

## STUDENT RIGHTS AND RESPONSIBILITIES CODE

### Chapter 516-21 WAC

Approved by the Board of Trustees, December 9, 2011

#### **RECOMMENDED CHANGES BY CODE REVIEW COMMITTEE APRIL 2016**

##### **WAC 516-21-010 Introduction**

Western Washington University students enjoy the same basic rights, privileges, and freedoms granted to all members of society. At the same time, acceptance of admission to the university carries with it an obligation to fulfill certain responsibilities and expectations as a member of the Western Washington University community.

As a condition of enrollment at Western, students must assume responsibility for their own actions and maintain an environment conducive to the academic success, safety, and well-being of others. In addition, they are expected to be truthful, respect the rights of others, and abide by all university policies and procedures, as well as all applicable local, state, and federal laws and regulations. All students are responsible for understanding and complying with the responsibilities and expectations set forth in this code.

The student conduct process at Western is designed to be a learning process that promotes an understanding of students' responsibilities as members of the university community. The objectives of the student conduct system, as set forth in this code, are twofold: to ensure that students act in a manner consistent with high standards of scholarship and behavior, and to maintain the safety and well-being of all members of the university community.

##### **WAC 516-21-020 Definitions**

As used in this chapter, the following words and phrases mean:

- (1) Appeals Board. The student conduct appeals board.
- (2) Business Day. Any day, Monday through Friday (excluding holidays), during which university offices are open.
- (3) Catalog. The Western Washington University General Catalog.
- (4) Code. The Student Rights and Responsibilities Code.
- (5) Conduct Hold/Judicial Hold. A block placed on a student's official university record at the request of the Conduct Officer or Dean of Students. A conduct or judicial hold prohibits a student from registering

for classes, requesting an official transcript, or receiving a degree from the university until the hold has been removed.

(6) Conduct Officer. The ~~student~~ Conduct Officer or his/her/their authorized designee.

(7) Dean of Students. The Dean of Students or his/her/their authorized designee.

(8) Guest. Any person who is not a member of the university community, who is on university property or attending an official university function at the invitation and/or hosting of a student.

(9) Member of the University Community. Any person who is a student, university official, or who is otherwise employed or contracted by the university. A person's status in a particular situation shall be determined by the Dean of Students.

(10) Official University Function. Any activity, on or off campus, that is initiated, sponsored, or supervised by any entity of Western Washington University.

(11) Preponderance of Evidence. Defined as "more likely than not," the standard of responsibility that is used when determining whether a violation of the student rights and responsibilities code has occurred.

(12) Student. Any person who:

(a) Has been formally admitted to the university;

(b) Is enrolled in one or more classes at the university, including non-matriculated international students attending language institutes or foreign study programs;

(c) Is participating in a certificate, degree, distance learning, or professional enrichment program, through Extended Education and Summer Programs;

(d) Is participating in a university-sponsored study abroad program;

(e) Was enrolled in a prior quarter or summer session at the university and is eligible to continue enrollment in the quarter or summer session that immediately follows; or

(f) Withdrew from the university after an alleged violation of the code, for conduct that occurred while they were enrolled in or participating in a program offered by the university.

(13) University. Western Washington University and all associated programs, including those offered on-line and/or at off-campus program sites.

(14) University Official. Any person employed or contracted by the university, who is performing assigned teaching, administrative, or professional responsibilities. University officials may be full- or part-time, and may include student staff members.

(15) University Property. All land, buildings, facilities, and other property that is owned, used, leased, or controlled by Western Washington University. University property also includes adjacent streets and sidewalks.

(16) WAC. An abbreviation for the Washington Administrative Code.

#### **WAC 516-21-030 Jurisdiction**

(1) The Student Rights and Responsibilities Code applies to all conduct that occurs on university property or in connection with any official university function.

(2) Western Washington University does not act as a policing agent for students when they are off campus. However, the university reserves the right to take action if a student's conduct is determined to adversely affect a substantial university interest. Student conduct that occurs off campus may be subject to the Student Rights and Responsibilities Code when it:

(a) Adversely affects the safety or well-being of any member of the university community; or

(b) Involves academic work or any records, documents, or identifications of the university.

In determining whether to exercise jurisdiction over such conduct, the student Conduct Officer shall consider the seriousness of the alleged offense, the risk of harm involved, and whether the alleged victim(s) are members of the university community. Any question of interpretation or application of jurisdiction shall be referred to the Dean of Students for final determination.

(3) Students are responsible for their conduct from the time they have confirmed their enrollment at Western through the awarding of their degree. This includes conduct that occurs before classes begin, after classes end, and during periods between actual terms of enrollment. Students who are found to be in violation of the code may be subject to sanctions under the code.

(4) A student with a pending conduct violation may not avoid the conduct process by withdrawing from the university. In these circumstances, a conduct hold will be placed on the student's official record, preventing them from registering for classes, requesting an official transcript, or receiving a degree from the university. This hold will remain in place until the student has met with the Conduct Officer to discuss the alleged conduct violation(s).

(5) Sanctions against student organizations are decided by procedures established by the university administrative unit governing that organization's recognition. Conduct proceedings against individual member(s) of a student organization can be initiated under this code, independent of any departmental action(s) taken against the student organization.

#### **WAC 516-21-040 Student Responsibility for Guests**

(1) Guests and visitors on university property or at official university functions are expected to comply with all university policies and procedures, as well as all applicable local, state, and federal laws and regulations.

(2) Students who invite guests into their campus residence hall or apartment, or to official university functions open only to Western students, are responsible for the behavior of their guests. As a result, a student may be held responsible for any alleged violation(s) of the code committed by their guests. See also WAC 516-24-001 Conduct of Campus Guests and Visitors.

#### **WAC 516-21-050 Academic Dishonesty**

The university's policy and procedures regarding academic dishonesty are addressed in the Academic Honesty Policy and Procedure. As noted in the policy, academic dishonesty at Western Washington University is a serious infraction dealt with severely. For a list of actions that constitute academic dishonesty, refer to the academic honesty policy and procedure in the catalog.

#### **New - Amnesty**

In situations involving intoxication, alcohol poisoning, or drug-related medical issues, students are encouraged to seek swift medical assistance for themselves and others without fear of penalty. Students requesting and receiving medical assistance in these situations will not typically be subject to the formal student conduct process. This policy refers to isolated incidents and does not excuse students who repeatedly or flagrantly violate the alcohol or drug policy, nor does it preclude action arising from other violations of the Code. Western will consider the positive impact of reporting a situation when determining any course of action.

#### **Repeal and replace - WAC 516-21-060 Conduct that Harms or Threatens Health or Safety [title change]**

Conduct that harms, attempts to harm, or threatens the health or safety of any member of the Western community, including oneself, by any means (e.g. in person, through any party, online) is a violation of the code. This includes, but is not limited to: (1) physical assault; (2) any threat, stated or implied, to the health, safety, or well-being of self or others; (3) any contact or communication of a threatening nature that intimidates, harasses, or causes a person to fear for their safety or well-being; or (4) intoxication or impairment through the use of alcohol or other substances to the point that a student is unable to exercise care for their own safety or well-being. Sexual violence includes sexual assault, dating violence, domestic violence, and stalking; please also see WAC##### Sexual Misconduct; Harassment; Stalking; Domestic Violence; Dating Violence; and Retaliation. Also see Amnesty.

#### **~~WAC 516-21-060 Conduct that Threatens Health or Safety~~**

~~Conduct that threatens the health or safety of any person, including oneself, is a violation of the code. Conduct that threatens health or safety includes, but is not limited to:~~

~~(1) Intoxication or impairment through the use of alcohol or other substances to the point that a student is unable to exercise care for his/her own safety or well-being;~~

~~(2) Any threat, stated or implied, to the health, safety, or well-being of self or others;~~

~~(3) Any contact or communication of a threatening nature that intimidates, harasses, or causes a person to fear for their safety or well-being; or~~

~~(4) Incidents involving the use or display of a weapon or destructive device likely to cause bodily injury and/or damage to property.~~

#### **WAC 516-21-070 Disruptive Behavior**

Behavior that substantially disrupts, disturbs, or interferes with the ability of students to learn or university officials to perform their assigned duties is a violation of the code. Disruptive behavior includes, but is not limited to:

(1) Demonstrations or protests that substantially disrupt, disturb, or interfere with:

(a) Classroom activities or other educational pursuits;

(b) Official university activities or functions including, but not limited to, ceremonies, meetings, office functions, performances, or athletic events;

(c) Pedestrian or vehicular traffic; or

(d) The preservation and protection of university property and/or the personal property of members of the university community.

