

## **Student Code of Conduct and Procedures**

The Student Code of Conduct (referred to at times as the “Student Code”, “Code of Conduct” or “Conduct Code”) reflects the Blue Ridge Community and Technical College (sometimes “BRCTC” or “College”) community's expectations and standards established for each of its members. The code and student judicial system are founded on principles of fairness and due process, and a commitment to the educational development of students, and are designed to balance the interests of the College community as a whole with the protection of students' individual liberties.

Disciplinary action on campus deals administratively and developmentally with prohibited or unacceptable student behavior in the College community. Any complainant may refer any student or organization to the Office of Student Success. Official College action will be taken when a student's or student group's behavior violates community standards, interferes either with the College's educational purpose, or with its duty to protect and preserve individual health, welfare, and property. When the behavior is aggravated or presents a continuing danger to the College community, Respondents are subject to separation from the institution.

Thus, the primary purpose of this Code is to serve the interests of both the BRCTC community and the individual student by: (1) establishing the College's authority to discipline students; (2) outlining the general rights and responsibilities of students; (3) asserting the specific standards of conduct expected of students; (4) describing actions which can be taken when misconduct occurs; (5) establishing procedures which ensure due process in the adjudication of complaints concerning students; and (6) imposing sanctions and/or providing conflict resolution in the College setting to protect, deter, and educate.

### **Sexual Misconduct, Harassment, Domestic Misconduct, Discrimination, Relationship Violence and Stalking**

Sexual misconduct, harassment, domestic misconduct, discrimination, relationship violence, and stalking as defined in Blue Ridge Community & Technical College Board of Governors Policy 15.1 and/or any other violation of Policy 15.1 complaints are filed with the Title IX Coordinator:

Ann Paull

Main Campus; Suite 2300

[apaull@blueridgectc.edu](mailto:apaull@blueridgectc.edu)

304.260.4380 ext. 2126

Complaints filed with the Office of Enrollment Management alleging Policy 15.1 violations will be referred to the Title IX Coordinator for an investigation by certified investigators consistent with Title IX investigation procedures. At the conclusion of the investigation, the investigation report will be forwarded to the Office of Enrollment Management for processing in accordance with these Student Code of Conduct and Procedures. Blue Ridge Community and Technical College will work to bring all Policy 15.1 allegations to a resolution within a sixty (60) calendar daytime period, which can be extended as necessary for appropriate cause by the Title IX Coordinator with notice to the parties.

## **Authority for Student Discipline**

The President of the College is responsible for all matters of student discipline, including the preservation of due process procedures. This responsibility is normally delegated to the Vice President of Enrollment Management and/or the Associate Dean or designee of Students for the purpose of implementing approved policies and regulations. However, the President's ultimate authority in the regulation of student conduct, including direct intervention by the President when appropriate, is permitted. All Presidential decisions regarding student sanctions are final.

## **Jurisdiction**

This Student Code shall apply to conduct that occurs on College premises; at College sponsored activities; to conduct that does not occur on College premises but that adversely affects or interferes with the educational or orderly operation of the College, its mission, or the pursuit of its objectives; to conduct that does not occur on College premises but, in light of all of the facts and circumstances, would endanger the health, safety, or property of the College, the College Community, or its neighboring communities; and to conduct that occurs on or off of College premises or property which violates federal, state, or local laws, policies of the Blue Ridge Community & Technical College Board of Governors, institutional or campus rules or regulations, directives of College officials, including failing to observe conduct which is appropriate for an academic institution.

Conduct from the time of application for admission through the actual awarding of a degree, even if conduct occurs before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment is subject to this Student Code. The Student Code shall apply to a student's conduct even if the student withdraws from school while a disciplinary matter is pending, and even if the student's conduct is not discovered until after a degree is awarded.

This Code of Student Conduct shall apply to all students including but not limited to students enrolled in undergraduate or certificate granting programs. Academic and professional standards of conduct will also apply to students enrolled in programs that have adopted such standards, *i.e.*, all students are subject to this Student Code and some students may be concurrently subject to additional standards and sanctions as determined by the respective academic programs. An investigation, adjudication or disposition conducted in accordance with the Conduct Code may be carried out prior to, simultaneously with, or following proceedings conducted under program specific codes and sanctions issued under the Student Conduct Code and may be different than those issued under program specific codes.

Student conduct that occurs off College property is subject to the Code where it: a) adversely affects the health, safety, or security of any other member of the College community, or the mission of the College; or b) involves academic work or any records or documents of the College. In determining whether or not to exercise jurisdiction over such conduct, the officer of Student Conduct will consider the seriousness of the alleged offense, the risk of harm involved, whether the victim(s) are members of the campus community and/or whether the off-campus conduct is part of a series of actions that occurred both on and off College property (all of these things need not be present in order for the Student Conduct Code to apply).

## **Program Specific Conduct Codes**

This Code of Student Conduct shall apply to all students including but not limited to students enrolled in undergraduate or certificate granting programs. Academic and professional standards of conduct will also apply to students enrolled in programs that have adopted such standards. All students are subject to this Student Code and some students may be concurrently subject to additional standards and sanctions as determined by the respective academic programs. The administration of complaints filed in accordance with these procedures may be carried out prior to, simultaneously with, or following program specific academic and professional standards of conduct investigations and/or proceedings. Sanctions imposed under this Conduct Code may be in addition to sanctions imposed in accordance with program specific academic and professional standards of conduct. For example and without limiting the general language herein, a student found responsible for violating the Student Conduct Code may receive disciplinary probation as a sanction in accordance with this procedure but may also be dismissed from a program for the same conduct in accordance with program specific procedures and conduct codes. Students may appeal a program level decision to the Student Conduct Hearing Panel. Dismissal from a program does not result in automatic College dismissal without a Student Conduct Hearing.

## **Student Conduct Code Violations, Criminal Conduct and the Jeanne Clery Act**

Conduct that violates the Student Conduct Code may also violate state, federal, local or other laws. The administrative investigation of complaints filed in accordance with this procedure is different from a law enforcement investigation. The technical rules of evidence and procedure do not apply. A law enforcement investigation will not take the place of an investigation or disposition of a complaint filed in accordance with this procedure and the results of a law enforcement investigation or adjudication are not determinative of whether an individual is responsible for violating the Conduct Code or any other College rule or regulation. An investigation, adjudication or disposition conducted in accordance with the Conduct Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings. The College will cooperate fully with law enforcement and other agencies in the enforcement of criminal law on campus or conduct that affects the campus community and such cooperation may require the institution to temporarily suspend the fact-finding aspect of the administrative investigation while the law enforcement agency is in the process of gathering information. Suspensions of investigations typically last from three to ten days but may be extended depending upon the circumstances of each case. The College will promptly resume its administrative investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process.

