent as completed violations.

7.3 Repeated or aggravated violations of any section of this Campus Student Code may also result in expulsion or suspension or in the imposition of such lesser penalties as may be appropriate.

7.4 Sanctions for prohibited conduct occurring off campus shall not be more severe than for similar on-campus conduct.

7.5 Misconduct, other than constitutionally protected expression, motivated by bias based on 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 should be considered an aggravating factor for sanctioning.

Section 8: Interim and Supportive Measures; Interim Suspension¹.

¹ Note: For Supportive Measures and Emergency Removal for Title IX Sexual Harassment, please see Section 12.

8.1 Imposition of Interim or Supportive Measures: When the alleged actions of a student threaten the operations or safety of the University or when the University must take action to assist students pending the outcome of a matter, interim or supportive measures may be put into place. These measures are administrative directives that are intended to ensure the safety of the University and prevent a situation from escalating; they are not disciplinary in nature. Interim or supportive measures may be made at any point after a referral is received and may include, but are not limited to:

- i. Administrative directives for no contact;
- ii . Temporary or permanent re-assignment of university housing; and/or
- iii. Restriction of access to particular areas of campus.

The Campus Student Conduct Administrator will make decisions on these measures after appropriate consultation. Professional staff in housing and residence life may initiate an immediate residential move in the case of allegations of sexual misconduct, violence, or threats of violence. They may also issue temporary administrative directives for no contact under the same circumstances. Housing and residence life will notify Office of Student Rights and Responsibilities in writing of any measures they initiate as soon as possible. All measures described above will be documented in writing and will be made on an individualized basis.

8.2 Imposition of Interim Suspension. The Campus Student Code Administrator may impose an interim suspension prior to a formal hearing or other disposition of allegations against a student when the Campus Student Code Administrator has reasonable cause to believe that a student's presence on University premises presents: (a) a significant risk of substantial harm to the student, other individuals, or property; or (b) an ongoing threat of disrupting the normal operations of the University.

8.3 Conditions of Interim Suspension. 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 Campus Student Code Administrator in order 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. During an interim suspension, the suspended student may be denied access to all or some of the property owned or controlled by the University and to some or all other University activities or privileges for which the student might otherwise be eligible, provided that such restrictions are stipulated in the interim suspension notice.

8.4 Procedure for Interim Suspension.

a) Notice. If the Campus Student Code Administrator imposes an interim suspension, then the student will receive written confirmation of the interim suspension. The notice will state the facts and circumstances warranting the interim suspension, the conditions of the interim suspension, that an administrative hold will be placed on the student's account, and the student's review rights.

b) Review. Within three (3) calendar days of the imposition of the interim suspension, the student may petition the Dean of Students or designee to review the reliability of the information concerning the alleged harm or ongoing threat. The petition for review must be in writing and may include evidence supporting the student's position that the student does not pose or no longer poses a significant risk of substantial harm to the individual, others, or property or an ongoing threat of disrupting the normal operations of the University.

c) Final Determination. If, after considering the petition for review and evidence, the Dean of Students or designee affirms the decision to interim suspend, the matter will proceed promptly to a hearing without undue delay, unless additional time is requested by the student. However, if, after considering the petition for review and evidence, the Dean of Students or designee determines that the student has established by a preponderance of the evidence that the student does not pose or no longer poses a significant risk of substantial harm to the individual, others, or property or an ongoing threat of disrupting the normal operations of the University, the interim suspension will be lifted and the matter will proceed according to the normal process, up to and through a hearing, if required.

Section 9: Conduct Process².

² Note: Certain modifications apply in cases of Formal Complaints of Title IX Sexual Harassment, which are set forth in Section 12 and other cases of non-Title IX discrimination, harassment, sexual or domestic misconduct, dating violence, domestic violence, stalking, or retaliation ("Rule 1.6 Misconduct"), the Code sets forth the Complainant's rights as noted in this Section 11.

9.1 Complaints or Allegations of Misconduct.

9.1.1 Any member of the University community who believes that a violation of the Campus Student Code has occurred may file a complaint with the Office of Student Rights and Responsibilities. Complaints of student misconduct and misconduct of a student organization should be submitted to the Office of Student Rights and Responsibilities as soon as possible following the alleged misconduct or the date on which the individual knew or should

have known of the misconduct.

9.1.2 Regardless of whether a formal complaint is ever filed, allegations of student misconduct, from any credible source, will be reviewed by the Campus Student Code Administrator, or other appropriate personnel.

9.2 Investigation.

9.2.1 The University or, in certain circumstances, an investigator appointed by the University, shall investigate each complaint or allegation of student misconduct from a credible source. The investigator may require 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, whether such allegations have been formally submitted or have otherwise been made known to the investigator. Failure to comply with the investigation may result in a judicial hold placed on a student's account.

9.2.2 If, after investigating the complaint or allegation of student misconduct, the University finds that it is reasonable to believe that the Respondent violated the Campus Student Code, then, subject to 9.2.2.1, charges will be brought against the student.

9.2.2.1 Before charges are brought against a student, the Office of Student Rights and Responsibilities, the Respondent, and a Complainant (if applicable) may agree to an Agreed Resolution consistent with Section 9.4.

9.2.3 If, after investigating the complaint or allegation of student misconduct, the Campus Student Code Administrator does not find that it is reasonable to believe that the student violated the Campus Student Code, then the complaint or allegation will be dismissed. In the event the complaint or allegation is dismissed, the University shall indicate the reason for the dismissal and notify the Respondent and Complainant, when applicable, in writing.

9.3 Notice of the Charge.

9.3.1 If it is reasonable to believe that a violation of the Campus Student Code has occurred, then the Campus Student Code Administrator shall prepare a formal written charge of alleged prohibited conduct ("Charge").

9.3.2 The Charge shall be provided to any student suspected of prohibited conduct as soon as possible after the investigation is concluded.

9.3.3 The Charge shall be addressed to the student who allegedly violated the Campus Student Code ("Respondent") and shall include a brief outline of the facts upon which the Charge is based and potential sanctions which may result if the Respondent is found responsible. When applicable, a copy of the Charge Notice will be provided to the Complainant.