(2) Any other behavior that substantially disrupts, disturbs, or interferes with:

(a) Classroom activities or other educational pursuits;

(b) Official university activities or functions including, but not limited to, ceremonies, meetings, office functions, performances, or athletic events;

(c) Pedestrian or vehicular traffic; or

(d) The preservation and protection of university property and/or the personal property of members of the university community.

#### **WAC 516-21-080 Failure to Comply**

Failure to comply with the instructions or directives of any university official or other public official acting in performance of their duties, or failure to identify oneself when asked to do so by a university official or other public official acting in performance of their duties, is a violation of the code.

#### **WAC 516-21-090 False Information**

Providing or creating false information is a violation of the code. False information includes, but is not limited to:

- (1) Forging, altering, mutilating, or destroying any university document or record, or entering false information into such documents or records;
- (2) Possessing or presenting as authentic any falsified document, record, or identification;
- (3) Intentionally making false accusations or charges against another member of the university community; or
- (4) Knowingly providing false information or statements to any university official or other public official acting in performance of their duties.

#### **WAC 516-21-100 Fire Safety and False Alarms**

Tampering with, altering, or disabling fire safety equipment, including emergency call devices, fire alarms, fire exits, fire extinguishers, smoke/heat detectors, or sprinkler systems; intentionally activating a fire alarm; making a false report of a fire or other emergency; or refusing to leave a building when a fire alarm sounds or when directed to by a university official or by emergency personnel are violations of the code.

#### **Repeal and replace - WAC 516-21-110 Harassment**

Harassment is violation of the code and is defined as any conduct that is sufficiently severe, pervasive, or persistent to have the purpose or effect of interfering with a member of the university community's ability to work, study, or participate in their regular activities, or benefit from the university's programs or activities. Harassment can be based on another's race, color, creed, national or ethnic origin, alienage, sex, religion, age, sexual orientation, gender identity, marital status, veteran status, physical or mental disability, or perceived membership in any of these classifications (including any other current protected classes).

Sexual harassment is a violation of the code. Sexual harassment (a) is unwelcome conduct of a sexual nature and may include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, electronic, or physical conduct of a sexual nature; and (b) is sufficiently severe, pervasive, or persistent to have the purpose or effect of interfering with a member of the university community's ability to work, study, or participate in their regular activities, or benefit from the university's programs or activities.

Gender-based harassment includes nonsexual acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on a person's gender or nonconformity with gender stereotypes, and is a violation of the code. Gender-based harassment violates this code when it is sufficiently severe, pervasive, or persistent such that it denies or limits another's ability to work, study, participate in, or benefit from the university's programs or activities.

Sexual violence includes sexual assault, dating violence, domestic violence, and stalking; please also see [WAC##### Sexual Misconduct; Conduct That Harms or Threatens; Stalking; Domestic Violence; Dating Violence; and Retaliation.](#)

#### ~~WAC 516-21-110 Harassment~~

~~Harassment— defined as any conduct that is sufficiently severe, pervasive, or persistent to have the purpose or effect of interfering with a member of the university community's ability to work, study, or participate in their regular activities—is a violation of the code. Examples of harassment include, but are not limited to:~~

~~(1) Engaging in unwanted contact or communication, including calls, voice messages, electronic mail, text messages, social media posts or messages, written letters, unwanted gifts, or face-to-face contact with a member of the university community;~~

~~(2) Repeatedly following a member of the university community; waiting outside their residence, school, or place of employment; or placing them under any form of surveillance; or~~

~~(3) Engaging in any form of behavior that is meant to threaten or intimidate a member of the university community based on their membership in a protected class, including race, color, creed, religion, national origin, sex, age, disability, marital status, genetic information, status as a veteran, and/or sexual orientation.~~

#### **WAC 516-21-120 Hazing**

Hazing – defined as any act that, as an explicit or implicit condition for initiation or admission into, affiliation with, or continued membership in a group or organization, endangers the health, safety, or well-being of any member of the university community – is a violation of the code. Examples of hazing include, but are not limited to: (1) Requiring the consumption of any food, alcohol, drug, or other substance;

(2) Requiring forced participation in physical activities, including calisthenics, exercise, or other games or activities that entail physical exertion;

(3) Requiring exposure to weather elements or to other physically or emotionally uncomfortable situations, including sleep deprivation, confinement in small spaces, physical bondage, and/or taking a student to an outlying area and dropping them off;

(4) Requiring conduct that can be reasonably expected to embarrass another, including the performance of public stunts or activities such as scavenger hunts; or

(5) Requiring anything that would be illegal under city, state, or federal law, or in violation of any university policies or procedures, including the code.

#### **WAC 516-21-130 Alcohol [title change]**

Except as permitted by law (e.g. possession or use by a person of legal age) and/or university policy, the possession, use, distribution, or sale of alcohol while on university property or at an official university function is a violation of the code. See also *Policy Concerning Alcohol and Other Drugs* in the Appendices section of the University Catalog.

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### **Illegal Possession and/or Use of Alcohol**

~~Illegally possessing, using, distributing, selling, or being under the influence of alcohol while on university property or at an official university function is a violation of the code. This includes, but is not limited to:~~

- ~~(1) Possession or consumption of alcohol by anyone under the age of twenty-one;~~
- ~~(2) Providing alcohol to anyone under the age of twenty one; or~~
- ~~(3) Driving on university property while under the influence of alcohol.~~
- ~~(4) Public intoxication by persons of any age. See also Policy Concerning Alcohol and Other Drugs in the catalog.~~

### **WAC 516-21-140 Drugs and Paraphernalia [title change]**

Except as permitted by law and/or university policy, the possession, use, cultivation, manufacturing, packaging, distribution, or provision of a controlled or illegal substance and the possession of drug paraphernalia while on university property or at an official university function is a violation of the code. This code violation also includes the intentional misuse or distribution of prescription drugs. See also *Policy Concerning Alcohol and Other Drugs* in the Appendices section of the University Catalog.

### **Illegal Possession and/or Use of Drugs**

~~Illegally possessing, using, manufacturing, cultivating, packaging, distributing, selling, or providing a controlled or illegal substance, or being under the influence of a controlled or illegal substance while on university property or at an official university function, is a violation of the code. This includes, but is not limited to:~~

- ~~(1) Possession of drug paraphernalia;~~
- ~~(2) Driving on university property while under the influence of a controlled or illegal substance; or~~
- ~~(3) Intentionally misusing or distributing prescription drugs. See also Policy Concerning Alcohol and Other Drugs in the catalog.~~

### **WAC 516-21-150 Interfering with the Conduct Process**

Interfering with the conduct process is a violation of the code. This includes, but is not limited to:

- (1) Giving a false report or claim;
- (2) Attempting to influence the impartiality of witnesses or appeals board member(s);
- (3) Participating in or encouraging retribution against complainants or witnesses;
- (4) Threatening, harassing, or intimidating complainants or witnesses;

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- (5) Disrupting or interfering with the orderly conduct of a hearing or meeting; or
- (6) Failing to comply with any sanction(s) imposed as the result of a code violation.

**WAC 516-21-160 Misuse of Computers, Electronic Data or Communication Systems**

Misuse of computers, electronic data, or communication systems is a violation of the code. This includes, but is not limited to:

- (1) Unauthorized entry into a file, web page, e-mail account, or on-line profile to use, download, read, transfer, or change the contents, or for any other purpose;
- (2) Unauthorized use of another person's university-issued identification and password;
- (3) The use of campus computing facilities, networks (including wireless networks), equipment, or services to interfere with the normal operation of the university computing system or the work of any member of the university community;
- (4) The use of campus computing facilities, networks (including wireless networks), equipment, or services to "cyber stalk" another person or to send obscene, abusive or harassing messages;
- (5) The use of campus computing facilities, networks (including wireless networks), equipment, or services to illegally copy, distribute, download, or upload information (including movies, music, or other digital content) from the internet or any electronic source;
- (6) The use of campus computing facilities, networks (including wireless networks), equipment, or services to illegally copy, reproduce, or distribute licensed software;
- (7) Attempting to modify system facilities or networks, including the introduction of electronic vandalism (e.g., viruses, worms, or other disruptive/ destructive programs) into university computing resources or those connected to it by the network; or
- (8) The use of campus computing facilities, networks (including wireless networks), equipment, or services for personal profit or for any use other than authorized university business.

