Section 1: General.

1.1. Purpose: To establish written rules, regulations, and procedures concerning student conduct and discipline for Potomac State College of West Virginia University.

1.2. Authority: Board of Governors Policy 31

1.3. Scope: This code applies to all students associated with Potomac State College of West Virginia University, which is a divisional campus of West Virginia University under the authority of the West Virginia University Board of Governors.

1.4. Effective Date: August 12, 2013; amended August 18, 2014

Section 2: Definitions.

2.1. “College” means the divisional campus of West Virginia University known as Potomac State College of West Virginia University.

2.2. The definitions set forth in Section 3 of West Virginia University Board of Governors Policy 31, University Student Conduct and Discipline Policy, are incorporated by reference as if fully set forth herein.

Section 3: Establishment of Student Code.

3.1. The Campus Provost, as the President’s designee for the College, hereby establishes the following written rules, regulations, and procedures concerning student conduct and discipline (“Student Code”).

Section 4: Student Code Administrators.

4.1. The professional staff member of the Office of Student Conduct, known as the Student Conduct Coordinator, shall serve as the Student Code Administrator for the College and shall be available to assist any student, student organization, staff member, faculty member, or administrator in understanding and applying the Student Code.
4.2 The Office of Student Conduct is located in B6 of the Student Union; this office shall be the official repository for all conduct-related materials concerning students associated with the College.

4.3 Requests for conduct-related materials concerning students associated with the College should be made to the Student Conduct Coordinator who is the custodian of such materials.

4.3 The Student Code Administrator is charged with the following duties, which shall be undertaken in a manner to ensure the fair administration of this Student Code: (1) Advise any segment or individual within the College wishing to bring charges against one or more students; (2) Inform any student against whom charges have been brought of substantive rights, due process rights, and procedures forthcoming, including the right of appeal; (3) Advise the chairperson of the appropriate hearing board and assist the chairperson and members of the hearing board in setting up the hearing, being certain that all conditions of the Board of Governors and College for such procedures are met; (4) Prepare all papers necessary for the hearing and resultant from the hearing for appropriate dispensation and signature; (5) Assist in the appointment of the hearing bodies and provide and/or coordinate training opportunities for all members, both student and faculty; (6) Attend hearings, present the facts and information obtained from the investigation on behalf of the College, ask questions of witnesses, and have administrative responsibility for maintaining all confidential files, tapes, and documents which result.

Section 5: Jurisdiction of the Student Code.

5.1 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 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 West Virginia University 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.

5.2 Conduct from the time of application for admission through the actual awarding of a degree, even if conduct occurs before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment is subject to this 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.

5.3 This Student Conduct Code shall apply to all students enrolled at the College in undergraduate and professional 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 as determined by the respective academic programs.

Section 6: Prohibited Conduct.

6.1 General.

All students of the College are expected and required to obey federal, state, and local laws, to comply with the policies of the West Virginia University Board of Governors, with institutional or campus rules and regulations, with directives issued by any College official, and to observe standards of conduct appropriate for an academic institution.

6.2 Specific Acts.

A student that commits any of the following acts is subject to sanction by the College:

a) Sexual misconduct. “Sexual misconduct” is defined in West Virginia University Board of Governors Policy 44.

b) Prohibited drug related conduct. “Drug related conduct” means (1) being under the influence of; (2) possessing; (3) manufacturing; (4) producing; (5) distributing; (6) selling; (7) possessing with the intent to distribute or sell any illicit drug, synthetic drug, or other controlled substance without a valid prescription. 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 University recognized research or other scholarly activity.

c) Prohibited alcohol related conduct. “Alcohol related conduct” means violating West Virginia University Board of Governors Policy 18 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.

d) 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 any other material, unless specifically permitted. “Impermissible Burning” also means contributing or adding furniture, vehicles, garbage, dumpsters, garbage receptacles, construction material, rubbish, debris, brush, or any other material to a fire that has already been set, unless specifically permitted.
e) *Riotous behavior and hooliganism.* “Riotous behavior and hooliganism” 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.

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

h) *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 athletic event, concert, or other event, including but not limited to throwing objects into a crowd, at another person, or onto a playing field, court, or stage, or acting in a manner that reasonably interferes with others’ enjoyment of the athletic event, concert, or other event.

i) *Violating West Virginia University Board of Governors policies, institutional rules and regulations, or College rules and regulations.* A charge alleging a violation of a University policy, rule, or regulation shall identify the policy, rule, or regulation violated.

j) *Violation of federal, state, or local law.* “Violation of federal, state, or local law” means engaging in conduct that violates federal, state, or local law whether such conduct takes place on campus or off campus or whether civil or criminal penalties may also be imposed for such conduct. A violation of this provision is not predicated upon a final determination by a court of law. In other words, it is not necessary for a student to have been actually found to have violated a federal, state, or local law by a court of law in order to be disciplined under this 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.

k) *Endangerment.* “Endangerment” means engaging in conduct that endangers the health or safety of any person, or causes a reasonable person to fear for his/her safety or the safety of another.
1) **Obstruction or disruption.** “Obstruction or disruption” means acting alone or in concert with others to unreasonably obstruct, disrupt, or interfere with a teaching, educational, research, administrative, disciplinary, public service, other activity or public performance authorized to be held or conducted on or off campus, or the duties or actions of public safety officials. Obstruction or disruption includes but is not limited to 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 College policy or lawful directions of College officials, including Residential Education personnel, faculty, College law enforcement officers acting in the performance of their duties, is subject to discipline.

m) **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 University 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.

n) **Theft of, using without authorization, destroying, defacing, or mutilating property of another.** “Theft” means the taking of possession of the property of another without consent.