9.3.4 In deciding potential sanctions, the Campus Student Code Administrator may consult with the complainant and appropriate University officials to ensure that the sanctions sought are commensurate with the alleged violations and the Respondent's prior student code of conduct violations, if any.

9.3.5 The Charge shall be delivered electronically to the Respondent and Complainant, when applicable, through the University's designated student e-mail system regardless of where the student resides or, if necessary, by any other means reasonably designed to ensure the Respondent receives it.

9.3.6 The Charge shall include written notice to the Respondent that prior student code violations may be considered in the determination of sanctions and that the Respondent will be provided an opportunity to address any such information.

9.3.7 The Charge shall identify a date and time for the Respondent to meet with the Campus Student Code Administrator, or other appropriate personnel, to discuss the Campus Student Code, its procedures, and the remedial options available to the Respondent, including whether the Campus Student Code Administrator and the Respondent can agree on the facts and, if warranted, identify a mutually-agreeable sanction to be imposed.

9.3.8 In the Charge, the Campus Student Code Administrator, shall notify the Respondent and all other applicable University departments, offices, units, or employees that retaliation is prohibited and that it should be reported if it occurs.

9.4 Agreed Resolution.

9.4.1 In all situations, including where suspension or expulsion is an available sanction, the Campus Student Code Administrator and the Respondent may agree on the facts and, if warranted, identify a mutually agreeable sanction(s) to be imposed. In such a case, the agreed upon facts and sanction(s) shall be reduced to writing, dated, and signed by the Respondent ("Agreed Resolution").

9.4.2 An Agreed Resolution shall be final and not subject to any subsequent proceedings, unless the Respondent submits a written objection to cancel the Agreed Resolution to the Campus Student Code Administrator within one (1) calendar day of the date it was signed. If the Respondent objects to the Agreed Resolution and no further agreement can be reached, the matter shall proceed in accordance with 9.4.3 or 9.4.4 below. The Campus Student Code Administrator will seek input from the Complainant regarding the terms of the Agreed Resolution, when applicable.

9.4.3 In situations where the Campus Student Code Administrator with consideration from the Complainant and the Respondent cannot agree on the facts and the sanction(s) to be imposed and neither expulsion nor suspension is sought as a sanction, the case shall continue to a Conduct Conference.

9.4.4 In situations where the Campus Student Code Administrator and the Respondent cannot agree on the facts and the sanction(s) to be imposed and expulsion or suspension is sought as a sanction, the case shall be referred to a Hearing for formal review.

9.5 Conduct Conference.

9.5.1 The administrative disposition of complaints not seeking suspension or expulsion shall be handled by an informal conference between the Respondent and the Campus Student Code Administrator ("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. The Complainant will be provided an opportunity to meet with the Campus Student Code Administrator and provide any evidence, when applicable.

9.5.2 Opportunity to Present Evidence. During a Conduct Conference, a Respondent will be given an opportunity to present evidence to the Campus Student Code Administrator to determine whether the Respondent is responsible for violating the Campus Student Code as accused.

9.5.3 Notice of Outcome. After consideration of the evidence, the student is entitled to written notification of the outcome of the Conduct Conference ("Outcome Letter"). The Campus Student Code Administrator's determination of responsibility shall be based on a preponderance of the evidence. Each Outcome Letter shall plainly state the decision and shall plainly state the rationale for the decision; in the event that the student is found responsible for any part of the Charge, the Outcome Letter will include a brief statement of the facts relied upon by the Campus Student Code Administrator, the assigned sanction, and an explanation of appeal rights. A copy of the Outcome Letter will be provided to the Complainant, when applicable.

9.5.4 Appeal. The Outcome Letter that is issued following a Conduct Conference may be appealed by both Complainant (when applicable) and Respondent in accordance with Section 10 below.

9.6 Pre-Hearing Procedures for Charges Seeking Expulsion or Suspension.

9.6.1 Scheduling. When necessary, a hearing shall be scheduled by the Campus Student Code Administrator not fewer than ten (10) calendar days following the attempt to reach an Agreed Resolution. Maximum time limits for scheduling of hearings may be extended at the discretion of the Campus Student Code Administrator.

9.6.2 Hearing Notice.

a) The Campus Student Code Administrator shall prepare a written notice of hearing (“Hearing Notice”) that sets forth the date, time, location of the scheduled hearing, and anticipated witnesses that will be relied upon by the University to prove the alleged conduct. Additionally, any evidence, witnesses, or investigation reports, if any, will be provided ten (10) calendar days prior to the hearing.

b) Identification of witnesses by the Campus Student Code Administrator is not a guarantee or assurance that such witnesses will appear or be called at the hearing.

c) The Hearing Notice shall be delivered electronically using the University’s designated student e-mail system to the Respondent and any other student-witnesses or, if necessary, by any other means reasonably designed to ensure the appropriate individuals receive notice.

9.6.3 Request for Separate Hearings. For matters involving more than one Respondent the students may request separate hearings; such requests shall be granted by the Campus Student Code Administrator unless such arrangements cannot be accommodated for good cause.

9.6.4 Evidence & Witnesses.

a) At least ten (10) calendar days prior to the scheduled hearing, the Respondent shall submit to the Campus Student Code Administrator and the Campus Student Code Administrator shall send to the Respondent the names, applicable contact information, and purpose of any witnesses that they intend to rely on at the hearing.

b) At least ten (10) calendar days prior to the scheduled hearing, the Respondent shall submit to the Campus Student Code Administrator and the Campus Student Code Administrator shall submit to the Respondent all documentary evidence (pertinent records, information, and written statements) that is to be considered by the Hearing Adjudicator.

c) Prospective witnesses, other than the Complainant(s) or other Respondent may be sequestered from the hearing during other witnesses’ testimony. Cell phones and other electronic devices may be secured by reasonable means determined by the Hearing Adjudicator prior to hearing in order to eliminate texting or e-mailing information about the hearing to other witnesses. The devices will be returned to each witness after they have been excused from the hearing.

9.7 Hearing Adjudicator for Charges Seeking Expulsion or Suspension.

9.7.1 The President shall appoint an individual to act as the hearing tribunal of any hearing involving charges for complaints seeking expulsion or suspension (“Hearing Adjudicator”).