Students are also responsible for reading and complying with all provisions set forth in the Western Washington University Policy for Responsible Computing, the User Agreement for WWU Network and Computing Resources, and the Using Copyrighted Materials Policy.

**WAC 516-21-170 Obstructing Police and Safety Personnel**

Obstructing, interfering with, or delaying police or other fire, safety, or emergency personnel is a violation of the code.

**Repeal and replace - WAC 516-21-180 Sexual misconduct**

Sexual misconduct includes nonconsensual sexual contact (including sexual intercourse), sexual assault, sexual exploitation and other sexual violence and is a violation of the code. Sexual violence includes

sexual assault, dating violence, domestic violence, and stalking; please also see WAC##### Harassment; Conduct That Harms or Threatens; Stalking; Dating Violence and Domestic Violence.

(1) Attempted or actual nonconsensual sexual contact is any intentional sexual touching, however slight, with any object or body part, by one person against another person's intimate parts (genitals or genital area, breast or buttock (clothed or unclothed). This includes any intentional bodily contact of one's own intimate area with another person.

(2) Sexual assault is attempted or actual non-consensual penetration, no matter how slight, of another's vagina, anus or mouth by a penis; or the vagina or anus by any body part or object.

(3) Consent to any sexual activity must be clear, knowing, and voluntary. Anything less is equivalent to a "no." Clear, knowing, and voluntary consent to sexual activity requires that, at the time of the act, actual words or conduct demonstrate clear permission regarding willingness to engage in sexual activity and the conditions of such activity. Silence or passivity is not consent. Consent is ongoing and can be withdrawn at any time. Even if words or conduct alone seem to imply consent, sexual activity is nonconsensual when:

(a) Force or coercion is threatened or used to procure compliance with the sexual activity.

(i) Force is the use of physical violence, physical force, threat, or intimidation to overcome resistance or gain consent to sexual activity.

(ii) Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to obtain consent from another. When an individual makes it clear through words or actions that they do not want to engage in sexual contact, want to stop, or do not want to go past a certain point of sexual interaction, continued pressure beyond that point may be coercive. Other examples of coercion may include using blackmail, extortion, or a position of power to overcome resistance or gain consent to sexual activity.

(b) The person is asleep, unconscious, or physically unable to communicate their unwillingness to engage in sexual activity; or

(c) The person lacks the mental capacity at the time of the sexual activity to be able to understand the nature or consequences of the act, whether that incapacity is produced by illness, ~~defect~~, the influence of alcohol or another substance, or some other cause. When alcohol or drugs are involved, a person is considered incapacitated or unable to give valid consent if they cannot fully understand the details of the sexual interaction (i.e., who, what, when, where, why, and how), and/or they lack the capacity to reasonably understand the situation and to make rational, reasonable decisions.

(4) Sexual exploitation occurs when a person takes nonconsensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses explained above. Examples of sexual exploitation may include, but are not limited to:

(a) Causing or attempting to cause the incapacitation of another person to gain sexual advantage over such other person;

(b) Invading another person's sexual privacy;

(c) Engaging in voyeurism. A person commits voyeurism if, for the purpose of arousing or gratifying the sexual desire of any person, they knowingly view, photograph, record, or film another person, without that person's knowledge and consent, while the person being viewed, photographed, recorded, or filmed is in a place where they have a reasonable expectation of privacy;

(d) Transmitting, distributing, publishing, or threatening to transmit, distribute, or publish photos, video, or other recordings of a private and/or sexual nature where such transmission, publication, or distribution is without the consent of the subject(s) and/or is likely to cause emotional distress to the subject(s);

(e) Knowingly, or recklessly, or without another's knowledge, exposing another person to a significant risk of sexually transmitted disease or infection;

(f) Exposing one's intimate parts in nonconsensual circumstances.

(5) Use of alcohol or other drugs is not a valid defense to a violation of this policy.

(6) Sexual misconduct represents a range of behavior; it can occur between strangers or acquaintances, including individuals involved in an intimate or sexual relationship. Sexual misconduct can be committed by individuals or groups of individuals directed to one or more people and can occur between people of the same or different sex.

#### **New - Dating Violence**

Conduct by a student who is or has been in a romantic or intimate relationship with another that intentionally, or recklessly, causes bodily injury or places another in reasonable fear of serious bodily injury is a violation of the code. The nature of the relationship is determined by the length, type, and frequency of interaction between them. Sexual violence includes sexual assault, dating violence, domestic violence, and stalking; please also see WAC##### Sexual Misconduct; Harassment; Conduct That Harms or Threatens; Stalking; and Domestic Violence.

#### **New - Domestic Violence**

Conduct by a current or former spouse or intimate partner (including between two people that share a child in common) that intentionally, or recklessly, causes bodily injury, or another in reasonable fear of serious bodily injury is a violation of the code. Sexual violence includes sexual assault, dating violence, domestic violence, and stalking; please also see WAC##### Sexual Misconduct; Harassment; Conduct That Harms or Threatens; Stalking; Dating Violence; and Retaliation.

#### **New - Stalking**

Engaging in a course of conduct (e.g., following, monitoring, observing, surveilling, threatening, communicating or interfering with property) directed at a specific person that would cause a reasonable person to fear for their safety, or the safety of others, or suffer substantial emotional distress, is a violation of the Code. Stalking includes but is not limited to conduct occurring in person, electronically and/or through a third party.

#### **New - Retaliation**

Retaliation is any actual or threatened retaliation or any act of intimidation intended to prevent or otherwise obstruct the reporting of a violation of this code is prohibited and is a violation of the code. Any actual or threatened retaliation or act of intimidation directed towards a person who may or may not be a member of the Western community but who participates in an investigation or conduct process under this code is prohibited and is also a violation of the code. Sexual violence includes sexual assault, dating violence, domestic violence, and stalking; please also see WAC##### Sexual Misconduct; Conduct That Harms or Threatens; Stalking; Domestic Violence; Dating Violence; and Harassment.

**~~WAC 516 21 180 Sexual Misconduct~~**

~~(1) Sexual misconduct, defined as any unwelcome behavior of a sexual nature that is committed without consent or by force, intimidation, or coercion, is a violation of the code. Sexual misconduct includes, but is not limited to:~~

~~(a) Sexual harassment (e.g., engaging in unwelcome verbal, written, or physical behavior of a sexual nature that is directed at another person or group, based on that person or group's sex, gender, or perceived sex or gender);~~

~~(b) Sexual intimidation (e.g., engaging in any behavior, either verbal or nonverbal, that has the effect of subjecting another person to humiliation, embarrassment, or discomfort because of their sex, gender, or perceived sex or gender);~~

~~(c) Sexual coercion (e.g., engaging in the use of pressure, alcohol or drugs, or force to compel or persuade another person to engage in sexual activity);~~

~~(d) Sexual exploitation (e.g., engaging in voyeurism or peeping, distributing intimate or sexual information about another person without that person's consent, knowingly transmitting an STD or HIV to another person, or engaging in any behavior that takes sexual advantage of another person without that person's consent); or~~

~~(e) Sexual assault (e.g., engaging in actual or attempted sexual touching, genital-oral contact, penetration, and/or intercourse without consent).~~

~~(2) Consent for all sexual activity must be given free of force, threat, intimidation, or coercion. At the time of the sexual activity, actual words or conduct demonstrating freely given agreement must occur; silence or passivity do not imply consent. Activity of a sexual nature is considered nonconsensual when:~~

~~(a) An individual is asleep, unconscious, or otherwise physically unable to communicate his or her willingness or unwillingness to engage in sexual activity;~~

~~(b) An individual lacks the ability, at the time of sexual activity, to be able to understand the nature or consequences of the activity, whether due to illness; impairment; the influence of alcohol, drugs, or medication; or another cause; or~~

~~(c) An individual is not of legal age to give consent.~~

~~(3) Sexual misconduct represents a range of behavior; it can occur between strangers or acquaintances, including individuals involved in an intimate or sexual relationship. Sexual misconduct can also be committed by individuals of any gender and can occur between people of the same or different sex. See also Sexual Misconduct Policy and Procedure in the catalog.~~

#### **WAC 516-21-190 Student Violation of the Law**

Students are expected to abide by all local, state, and federal laws while on campus or at official university functions. Failure to comply with these laws is a violation of the code.