Students continue to be subject to federal, state, and local laws while at the College, and violations of those laws may also constitute violations of the code. In such instances, the College may proceed with College disciplinary action under the code independently of any criminal proceeding involving the same conduct and may impose sanctions for violation of the code even if such criminal proceeding is not yet resolved or is resolved in the student's favor.

Any individual who has imminent concerns for his/her safety is encouraged to call 9-1-1 and/or report those concerns to local law enforcement. Reports of criminal conduct or personal safety concern reports may be made to local law enforcement at:

Campus Security – 304-260-4380 ext. 2250  
Martinsburg Police – 304.264.2100  
Berkeley County Sheriff's Department – 304.267.7000

Pursuant to the federal law known as the *Jeanne Clery Act* ("Clery Act") (20 USC § 1092(f)), any campus security or law enforcement personnel or College employee who has significant responsibility for student and campus activities (including but not limited to faculty advisers to student groups, coaches and a student activities Associate Dean or designee) who has witnessed or been informed of an alleged incident that constitutes a crime for the purpose of the Clery Act including but not limited to a forcible or nonforcible sex offense or a hate crime, whether a criminal or administrative complaint has been filed, must:

- a. follow College procedures for making a report for the annual crime statistics report; and
- b. notify the Title IX/AA/EEO Coordinator so that any applicable administrative, investigative or other resolution procedures may be initiated.

Employees may be obligated to report to law enforcement the fact that an alleged Clery Act Crime has been reported, but the name or other personally identifiable information about the complainant will be provided only with the consent of the complainant, except as may be required or otherwise permitted by law.

### **Disciplinary Records**

The Office of Enrollment Management maintains a disciplinary record for every student. This file is automatically destroyed seven years after the final resolution of the student's case, unless the student was expelled. The files of expelled students are kept indefinitely. These files are maintained by the Office of Enrollment Management and are separate from transcripts, which are maintained by the College Registrar.

Disciplinary files are considered educational records pursuant to the Federal Educational Rights and Privacy Act (FERPA) and The Office of Enrollment Management strives to respect and uphold the safety and privacy concerns of complainants and witnesses. Information about witnesses, complainants, and the accused is generally restricted to those persons directly involved in deciding the outcome of the case or who have a bona fide educational need to know. Complainants, witnesses, and members of the public are not usually entitled to information about a student's campus judicial proceedings and educational record. Except in limited circumstances, a student's disciplinary record cannot be provided to a third party without the student's written permission. This prohibition on disclosure includes but is not limited to parents, spouses, advisors, and legal counsel. However, victims of sexual assault and/or violence are in, most circumstances, entitled to know the final outcome of judicial proceedings against their alleged attackers.

A student may request a copy of his or her disciplinary record and/or may request that the disciplinary record, including information related to pending charges, be provided to a third party by completing a Disciplinary Record Release authorization form. The form should be submitted to Office of Enrollment Management.

Personal information about witnesses may be redacted from disciplinary records.

### **Requests for Confidentiality/Anonymous Complaints**

The Office of Enrollment Management attempts to balance the needs of the parties for privacy with the institutional responsibility of ensuring a safe educational environment and workplace. Confidentiality is an aspiration, but is not always possible or appropriate. An individual's requests regarding the confidentiality of reports of Conduct Code violations including but not limited to

sexual misconduct will be considered in determining an appropriate response; however, such requests will be considered in the dual contexts of the institution's legal obligation to ensure a safe working and learning environment and the due process rights of the accused to be informed of the allegations and their source. Some level of disclosure may be necessary to ensure a complete and fair investigation and to ensure that the institution meets its legal obligations. The institution may be limited in its response and investigation if confidentiality is requested.

Although anonymous complaints will be reviewed, because the Respondent is entitled to certain due process including but not limited to the right to confront his/her accuser, the College's ability to address alleged misconduct reported by anonymous sources is significantly limited.

### **Student Affairs Hold**

A Student Affairs Hold notation will be placed on the student's transcript and may limit a student's ability to conduct College business without the approval of the Associate Dean or designee. This hold will prevent a student from registering, withdrawing, or dropping courses pending the outcome of the investigation, adjudication and disposition of the complaint. The Student Affairs Hold will not prevent a student from obtaining a transcript. Student Affairs Hold notations will not include the substance of the charges but will only note the disciplinary action taken.

### **No Contact Directive**

A no contact directive is issued when there is reason to believe that a directive would be in the best interest of the involved parties and/or the community for promoting civility, safety and well-being.

No contact directives are not similar to court imposed restraining/protective orders and do not guarantee that designated parties will avoid sightings or passing interactions on the campus or in the local community. In some circumstances, a no contact directive may restrict a student from parts of the campus where he/she would not have to engage in required academic activities. Students who are concerned about personal safety should contact College Security.

The college will consider all facts and circumstances that may be relevant to whether a no contact directive should be issued, including, but not limited to, the following factors:

- When there are allegations, threats, or evidence of physical violence by one student against another;
- When there are allegations, threats, or evidence of emotional abuse or harassment by one student of another;
- When there is a substantial risk of emotional harm from continued contact between students;
- When continued contact between students may have a material impact on campus disciplinary proceedings;
- When requested or agreed to in good faith by both students involved; and
- When there are allegations of serious college policy violations.

All no contact directives shall provide that neither student may have contact with the other. "Contact" includes, but is not necessarily limited to, in-person contact, telephone calls, email, texts and other forms of electronic communication, social media-based messages or postings, and third party communications including through proxies.

No contact directives may include additional protective measures or other terms specific to the safety, well-being, or other needs of either or both students subject to the no contact directives, when deemed necessary by the college. Any additional terms shall be expressly stated in the directive. Additional protective measures or other terms need not be reciprocal. They may include, but are not limited to, the following:

- Restricting a student from being in close proximity to the other student;
- Restricting a student's access to certain campus locations,
- Restricting the times a student may be present in on-campus dining facilities;
- Requiring that the students not be enrolled in the same academic course(s); and
- Requiring that the students not participate in the same co-curricular or extra-curricular activities.

Unless the no contact directive expressly provides otherwise or is modified or rescinded by the College. Each no contact directive will remain in effect and be binding for as long as the individual is a Blue Ridge Community and Technical College Student.

Violations of no contact directives are subject to discipline under the Code of Student Conduct.

### **Legal Counsel or Advisors**

The Respondent, the individual filing the complaint and/or the alleged victim if a third-party complaint, may have an advisor accompany him or her at any stage of the disciplinary process. The advisor may be an individual that is a member either of the faculty, staff, or a student at the College. The role of an advocate or advisor is to provide support during the process. The advisor is not permitted to speak on behalf of the Respondent during the investigation stage of the process but may be present to provide advice and support.