9.7 Hearing Procedures.

Hearings shall be conducted according to the following:

a) Hearings shall be conducted in private.

b) The Campus Student Code Administrator will present the facts and information obtained from the investigation to the Hearing Adjudicator on behalf of the University.

c) The Respondent the Campus Student Code Administrator, and when applicable the Complainant, may make statements and ask questions of witnesses.

d) All procedural questions are subject to the final decision of the Hearing Adjudicator.

e) Formal rules of evidence shall not apply, nor shall deviations from prescribed procedures necessarily invalidate a decision or proceeding, unless significant prejudice to a student or the University results. Rather, the Hearing Adjudicator shall have the authority to decide any issues regarding relevancy or admissibility that may arise during the hearing.

a. The Hearing Procedural Rules set forth in Section 12.9.5, to the extent applicable, will be applied to all hearings.

f) The Hearing Adjudicator shall have the authority to discharge or to remove any person whose presence is deemed unnecessary or obstructive to the proceedings.

g) The Hearing Adjudicator may ask questions of a witness.

h) Consideration of all evidence by the Hearing Adjudicator shall be at his or her discretion.

9.9 Attendance.

If a Respondent, after receiving a Hearing Notice, does not appear for a hearing, the hearing will proceed without the Respondent. However, no inference may be drawn against a Respondent for failing to attend a hearing and no decision shall be based solely on the failure of the Respondent to attend the hearing.

9.10 Legal Counsel or Advisors.

The Respondent and any other student participating in the conduct process, if any, may have an advisor accompany him or her to a hearing for charges seeking suspension or expulsion. The advisor may be an individual that is either a member of the faculty, staff, or a student at West Virginia University. Advisors not affiliated with the university may participate in the proceedings consistent with the Hearing Adjudicator’s instructions.

Instead of or in addition to an advisor, the Respondent and Complainant, when applicable, may be represented by legal counsel at a hearing for charges seeking suspension or expulsion. Any lawyer appearing at a hearing on a student’s behalf must be licensed to practice law in the State of West Virginia and can actively participate in the hearing.

A student should select an advisor or legal counsel whose schedule allows attendance at the scheduled date and time for the hearing. Delays will not normally be allowed due to the scheduling conflicts of an advisor or legal counsel. Further, failure to secure an advisor or legal counsel will not cause a hearing to be postponed or canceled.

9.11 Deliberations.

After the portion of the hearing concludes in which all pertinent information has been received, the Hearing Adjudicator shall privately deliberate whether the Respondent is responsible as charged. After determining whether the student is responsible for the alleged conduct by the Hearing Adjudicator, the Respondent and Complainant, when applicable, shall be notified of the finding by the Hearing Adjudicator. In some instances, the Hearing Adjudicator may take matters under advisement and send written notification to a Respondent and Complainant, when applicable of his or her decision in a timely manner.

9.12 Standard of Proof.

The Hearing Adjudicator’s determination of responsibility shall be based on a preponderance of the evidence. “Preponderance of the evidence” means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which, as a whole, shows that the fact sought to be proved is more probable than not.

9.13 Imposition of Sanctions.

In the event that a Respondent has been found “Responsible” on any charge, the Hearing Adjudicator may receive additional information regarding the student’s academic transcript and student conduct history, request proposed sanctions from the Respondent, and hear impact statements by both the Respondent and Complainant, when applicable. After receiving the aforementioned information, the Hearing Adjudicator shall deliberate on the sanction(s) in private. After a sanction has been determined by the Hearing Adjudicator, the Respondent, and Complainant, when applicable, shall be notified of the sanction(s) by the Hearing Adjudicator as soon as reasonably possible.

9.14 Outcome Letter.

After a decision is made, the student is entitled to written notification of the outcome of the hearing (“Outcome Letter”). Each Outcome Letter shall plainly state the decision and shall plainly state the rationale for the decision; in the event that the student is found responsible for any part of the Charge, the Outcome Letter will include a brief statement of the facts relied upon by the Hearing Adjudicator, the assigned sanction(s), and an explanation of any appeal rights. When applicable, the Complainant will receive a copy of the Outcome Letter.

9.15 Transcript of the Proceedings.

9.15.1 All hearings will be recorded. The University will maintain the audio recordings of all hearings (not including deliberations) which remain the property of the University. Participants are prohibited from making their own recordings. Upon written request, a Respondent, and Complainant when applicable, shall be provided access only in compliance with the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g (2020)) and pursuant to any other conditions for access as may be deemed necessary by the Dean of Students or his/her designee.

9.15.2 All hearings are recorded using technology chosen by the Campus Student Code Administrator; however, alternative recording methods, i.e., a court reporter, may be requested by a Respondent, or Complainant when applicable, provided, however, that the Respondent or Complainant shall bear the full expense of the alternative recording method. To accommodate such a request, all involved students must provide written consent in advance of the scheduled hearing.

Section 10: Appeals Process.

10.1 Students who have violated the Campus Student Code, as determined by a Hearing Adjudicator or a Campus Student Code Administrator, may appeal the decision and/or the imposed sanction within five (5) calendar days from the date that the Outcome Letter is sent. If the student does not submit an appeal within the prescribed time, the sanction(s) will be applied, no appeal will be considered, and the matter will be concluded. Complainant, when applicable, may also file an appeal.

10.2 A written appeal and supporting documents, if any, shall be submitted to the Office of the Dean of Students with a copy to the Campus Student Code Administrator.

10.3 Subject to Section 11.3(g), sanctions are stayed pending the appeal outcome. However, if there is a perceived danger to University property or to the University community, interim sanctions such as residence hall removal or suspension from the University may remain in place until the appeal process is complete.

10.4 The Dean of Students or designee, shall review the record and supporting documents to consider only the following:

- a) To determine whether jurisdiction was properly asserted under this Campus Student Code;
- b) To determine whether the underlying proceeding 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 or the University resulted;
- c) To determine whether the decision reached was clearly unreasonable based on the information presented; and
- d) To determine whether the sanction(s) imposed were appropriate.

10.4.1 The Dean of Students or designee shall consider the appeal and deliver a decision within thirty (30) calendar days of 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.