While Western does not act as a policing agent for students when they are off campus, the university reserves the right to take action if a student's conduct is determined to adversely affect a substantial university interest. See also WAC 516-21-030 Jurisdiction.

Proceedings under the code may be carried out prior to, simultaneously, or following civil or criminal proceedings in the courts. Since the standard of proof under the code (preponderance of evidence) differs from that of criminal law, decisions made through the student conduct process are not subject to challenge on the grounds that criminal charges involving the same incident have been dismissed or reduced by a court of law.

#### **NEW Notification of criminal arrest**

Failure to notify the dean of students of any off-campus felony arrest, or when the arrest was for an offense that is violent, weapons-related, involved kidnapping, or requires that the student register as a sex offender by any legal authority within the U.S., is a violation of the code. The university may send a letter to the student requiring that they make an appointment for an interview. During this interview, the dean of students or their designee shall discuss with the student: (1) The facts involved in the student's arrest; (2) The student's obligation to keep the university informed of the progress of any criminal charge(s); and (3) The student's obligation to advise the university of the final disposition of any criminal charge(s); (4) whether the behavior falls under jurisdiction of the student code. The university will cooperate with law enforcement and other agencies administering a corrective or rehabilitative program for the student. See also *POL-U5620.02 Notifying Campus Community About Sex and Kidnapping Offenders.*

#### **WAC 516-21-200 Theft or Intentional Damage of Property**

Theft or intentional damage of property is a violation of the code. Theft includes, but is not limited to, attempted or actual theft of university property or services or the property or services of any member of the university community, visitors, or guests. It is also prohibited to possess stolen property or to intentionally damage, destroy, or vandalize the property of the university or others.

#### **WAC 516-21-210 Trespassing**

Trespassing is a violation of the code. Trespassing includes, but is not limited to:

- (1) Unauthorized entry into, occupation, or use of any university-owned or controlled property, equipment, or facilities;
- (2) Unauthorized entry into, occupation, or use of any restricted areas of the campus, including research areas and utility tunnels;
- (3) Unauthorized possession, duplication, or use of keys, including cards or alphanumeric pass-codes, to any university-owned or controlled property, equipment, or facilities; or
- (4) Remaining in or on university-owned or controlled property after permission to remain has been revoked by any university official, including university police.

#### **NEW Violation of university policy, rule or regulation**

Violation of any university policy, rule, or regulation published which may be electronically published on the university web site or in hard copy is a violation of the code.

#### **WAC 516-21-220 Weapons and Destructive Devices**

Possession, use, unauthorized storage, or manufacture of firearms, ammunition, explosives, or other weapons or destructive devices capable of causing bodily injury or damage to property, on university property or at official university functions, is a violation of the code. Weapons and destructive devices include, but are not limited to:

- (1) Firearms or projectile devices of any kind such as BB, pellet, paintball, airsoft guns; bow & arrow or sling shots;
- (2) Martial arts weapons of any kind, including nunchucks, swords, or throwing stars;
- (3) Fireworks of any kind;
- (4) Dangerous chemicals;
- (5) Any knife with a blade longer than three inches (excluding kitchen utensils);
- (6) Stun guns and similar devices prohibited by Bellingham Municipal Code 10.30.020; and
- (7) Weapons classified as "dangerous" in RCW 9.41.250.

This does not include the lawful possession of any personal protection spray device authorized under RCW 9.91.160

See also WAC 516-52-020 Firearms and dangerous weapons.

~~Possession, use, unauthorized storage, or manufacture of firearms, ammunition, explosives, or other weapons or destructive devices capable of causing bodily injury or damage to property, on university property or at official university functions, is a violation of the code. Weapons and destructive devices include, but are not limited to:~~

- ~~(1) Firearms of any kind, including BB, pellet, paintball, and airsoft guns;~~
- ~~(2) Martial arts weapons of any kind, including nunchucks, swords, or throwing stars;~~
- ~~(3) Fireworks of any kind, including firecrackers, cherry bombs, or homemade explosives;~~
- ~~(4) Projectile devices of any kind, including catapults or slingshots;~~
- ~~(5) Any knife with a blade longer than three inches (excluding kitchen utensils); or~~
- ~~(6) Any object that can be used as a weapon to cause bodily injury or damage to property.~~

~~See also WAC 516-52-020 Firearms and Dangerous Weapons.~~

#### **WAC 516-21-230 Sanctions**

Sanctions serve many purposes including, but not limited to, educating students about the seriousness of their actions; reinforcing the high standards of scholarship and behavior expected of Western students; promoting student development; and maintaining the safety and well-being of members of the university community.

When a student admits responsibility or is found in violation of the code, the Conduct Officer or Dean of Students may impose one or more of the sanctions listed in this section. This list of sanctions is not meant to be exclusive. Other sanctions, designed or intended to enhance the educational value of conduct proceedings, may be applied in a given case.

- (1) Warning. A formal written notice to the student that a violation of the code has occurred, and that further violations may result in additional sanctions under the code.
- (2) Conditional Status. A probationary status imposed for a specific period of time, during which the student must demonstrate conduct that conforms to university standards. Conditions restricting the student's privileges or eligibility for activities may be imposed. Violations of any conditions specified in the notice of conditional status or violations of any other university policies or regulations during the period of the sanction may result in additional sanctions under the code.
- (3) Loss of Privileges. A student may be denied specific privileges (i.e., participation in specific activities, restriction from specific areas of campus, etc.) on a temporary or permanent basis. Violations of any conditions specified in the notice of loss of privileges or violations of any other university policies or regulations during the period of the sanction may result in additional sanctions under the code.
- (4) Restriction from Contacting Others ("no contact" order). A student may be restricted from direct or indirect physical, verbal, or electronic contact with another person and/or group. Indirect or direct

contact made with another person or group while a "no contact" order is in place may result in additional sanctions under the code.

(5) Educational Activities. A student may be required to engage in educational activities related to violation(s) of the code. Such activities may include, but are not limited to required attendance at educational programs, community service, conducting research projects, writing assignments, and/or meeting with campus officials.

(6) Assessment, Counseling, or Treatment Programs. A student may be required to participate in an assessment, counseling, and/or treatment program (at the student's expense), to address substance abuse, anger issues, or other issues or types of behaviors that pose a threat to their safety or well-being, or the safety or well-being of others.

(7) Restitution. A student may be required to provide compensation for loss, damage, or injury resulting from a violation of the code. Restitution may take the form of monetary or material replacement or appropriate service to repair or otherwise compensate for the loss, damage, and/or injury caused.

(8) Parental Notification. Parents may be notified of conduct findings when a student under the age of twenty-one is found responsible for violations involving alcohol and/or drugs. When possible, students whose parents are to be notified will be informed before such notification occurs and given an opportunity to initiate contact with their parents.

(9) Campus Residence Hall or Apartment Relocation. A student's on-campus living arrangements may be transferred to another residence hall or apartment.

(10) Termination of University Residences Agreement. A student may be removed from their campus residence hall or apartment and their housing agreement terminated.

(11) Suspension from the University. A student may be removed from the university for a designated period of time, after which the student will be eligible to return. While suspended, the student is trespassing from all university facilities and prohibited from participating in official university functions. Specific conditions for readmission to the university may be imposed (e.g., counseling, completion of substance abuse treatment, etc.).

(12) Deferred Suspension. A student may receive a notice of deferred suspension from the university, with a provision that they are allowed to remain enrolled contingent on meeting specific conditions. Failure to meet any condition(s) specified in the notice of deferred suspension will result in immediate suspension from the university.

(13) Expulsion from the University. A student may be permanently separated from the university. A student who has been expelled is not eligible for readmission.

**Repeal and replace - WAC 516-21-240 Student conduct system**



(1) The vice-president for enrollment and student services is responsible for administration of the code. Supervision of the code has been delegated by the vice-president to the dean of students.