The Respondent, the individual filing the complaint and/or the alleged victim may be represented by a representative and/or legal counsel, paid for at his/her expense, at a hearing for charges where suspension, expulsion or program dismissal may be a possible outcome. Any lawyer appearing at a hearing on a student's behalf must be licensed to practice law in the State of West Virginia and may actively participate in the hearing. Advisors otherwise are not permitted to speak during the hearing but may provide advice and support.

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

## **Proscribed Conduct**

The following standards and sanctions express Blue Ridge Community and Technical College's expectations for student conduct, and are essential to the College's educational mission. Participation by students in activities that violate the standards, including the proscribed behaviors listed under each standard, may result in referral to another college office responsible for examining and upholding standards of conduct in accordance with the due process guarantees and procedures defined in this handbook.

1. Academic dishonesty. The term "academic dishonesty" means plagiarism; cheating and dishonest practices in connection with examinations, papers, and/or projects; and forgery, misrepresentation, or fraud as it relates to academic or educational matters.
  - a. The term "plagiarism" means the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment, including, but not limited to, the unacknowledged use of materials prepared by another individual engaged in the selling of term papers or other academic materials.
  - b. The terms "cheating and dishonest practices in connection with examinations, papers, and/or projects" means (i) giving or receiving of any unauthorized assistance in taking quizzes, tests, examinations, or any other assignment for a grade; (ii) depending upon the aid of sources beyond those authorized by the instructor in quizzes, tests, examinations, writing papers, preparing reports, solving problems, or carrying out other assignments; (iii) the acquisition or use, without permission, of tests or other academic material belonging to a member of the College faculty or staff; or (iv) engaging in any behavior specifically prohibited by a faculty member in the course syllabus or class discussion.
  - c. The terms "forgery, misrepresentation, or fraud as it relates to academic or educational matters" means (i) wrongfully altering, or causing to be altered, the record of any grade or other educational record; (ii) use of College documents or instruments of identification with the intent to defraud; (iii) presenting false data or information or intentionally misrepresenting one's records for admission, registration, or withdraw.
  - Sanctions for Academic Dishonesty up to and including failure in the course may be granted by the Faculty of record for that course without a Student Conduct Hearing. Appeals for the course level sanctions shall be conducted through the Curriculum and Instruction Committee. In cases where the assigned F will result in a programmatic dismissal, a Student Conduct Hearing will be held to ensure due process.
  - Any programmatic dismissal or College dismissal for Academic Dishonesty will follow the Student Conduct Hearing procedures. Programmatic level may recommend dismissal but shall not adjudicate the action.
2. Hazing. "Hazing," means any action or situation that (1) endangers or adversely affects the mental or physical health or safety of another person or persons; (2) would cause extreme embarrassment or adversely affect the dignity of another person or persons; or (3) causes another person or persons to destroy or remove public or private property. This includes, but is not limited to, any brutality of a physical nature, such as whipping, beating, branding, forced consumption of any food, alcohol, drug or other substance, any activity which would subject an individual or individuals to extreme mental stress, such as sleep deprivation or forced exclusion from social contact. Hazing with or without the consent of a student is prohibited. Initiations or activities of student organizations are prohibited from

including any feature that is dangerous, harmful, or degrading to the student. A violation of this prohibition renders both the organization and participating individuals subject to discipline. Any student who knowingly witnesses or acquiesces in the presence of hazing is also subject to discipline.

3. Aiding, abetting, assisting, or facilitating prohibited behavior. "Aiding, abetting, assisting, or facilitating prohibited behavior" means to be actively associated with or actively encouraging another person or persons whose behavior is in violation of this Student Code, College rule, regulation or policy, or the law.
4. Sexual misconduct, harassment, domestic misconduct, discrimination and stalking as defined in Blue Ridge Community & Technical College Board of Governors Policy 15.1 and/or any other violation of Policy 15.1.
5. Possession of deadly weapons, destructive devices, explosive or fireworks. The use, placement, concealment, creation, manufacture, transportation, or possession of weapons, potentially dangerous devices, explosives and/or fireworks by students in BRCTC buildings (owned or leased), BRCTC owned vehicles, private vehicles on BRCTC property (owned or leased) or in connection with any academic program and/or in connection with any BRCTC sponsored event held on public or private property is strictly prohibited except as expressly permitted or allowed by law. Students must also observe the policy developed by any employer, business, property owner and/or any other third party at any alternative site visited for college business or for instruction. "Dangerous weapons", "deadly weapons", "explosives" and fireworks are defined in *West Virginia Code* §61-7-1, §61-3E-1, *et seq.* and §29-3E-1, *et seq.*, as amended from time to time. Examples of weapons covered by this policy include but are not limited to: all firearms, any knife with a blade longer than three inches, Tasers or stun guns, metallic or false knuckles, billy, billy club, sand club, sandbag or slapjack, switchblade knife, gravity knife and/or any instrument which is designed to be used to produce serious bodily injury or death or is readily adaptable to such use.
6. Impermissible burning. "Impermissible burning" means (1) setting fire to; (2) causing a fire to be set to; or aiding, inciting, enticing, or soliciting any person to set fire to furniture, vehicles, garbage, dumpsters, garbage receptacles, construction material, rubbish, debris, brush, or (3) any other material, unless specifically permitted. "Impermissible Burning" also means contributing or adding furniture, vehicles, garbage, dumpsters, garbage receptacles, construction material, rubbish, debris, brush, or any other material to a fire that has already been set, unless specifically permitted.
7. Prohibited computer or electronic activity. "Prohibited computer or electronic activity" means (1) unauthorized entry into a file to use, read, change the contents, or other purpose; (2) unauthorized transfer of a file; (3) unauthorized use of another individual's identification and password; (4) use of a computer or other electronic device to unreasonably interfere with the work of another student, faculty member, or College official; (5) use of a computer or other electronic device to send obscene or abusive messages; (6) use of a computer or other electronic device to unreasonably interfere with the normal operation of the College's network; (7) use of a computer or other electronic device in violation of copyright laws; or (8) any other violation of the Acceptable Computer Use Policy.
8. Tampering with emergency response equipment. "Tampering with emergency response equipment," means interfering with or unnecessarily using a fire-alarm system, sprinklers, smoke detectors, fire-fighting equipment, or any other public safety or emergency call device.
9. Theft of, using without authorization, destroying, defacing, interference with or mutilating property of another including but not limited to College property. "Theft" means the taking of possession of and or use of the property of another without consent. This provision



also includes the unauthorized use of, misuse of, or interference with, services provided by or for other persons, groups, or organizations. This includes but is not limited to telephone services, credit services, mail services, and photocopying services. This provision also includes possessing, receiving, or storing property known to have been wrongfully taken from the College or from any person or group.