10.4.2 The Dean of Students or designee may decide to:

- a) Deny the appeal; Modify, reduce or otherwise limit the sanction(s) imposed (more severe sanctions may not be imposed on appeal by the Dean of Students or his/her designee);
- b) Direct the Office of Student Rights and Responsibilities to provide a new proceeding, or allow the student to have his or her case handled beginning at any specific stage of the Student Conduct process; or
- c) Remand the matter to the original decision maker with specific instructions that shall be carried out.

10.4.3 If an appeal is not upheld by the Dean of Students or designee, as applicable, the matter shall be considered final and binding upon all involved.

Section 11: Complaints or Reports of Discrimination, Harassment, Sexual & Domestic Misconduct, Stalking, and Retaliation (Non-Title IX).

11.1 This Campus Student Code is intended to complement West Virginia University Board of Governors Governance Rule 1.6, Policy Regarding Discrimination, Harassment, Sexual Harassment, Sexual Misconduct, Domestic Misconduct, Stalking, Retaliation, and Relationships any procedure implemented in support of Governance Rule 1.6.

11.2 In matters involving discrimination, harassment, sexual or domestic misconduct, stalking, or retaliation, as defined in Governance Rule 1.6, that are not covered by Title IX jurisdiction, the Complainant shall be afforded the additional rights below in order to achieve a prompt and equitable resolution, specifically those cases will be handled in accordance with the provisions set forth above in Section 9, except to the following extent:

- a) Advisors & Legal Counsel.

Both the Complainant and the Respondent shall have the right to have an advisor of their choice present at any meeting during the conduct process.

At any hearing where the Respondent is provided the opportunity to have legal counsel present, the Complainant may also be represented by legal counsel. Any lawyer appearing at a hearing on a student’s behalf shall be licensed to practice law in the State of West Virginia and can actively participate in the hearing.

- b) Investigation.

Allegations of a student’s alleged discrimination, harassment, sexual or domestic misconduct, stalking, or retaliation, from any credible source, will be thoroughly investigated by the University or an appointed investigator. Such an investigation will take place in the same manner set forth in Section 9.2, except that the decision of whether it is reasonable to believe that the Respondent committed discrimination, harassment, or sexual or domestic misconduct, or stalking will be made jointly by the Equity Assurance Director and the Campus Student Code Administrator.

If it is not reasonable to believe that the Respondent committed discrimination, harassment, sexual or domestic misconduct, stalking, or retaliation, the University will notify, in writing, both the Respondent and the Complainant and the matter will be closed.

c) Charge.

1. If, after investigating the complaint or allegation of discrimination, harassment, sexual or domestic misconduct, stalking, or retaliation, it is reasonable to believe that the Respondent violated the Campus Student Code, the Campus Student Code Administrator, under the direction of the Equity Assurance Director, will apprise the Respondent and the appropriate University departments, offices, units, or employees of the allegation by providing a written notice of the Charge.
2. In the Charge, the Campus Student Code Administrator, under the direction of the Equity Assurance Director, shall notify the Respondent and all other applicable University departments, offices, units, or employees that retaliation is prohibited and that it should be reported if it occurs.
3. The Charge will also be provided to the Complainant.

d) Interim Supportive Measures for Complaints of Discrimination, Harassment, Sexual or Domestic Misconduct, Stalking, or Retaliation Against Students.

If a complaint against a student is received and it is apparent that immediate action must be taken to stop the discrimination, harassment, sexual or domestic misconduct, stalking, or retaliation or alleviate any issues that arise as a result of the complaint, then, following the issuance of the Charge or as soon as necessary, the appropriate WVU departments, offices, units, or employees shall implement interim remedial measures immediately. Such measures shall continue until the discrimination, harassment, sexual or domestic misconduct, stalking, or retaliation investigation is complete or until the measures taken are deemed no longer necessary. Such measures may include, but are not limited to, interim suspension from the institution for the Respondent; temporary removal from residence halls or other University sponsored events and activities for either the Respondent or the Complainant, as appropriate; altering academic, housing, financial aid, or other employment arrangements for either the Respondent or the Complainant; issuance of a temporary trespass warning to the Respondent; and “no contact” orders whereby the parties may be directed to refrain from contact with one another.

e) Agreed Resolution.

There will be an opportunity for an Agreed Resolution in situations where a Respondent elects not to dispute facts upon which the charge or investigation of discrimination, harassment, sexual or domestic misconduct, stalking, or retaliation is based, subject to the approval of the Office of Student Rights and Responsibilities and in consultation with the Complainant.

f) Hearing Procedures.

At any hearing, both the Respondent and the Complainant must have an equal access to information and opportunity to present relevant witnesses and other evidence. However, the Parties may not question each other directly. Rather, the Parties must submit all questions that they wish to ask the other to the Hearing Adjudicator, who will then ask the questions. Or, in the alternative, the Parties’ legal counsel may question the other party directly.

In addition to notification that is provided to the Respondent, the Complainant shall receive an Outcome Letter that specifies the outcome of the hearing, and any sanctions relevant to the Complainant.

g) Sanctions.

The available sanctions for a student found responsible for discrimination, harassment, sexual or domestic misconduct, stalking, or retaliation are set forth in Section 7.

h) Appeal.

Both the Respondent and the Complainant may file an appeal as set forth in this Campus Student Code.

If a Respondent is found responsible for discrimination, harassment, sexual or domestic misconduct, stalking or retaliation, sanctions will not be stayed pending the outcome of the appeal, unless good cause is shown.

Section 12: Grievance Procedures for Complaints or Reports of Title IX Sexual Harassment.

12.1 In matters involving Sexual Harassment covered by Title IX jurisdiction (Title IX Sexual Harassment), the Complainant is granted the same rights afforded to the Respondent under this Campus Student Code in order to achieve a prompt and equitable resolution.

12.2 *Initial Intake; Reports and Formal Complaints* . Upon receiving a report of Title IX Sexual Harassment, the Title IX Coordinator will inform the Complainant of his or her resolution options and provide the Complainant with information related to resources, including Supportive Measures. Specifically, the Title IX Coordinator will:

- (a) promptly contact the Complainant to discuss the availability of Supportive Measures, which are discussed more fully below;
- (b) consider the Complainant’s wishes with respect to Supportive Measures;
- (c) inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint, and
- (d) explain to the Complainant the process for filing a Formal Complaint.