(2) A conduct officer(s) shall be appointed and supervised by the dean of students or their authorized designee. A conduct officer has the authority to consider complaints and administer sanctions for violations of the code.

(3) Board members shall be appointed at the beginning of each fall term to consider complaints made to conduct boards, and/or to consider appeals of a conduct officers findings and decision. Board members shall include a pool of the following:

(a) Four faculty members, appointed by the faculty senate;

(b) Six student members, appointed by the associated students board of directors and/or residence hall association. Student board members must 1) have a cumulative grade point average above 2.0 and (2) not currently be under an active sanction of the conduct code or have had previous conduct violation during the current academic year); and

(c) Four staff members, generally but not exclusively from the division of enrollment and student services, nominated by the dean of students and confirmed by the vice-president for enrollment and student services.

(4) A board shall be comprised of five members and any three persons constitute a quorum of a board. Generally a board will be comprised of faculty, staff and students but in some instances may only be comprised of members from two of the three groups. The dean of students, or their designee, will appoint a chair from this pool for each board. Board members may not have been involved in consideration of the complaint, or involved in the complaint in any way. All board members must be properly trained in the conduct process. The dean of students or their designee will have final authority to approve all of those serving on a board and will accept nominations from faculty senate and associated students. The dean of students, or their designee, will work to ensure that any board is balanced and representative.

(5) Conduct officers, the board members and the dean of students have full authority to administer a decision under the code.

#### **WAC 516-21-240 Student Conduct System**

~~(1) The Vice President for Enrollment and Student Services is responsible for administration of the code. Supervision of the code has been delegated by the Vice President to the Dean of Students.~~

~~(2) The Conduct Officer shall be appointed and supervised by the Dean of Students or his/her authorized designee. The Conduct Officer has the authority to adjudicate and administer sanctions for violations of the code.~~

~~(3) A six member appeals board shall be appointed at the beginning of each fall term to consider reviews of the Conduct Officer's findings and decision. The appeals board shall include:~~

~~(a) Two faculty members, appointed by the Faculty Senate;~~

~~(b) Three student members, appointed by the Associated Students Board of Directors; and~~

~~(c) One staff member from the Division of Enrollment and Student Services, nominated by the Dean of Students and confirmed by the Vice President for Enrollment and Student Services.~~

~~(4) Alternates will be identified for each area represented on the appeals board. Student appointments are for one academic year. Faculty and staff appointments are for two year staggered terms.~~

~~(5) All appointments to the committee shall be initiated during the first full month of the fall term. Should a request for a review of the Conduct Officer's findings and decision come forward during the summer term or during other break periods, the review will be heard by the Dean of Students or by an interim appeals board appointed by the Dean of Students.~~

~~(6) Both the appeals board and the Dean of Students have full authority to render a decision under the code. All review decisions are final.~~

#### **Repeal and replace - WAC 516-21-250 Student rights in the conduct process**

All alleged violations of the code will be resolved through the student conduct process, respecting fairness and due process for all involved parties.

(1) A student accused of violating the code, known as the respondent, has certain rights in the conduct process. These include the right to:

(a) Receive prior written notice to attend meetings with a conduct officer and/or board delivered via e-mail to the student's official Western email account;

(b) Provide evidence on their own behalf, including the names or written statements of individuals who can offer information regarding the incident in question;

(c) Be accompanied through the conduct process by an advisor of their choice and at their own expense. The advisor may give advice to the student, but may not directly address the conduct officer, any member of a conduct board, or the dean of students. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the scheduled meeting or hearing. The scheduling conflicts of an advisor are not considered good cause for a delay and do not entitle either party to a delay;

(d) Remain silent or decline to respond to any question(s) during any conduct meeting;

(e) Review information relied upon by the conduct officer or board in making a determination;

(f) Receive written notification of the findings and decision, delivered via e-mail to the student's official Western email account, within seven business days of the date of the meeting (or, if multiple meetings are necessary to determine responsibility or multiple individuals are involved and information presented by each is deemed necessary to determine responsibility, within seven business days of the date of the final meeting for the specific incident);

(g) Request a review of the decision of the conduct officer or conduct board, as described in WAC 516-21-280 Basis for Review and

(h) Waive any of the rights contained in this section.

(2) An individual who has filed a complaint, known as the complainant, has certain rights in the conduct process. These include the right to:

(a) Receive prior written notice to attend meetings with a conduct officer and/or board delivered via e-mail to the student's official Western email account;

(b) Provide evidence on their own behalf, including the names or written statements of individuals who can offer information regarding the incident in question;

(c) Be accompanied through the conduct process by an advisor of their choice and at their own expense. The advisor may give advice to the student, but may not directly address the conduct officer, any member of a conduct board, or the dean of students. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the scheduled meeting or hearing. The scheduling conflicts of an advisor are not considered good cause for a delay and do not entitle either party to a delay;

(d) Remain silent or decline to respond to any question(s) during any conduct meeting;

(e) Review information relied upon by the conduct officer or board in making a determination;

(f) Receive written notification of the findings and decision, delivered via e-mail to the student's official Western email account, within seven business days of the date of the meeting (or, if multiple meetings are necessary to determine responsibility or multiple individuals are involved and information presented by each is deemed necessary to determine responsibility, within seven business days of the date of the final meeting for the specific incident);

(g) Request a review of the decision of the conduct officer or conduct board, as described in WAC 516-21-280 Basis for Review; and

(h) Waive any of the rights contained in this section.

(3) For incidents involving violence or sexual violence, including sexual harassment, misconduct, and/or assault, complainants shall have the following additional rights:

(a) To be notified of the availability of counseling, assistance, and support resources, both on campus and in the surrounding community;

(b) Have past behavior unrelated to the alleged behavior excluded from the investigation or hearing; the conduct officer or board chair will make a final determination regarding such behavior if in question;

(c) To be free from questioning about their sexual history with anyone other than the respondent;

(d) Submit an oral or written impact statement to the conduct officer, conduct board, or dean of students, for consideration during the sanctioning phase of the conduct process, if the respondent is found responsible;

(e) To request and be granted an administrative no contact order against the respondent(s) during the conduct process;

(f) Be free of any form of retaliation and report any retaliation that occurs for further action (for further information, see *POL-U1600.02 Ensuring Equal Opportunity and Prohibiting Discrimination and Retaliation*).

#### **WAC 516-21-250 Student Rights in the Conduct Process**

All alleged violations of the code will be resolved through the student conduct process, respecting fairness and due process for all involved parties.

(1) Students accused of violating the code have certain rights in the conduct process. These include the right to:

(a) Receive written notification of the section(s) of the code they are alleged to have violated, including a clear description of the basis for the charge(s), delivered via e-mail to the student's official @students.wvu.edu account;

(b) Meet with the Conduct Officer to discuss the section(s) of the code they are alleged to have violated and present a response to such allegations;

(c) Provide evidence on their own behalf, including the names or written statements of individuals who can offer information regarding the incident in question;

(d) Be accompanied through the conduct process by a person of their choice (this person may give advice to the student, but may not directly address the Conduct Officer, any member of the appeals board, or the Dean of Students);

(e) Refuse to answer any question asked of them and have no inference of guilt drawn from such refusal;

(f) Receive written notification of the Conduct Officer's findings and decision, delivered via e-mail to the student's official @students.wvu.edu account, within seven business days of the date of the meeting (or, if multiple meetings are necessary to determine responsibility or multiple individuals are involved and information presented by each is deemed necessary to determine responsibility, within seven business days of the date of the final meeting for the specific incident);

(g) Request a review of the Conduct Officer's findings and decision by the appeals board or Dean of Students, as described in WAC 516-21-280 Basis for Review; and

(h) Waive any of the rights contained in this section.

(2) Individuals who have filed a complaint or are the victim of an alleged violation of the code have certain rights in the conduct process. These include the right to:

(a) Submit a written account of the alleged violation(s);

(b) Be advised of the date, time, and location of the hearing;

(c) Provide evidence on their own behalf, including the names or written statements of individuals who can offer information regarding the incident in question;

(d) Be accompanied through the conduct process by a person of their choice (this person may give advice to the student, but may not directly address the Conduct Officer, any member of the appeals board, or the Dean of Students);

(e) Be free of any form of retaliation and report any retaliation that occurs for further action;

(f) Have past unrelated behavior excluded from the investigation or hearing; and

(g) Submit an oral or written impact statement to the Conduct Officer, appeals board, or Dean of Students, for consideration during the sanctioning phase of the conduct process, if the charged student is found responsible.

