

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS
SCP-4770**

SUBJECT: Student Rights and Responsibilities

REFERENCE: West Virginia Code §18B-1-6 to 7

ORIGINATION: April 16, 2002

EFFECTIVE: April 16, 2002

REVIEWED: February 2011

SECTION 1. PURPOSE

1.1 The purpose of this policy includes, but is not limited to, the following:

- 1.1.1 To establish a general policy on student life, including a statement on student rights and responsibilities, at Southern West Virginia Community and Technical College (the “College”);
- 1.1.2 To establish a code of conduct that identifies behavioral expectations of students and specifies certain prohibited acts by students at the College;
- 1.1.3 To prescribe penalties and sanctions for such prohibited conduct;
- 1.1.4 To prescribe disciplinary actions and proceedings to be taken in cases of the violations of this policy; and
- 1.1.5 To generally define the powers, authority and duties to be exercised by the President and other officials of the College in applying this policy, pursuant to the control of the College’s Board of Governors.

SECTION 2. SCOPE AND APPLICABILITY

2.1 This policy establishes the rules regarding student rights, responsibilities and conduct at the College.

SECTION 3. DEFINITIONS

- 3.1 President – The President of the College and all those acting for or on behalf of the President or at the direction of the Board of Governors.
- 3.2 Activity – Any and all operations conducted, sponsored, promoted, operated or otherwise engaged in by the College, including (by way of illustration and not as a limitation of the foregoing) classroom and course activity, recreational and cultural programs, maintenance and building programs, committee and other business activity, registration, advising, teaching, admissions, placement, discipline, routine office activity, research and service.
- 3.3 Property – Any property whether owned, rented or otherwise held or used by the Board of Governors, by the

College or by a member of the College community.

- 3.4 Facility – Any and all property of the College used or usable in any activity of the College.
- 3.5 Campus – All the property and facilities of the College serving as the *locus in quo* of any activity of the College.
- 3.6 Faculty – Those employees of the Board of Governors who are assigned to teaching or research or service functions at the College and who hold academic rank.
- 3.7 Staff – Those employees of the Board of Governors who are assigned to teaching or research or service functions at the College and who are not members of the faculty.
- 3.8 Student – Any person who is registered and attending classes at the College to pursue a course of study, research or service; who is currently engaged in an institutionally sponsored activity and who has some right or privilege to be on the campus or in the facilities of the College or to use the same in connection with study, research or service; or who yet has some right or privilege to receive some benefit, recognition or certification from the College under the rules, regulations or policies of the Board of Governors.
- 3.9 College Community – All officers, administrators, faculty members, staff members, employees, students of or at the College, Board of Governors members and other persons authorized to participate in institutional activities at the time applicable.
- 3.10 Probation – Exclusion from participation in certain College activities, property or facilities for a definite stated period of time, subject to being conditioned upon compliance with policies, rules and regulations or another specified activity during the probation period.
- 3.11 Suspension – Exclusion from all institutional activities for a definite stated period of time up to one academic year, subject to the imposition of conditions.
- 3.12 Expulsion – Termination of all student status, including any remaining right or privilege to receive some benefit or recognition or certification of the College, subject to a statement of conditions for readmission, if the student is deemed eligible for readmission.

SECTION 4. POLICY

- 4.1 The submission of an application for admission to the College represents an optional and voluntary decision on the part of the prospective student to partake of the program and privileges offered by the College pursuant to the policies, rules and regulations of the Board of Governors. Institutional approval of that application, in turn, represents the extension of a right or privilege to join the College community and to remain a part of it so long as the student fulfills the academic and the behavioral expectations that are set forth in the policies, rules and regulations of the Board of Governors.
- 4.2 Among student rights and responsibilities are the following:
 - 4.2.1 Freedom of expression and assembly – Students enjoy the essential freedoms of scholarship and inquiry central to all institutions of higher education. In exercising these freedoms students have particular rights and responsibilities, including but not limited to the following:
 - 4.2.1.1 To have access to campus resources and facilities;