If the Complainant files a Formal Complaint or, if the Title IX Coordinator files a Formal Complaint on behalf of the Complainant³, the Title IX Coordinator will review the Formal Complaint to determine if it is within Title IX jurisdiction as set forth in Rule 1.6. If the Formal Complaint falls within Title IX jurisdiction, Title IX Coordinator will do the following:

³Formal Complaint is defined as a document filed by the Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Respondent and requesting that the University investigate the allegation of Title IX Sexual Harassment. A Formal Complaint may be filed in person, by mail, by electronic mail, or by submitting an online complaint. When the Title IX Coordinator files a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party.

- a) Provide notification of the Formal Complaint to the Complainant and the Respondent (Notice of Allegations);
- b) Offer Supportive Measures to the Complainant and Respondent; and
- c) Provide an overview of the process to both Parties.

12.2.1 *Supportive Measures*. As soon as determined to be necessary, the Title IX Coordinator and any appropriate WVU departments, offices, units, or employees shall implement Supportive Measures. Supportive Measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the University’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or deter Sexual Harassment.

Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The University will maintain as confidential any Supportive Measures provided to Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the Supportive Measures. Such measures shall continue until the investigation is complete or until the measures taken are deemed no longer necessary.

12.2.3 *Emergency Removal* . The University may remove a Respondent from an education program or activity on an emergency basis, after the University does an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX Sexual Harassment justifies the removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal consistent with the process utilized for Interim Suspensions, which is set forth in Section 8.

12.2.2 *Right to File a Criminal Complaint* . If applicable, the Title IX Coordinator may also notify the Complainant of the right to file a criminal complaint. However, if a separate law enforcement investigation is initiated, the University will continue investigating the matter and resolving the complaint. Further, the University will not wait until a law enforcement investigation is completed before resolving the complaint; unless that circumstances require

the University to temporarily delay its resolution while law enforcement gathers evidence.

12.3 Notice of Allegations. After accepting a Formal Complaint, The Title IX Coordinator will inform the Complainant, Respondent, and, when appropriate, University departments, offices, units, or employees, of the allegations in the Notice of Allegations. The Title IX Coordinator shall provide the Notice of Allegations to both parties and it shall include:

- a) A copy of or link to this Grievance Procedure;
- b) An explanation of the Informal Resolution Process;
- c) The specific details of the known allegations constituting Sexual Harassment, including the parties involved in the incident, the conduct allegedly constituting Title IX Sexual Harassment, and the date and location of the incident, if known;
- d) A statement that the Respondent is presumed not responsible for the alleged conduct;
- e) A statement that a determination of responsibility will not be made until the conclusion of this process;
- f) Notice of the right to have an advisor of their choice, who may be, but is not required to be, an attorney;
- g) The right of the Parties and advisors to inspect and review evidence; and
- h) Notice of the prohibition on knowingly making false statements or knowingly submitting false information during the process, which is prohibited by Rule 1.6 and (b)(b) of this Code.

12.3.1 Supplemental Notice of Allegations. If, in the course of an investigation, the University decides to investigate allegations about the Complainant or Respondent that are not included in the initial Notice of Allegations, the University will provide a Supplemental Notice of Additional Allegations to the Parties whose identities are known

12.4 Mandatory Dismissal of Complaint. If the Formal Complaint is filed as Title IX Sexual Harassment but does not fit within Title IX jurisdiction under Rule 1.6, mandatory dismissal under this Section is required. Specifically, mandatory dismissal is required when allegations: (a) Do not constitute Title IX Sexual Harassment, even if proven; (b) Did not occur on-campus or part of an educational program/activity; or (c) Did not occur in the United States.

12.4.1 Appeal of Mandatory Dismissal. If a Formal Complaint is dismissed, both parties can appeal. The bases for the appeal are: (a) procedural irregularity that affected the outcome of the matter; (b) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and (c) the Title IX Coordinator, investigator(s), or Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

12.4.2 Timeline for Mandatory Dismissal Appeal. The Complainant or Respondent will have three (3) calendar days to appeal a Mandatory Dismissal. Typically, the appellate officer will decide the appeal in five (5) calendar days. Importantly, if appropriate given the allegations contained in the Formal Complaint, such as whether the conduct violates other provisions of this Code, the investigation will continue during this appellate process in accordance with the appropriate sections of this Code – it just will not be handled in accordance with this Section. .

12.5 Investigation. If the Formal Complaint is within Title IX jurisdiction, the University shall assign the matter to an investigator to investigate the Formal Complaint. The investigator shall be trained accordingly and may be an investigator appointed from outside the University.

The investigator will notify the parties that he or she will be investigating and provide:

- a) The investigator's contact information;
- b) Overview of the process;
- c) The parties' respective rights;
- d) Information about the informal resolution process;
- e) A reminder that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the University and not on the parties;
- f) That the University cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized or paraprofessional, unless the University obtains that party's voluntary, written consent do so;
- g) That the parties will have equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- h) That neither party will be restricted in discussing the allegations under investigation or gathering or presenting relevant evidence; and
- i) That others may be present during any grievance proceeding, including an advisor of choice at any meetings.

During the investigation, the investigator shall have access to all necessary documents and the right to interview witnesses. Members of the University community are obligated to respond and acknowledge reasonable requests that may be made by the investigator, the Division of Diversity, Equity and Inclusion, and/or the Office of Student Rights and Responsibilities. Investigators must provide parties written notice of the date, time, location, participants, and purpose of all investigative interviews, which shall be provided a reasonable time before the interview.

Upon gathering all the evidence the investigators initially determines to be relevant, the investigator will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the University does not intend to rely in reaching a determination of responsibility and inculpatory or exculpatory evidence whether obtained for a party or other source so that each party can meaningfully respond to the evidence.

The investigator will make this evidence available for inspection and review, prior to completing the investigation report, to the Parties and their advisors and the Parties will be given ten (10) calendar days to submit a written response, which will be considered prior to completion of the final investigation report.

If additional investigation is necessary and justified after the written responses are received, the University may investigate further, and the parties will be given an additional ten (10) calendar days to respond to any supplemental investigation materials and prior to the completion of the final investigation report.

Once the Parties' written submissions are received and the investigation is completed, the investigator will create an investigative report that fairly summarizes the relevant evidence and send it to each party and each party's advisor, if any, which must be done at least ten (10) calendar days before any hearing.