10. Endangerment. "Endangerment" means engaging in conduct that endangers the health or safety of any person, or causes a reasonable person to fear for his/her safety or the safety of another.
11. Misconduct at College athletic events, concerts, or other events. For purposes of this section only, "misconduct" means failing to follow event or venue rules or guidelines or interfering in any way with the event, including but not limited to throwing objects into a crowd, at another person, or onto a playing field, court, or stage, or acting in a manner that reasonably interferes with others' enjoyment of the event. For the purposes of this rule, event will include intramural activities.
12. Riotous behavior and hooliganism. "Riotous behavior and hooliganism" means participation in a disturbance of two or more persons acting with the common purpose to commit or incite any action that threatens, presents a danger to, or terrorizes the public. However, riotous behavior and hooliganism does not mean peaceful demonstrations, peaceful picketing, a call for a peaceful boycott, or other forms of peaceful dissent.
13. Prohibited drug related conduct. "Drug related conduct" means (1) possessing any illicit drug, synthetic drug, or other controlled substance; (2) manufacturing any illicit drug, synthetic drug, or other controlled substance; (3) producing any illicit drug, synthetic drug, or other controlled substance; (4) distributing any illicit drug, synthetic drug, or other controlled substance; (5) selling any illicit drug, synthetic drug, or other controlled substance; or (6) possessing with the intent to distribute or sell any illicit drug, synthetic drug, or other controlled substance; or (7) being under the influence of any illicit drug, synthetic drug, or other controlled substance. It also means (8) using any prescribed drug in a manner inconsistent with the prescription; or (9) intentionally or recklessly inhaling, ingesting, or using in any manner inconsistent with its purpose any chemical, liquid, substance or other compound. "Drug related conduct" shall not include (1) any use or possession of prescription medication in accordance with a valid prescription; or (2) any College recognized research or other scholarly activity.
14. Prohibited alcohol related conduct. "Alcohol related conduct" means violating Blue Ridge Community and Technical College Board of Governors Policy 14.2 or being a student (1) under the age of twenty-one, who consumes or possesses alcohol; (2) who gives alcohol to a person under the age of twenty-one; (3) driving or operating a vehicle while under the influence of alcohol; or (4) who is in public or on College premises in an intoxicated condition.
15. Non-Protected Class Harassment. "Non-Protected Class Harassment" means repeated or continual disturbance, irritation, bullying, or annoyance of another person by any means that is sufficiently severe, pervasive, or persistent as to substantially disrupt or interfere with the orderly operation of the College or the rights of another to participate in or benefit from a College program.
16. Tampering with or falsifying an official record. "Tampering with or falsifying an official record" means altering or assisting in the altering of any official record of the College or submitting false information or omitting requested information that is required for or related to an application for admission, the awarding of a degree, or any official record of the College. This conduct may result in a prohibition against admission, readmission, revocation of degree, and/or withdrawal of diploma.

17. Trespass. "Trespass" means to enter or remain without lawful purpose in any College building, room, structure, facility, vehicle, construction area, roof top, or other College related premises. "
18. Unauthorized Use of Keys or Other Access Devices. Unauthorized use of keys or other access devices" means to possess, duplicate, or use a key or other access device, including an electronic keycard or other device used to grant access, to any College building, room, structure, facility, vehicle, construction area, roof top, or other College related premises without proper authorization.
19. Knowingly violating the terms of a disciplinary sanction imposed in accordance with the Student Code.
20. Attempting to engage in an act prohibited by the Student Code. An "attempt" is defined as conduct that, if successful, would constitute or result in the prohibited conduct. Any student who abandons an attempt or prevents the prohibited conduct from occurring under circumstances that demonstrate a complete and voluntary renunciation of the prohibited conduct will not be subject to disciplinary action.
21. Abuse of the Student Code. A student who engages in any of the following actions is subject to discipline for abuse of the Student Code:
  - a. Failure to obey the notice from College official to appear for a meeting or hearing concerning violations of the Student Code.
  - b. Falsification, distortion, or misrepresentation of information at any point in the student conduct process.
  - c. Disruption or interference with the orderly conduct of a Student Code proceeding.
  - d. Initiating a Student Code proceeding in bad faith.
  - e. Attempting to discourage or discouraging an individual's proper participation in, or use of, Student Code proceedings.
  - f. Retaliating against an individual because of the individual's participation in, or use of, Student Code proceedings.
  - g. Attempting to influence or influencing the impartiality of a member of a Hearing Panel prior to, and/or during the course of, a Student Code proceeding.
  - h. Harassment (verbal or physical) and/or intimidation of a member of a Hearing Panel prior to, during, and/or after any Student Code proceeding.
  - i. Influencing or attempting to influence another person to commit an abuse or violation of the Student Code.
22. Failing to Comply. Failure to comply with one or more sanctions and/or interim measure(s) imposed under the Student Code.
23. "Obstruction or disruption" means acting alone or in concert with others to unreasonably obstruct, disrupt, or interfere with a teaching, educational, research, administrative, disciplinary, public service, other activity or public performance authorized to be held or conducted on or off campus, or the duties or actions of public safety officials. Obstruction or disruption includes but is not limited to misconduct in the classroom, any act that interrupts, modifies, or damages the free flow of pedestrian or vehicular traffic on College premises or at College sponsored or supervised functions, utility service or equipment, communication service or equipment, College computers, computer programs, computer records or computer networks accessible through the College's computer resources. Additionally, any student that fails to comply with lawful directions of College officials or College Security Officers acting in the performance of their duties is subject to discipline.
24. Intrusion of Privacy. "Intrusion of privacy" means unreasonably invading the private domain or seclusion of another by any means, including observation, videotaping, audio taping, photographing, or capturing the actions, image, audio, or likeness of any other

member of the College community without permission or knowledge, when such member of the College community has a reasonable expectation of privacy.