- 4.2.1.2 To espouse causes;
 - 4.2.1.3 To inquire, discuss, listen to and evaluate;
 - 4.2.1.4 To listen to any person through the invitation of organizations recognized by the College;
 - 4.2.1.5 To not violate the rights of others in matters of expression and assembly; and
 - 4.2.1.6 To abide by the policies, rules and regulations of the Board of Governors and federal, state and local laws pertaining to freedom of expression and assembly.
- 4.2.2 Freedom of association – Students may organize whatever associations they deem desirable and are entitled to affiliate with any group or organization for which they meet membership qualifications. However, institutional recognition of student organizations shall be limited to those whose purposes comport with the educational mission of the College.
- 4.2.3 Right to privacy – Students are entitled to the same safeguards of the rights and freedoms of citizenship as are afforded those outside the College community, including but not limited to the following:
- 4.2.3.1 Privileged one-to-one communication with faculty, administrators, counselors and other institutional functionaries;
 - 4.2.3.2 Respect for student property, including freedom from unreasonable and unauthorized searches;
 - 4.2.3.3 Confidentiality of academic and disciplinary records as outlined by the Family Education Rights and Privacy Act (FERPA); and
 - 4.2.3.4 Assurance that legitimate evaluations will be made from student records.
- 4.2.4 Responsibilities of citizenship – Students are expected, as are all citizens, to obey local, state and federal statutes. As members of the College community, students also are expected to obey the College’s code of conduct.
- 4.2.5 Right to due process – Disciplinary proceedings for students accused of committing offenses must be consistent with such constitutional provisions guaranteeing due process of law as are applicable to the proceedings. In all disciplinary proceedings, students shall be considered innocent until proven guilty of any charge.

SECTION 5. BACKGROUND OR EXCLUSIONS

- 5.1 Any authority, responsibility or duty granted to or imposed upon the President by this policy may be delegated by the President, subject to the control of the Board of Governors, to a member or members of the faculty, staff or student body of the College. All people concerned in a matter involving the delegation of authority, responsibility or duty by the President shall be required to deal with the person or persons to whom the authority, responsibility or duty was delegated, except on appeal to the President as specified by the President.
- 5.2 The President, with the advice of faculty, staff and students and subject to the control of the Board of Governors, shall develop, promulgate and use disciplinary regulations and channels consistent with this

policy.

- 5.3 The President possesses the discretion to impose sanctions following disciplinary proceedings. Depending on the violation, such proceedings may result in expulsion, suspension, probation or some other appropriate sanction of lesser severity.
- 5.4 Normally, a student facing suspension or expulsion from the College will be entitled to a hearing and, in certain cases, appeal prior to the imposition of the sanction. However, a student may be temporarily suspended pending final action on the charges when the student's continued presence at the College would constitute a potential for serious harm to self or to the safety of other members of the College community or when the student repeatedly causes serious disruptions of College activities. Such temporary suspension shall be followed by prompt disciplinary proceedings consistent with this policy.
- 5.5 Because of time lapses during an appeal process, sanction enforcement in the affected semester may be impossible. In that event, the following actions may occur:
 - 5.5.1 Whenever possible and if appropriate, the sanction shall be applied to the semester in progress at the time of the completion of the appeal.
 - 5.5.2 If the sanction cannot be implemented during that semester, then it shall be applied during the next regular semester.
 - 5.5.3 If the student has completed the course of study during the pendency of the appeal, the sanctions, where possible, shall be carried out retroactively to affect the records of that student during the semester designated in the original sanction.
 - 5.5.4 In any event, the student may not be graduated during the process of appeal.
- 5.6 Students who commit off-campus violations of local, state or federal laws may be subject to discipline under this policy if it is established that there is a connection between the off-campus conduct and the safe and orderly operation of the College.
- 5.7 A sanction of suspension or expulsion for disciplinary (not academic) reasons imposed by any public college or university in West Virginia shall apply to the person sanctioned not only at the institution where the sanction was imposed, but shall also be effective at the College. A student who was expelled from another public college or university in West Virginia for disciplinary reasons may not be considered for admission to the College for one year from the date when the expulsion was imposed.