(3) For incidents involving violence or sexual violence, including sexual harassment, misconduct, and/or assault, victims shall have the following additional rights:

(a) To be notified of the availability of counseling, assistance, and support resources, both on campus and in the surrounding community;

(b) To request and be granted a "no contact" order against the accused student(s);

(c) To receive written notification of the Conduct Officer's findings and decision delivered via e-mail to the student's official @students.wvu.edu account, within seven business days of the date of the meeting (or, if multiple meetings are necessary to determine responsibility or multiple individuals are involved and information presented by each is deemed necessary to determine responsibility, within seven business days of the date of the final meeting for the specific incident); and

~~(d) To request a review of the Conduct Officer's findings and decision by the appeals board or Dean of Students, as described in WAC 516-21-280 Basis for Review.~~

#### **WAC 516-21-260 Procedures for Immediate Interim Suspension**

In consultation with university officials, the Dean of Students may suspend a student from the university on an immediate interim basis, pending disciplinary or criminal proceedings or a medical evaluation.

(1) An interim suspension may only be imposed in the following circumstances:

- (a) The student poses a threat to ~~his/her~~their own safety or well-being;
- (b) The student poses a threat to the safety or well-being of other members of the university community;
- (c) The student poses a threat to university property, is disrupting, or interfering with the normal operations of the university; or
- (d) The student is alleged to have committed a serious violation of local, state, or federal law.

(2) During the interim suspension, a student may be denied access to university activities and privileges, including access to classes, university property, and/or campus residence halls and apartments.

(3) A student suspended from the university on an immediate interim basis shall be notified in writing of the terms of the interim suspension. The notice, which shall be delivered both via e-mail to the student's official @students.wvu.edu account and via certified mail to the student's local address on file, shall include the stated violation(s), the circumstances and terms of the interim suspension, and the time, date and location of a meeting to discuss the interim suspension with the Dean of Students.

(4) The interim suspension meeting shall occur no less than three business days and no more than seven business days from the date that the notification is sent. The student may elect to waive the three-day notice if an earlier date is mutually agreed upon. The purpose of the interim suspension meeting is for the student to have an opportunity to demonstrate to the Dean of Students why the terms specified in the interim suspension notice should not continue.

(5) Cases of interim suspension are given priority and will be expedited through the student conduct process. The interim suspension will remain in effect until a final decision has been made on the pending code violation(s) or until the Dean of Students determines that the reasons for imposing the interim suspension no longer exist or are not supported by available evidence.

#### **Repeal and replace - WAC 516-21-270 Proceedings for violations of the code**

(1) Any member of the university community may file a complaint against a student for a violation of the student rights and responsibilities code. A complaint should be made in writing to the Office of Student Life. Additionally, information received from any source (police report, third party, online, etc.) may be considered as a complaint.

(2) A conduct officer will consider the complaint and conduct an initial investigation including providing the respondent an opportunity to meet to determine whether the complaint has merit, meaning that it appears to state a violation of the code.

(3) If the conduct officer determines that a complaint has merit, the complaint is typically considered through a conduct officer hearing. The conduct officer reviews the complaint, investigates and makes a finding as to whether the Code was violated and imposes sanction(s).

(4) In complaints alleging discrimination and/or sexual violence, including sexual harassment, misconduct or assault, an investigation and written report of findings from Western Washington University's Equal Opportunity Office may be provided to the conduct officer in lieu of the conduct officer's investigation. The conduct officer will then consider this report through a conduct officer hearing and makes a finding as to whether the Code was violated and imposes sanction(s), or make a recommendation for a finding and sanction(s) to a conduct board.

(5) If the possible or recommended sanction may be expulsion or suspension as determined by the conduct officer, the complaint and the subsequent investigation, as well as any recommendation for a finding and sanction(s) are considered by the conduct board. Any previous complaints and/or findings may also be considered. The conduct officer may, at their discretion, refer the complaint to a conduct board at any time before a decision is issued. A complainant or respondent may request that a conduct board consider the complaint, but the final decision to refer to the conduct board for consideration is made by the conduct officer and such decision is not subject to appeal.

(6) All notifications under the Code are delivered either by electronic mail to the students Western email account or other electronic means, delivered personally, or sent via regular U.S. mail. Notifications sent via regular U.S. mail are sent to the party's last known address or the address on file with the university registrar. Students are responsible for maintaining updated mailing address on file with the registrar. Deadlines described in this chapter begin the date the notification is sent via electronic means, personally delivered, or placed in regular U.S. mail.

(7) Upon request, staff from the office of the dean of students is available to the respondent and complainant (if applicable) to assist in understanding the student conduct process.

(8) The conduct officer or conduct board's determinations are made on the basis of a "preponderance of the evidence," that is, whether it is more likely than not that the respondent violated the code.

(9) Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in conduct proceedings. Relevant evidence, including hearsay, is admissible if it is the type of evidence that reasonable members of the university community would rely upon in the conduct of their affairs. The chair of the conduct board and/or the conduct officer shall have the discretion to determine admissibility of evidence.

(10) If respondent to whom notice of the hearing has been sent does not appear before a conduct officer or board, the information in support of the complaint is presented and considered in their absence, and the conduct officer or board may issue a decision based upon that information.

**Conduct officer actions and proceedings**

(1) Any student charged by a conduct officer with a violation of the student code is provided at least three days written notice of the student's hearing date, time and location. The written notice shall be completed by the conduct officer and shall include:

- (a) A summary of the complaint, including the sections of the Code allegedly violated;
- (b) The approximate time and place of the alleged act that forms the factual basis for the charge of violation;
- (c) The time, date, and place of the hearing; and
- (d) Any request to extend the time and/or date of the conduct officer hearing should be addressed to the conduct officer.

(2) After a consideration of the available information, the conduct officer may take any of the following actions:

- (a) Inform the students involved of the possible or recommended sanction of expulsion or suspension, then investigate and make a recommendation for a finding and sanction(s) to the conduct board; if this is not applicable, then
- (b) Terminate the proceeding and enter a finding that the respondent is not responsible for the alleged conduct violation;
- (c) Dismiss the investigation, which may be reopened at a later date if relevant information that was unknown to the conduct officer arises; or
- (d) Impose appropriate sanctions as provided in WAC 516-21-230 Sanctions. Such sanctions are subject to the student's right of appeal as provided in this code.

(3) The conduct officer may consider the respondent's previous violations of the Code when making a determination to refer a complaint to the conduct board.

(4) If a respondent to whom notice of the hearing has been sent does not appear before the conduct officer, the complaint is considered in their absence, and the conduct officer may issue a decision based upon the available information.

(5) The respondent and complainant (if applicable) is notified in writing of the determination made by the conduct officer within seven days of the hearing. The notice includes information regarding the right to appeal.

**Conduct board proceedings**



(1) Any student charged by a conduct officer with a violation of any provision of the conduct code that is to be heard by a conduct board is provided written notice of the time, date and location of the student's hearing. The same information is provided to the complainant (if applicable) simultaneously and in writing. The written notice shall be completed by the conduct officer and shall include:

(a) The specific complaint, including the sections of the Code allegedly violated;

(b) The approximate time and place of the alleged act that forms the factual basis for the charge of violation;

(c) The time, date, and place of the hearing;

(d) A list of the witnesses who may be called to testify, to the extent known;

(e) A description of all documentary and real evidence to be used at the hearing, to the extent known; and

(f) The names of the board members. If a respondent or complainant has reason to believe a board member may have a significant bias or conflict of interest, they may submit a written challenge to the conduct officer no later than two days prior to the meeting. The conduct officer will convey the challenge to the board chair and/or dean of students or designee for consideration; the dean of students or designee will make a final decision regarding a challenge.

(2) Time for hearings.

(a) The conduct board hearing is scheduled not less than five days after the student has been sent notice of the hearing.

(b) Requests to extend the time and/or date for hearing must be addressed to the chair of the conduct board, and must be copied to the conduct officer. A request for extension of time is granted only upon a showing of good cause.