25. Indecent exposure or obscene conduct. "Indecent exposure" means exposure of the private or intimate parts of the body in public or in private premises when such exposure may be readily observed by others without consent. "Obscene conduct" means conduct which the average individual applying contemporary College standards would find (i) taken as a whole, appeals to the prurient interest; (ii) depicts or describes in a patently offensive way ultimate sexual acts, normal or perverted, actual or simulated; and (iii) the matter, taken as a whole, lacks serious literary, artistic, political or scientific value.
26. Violating Blue Ridge Community & Technical College Board of Governors policies, institutional rules and regulations, or campus rules and regulations. A charge alleging a violation of a College policy, rule, or regulation shall identify the policy, rule, or regulation violated.
27. Making false reports. "Making false reports" means reporting an emergency, crime, fire or that a bomb or other explosive has been placed on premises when knowing such a report is wrong or inaccurate.
28. Unauthorized animals on campus or other violation of the College's Animal Policy.
29. Violation of federal, state, or local law. "Violation of federal, state, or local law" means engaging in conduct that violates federal, state, or local law whether such conduct takes place on campus or off campus or whether civil or criminal penalties may also be imposed for such conduct. A violation of this provision is not predicated upon a final determination by a court of law. In other words, it is not necessary for a student to have been actually found to violate a federal, state, or local law by a court of law in order to be disciplined under this Student Code. It is only necessary that a student be found to have engaged in such prohibited acts by processes under the Student Code. It is specifically noted here that the standard of proof in the Student Code process is distinct and different from what is applied in criminal federal, state, and local law violations. A charge alleging a violation of a federal, state, or local law shall identify the federal, state, or local law violated.
30. Worthless checks or failing to promptly redeem a worthless check submitted to any unit within the College. (SP)
31. Violation of federal, state, or local law. "Violation of federal, state, or local law" means engaging in conduct that violates federal, state, or local law whether such conduct takes place on campus or off campus or whether civil or criminal penalties may also be imposed for such conduct. A violation of this provision is not predicated upon a final determination by a court of law. In other words, it is not necessary for a student to have been actually found to have violated a federal, state, or local law by a court of law in order to be disciplined under this Student Code. It is only necessary that a student be found to have engaged in such prohibited acts by processes under the Student Code. It is specifically noted here that the standard of proof in the Student Code process is distinct and different from what is applied in criminal federal, state, and local law violations.
32. Damage, vandalism, or misuse of property. "Damage, vandalism, or misuse of property" means destroying or otherwise rendering another person's property unusable for its intended purpose.

### **Imposition of Interim Suspension**

The College may impose an interim suspension prior to a formal hearing or other disposition of allegations against a student when the College has reasonable cause to believe that a student's presence on College premises presents: (a) a significant risk of substantial harm to the student,

other individuals, or property; or (b) an ongoing threat of disrupting the normal operations of the College.

### ***Conditions of Interim Suspension.***

Such immediate interim disciplinary action may be taken as is appropriate under the circumstances for a time period and under those conditions as may be determined by the College in order to ensure the safety and well-being of members of the College community or to preserve College property; to ensure the student's own physical or emotional safety and well-being; or to deter a threat of disruption or interference with the normal operations of the College. During an interim suspension, the suspended student may be denied access to all or some of the property owned or controlled by the College and to some or all other College activities or privileges for which the student might otherwise be eligible, provided that such restrictions are stipulated in the interim suspension notice.

### ***Procedure for Interim Suspension.***

a) Notice. If the College imposes an interim suspension, then the student will receive written confirmation of the interim suspension. The notice will state the facts and circumstances warranting the interim suspension, the conditions of the interim suspension, that an administrative hold will be placed on the student's account, and the student's review rights. The written notification may be sent via email to the student's assigned College email.

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

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

### **Disciplinary Actions for Violation of Student Code of Conduct**

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

- A. **Expulsion:** Permanent separation of the student from the College. Permanent notification will appear on the student's transcript. The student may be denied access to College premises, provided that such restrictions are stipulated in the Outcome Letter and bear a reasonable relationship to the violation. If a student is expelled, the student will not receive a refund of any tuition or fees that have been paid to the College.
- B. **Suspension:** Separation of the student from the College for a specified period of time. Permanent notification will appear on the student's transcript. The student may be denied access to College premises and to all other College activities or privileges for which the student might otherwise be eligible, provided that such restrictions are stipulated in the Outcome Letter and bear a reasonable relationship to the violation. Suspended time will not count against any time limits for completion of a degree. If a student is suspended, the student will not receive a refund of any tuition or fees that have been paid to the College.
- C. **Deferred Suspension:** The student will be officially suspended from the College for a definite interim time period and given a certain set of expectations, but the suspension will be deferred and does not go into effect as long as the student complies with all requirements during the interim period. In those cases where the student completes all expectations during the interim period, the student's record will show that the sanction was never imposed. In the event that a student fails to comply with a sanction and the Office of Student Conduct has decided to impose a suspension, the student will be notified of the apparent failure to comply and of the intent to suspend, and provided an opportunity to meet and explain the circumstances prior to a final decision.
- D. **Probation:** A written reprimand for prohibited conduct that specifies a designated period of time and includes the probability of more severe disciplinary sanctions if, during the designated probationary period, the student violates any applicable law or fails to comply with the policies of the West Virginia College Board of Governors, with institutional or campus rules and regulations or with directives issued by any College official acting in the course of his or her authorized duties.
- E. **Warning:** A notice in writing to the student that the student is violating or has violated Board of Governors policies, institutional rules and regulations, or the Student Code, and that any further prohibited conduct may result in more severe disciplinary action.
- F. **Loss of Privileges:** Denial of specified privileges for a designated period of time.
- G. **Restitution:** Students may be required to make payment to the College or to other persons, groups, or organizations for loss, damage, or injury incurred as a result of a violation of any Student Code. This may take the form of appropriate service and/or monetary or material replacement. Once restitution is satisfied, the student must provide documentation to the Office of Student Conduct.
- H. **Admission Revocation:** Admission to the College may be revoked for a violation of the Code if the violation was committed before the student arrives on campus. Likewise, a degree awarded from the College may be revoked for a violation of the Code if the violation was committed before the student graduates.
- I. **Other Sanctions:** Other sanctions may be imposed instead of or in addition to those specified. For example, students may be required to complete community service projects or educational classes, they may be assessed a fine (if such fines are established by the Office of Enrollment Management), and/or may be assigned other work or research projects.
- J. **No Contact Order:** Students may be issued a permanent no contact order, which is a directive to refrain from any intentional contact, whether direct or indirect, with one or more designated persons or group(s) through any means, including, but not limited to, personal contact, e-mail, telephone, social media or third parties.

## **Reporting a Violation of Student Code of Conduct**

### **A. Filing a Complaint.**

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

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

No complaint or allegation of misconduct will be investigated more than one (1) year after the alleged misconduct took place or after the alleged misconduct should have been discovered, unless good cause is shown for the delay.

The individual filing the complaint is referred to as the Complainant. The Respondent or student organization is referred to as the Respondent.