Upon receiving the investigative report, the parties and their advisors will have five (5) calendar days before the hearing to submit any written responses to the Code Administrator who will then share it with the other party.

12.6 Review for Emergency Removal/Interim Suspension, or Other Necessary Measures. Consistent with this Code, at any point after a Complaint is filed, the Code Administrator will continue to monitor the case to review for whether any individuals involved shall be placed on emergency removal/interim suspension or any other temporary designation until the matter is concluded.

12.7 Informal Resolution. At any time during the process, an informal resolution may be reached, if agreed upon in writing by both parties. The informal resolution may be tailored to the specific situation and allegations. Methods of informal resolution may include, but are not limited to mediating the situation, training, educational measures, and other agreeable alternative dispute options. In addition to obtaining voluntary, written consent from both parties, the University will also provide to both parties a written notice disclosing the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

12.8 Discretionary Dismissal. Ongoing during the investigation and once the investigation is complete, the case will be reviewed and evaluated by the Title IX Coordinator to determine if it must be dismissed under Section 12.4, Mandatory Dismissals, or if it should be dismissed as a matter of discretion.

12.8.1 Bases for Discretionary Dismissal . Discretionary dismissal may occur when: (a) the Complainant indicates in writing their desire to withdraw their Formal Complaint or any allegations therein; (b) Respondent is no longer enrolled at the University; or (c) circumstances indicate that the University will not be able to gather sufficient evidence to reach a determination.

12.8.2 Appeal of Discretionary Dismissal . If Complaint is dismissed on a discretionary basis, both Parties can appeal that dismissal. Bases for the appeal are: (a) procedural irregularity that affected the outcome of the matter; (b) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and (c) the Title IX Coordinator, investigator(s), or Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

12.8.3 Timeline for Appeal of Discretionary Dismissal . The Complainant or Respondent will have five (5) calendar days to appeal a Discretionary Dismissal. Typically, the appellate officer will decide the appeal in thirty (30) calendar days. Importantly, if appropriate and given the allegations contained in the Complaint, such as whether the conduct violates other provisions of this Code, the investigation can continue during this appellate process in accordance with the other sections of this Code.

12.9 Hearing. If a Formal Complaint is not dismissed and the Parties are unable to come to an informal resolution, then the matter will proceed to a hearing and the following will apply:

12.9.1. Notice of Charge. Prior to the hearing, the parties will be provided with a charging document that specifically sets forth sufficient information related to the facts and bases of the charge and puts the parties on notice of what the hearing will address as well as the range of potential sanctions.

12.9.2. Pre-hearing Meeting. The Code Administrator will meet with the Parties to discuss the hearing procedures; ensure the both the Complainant and Respondent have an advisor in advance of the hearing; and explain that can request that the hearing occur in separate locations, but Decision-Maker and parties must “see and hear” the party/witnesses answering questions.

12.9.3. Evidentiary Standard. To determine whether Sexual Harassment occurred, the decision maker shall use a preponderance of the evidence standard. “Preponderance of the evidence” means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

12.9.4. Advisors. Parties are permitted to have an Advisor of their choice, who may be an attorney. If a Party does not have an advisor present at the live hearing, the University will provide without fee or charge to that Party, an advisor of the University’s choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that Party.

12.9.5 Hearing Procedural Rules.

12.9.5.1 Hearing Generally & Questioning . At the hearing, the Decision-Maker will permit each Party’s advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those questions challenging credibility. At the request of either party, the University will provide for the hearing to occur with the parties located in separate rooms with technology enabling the Decision-Maker and parties to simultaneously see and hear the party or the witness answering questions. Live hearings pursuant to this Section may be conducted with all parties physically present in the same geographic location or, at the University’s discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

12.9.5.2 Cross-Examination . Cross-examination at the hearing will be conducted directly, orally, and in real time by the Party’s advisor of choice and never by a Party personally. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the Decision-Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Decision-Maker cannot draw an inference about the determination regarding responsibility based solely on a party’s or witness’s absence from the live hearing or refusal to answer cross-examination or other questions, except if the Respondent’s statement, itself, constitutes the sexual harassment at issue.

12.9.5.3 Decorum. Parties and their Advisors must not be disruptive, follow reasonable instructions regarding hearing decorum, and must abide by the instructions of the Decision-Maker.

12.9.5.4 Certain Information and Evidence Not Relevant or Inadmissible.

- **Sexual Evidence** . Questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant’s prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.
- **Privileged Evidence** . Questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege is not admissible, unless the person holding such privilege has waived the privilege.

12.9.5.5 Recordings . An audio or audiovisual recording, or transcript, of any live hearing will be made and available to the parties for inspection and review.

12.9.6 Notice of Outcome . The Decision-Maker, who will not be the same person(s) as the Title IX Coordinator or the investigator(s) but will be appointed by the University, will issue a written determination regarding responsibility, which will occur as soon as practical after a hearing and typically within ten (10) calendar days.

The written notice of outcome will be sent to both parties simultaneously and will include:

- a) Identification of the allegations potentially constituting Sexual Harassment;
- b) A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- c) Findings of fact supporting the determination;
- d) Conclusions regarding the application of Rule 1.6 to the facts; and
- e) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility.

If the Respondent is found responsible in the Notice of Outcome, the Parties will be allowed to submit written positions on the appropriate sanctions within ten (10) calendar days of the Notice of Outcome.

12.9.7 Notice of Sanctions . If the Respondent is found responsible, the Decision-Maker will then issue a written Notice of Sanctions to both parties simultaneously, typically within five (5) calendar days which will set forth any disciplinary sanctions the University imposes on the Respondent; whether remedies designed to restore or preserve equal access to the University’s education program or activity will be provided by the University to the Complainant; and the University’s procedures and permissible bases for the Parties to appeal.

12.9.8 Corrective Action . If there is a finding of Sexual Harassment, the University will take steps toward immediate corrective action and is responsible for effective implementation of any remedies. The purpose of any such corrective action is to take the appropriate steps to end the misconduct, prevent any further misconduct or retaliation, remedy the effects of misconduct, and eliminate any hostile environment that has been created.