(3) Conduct board hearings are conducted by a university conduct board in private. A goal of the hearing is to have an educational tone and to avoid creation of an unduly adversarial environment. The hearings are conducted according to the following procedures:

(a) Conduct board hearings are conducted in private;

(b) The respondent, complainant, and their advisors, if any, are allowed to attend the entire portion of the university conduct board hearing at which information is received (excluding deliberations). Admission of any other person to the conduct board hearing is at the discretion of the conduct board chair and/or the conduct officer;

(c) In conduct board hearings involving more than one respondent, the conduct officer, at their discretion, may permit joint or separate hearings;

(d) The complainant, the respondent, and the student conduct officer may arrange for witnesses

to share or present pertinent information to the conduct board. In most instances, written statements are preferred. Respondent witnesses must provide written statements to the conduct officer at least two days prior to the hearing. Complainant witnesses must provide written statements to the conduct officer at least two days prior to the conduct hearing. Any in-person witnesses must be notified of the time and place of the hearing by the person who has requested their involvement (conduct officer, respondent, or complainant). Witnesses provide information to and answer questions from the conduct board. Questions for witnesses may be suggested to the conduct board by the respondent and/or complainant. Written questions are directed to the conduct board chair, rather than to the witness directly. This method is used to preserve the educational tone of the hearing and to avoid creation of an unduly adversarial environment, and to allow the board chair to determine the relevancy of questions. Questions concerning whether potential information may be reviewed are resolved at the discretion of the conduct board chair. The conduct board chair shall have the discretion to determine admissibility of information;

(e) Pertinent records, exhibits, and written statements may be accepted as information for consideration by a conduct board at the discretion of the chair and/or conduct officer;

(f) Questions related to the order of the proceedings are subject to the final decision of the conduct board chair;

(g) After the portion of the conduct board hearing concludes in which all pertinent information is received, the conduct board shall determine (by majority vote) whether the respondent has violated each section of the student code as charged and what sanctions, if any, are appropriate;

(h) If the respondent is found responsible for any of the charges, the board may, at that time, consider the student's previous violations of the Code in determining an appropriate sanction;

(i) The respondent (and complainant, if applicable) are notified simultaneously and in writing of the conduct board's decision within ten days from the date the complaint is heard. This notification shall include the reasons for the decision (both the factual basis therefore and the conclusions as to how those facts apply to the student code), the sanction(s), notice that the order will become final unless an appeal is filed within twenty-one days of the date the letter was personally delivered, deposited in the U.S. mail, or electronically mailed, and a statement of how to file an appeal;

(j) If there is no appeal of the conduct board's decision before twenty-one days from the date of the decision letter, it becomes the university's final order.

(4) If a respondent to whom notice of the hearing has been sent does not appear before a conduct board, the complaint is considered in their absence, and the conduct board may issue a decision based upon the available information.

(5) The conduct board may for convenience or to accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the complainant, respondent, and/or other witnesses during the hearing provide separate facilities, and/or permit participation by telephone, audio tape, written statement, or other means, as determined by the conduct officer and/or conduct board chair. Additionally, respondents are not permitted to directly question a complainant (or vice versa), and when board or appeal board meetings occur where both respondent and complainant may be present, the Office of Student Life will work with the complainant to ensure the complainant is able to participate (for further information, see *POL-U1600.02 Ensuring Equal Opportunity and Prohibiting Discrimination and Retaliation*).

(6) During limited times during the year, such as break periods and summer quarter, when board members are unavailable, an interim board may be appointed by the Dean of Students.

#### **WAC 516-21-270 Proceedings for Violations of the Code**

(1) Any member of the university community may file a complaint against a student or a student organization, alleging a violation of the code. All complaints should be provided in writing to the Conduct Officer or Dean of Students and include a statement of the alleged misconduct.

(2) The Conduct Officer will conduct a preliminary investigation. If, in the Conduct Officer's judgment, there is insufficient basis to consider a charge, the individual(s) initiating the complaint will be informed. If there is sufficient basis to consider a charge, the Conduct Officer shall:

(a) Provide the accused student with a written notice of the charge(s), delivered via e-mail to the student's official @students.wvu.edu account. This notice shall include a clear description of the nature and date of the complaint and the specific code section(s) the student is alleged to have violated;

(b) Provide the accused student with a copy of the code as well as information on the availability of procedural advice regarding the code; and

(c) Provide the accused student with written notice to contact the Dean of Students' office immediately upon receipt of the charge letter to schedule a conduct meeting. This meeting should occur no less than three business days and no more than seven business days from the date that the notification is sent. The student may elect to waive the three-day notice if an earlier date is mutually agreed upon.

(3) During the meeting with the accused student, the Conduct Officer will determine, based on a preponderance of evidence, whether it is more likely than not that a violation of the code has occurred. If a student fails to meet with the Conduct Officer after receiving proper notification, a decision on the allegation(s) may be rendered in the student's absence.

(4) Within seven business days of the meeting, the Conduct Officer shall notify the student in writing of the findings and decision, including any imposed sanctions. This notification will be delivered via e-mail to the student's official @students.wvu.edu account and will include a statement of the student's option for a review of the Conduct Officer's findings and decision by the appeals board or the Dean of Students.

(5) If multiple meetings are required to determine responsibility, the findings and decision letter will be sent via e-mail to the student's official @students.wvu.edu account no later than seven business days after the final meeting for the specific incident.

(6) If multiple individuals are involved in the incident and the information presented by each student is deemed necessary to determine responsibility, individual findings and decision letters will be sent via e-mail to the student's official @students.wvu.edu account no later than seven business days after the final meeting for the specific incident.

(7) If both parties agree to mediate a complaint and the Conduct Officer agrees, mediation may be substituted for a conduct meeting. If mediation is unsuccessful, the original complaint will be considered and decided upon by the Conduct Officer. Mediation may not be substituted for a conduct meeting in cases involving violence or sexual violence, including sexual harassment, misconduct, or assault.

#### **Repeal and replace - WAC 516-21-280 Basis for appeal**

(1) A student found in violation of the code may request an appeal of the conduct officer or board's findings and decision. For incidents involving violence and/or sexual violence, including sexual harassment, misconduct or assault, a complainant may request an appeal. An appeal may be requested for any reason including:

(a) The original meeting was not conducted in conformity with prescribed procedures and significantly impacted the outcome of the student conduct process; or

(b) The sanctions imposed are substantially disproportionate to the violation(s) committed; or

(c) The decision reached did not properly consider the information presented; or

(d) New information, unavailable at the time of the original meeting, that could substantially impact the original decision (a summary of this new information and its potential impact must be included).

(2) The request for appeal must be submitted in writing to the dean of students within twenty one calendar days of receipt of the conduct officer or board's written notice of findings and decision (which shall be delivered via e-mail to the student's official Western email account). The request for appeal must state, as clearly and concisely as possible, the basis for the request.

(3) Upon receipt of the written appeal request, the dean of students will review the request and consider it, or refer it according to WAC 516-21-290 Review Procedures.

(4) For incidents involving violence and/or sexual violence, including sexual harassment, misconduct or assault, both the respondent and complainant will be notified simultaneously and in writing regarding the outcome of the written request for appeal.

(5) No sanction will begin while a request for appeal is pending, except interim sanctions such as administrative no-contact orders, trespass, etc.

**WAC 516-21-280 Basis for Review.**

(1) A student found in violation of the code may request a review of the Conduct Officer's findings and decision by either the appeals board or the Dean of Students. A review may be requested for the following reasons only:

- (a) The original meeting was not conducted in conformity with prescribed procedures;
- (b) The Conduct Officer misinterpreted the code;
- (c) The sanctions imposed are disproportionate to the violation(s) committed; and
- (d) The decision reached did not properly consider the information presented.

(2) For incidents involving violence or sexual violence, including sexual harassment, misconduct or assault, victims may request a review of the Conduct Officer's findings and decision by either the appeals board or the Dean of Students. A review may be requested for the following reasons only:

- (a) The original meeting was not conducted in conformity with prescribed procedures;
- (b) The Conduct Officer misinterpreted the code;
- (c) The sanctions imposed are disproportionate to the violation(s) committed; and
- (d) The decision reached did not properly consider the information presented.

(3) The request for review must be submitted in writing to the Dean of Students within seven business days of receipt of the Conduct Officer's written notice of findings and decision (which shall be delivered via e-mail to the student's official @students.wvu.edu account). The request must state, as clearly and concisely as possible, the basis for the review and specify whether the student wishes to have their review considered by the appeals board or the Dean of Students.