If the Complainant wants to file a formal complaint, the Complainant must submit to the Associate Dean or designee his/her official Statement of Complaint (Complaint) and all materials supporting the complaint within seven (7) days of the meeting. Such materials may include, but are not necessarily limited to: witness List, contact information of witnesses if known, detailed statements prepared by factual witness (es), written correspondence shared between the parties, documents, photographs, property receipts, medical reports, and any other information relevant to the Complaint.

These materials will become part of the Case File.

At the conclusion of the seven (7) calendar day deadline for submission of the Complaint and all supporting materials, the Complainant's official Statement of Complaint is rendered complete. The only additional materials that he/she will be allowed to submit is information that responds specifically to information submitted by the Respondent that could not have reasonably been anticipated by and addressed in the Complainant's original Statement of Complaint.

### **B. Review.**

The Associate Dean or designee will review the Complaint, interview the Complainant and may interview any witnesses named in the Complaint in order to determine whether there is sufficient information and/or evidence to support the allegations of misconduct. As part of the interview, the Associate Dean or designee will advise the Complainant and/or witnesses of their potential role in the Code of Student Conduct adjudicatory process. If the Associate Dean or designee determines the allegations set forth in the complaint, if proven, would not constitute a violation of the Code of Student Conduct, or that insufficient

evidence/information exists to support the allegations in the Complaint, the Associate Dean or designee will notify the Complainant via the College email system that charges against the responding student will not be pursued. A dropped charge may be reinstated at the discretion of the Associate Dean or designee if substantial new information should become available. If a charge is reinstated, the Respondent will be sent a charge notice. If a charge is dropped, the student will have no disciplinary history related to it.

If the Associate Dean or designee determines that the allegations, if proven would constitute a violation of the Code of Student Conduct and that sufficient evidence/information exists to support the allegations in the Complaint, the Associate Dean or designee will issue the Respondent a Charge Letter.

### C. **Interim Measures.**

Interim measures may be initiated by the Associate Dean to protect the safety and well-being of persons involved in an incident and/or the campus community pending the outcome of the investigative and adjudicative processes. Interim measures may include the following to the extent reasonably available and appropriate

1. **Interim suspension.** Immediate separation of a Student from the College President (or designee) pending an investigation or adjudication. Through the duration of the interim suspension, the Student may be restricted from College property and may be required to provide prior notice and receive approval from the Associate Dean of Student Conduct for the purpose of conducting College business. Interim suspension will be imposed only in exceptional circumstances to ensure the health, safety or welfare of members of the College or College property or to ensure the Student's own safety and welfare. Students who have been suspended on an interim basis must have a conduct hearing within a practical period of time after the imposition of the interim suspension. Interim Suspension/Emergency Suspension procedures are set forth in this Code of Conduct.
2. **No Contact Directive.** A no contact directive is an official College directive that serves as notice to an individual(s) that they must not have physical contact with or proximity to, or direct verbal, electronic, written, and/or indirect third party Communication<sup>s</sup> with another individual.
3. **Academic accommodations.** This may include assistance in transferring to another section of a course, assistance in requesting withdrawal or an incomplete grade in a particular course, leaves of absence or withdrawal from the College, or assistance requesting alternate methods of completing coursework.
4. **Housing accommodations.** This may include requiring a Student to relocate housing pending the outcome of a conduct investigation or proceeding. This may also include facilitating changes in on-campus housing location to alternate housing, or assistance in exploring alternative housing off-campus.
5. **Employment accommodations.** This may include arranging for alternate College employment, different work shifts, etc.
6. **Other accommodations.** Any other measure that may be arranged by the College (to the extent reasonably available) to ensure the safety and well-being of a Student and/or the College community. This may include the use of alternate dispute resolution services such as mediation or restorative practices when appropriate.

7. Deferral of the degree. The Student Conduct Hearing Board, or the Vice President of Enrollment Management may withhold the conferral of the degree until the disciplinary action has been resolved. Deferral of a degree is an interim measure that is NOT dependent upon the health, safety or welfare of the campus but is imposed in cases where the disciplinary proceedings may not be resolved prior to Commencement.

#### D. Charge Letter.

If the Associate Dean or designee determines that there is sufficient information/evidence to support the allegation(s) of misconduct set forth in the complaint, the Associate Dean or designee will issue Respondent a Charge Letter directing the student to meet with the Associate Dean or designee to discuss the allegations. The Charge Letter should include:

- a. the College Policy, campus regulation(s) and/or sections of the Conduct Code the Respondent is alleged to have violated;
- b. a summary of the Complaint including the specific conduct;
- c. whenever possible, the date, time, and location of the alleged offense;
- d. a statement of the sanction(s) that may be imposed if applicable;
- e. a statement that if the student is found responsible for the misconduct; the student's prior disciplinary record may be considered when imposing sanctions
- f. notice of any interim measures that have been imposed;
- g. notice of the student's right to be accompanied at any stage of the proceedings by an Advisor or legal counsel that is paid for at the student's own expense;
- h. notice of the student's right to a hearing (Formal Resolution);
- i. the right to engage in Voluntary Resolution unless the charge is sexual misconduct;
- j. notice to the student of his/her right to request a copy of the student's own conduct file;
- k. directions on how to obtain a copy of the Student Conduct Code; and
- l. notice that a Disciplinary Hold will be placed upon the Respondent's record pending the outcome of the Disciplinary Process.

#### E. Respondent Meeting with Associate Dean or designee.

The purpose of the meeting is to provide the Respondent with an opportunity to discuss and respond to the charges set forth in the Charge Letter as well as to provide the Respondent with an opportunity to choose a course of action. During the meeting, the Respondent is presented with a copy of the Complainant's Statement of Complaint and the supporting materials. The College's student adjudication process is explained and the Respondent's procedural questions are answered. The Respondent is provided an opportunity to present his/her verbal response to the allegations.