SECTION 6. GENERAL PROVISIONS

- 6.1 The College assumes that students are mature, responsible individuals who have voluntarily entered the institution for educational advancement. As a part of helping students reach their goals, the College seeks to develop responsible student behavior through the following code of conduct.
- 6.2 Under this code of conduct, suspension or expulsion generally shall be limited to conduct that adversely affects the College community's pursuits of its educational objectives. The following misconduct on the College campuses, facilities or property or at College activities is subject to suspension or dismissal:
 - 6.2.1 Engaging in any form of dishonesty, including cheating, plagiarism, knowingly furnishing false information to the College, and forgery, alteration or use of College documents or instruments of identification with intent to defraud;

- 6.2.2 Disrupting or obstructing College activities by any means, including intentionally causing inconvenience, annoyance or alarm among members of the College community;
- 6.2.3 Engaging in physical and/or psychological abuse or threatening such abuse of any persons, including but not limited to fighting and engaging in assault or battery;
- 6.2.4 Participating in or inciting a riot or an unauthorized or disorderly assembly;
- 6.2.5 Seizing, holding, commandeering or damaging any property or facilities of the College, or threatening to do so, or refusing to depart from any property or facilities of the College upon direction of College officials or the President;
- 6.2.6 Using alcoholic beverages, including the purchasing, consuming, possessing or selling of such items;
- 6.2.7 Gambling or holding a raffle or lottery, except in cases with specific prior approval of the President;
- 6.2.8 Possessing, using, selling or distributing any type of drugs for illegal purposes;
- 6.2.9 Possessing any dangerous chemical or explosive elements or component parts thereof not used for lawful College studies, including but not limited to rifles, shotguns, pistols, revolvers, other firearms and weapons, without authorization from the President.
- 6.2.10 Physically detaining or restraining any other person, removing such persons from any place where that person is authorized to remain or otherwise obstructing the free movement of persons or vehicles;
- 6.2.11 Littering, defacing, destroying or damaging property or removing or using such property without authorization;
- 6.2.12 Misusing the West Virginia Computer Network and the College Computer System, including but not limited to the following:
 - 6.2.12.1 Disrupting or interfering with the normal use of the computers, computer-related equipment, data or programs of individuals, the Network or the College Computer System;
 - 6.2.12.2 Using this equipment, data or programs in performance of any act listed as prohibited by this code of conduct;
 - 6.2.12.3 Attempting to breach security in any manner; or
 - 6.2.12.4 Using a computer account for other than the purpose for which it was assigned;
- 6.2.13 Engaging in an act of hazing;
- 6.2.14 Willfully encouraging others to commit any of the acts prohibited by this code of conduct;
- 6.2.15 Interfering with the rights of any other member of the College community;
- 6.2.16 Violating any local, state or federal laws; or
- 6.2.17 Violating any rules or regulations not contained in this code of conduct but announced as

administrative edict by the President.

SECTION 7. RESPONSIBILITIES AND PROCEDURES

- 7.1 Students subject to suspension or expulsion for disciplinary violations are assured safeguards to their rights through the elements of due process given below. Each of these students will receive:
- 7.1.1 Written notice of a disciplinary action including a statement of charges and grounds that, if proven, justify suspension or expulsion;
 - 7.1.2 A hearing using defined procedures before the College's Judicial Board, an impartial body;
 - 7.1.3 Notice of the date, time and place of the hearing, which will be given two weeks prior to the hearing so that the accused student can adequately prepare to counter the charges before the hearing;
 - 7.1.4 Names of the witnesses against the accused student;
 - 7.1.5 A statement of the facts and evidence to be given in support of the charges, made with sufficient clarity to reasonably disclose the time and place of the alleged occurrence and the actions or behavior complained of;
 - 7.1.6 Advance inspection by the accused student of the College's affidavits and/or exhibits against the student;
 - 7.1.7 Opportunity to present to the Judicial Board a defense against the charges;
 - 7.1.8 Opportunity to produce either oral testimony or written affidavits of witnesses in support of the student;
 - 7.1.9 The right to be accompanied by an advisor at the hearing;
 - 7.1.10 Opportunity to question any witnesses against the accused student at the hearing;
 - 7.1.11 A decision on discipline based solely on the evidence in the record judged under the preponderance of the evidence standard;
 - 7.1.12 A report on the results and findings of the hearing;
 - 7.1.13 A complete and accurate written record of the hearing prepared by a qualified stenographer or court reporter, if desired, at the student's expense, and;
 - 7.1.14 Opportunity to appeal the decision to the Board of Governors if expulsion is imposed.
- 7.2 Alleged disciplinary violations, depending on the nature of the violation, shall be referred to the College's Chief Academic Officer or Chief Student Services Officer. The Officer or designee shall collect evidence, contact any witnesses, notify the accused student of all charges against the student, arrange for an impartial hearing and notify the accused student and witnesses of the date, time and place of the hearing. The Officer shall hold the hearing and impose sanctions or, if the alleged violation involves possible suspension or expulsion, refer the matter to the College's Judicial Board.
- 7.3 The Judicial Board shall consist of three faculty members and two students. Judicial Board members will be