12.10 Appeal . Both the Complainant and the Respondent are entitled to appeal the determination of responsibility in the Notice of Outcome and the sanction in any Notice of Sanctions.

12.10.1 Timing of an Appeal . If the Respondent is found not responsible and no Notice of Sanction is issued, the Parties will have five (5) calendar days from the Notice of Outcome to appeal. If the Respondent is found responsible, then the Parties will have five (5) calendar days from the Notice of Sanctions to appeal both the outcome and any sanctions.

12.10.2 Grounds for Appeal . The bases for appeal are: (a) procedural irregularity that affected the outcome of the matter; (b) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and (c) the Title IX Coordinator, investigator(s), or Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

12.10.3 Appeal Responses. If an Appeal is filed, the other Party will receive a copy of the Appeal and will have five (5) calendar days to respond. Thus, both Parties will have an opportunity to submit a written statement in support of or challenging the outcome.

12.10.4 Finality. The determination regarding responsibility becomes final either on the date that the University provides the Parties with a Determination of Appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. Typically, the appellate officer will decide the appeal in thirty (30) calendar days.

Section 13: Judicial Holds; Withholding Transcripts, Grades, and Degrees.

The Campus Student Code Administrator may direct the Registrar to withhold the issuance of an official transcript, grade, diploma, certificate, or degree to a Student or otherwise put an administrative judicial hold on a Student's account, pending a hearing or conference, agreed resolution, and/or exhaustion of appellate rights if in the opinion of the Campus Student Code Administrator and consistent with due process and applicable law, the best interests of the University would be served by this action. In the event that such action is taken pending the conclusion of the proceedings, the Campus Student Code Administrator shall inform the Registrar of the action within five (5) calendar days of the conclusion of the proceedings and shall withdraw or continue such withholding, as is determined by the Hearing Adjudicator or in any other agreed-upon disposition.

Section 14: No Reprisal or Retaliation.

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 Campus Student Code or will be subject to discipline under this Code.

Section 15: Disclosure of Final Results.

If a student is found to have violated a specific act set forth in this Campus Student Code and that act constitutes a crime of violence or non-forcible sex offense, as defined by 34 C.F.R. § 99.39 (2020), then, pursuant to 34 C.F.R. § 99.31(a)(14)(i) (2020) and the University's Family Educational Rights and Privacy Act notification, the University may disclose the final results of the proceedings to anyone. For purposes of this disclosure, "final results" means the name of the student, the basic nature of the violation the student was found to have committed, and a description and duration of any sanction imposed against the student.

Further, consistent with 34 C.F.R. § 99.31(a)(15) (2020), in certain circumstances, the University may disclose final results to a parent regarding a student's violation of Federal, State, or local law, or of any rule or policy of the institution, governing use or possession of alcohol or a controlled substance if student is found responsible under this Campus Student Conduct Code and the student is under the age of 21.

Section 16: Student Organizations.

16.1 Definition of Student Organization: For purposes of this Code, the term "student organization" means any group of students who have complied with the formal requirements for University recognition or who have submitted an application for recognition.

16.2 Authority of the Office of Student Rights and Responsibilities. If a student organization is alleged to have engaged in specific acts of prohibited conduct or violations of other University policies or organizational policies, including but not limited to rules promulgated by the respective student governance organization, the matter may be referred to the Office of Student Rights and Responsibilities.

a) Investigation of the Alleged Conduct. The Office of Student Rights and Responsibilities, or its designees, will investigate alleged violations of University policies by student organizations pursuant to Section 9.1 and as set forth below.

i. During the investigation, the ranking or other designated representative(s) of the student organization will be notified of the allegations in writing and given an opportunity to meet with the investigator to explain the organization's side of the incident prior to the issuance of the final investigative decision.

ii. The student organization representative(s) also has the opportunity to submit documents and other relevant evidence to the investigator and identify witnesses who may have relevant information.

iii. Nothing prohibits the Office of Student Rights and Responsibilities from simultaneously investigating an individual student(s) and a student organization. The Office of Student Rights and Responsibilities will determine whether an alleged policy violation was committed by a student organization or by an individual student(s); such determination will be made on a case-by-case basis by considering the following:

- How many of the members of the student organization were involved in the incident?
- Did the incident occur at a sponsored event of the organization?
- Did a member(s) of the organization violate University rules at an event sponsored by the organization or in the course of the organization's affairs, and the organization failed to exercise reasonable preventive measures?
- Did the organization's leadership have knowledge/notice that the event was going to occur?
- What was the nature of the incident?

iv. Investigations of student organizations should be completed as promptly as possible under the circumstances.

b) Interim Sanctions. Based on information available at that time, interim sanctions may be placed on the student organization by the Office of Student Rights and Responsibilities.

i. The student organization will be notified within five (5) calendar days if interim sanctions are being placed on the student organization.

ii. The student organization will have five (5) calendar days after receipt of the notice of an interim sanction to request a review and reconsideration of the interim sanctions to the issuer of the interim sanctions.

16.3 Resolution of Allegations.

a) If the investigator determines that it is not reasonable to believe that the student organization violated the Campus Student Code, the student organization and any complainant will be notified, and the matter will be closed.

b) If the investigator determines that it is reasonable to believe that the student organization has violated the Campus Student Code, then the case will be resolved as set forth below:

i. The Hearing Adjudicator will schedule a time to meet and discuss the case with the student organization representative(s) following the investigation.

ii. The student organization representative(s) will be given five (5) calendar days to schedule this meeting. If a meeting is not scheduled within five (5) calendar days, then the Hearing Adjudicator may issue a decision in the case and impose sanctions.

iii. The Hearing Adjudicator's decision shall be based on a preponderance of the evidence.