1. **Voluntary Resolution:** During the meeting or at any time prior to a Hearing, the Respondent may choose to engage in Voluntary Resolution of the complaint by accepting responsibility for the conduct set forth in the Charge Letter. **By accepting responsibility for the conduct set forth in the Charge Letter and accepting Voluntary Resolution of the Complaint, the Respondent student waives all rights to a hearing and/or any other due process rights the student may be entitled to receive under this process or any other State or Federal law including**



**but not limited to the right to a hearing on the merits of the charge, right to confront accusers and/or the right to be represented by an advisor and/or legal counsel at the hearing.** Investigation of the Complaint ends and the Respondent and the Associate Dean or designee will discuss and agree upon sanctions and enter into a Voluntary Resolution Agreement. If the Associate Dean or designee and the student cannot reach a mutually acceptable agreement regarding sanctions, then the charges will be sent to the Hearing Board for a decision to be made on the sanction alone. The Associate Dean or designee will notify the Complainant of the Voluntary Resolution of the Complaint via United States Postal Service or the College's email system. The Associate Dean or designee will not provide the Complainant with any sanction information unless the sanctions directly involve the Complainant. **\*\*Sexual Misconduct complaints cannot be resolved using Voluntary Resolution.\*\***

2. **Medical Amnesty.** In order to promote a living and learning environment the College encourages students to seek medical attention in life-threatening situations that result from alcohol and/or drug use. Therefore, Students who have received medical attention for alcohol and/or drug use and/or who have helped other students obtain medical attention who want to apply for medical amnesty are required to follow the procedures outlined in this procedure.
3. **Formal Resolution.** If the Respondent does not accept responsibility, the Associate Dean or designee will continue to investigate the Complaint for the purpose of making a decision on responsibility and if applicable sanctions. The Respondent is given seven (7) calendar days from the date of the meeting with the Associate Dean or designee to submit, in writing, his/her official Statement of Response and all supporting materials. Such materials may include, but are not necessarily limited to: witness list, detailed statements prepared by witness (es), written correspondence shared between the parties, photographs, property receipts, medical reports, etc. The Associate Dean or designee will review the documents to ensure their inclusion meets established policies and procedures. These materials will become part of the Official Case File.

Statements should be written with a clear font that is easily readable.

The Complainant will receive a copy of the Respondent's materials from the Associate Dean or designee and will have two (2) business days to respond to material submitted by the Respondent which could not have reasonably been anticipated by and addressed in the Complainant's original Statement of Complaint. If the Complainant submits any additional material, the Associate Dean or designee will review the materials to ensure their inclusion meets process'-established policies and procedures. The Complainant cannot submit more than 10 pages of materials in response to the Respondent's materials.

4. **No Response.** If the Respondent fails to attend the meeting with the Associate Dean or designee and/or fails to provide a written response without requesting an extension of time and/or notifying the Associate Dean

or designee, the Associate Dean or designee is authorized to make a decision on responsibility and to issue sanctions based upon the information provided by the Complainant.

#### **F. Decision.**

Within a reasonable time after receipt of all information from the Complainant and the Respondent, the Associate Dean or designee will issue a decision on responsibility and sanctions if applicable. The Associate Dean or designee will use the preponderance of the evidence standard to determine responsibility, that is, the Associate Dean or designee will determine whether it is more likely true than not true that the Respondent is responsible for conduct set forth in the complaint and for violating the Student Code of Conduct or other rule, regulation or policy. The Associate Dean or designee will notify the Respondent of his/her final decision via certified mail, return receipt requested. The Associate Dean or designee will notify the Complainant of the Decision on responsibility via United States Postal Service by certified mail, hand delivery with a delivery receipt, or the College's email system. The Associate Dean or designee will not provide the Complainant with any sanction information unless the sanctions directly involve the Complainant. The Decision is part of the Official Case File.

#### **G. Request for Hearing.**

Within four (4) business days of receipt of the Associate Dean or designee's decision, the Respondent may submit to the Associate Dean or designee a written request for a hearing before the Hearing Board. Email requests must be time stamped on or before the close of business on the fourth (4<sup>th</sup>) day after receipt. Requests sent by any postal service must be postmarked on or before the fourth (4<sup>th</sup>) business day after receipt. Once a request for hearing is made, the Associate Dean or designee's decision will be stayed or held in abeyance (temporarily delayed), unless the Associate Dean or designee determines that the health, safety, and welfare of the College community would be placed in jeopardy. If the Respondent does not request a hearing in accordance within the timeframe set forth in the section, the Associate Dean or designee's Decision will become final and sanctions will be implemented on the fourth business day after the expiration of the appeal timeframe. Hearings will be conducted in the following manner:

##### **1. Selection of the Hearing Panel**

The Hearing Panel will be appointed annually by the President. The panel will include twelve-month faculty, staff, and students. From the appointees, one faculty member, one staff member, and one student will serve as the Hearing Panel at the time a Hearing Panel is convened. This will be considered ad hoc and will not meet regularly. Title IX cases will have Panel members who are certified.

If any member of the Panel feels that his/her relationship, knowledge, or familiarity with the incident in question or the individuals involved would affect his/her ability to render an impartial decision, the Panel member will recuse him/herself.

One faculty member on a Hearing Panel shall serve as the Chair of the Hearing Panel ("Chair").

The Respondent and Complainant will have an opportunity to review a list of the Hearing Panel members and will be given an opportunity to challenge the members for bias.

Notwithstanding anything else in this Code, the College reserves the right to select appropriate individuals to serve on a Hearing Panel in order to ensure that both the due process rights of the Respondent and the fairness of the process are preserved.

**2. Notice of Hearing Panel Membership/Notice of Hearing**

The Chair of the Hearing Panel will send the Complainant, Respondent and the Associate Dean or designee a Notice of Hearing Panel Membership listing the names of the Hearing Panel members. The Notice of Hearing Panel Membership will include the procedure for challenging a member(s) for bias.

The Complainant or Respondent shall submit any challenges to the membership to the Vice-President of Enrollment Management within three working days of receipt of the Notice of Hearing Panel Membership. The Vice-President will issue decision on any challenges within a reasonable time after receipt. The Vice-President's decision is final. Complainants and Respondents who do not challenge the membership of the Hearing Panel at this time waive all right to raise such challenges.

**3. Evidence/Witnesses**

At least three working days after receipt of the Notice of Hearing Panel Membership, the Associate Dean or designee and Respondent will submit to the Chair of the Hearing Panel the names, applicable contact information, and purpose of any witnesses that they intend to rely on at the hearing.

**4. Notice of Hearing.**

Within a reasonable time after the expiration of the time frame to challenge the members of the Hearing Panel or after the Vice President makes a decision on any challenges, the Chair of the Hearing Panel will send the Complainant, the Respondent and the Associate Dean or designee, and the witnesses a Notice of Hearing that includes the date of the hearing and the procedure for requesting the presentation of testimony by video-conferencing.

**5. Hearings shall be conducted according to the following:**

- a. Hearings shall be conducted in private.
- b. The Associate Dean or designee will present the facts and information obtained from the investigation to the Hearing Panel on behalf of the College.
- c. The Respondent and the Associate Dean or designee may make statements and ask questions of witnesses.
- d. All procedural questions are subject to the final decision of the Chair of the Hearing Panel.
- e. Formal rules of evidence shall not apply, nor shall deviations from prescribed procedures necessarily invalidate a decision or

proceeding, unless significant prejudice to a student or the College results. Rather, the Chair shall have the authority to decide any issues regarding relevancy or admissibility that may arise during the hearing.