selected on a case-by-case basis and must be able to adjudicate the matter with impartiality. The faculty members will be selected by the Chief Academic Officer. The student members will be selected by the Chief Student Services Officer, in consultation with the Counselor and student government representatives at the campus where the proceeding will take place. Whenever possible, proceedings shall be held on the campus most closely related to the alleged violation or the accused student. The members of the Judicial Board shall select their own chairperson. As needed, the Chief Academic Officer shall name alternate faculty members and the Chief Student Services Officer shall name alternate student members to the Judicial Board.

7.3.1 The Judicial Board shall have jurisdiction and authority to:

7.3.1.1 Hear evidence in disciplinary cases;

7.3.1.2 Make findings of fact from the evidence presented;

7.3.1.3 Make recommendations to the President based upon such findings as to the disposition of the disciplinary action, including any sanctions to be imposed; and

7.3.1.4 Refer matters not involving potential suspension or expulsion back to the Chief Academic Officer or Chief Student Services Officer.

7.4 In disciplinary matters not involving possible suspension or expulsion, the following processes will be used:

7.4.1 In addition to the requirements stated above in Paragraph 7.2, the Chief Academic Officer or Chief Student Services Officer handling the matter shall ensure that the accused student receives such procedural safeguards as due process requires in accordance with the seriousness of the alleged violation and of the possible sanctions or consequences arising therefrom.

7.4.2 The decision of the Officer may be appealed through a Student Grievance Committee in accordance with normal student grievance procedures.

7.5 In disciplinary matters involving suspension or expulsion, the following processes will be used:

7.5.1 The accused student shall be notified in writing within two weeks of an alleged violation, or of the date when the College first learns of an alleged violation, of the violation for which the student is subject to discipline. The Chief Academic Officer or Chief Student Services Officer or designee will serve this notice upon the accused student by handing a copy to the student in person or by mailing, via certified mail, a copy to the mailing address last noted in the student's official College records.

7.5.1.1 The College will make every effort in the serving of the notice. However, it is expressly provided that the service of such notice shall not be defective if the accused student shall have hidden, refused mail or failed to notify the College of the student's current mailing address. In such cases, the hearing may proceed without hindrance or delay.

7.5.2 The notice to the accused student shall include at least the following:

7.5.2.2 A statement of the policy, rule or regulation which the student is alleged to have violated;

7.5.2.3 A statement of the facts and evidence to be presented in support of the charges, which a statement must be made with sufficient clarity to reasonably disclose the time and place of the alleged occurrence and the actions or behavior complained of;