16.4 Sanctions Applicable to Student Organizations.

a) Sanctions will vary based upon the facts and circumstances of any specific offense. Sanctions are usually progressive in nature and include the probability of more severe disciplinary sanctions if the student organization or student organization representative(s) are found to violate the same or any other University policies.

b) To the extent applicable, Section 7.1 will apply to student organizations; additionally, student organizations may also face the following non-exclusive list of sanctions that may be utilized individually or in combination:

i. Disciplinary Reprimand: A written notice to the student organization or explaining that the violation of institutional policy warrants an official record be kept in the Office of the Dean of Students.

ii. Educational Sanction: A student organization may be required to provide an identified service or participate in a particular program, receive specific instruction, or complete a designated assignment. The student organization is responsible for any related expenses, including expenses for education, counseling, and/or services.

iv. Attainment of Standards: A student organization or student organization representative(s) may be required to attain a specific standard(s) over the course of a designated period of time. Examples of these standards include, but are not limited to, the following: organizational grade point average, organizational arrest and citation rate, organizational member retention, organizational member certifications/trainings.

v. Disciplinary Probation: A written admonishment for a violation of specified regulations. With respect to the non-academic disciplinary system, a student organization on disciplinary probation is not considered to be in good standing for a designated period of time. If the student organization or its representative(s) are found to violate any institutional regulation(s) during the probationary period, more severe disciplinary sanctions may be imposed. Once the designated period of time has elapsed, the student organization will be considered in good standing; however, a record of the sanction will be kept in the Office of the Dean of Students.

vi. Social Probation: The loss of privileges to hold, host, sponsor or co-sponsor an event that is social in nature where alcohol is present with non-members anywhere.

vii. Restitution: A student organization may be assessed reasonable expenses related to the misconduct. This may include, but is not limited to, the following: the repair/replacement cost for any damage to property or any related expenses incurred by the complainant.

viii. Recommendation for Charter Revocation: An official request to a national office that the local chapter's charter be revoked.

ix. Full or Limited Suspension of University Recognition: Temporary severance of the organization's recognition by the University for a specific period of time, not to exceed five (5) years. This may include loss of University funding, loss of use of allocated University space, and restricted access to campus and/or other specified activities. Some of the restrictions that may be placed on the student organization during a limited suspension for the suspension period include, but are not limited to barring or limiting some or all of the organization's activities and/or privileges (including, but not limited to: social activities; intramural competition; organizational competition; Homecoming; eligibility to receive any University award or honorary recognition; privilege to occupy a position of leadership or responsibility in any University student organization governing body, publication, or activity; or ability to represent the University in an official capacity or position), entrance into University residence halls or other areas of campus, or contact with another specified person(s). While on full suspension the student organization loses its University recognition and/or registration for the suspension period; in such instances, it may not use University resources or participate as an organization in any University activities or events. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from the University. If a sanction issued by the National or other governing bodies exceeds that of the University, the University may concur with that sanction.

x. Deferred Suspension of University Recognition: The sanction does not go into effect as long as the student organization complies with all requirements during the interim period. In those cases where the student organization completes all expectations during the interim period, the student organization's record will show that the sanction was never imposed. In the event that a student organization or student organization representative(s) fail to comply with a sanction and the Office of Student Rights and Responsibilities has decided to impose a suspension, the student organization will be notified of the apparent failure to comply and of the intent to suspend, and provided an opportunity to meet and explain the circumstances prior to a final decision.

xi. Revocation of University Recognition: Permanent severance of the organization's recognition by the University.

16.5 Appeals Regarding Student Organizations.

a) The accused student organization may appeal the decision by filing a written notice of appeal within ten (10) calendar days following the receipt of the decision. The notice of appeal shall be filed with the Office of the Dean of Students. Grounds for appeal:

i. To determine whether jurisdiction was improperly asserted under this Campus Student Code;

ii. To determine whether the underlying proceeding was conducted fairly in light of the charges and evidence presented, and in conformity with prescribed procedures, such that no significant prejudice to the student organization, a student, or the University resulted;

iii. To determine whether the decision reached was clearly unreasonable based on the information presented;

iv. To determine whether the sanction(s) imposed were appropriate.

b) On appeal, the decision may be affirmed, reversed, remanded back with instructions for further investigation, or modified as deemed appropriate by the Dean of Students.

c) The Dean of Students, or designee, shall consider the appeal and deliver a decision within thirty (30) calendar days of receipt of such appeal, except where adherence to such time period would not be feasible, in which case such time period shall be extended as warranted by the particular circumstances.

d) The Dean of Students may forward the decision on appeal to appropriate University offices. In cases involving allegations of sexual misconduct, dating violence, or stalking, the Dean of Students will forward the appeal decision to the Title IX Coordinator.

Section 17: Drug or Alcohol Amnesty

Bystander: Any student or student organization who, in good faith and in a timely manner, seeks emergency medical assistance for a person who reasonably appears to be experiencing an overdose from alcohol or drugs may not be held responsible for a violation of prohibited alcohol or drug related conduct only, as defined in this Code, if the student or student organization does all of the following:

a) Remains with the person who reasonably appears to be in need of emergency medical assistance due to an overdose until such assistance is provided;

b) Identifies himself or herself, if requested by emergency medical assistance personnel, law-enforcement officers, or University officials;

c) Cooperates with and provides any relevant information requested by emergency medical assistance personnel, law-enforcement officers, or University officials needed to treat the person reasonably believed to be experiencing an overdose; and

d) Completes any additional conditions imposed on the student or student organization by the Campus Student Code Administrator.

Distressed Student: If the person who reasonably appears to be experiencing an overdose from alcohol or drugs is also a student, he or she will not be held responsible for a violation of prohibited alcohol or drug related conduct, as defined in this Code, but may be required to complete additional conditions imposed by the Campus Student Code Administrator in order to receive amnesty.

Additional resources for alcohol and drug education, can be found here: <https://safety.wvu.edu/safety-on-campus/medical-amnesty>

This provision only applies to violations of this Code. As it relates to any criminal prosecution, students should see the West Virginia Alcohol and Drug Overdose Prevention and Clemency Act, W. Va. Code §§ 16-47-1 to -6, which can be found here: <http://www.legis.state.wv.us/wvcode/Code.cfm?chap=16&art=47#47>

Section 18: Campus Discretion.

Subject to BOG Student Life Rule 6.1, Student Rights and Responsibilities; Student Conduct, the Dean of Students shall have sufficient latitude and authority to implement any reasonable measures necessary for the fair and efficient administration of this Campus Student Code.

A Respondent or Student Organization and the Campus Student Code Administrator may agree in advance to minor deviations from this Policy. Such deviations are not then subject to appeal. Other minor deviations are acceptable as long as such deviations are not found upon appeal to be materially harmful to the Respondent or Student Organization.

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