(4) Upon receipt of the written request for review, the Dean of Students will determine whether the request meets one or more of the criteria specified for reviews of the Conduct Officer's findings and decision. If it does, the review hearing will be scheduled. If it does not, the party requesting the review will be notified in writing and the request will be denied.

(5) For incidents involving violence or sexual violence, including sexual harassment, misconduct or assault, both the student found in violation of the code and the victim will be notified in writing regarding the outcome of the written request for review.

(6) No sanction will begin while a review is pending, except as provided in WAC 516-21-260, Procedures for Immediate Interim Suspension. Temporary relocation of a student to alternative housing and/or restrictions between affected parties may be enforced during an appeal.

**Repeal and replace - WAC 516-21-290 Review procedures**

(1) Appeals of decisions made by a conduct officer will be reviewed by an appeals board. Appeals of decisions made by a conduct board will be reviewed by the dean of students or their designee; in rare cases, the dean of students may refer the appeal of a conduct board decision to an appeals board made up of different members than the original board.

(2) In most cases, appeals are confined to a review of the written documentation regarding grounds for appeal; any involved person (respondent, witnesses, complainant) may be called if necessary and at the discretion of the appeals board or dean of students.

(3) Where new information, unavailable at the time of the original meeting, that could substantially impact the original decision, is received, the dean of students or their designee will refer the complaint back to the original conduct officer or conduct board for reconsideration. The dean of students or their designee may, at their discretion, refer the complaint to a different conduct officer or conduct board for reconsideration.

(4) Respondent and complainant (if applicable) will be informed of appeals simultaneously and in writing in a timely manner, and the appeal by one party will be shared with the other party (parties) when appropriate under procedure; this party may then file a response and/or request an appeal on the same or different grounds. Respondent and complainant (if applicable) will be informed of the outcome of any appeal simultaneously and in writing in a timely manner.

(5) During limited times during the year, such as break periods and summer quarter, when board members are unavailable, an interim board may be appointed by the Dean of Students.

#### **WAC 516-21-290 Review Procedures**

(1) Upon acceptance of a request for review, the Dean of Students shall notify the student (or, for incidents involving violence or sexual violence, both the student and the victim) in writing of the:

- (a) Section(s) of the code the student was found to have violated;
- (b) Findings and decision of the Conduct Officer;
- (c) Time, date, and location of the review hearing; and
- (d) Location of the code, should they wish to view or download a copy.

(2) The review hearing shall be held no less than three business days and no more than seven business days from the date of notification. The student may elect to waive the three-day notice if an earlier date is mutually agreed upon. If the student fails to appear at the hearing, the appeals board or the Dean of Students may proceed with the review, based upon consideration of all available information, or may dismiss the request for review.

(3) During the review hearing:

~~(a) The chair of the appeals board or Dean of Students may ask any person with relevant information to speak or provide a written statement regarding the alleged violation.~~

~~(b) The student found in violation of the code may ask any person with relevant information to speak or provide a written statement regarding the alleged violation.~~

~~(c) The chair of the appeals board or the Dean of Students may limit or exclude information that is considered to be irrelevant, immaterial, or repetitious.~~

~~(d) Five members shall constitute a quorum of the appeals board. Actions by the appeals board require agreement by a majority of members present at the time of the hearing.~~

~~(e) Any member of the appeals board that is unable to render an impartial decision in a particular case shall excuse themselves from the appeals board's deliberations in advance and may be replaced by an alternate.~~

~~(f) The appeals board or the Dean of Students may either confirm, reverse, or modify the Conduct Officer's findings and decision.~~

~~(4) New substantive information that was not presented at the time of the original conduct meeting will not be considered during the review. When new substantive information is present prior to or during the review hearing and such evidence could impact the original decision, the allegation(s) will be reheard by the Conduct Officer.~~

~~(5) The chair of the appeals board or the Dean of Students will render a decision regarding the review within seven business days of the hearing and notify the student (or, for incidents involving violence or sexual violence, both the student and the victim) in writing of their findings and decision. All review decisions are final.~~

#### **Repeal and replace - WAC 516-21-300 Deviations from established procedures.**

Deviations from the timelines noted in this code may be granted by the dean of students, upon request, for good cause. Respondent (and complainant, if applicable) will be informed simultaneously and in writing of extensions and the reason for the extension.

#### **WAC 516-21-300 Deviations from Established Procedures**

Deviations from the timelines set forth in this code may be granted by the Dean of Students, upon request, for good cause.

#### **WAC 516-21-310 Confidentiality of Conduct Proceedings and Records**

(1) The confidentiality of all conduct proceedings and records will be maintained in compliance with the student records policy, as well as all applicable state and federal laws. Conduct records prepared by the Conduct Officer, the appeals board, and/or the Dean of Students:

(a) Will be held in the Dean of Students Office for six years, except in cases of suspension, interim suspension, or expulsion, which are permanent records; and

(b) Will not be shared with any member of the public, except upon the informed written consent of the student(s) involved or as stated in the student records policy.

(2) The Conduct Officer's findings may be shared with the victim, as required by law, in cases involving violence or sexual violence, including sexual harassment, misconduct or assault. The disciplinary findings may also be shared with university officials involved in the completion or supervision of the sanction and/or the student. See also chapter 516-26 WAC Student Records.

#### **WAC 516-21-320 Relationship of the Code to University Residences**

(1) University ~~residents~~ Residences are responsible for adjudicating most alleged violations of the code that are committed by students living in campus residence halls and apartments.

(2) The Dean of Students has the authority to designate which area will consider an alleged violation of the code, or whether the alleged violation will be coadjudicated by University Residences and the Conduct Officer. General referral of conduct cases will be made by consensus between University Residences and the Conduct Officer.

(3) Certain cases shall be referred by University Residences to the Conduct Officer or coadjudicated by both areas. These include, but are not limited to, cases involving:

(a) Alleged acts or threats of physical violence or sexual misconduct;

(b) Alleged violations involving the distribution or sale of drugs or other controlled substances;

(c) Alleged violations by nonresidential students while in campus residence halls or apartments or at University Residences' sponsored programs, events, or activities;

(d) Alleged violations that occur near the end of the term or after a residential student's contract with University Residences has ended;

(e) Alleged violations involving the misuse of computers, electronic data and/or communication systems, particularly when the victims of the alleged conduct are nonresidential students (e.g., sending unsolicited mass e-mails, copyright violations); or

(f) Alleged violations severe enough to result in eviction from campus residence halls or apartments and/or suspension or expulsion from the university.

#### **WAC 516-21-330 Interpretation of the Code**

Any question of interpretation or application of the code shall be referred to the Dean of Students for final determination.

#### **WAC 516-21-340 Revision of the Code**



(1) The code shall be reviewed every five years or more often, if needed, by the committee on student rights and responsibilities. The committee on student rights and responsibilities shall include:

(a) Five students, including at least one graduate student. Three students shall be appointed by the Associated Students Board of Directors and two shall be appointed by the Residence Hall Association;

(b) One faculty member, appointed by the Faculty Senate;

(c) One staff member from the Division of Enrollment and Student Services, appointed by the Dean of Students;

(d) One staff member from the Department of Public Safety, appointed by the Director of Public Safety;

(e) One staff member from University Residences, appointed by the Director of University Residences;  
and

(f) The Conduct Officer.

(2) Recommendations of the committee on student rights and responsibilities shall be made to the Vice President for Enrollment and Student Services for submission to and consideration by the President's Cabinet. Prior to adoption of the code, all proposed modifications shall be reviewed by the Office of the Assistant Attorney General at Western Washington University for consistency with university policies and the law. Final authority for changes to the code rests with the Western Washington University Board of Trustees. [REFERENCE TO POL-U1000.11 DEVELOPING AND MAINTAINING UNIVERSITY PROVISIONS OF THE WASHINGTON ADMINISTRATIVE CODE](#)

#### **WAC 516-21-350 Referenced Policies and Regulations in the Code**

Policies or regulations referenced in the code are available, upon request, in the Dean of Students' office.

*[Credit: NCHERM's Developmental Framework for a Code of Student Conduct: The NCHERM Group Model Code Project](#)*