- 7.5.2.4 A statement that a hearing on the charges will be held before the Judicial Board, and a statement of the date, time and place of the hearing; and
- 7.5.2.5 Information on the student's right to have an advisor present at the hearing at the student's own expense, provided that the student notifies the College at least five days prior to the hearing that an advisor will be present at the proceedings. The student's failure to provide such notification within five days of the hearing may result in a continuance of the proceedings.
- 7.5.3 The hearing shall be held at the date, time and place specified in the notice, unless postponed by the Judicial Board for good cause shown either by the accused student or by the College.
- 7.5.4 All charges should possess sufficient validity to allow the Judicial Board to meet and in good conscience and with impartiality consider related evidence. The hearing shall be conducted in such a manner as to do justice and shall be subject to the following minimum requirements.
 - 7.5.4.1 The accused student shall have the right to be accompanied at the hearing by an advisor. Unless specifically permitted by name by the hearing body, such advisor may not be a person other than the student's parent or guardian, another student at the College, a member of the College's faculty or staff, or an attorney representing the accused student. During the hearing, an advisor may consult with the accused student but may not speak on behalf of the accused student or otherwise participate directly in the proceedings, unless given specific permission to do so by the Judicial Board.
 - 7.5.4.2 All material evidence may be presented subject to the right of cross examination of the witnesses.
 - 7.5.4.3 There shall be a complete and accurate record of the hearing prepared by a qualified stenographer or court reporter, at the student's expense, if desired.
 - 7.5.4.4 The accused student shall be entitled to be present throughout the presentation of the evidence, testimony of the witnesses and arguments of the parties, to be informed before the hearing of the substance of expected testimony of witnesses against the student and to have the witnesses present at the hearing at appropriate times, and to present witnesses and evidence on the student's own behalf as may be relevant and material to the case.
- 7.5.5 The College may be represented by an advisor. Counsel retained by the College may participate only in an advisory capacity and may not speak on behalf of the College or otherwise participate directly in the proceedings, unless given specific permission to do so by the Judicial Board.
- 7.5.6 The accused student and the Judicial Board members shall be present for the entire proceeding. However, witnesses may be called and excused throughout the hearing. The hearing shall be closed to all others.
- 7.5.7 After the hearing, the Judicial Board shall make findings of fact and a recommendation to the President for the disposition of the case and any sanctions to be imposed. The Judicial Board's recommendation shall be based upon proof of the alleged violation by a preponderance of the evidence.
- 7.5.8 No recommendation by the Judicial Board to the President for the imposition of sanctions against a student may be based solely on the failure of the student to answer charges or appear at the hearing.

In such cases, the evidence in support of the charges shall be presented, and the Judicial Board's recommendation shall be based upon proof of the alleged violation by a preponderance of the evidence.

7.5.9 The accused student shall also be notified of the Judicial Board's recommendation and advised of the right to request an appeal to the President within two weeks of the receipt of the recommendation. The President shall within ten working days review the facts of the case and take such action as may be appropriate under all the circumstances.

7.5.10 Except in cases that involve expulsion, the decision of the President shall be final.

7.5.11 If a student wishes to appeal an expulsion, the student must within three working days indicate to the President in writing an intent to appeal the expulsion to the Board of Governors.

7.6 The Board of Governors may, from time to time, require the President to report on disciplinary actions or proceedings over a period of time or on a specific case or cases. These reports shall be in such form as the Board of Governors may require.

7.6.1 In disciplinary cases where expulsion was imposed, the Board of Governors may grant the expelled student's request for appeal.

7.6.1.1 If the Board of Governors determines that the appeal will not be heard, the decision of the President is affirmed, and the expulsion shall be effective upon the President's receipt of the Board of Governors' statement of denial of the appeal.

7.6.1.2 If the appeal is granted, the expulsion shall be stayed until the Board of Governors makes a final decision after a review of the case. In the event the decision of the President is affirmed after such review, the student-appellant shall be notified by certified mail, and the expulsion shall be effective immediately upon concurrent notification to the President.

7.6.1.3 In considering student appeals, the Board of Governors will review all relevant information and records of applicable disciplinary proceedings to ensure that due process has been afforded. The Board of Governors may take such action as it deems reasonable and proper in view of all the circumstances and in answer to its responsibilities under the law.

SECTION 8. CANCELLATION

8.1 None.

SECTION 9. REVIEW STATEMENT

9.1 This policy shall be reviewed on a regular basis with a time frame for review to be determined by the President or the President's designee. Upon such review, the President may recommend that the policy be amended or repealed.

SECTION 10. SIGNATURES

Board of Governors Chair	Date
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President	Date
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Attachments: None.

Distribution: Board of Governors (12 members)
www.southernwv.edu

Revision Note: September 20, 2005 – No revisions; three-year review only.
February 2011 – Policy was reformatted to new SCP format. Revisions provide clarity.