- f. The Chair shall have the authority to discharge or to remove any person whose presence is deemed unnecessary or obstructive to the proceedings.
- g. Prospective witnesses, other than the Complainant(s) or other Respondents, will only be present during their own testimony. Cell phones and other electronic devices may be secured by reasonable means determined by the Chair prior to the hearing in order to eliminate texting or e-mailing information about the hearing to other witnesses. The devices will be returned to each witness after they have been excused from the hearing.
- h. The Hearing Panel may ask questions of a witness. Questioning of witnesses will be conducted in a format identified by the Chair.
- i. If a Respondent, after receiving a Hearing Notice, does not appear for a hearing, the hearing will proceed without the Respondent. However, no inference may be drawn against a Respondent for failing to attend a hearing and no decision shall be based solely on the failure of the Respondent to attend the hearing.
- j. The hearing will be digitally recorded.
- k. In cases involving violations of Board of Governors Policy 15, the Complainant and/or the alleged victim will be afforded all of the same rights afforded to the Respondent.

#### **H. Notice of Hearing Board Decision and Appeal**

1. The Respondent will be notified, in writing by hand delivery or certified mail, within a reasonable time after the conclusion of the hearing. The letter will include a statement of the Respondent's right to appeal to the Vice President of Enrollment Management within five business days from the date that the Respondent receives the decision. The Vice-President of Enrollment Management will review the Case File including but not limited to the Hearing Panel recording and any evidence presented at the hearing. The Vice President of Enrollment Management may affirm, reverse, or modify the decision (including the sanction decision) or order a new hearing. The Vice President of Enrollment Management's decision is final.
2. The Complainant will be notified of the Hearing Panel's decision on responsibility but will not be notified of any sanctions if applicable unless the sanctions relate directly to the Complainant. If a student is found to have violated a specific act set forth in this Student Code and that act constitutes a crime of violence or non-forcible sex offense, as defined by 34 C.F.R. § 99.39 (2015), then, pursuant to 34 C.F.R. § 99.31(a)(14)(i) (2015) and the College's Family Educational Rights and Privacy Act notification, the College may disclose the final results of the proceedings to anyone. For purposes of this disclosure, "final results" means the name of the student, the basic nature of the violation the student was found to have committed, and a description and duration of any sanction imposed against the student.
3. If the Complainant is deceased as a result of the offense, the administrator or executor of such victim's estate shall be treated as the Complainant for purposes of this

paragraph. If the Complainant does not have an administrator or executor, then the next of kin shall be notified.

### **Drug/Alcohol Medical Amnesty**

- A. In accordance with the *Alcohol and Drug Overdose Prevention and Clemency Act* (West Virginia Code Section 16-47-1, *et seq.*), the College recognizes that the potential for disciplinary action may act as a barrier to students seeking medical assistance for themselves or other students in alcohol or other drug-related emergencies. The College therefore maintains a medical amnesty protocol. In these incidents, the primary concern is the well-being, health, and safety of students. Students needing medical assistance during an alcohol or other drug-related emergency will not face formal conduct action by the College for the mere possession or use of alcohol or drugs. The recipients of medical attention will avoid formal conduct action through the Conduct Code process if they participate in a referral with the Office of Enrollment Management within five business days of the incident and comply with any recommendations prescribed by the office.

Additionally, any student(s) or a student organization seeking medical assistance for another person during an alcohol or other drug-related emergency will not face formal conduct action by College for the mere possession or use of alcohol or drugs. In order to acquire medical amnesty, these individuals or representatives from organizations may need to meet with a representative from the College within five business days of the incident and comply with any recommendations prescribed by the office.

Medical amnesty applies only to alcohol or other drug-related medical emergencies and does not apply to other prohibited conduct including but not limited to sexual assault, property damage or distribution of illicit substances.

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

1. Remains with the person who reasonably appears to be in need of emergency medical assistance due to an overdose until such assistance is provided;
2. Identifies himself or herself, if requested by emergency medical assistance personnel, law-enforcement officers, or College officials;
3. Cooperates with and provides any relevant information requested by emergency medical assistance personnel, law-enforcement officers, or College officials needed to treat the person reasonably believed to be experiencing an overdose; and
4. Completes any additional conditions imposed on the student or student organization by the Associate Dean or designee of Students.

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

C. Procedure

1. Students seeking Medical Amnesty will be required to meet with the Associate Dean or designee.
2. For the first request, the Associate Dean or designee will evaluate the situation to determine if they qualify for Medical Amnesty. The availability of medical amnesty for students will be determined on a case-by-case basis using the following information:
  - a. Medical Amnesty applies to student who have initiated and sought assistance and/or medical treatment on behalf of themselves, another student or a friend experiencing a medical emergency from alcohol and/or drug use.
  - b. If a representative of a Blue Ridge students organization hosting an event calls for medical assistance, this act of responsibility might mitigate potential College sanctions that could arise against the organization. Blue Ridge student organizations involved in an alcohol and/or drug related incident must agree to take recommended steps to address concerns from campus administration.
  - c. Medical Amnesty only applies to the Student Conduct Code, Greek Life and student organization policies. This policy does not prohibit or preclude law enforcement agencies from enforcing any applicable laws including the filing of criminal charges against the student(s) involved. See W. Va. Code Section 16-47-1, et seq., Alcohol and Drug Overdose Prevention and Clemency Act.
  - d. The Medical Amnesty Policy applies only to alcohol and other drug-related medical emergencies. It does not apply to other prohibited behaviors, like allegations relating to sexual misconduct, disorderly conduct, property damage or distribution of illegal or prohibited substances. In those cases, students would not be eligible for medical amnesty.
  - e. The Associate Dean or designee may also refer the student to a substance abuse specialist or campus counselor for assessment, counseling and treatment if needed.
  - f. Students who are referred but fail to meet and comply with the recommendations may be subject to discipline under the Student Code of Conduct.

- g. Even if the disciplinary sanctions are waived, the Office of Student Conduct may still notify parents/emergency contact of the event in an effort to assist the student's treatment.
    - h. A record of the incident will be filed in the Office of Student Conduct and will only be used as a prior record if a subsequent alcohol or drug violation occurs.
    - i. The sanction will not be reflected on the student's transcript and will be destroyed after seven years per federal guidelines as long as a subsequent alcohol or drug violation does not occur.
- 3. Students that are involved in any subsequent alcohol and/or drug use incidents will meet with the Associate Dean or designee and may be referred to the Hearing Board to determine if the student qualifies for Medical Amnesty. Those that do not qualify for Medical Amnesty will be subject to disciplinary action under the Student Conduct Code.