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

p) **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.

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

Stalking. “Stalking” is defined in West Virginia University Board of Governors Policy 44.

Harassment. “Harassment” is defined in West Virginia University Board of Governors Policy 44.

Discrimination. “Discrimination” is defined in West Virginia University Board of Governors Policy 44.

Domestic misconduct. “Domestic misconduct” is defined in West Virginia University Board of Governors Policy 44.

Retaliation. “Retaliation” is defined in West Virginia University Board of Governors Policy 44.

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.

1) 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.

2) 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 University faculty or staff; or (iv) engaging in any behavior specifically prohibited by a faculty member in the course syllabus or class discussion.

3) 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 University 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 withdrawal from the University or from a University course; (iv) knowingly presenting false data or information or intentionally misrepresenting one’s records for personal gain; (v) knowingly furnishing the results of research projects or experiments for the inclusion in another’s work without proper citation; or (vi) knowingly furnishing false statements in any University academic proceeding.

y) **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 University or submitting false information or omitting requested information that is required for or related to an application for admission, the awarding of a degree, or any official record of the University. This conduct may result in a prohibition against readmission, revocation of degree, and/or withdrawal of diploma.

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

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

bb) **Trespass or Unauthorized Use of Keys or Other Access Devices.** “Trespass” means to enter or remain without lawful purpose in any University building, room, construction area, roof top, structure, facility, vehicle, or other University related premises. “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 University building, room, structure, facility, vehicle, construction area, roof top, or other University related premises without proper authorization.
cc) **Knowingly violating the terms of a disciplinary sanction imposed in accordance with the Student Code.**

dd) **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.

ee) **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:

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

**Section 7: Sanctions.**

7.1 It is expected that the Student Code Administrator and/or the Hearing Panel will impose or seek a sanction that is fair under the circumstances. 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 include:

a) Expulsion: Permanent separation of the student from the College and the University. Permanent notification will appear on the student’s transcript. The student may be denied access to College and University premises, provided that such restrictions are stipulated in the Outcome Letter and bear a reasonable relationship to the violation.

b) Suspension: Separation of the student from the College and the University for a specified period of time. Permanent notification will appear on the student’s transcript. The student may be denied access to College and University premises and to all other College and University activities or privileges for which the student might otherwise be eligible, provided that such restrictions are stipulated in the Outcome Letter and bear a reasonable relationship to the violation. Suspended time will not count against any time limits for completion of a degree.

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

d) 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.

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

f) 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.

g) Other Sanctions: Other sanctions may be imposed instead of or in addition to those specified. For example, students may be subject to dismissal from College housing for disciplinary violations which occur in the residence halls. Likewise, community service, educational classes, and other work or research projects may also be assigned.

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

7.3 Sanctions for prohibited conduct occurring off campus shall not be more severe than for similar on-campus conduct.
Section 8: Interim Suspension.

8.1 Imposition of Interim Suspension. The Student Code Administrator or designee may impose an interim suspension prior to a formal hearing or other disposition of allegations against a student when the Student Code Administrator or designee 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.

8.2 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 Student Code Administrator or designee 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 University and to some or all other College and University activities or privileges for which the student might otherwise be eligible, provided that such restrictions are stipulated in the interim suspension notice.

8.3 Procedure for Interim Suspension.

a) Notice. If the Student Code Administrator imposes an interim suspension, then the student will receive written confirmation of the interim suspension. The notice will state the facts and circumstances warranting the interim suspension, the conditions of the interim suspension, and the student’s rights.

b) Review. Within three (3) business days of the imposition of the interim suspension, the student may petition the Dean of Student Affairs 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 Dean of Student Affairs or designee affirms the decision to interim suspend, the matter will proceed promptly to a hearing without undue delay, unless additional time is requested by the student. However, if, after considering the petition for review and evidence, the Dean of Student Affairs 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.

Section 9: Conduct Process.

9.1 Complaints or Allegations of Misconduct.

9.1.1 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 Student Conduct. Complaints of student misconduct should be submitted to the Office of Student Conduct as soon as possible following the alleged misconduct or the date on which the individual knew or should have known of the misconduct.

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

9.1.3 No complaint or allegation of student misconduct will be investigated more than ninety (90) days after the alleged misconduct took place or after the alleged misconduct should have been discovered, unless good cause is shown for the delay.

9.2 Investigation.

9.2.1 The Student Code Administrator shall investigate each formal complaint or allegation of student misconduct from a credible source. The Student Code Administrator may summon by written or electronic request any member of the University community for a meeting for the purposes of investigating and/or discussing allegations of prohibited conduct, whether such allegations have been formally submitted or have otherwise been made known to the Student Code Administrator.

9.2.2 If, after investigating the complaint or allegation of student misconduct, the Student Code Administrator finds that there are reasonable grounds to conclude that the student violated the Student Code, then charges will be brought against the student.

9.2.3 If, after investigating the complaint or allegation of student misconduct, the Student Code Administrator does not find that there are reasonable grounds to conclude that the student violated the Student Code, then the complaint or allegation will be dismissed. In the event the complaint or allegation is dismissed, the Student Code Administrator shall indicate the reason for the dismissal and notify the accused student in writing.
9.3 Notice of the Charge.

9.3.1 If there are reasonable grounds to conclude that a violation of the Student Code has occurred, then the Student Code Administrator shall prepare a formal written charge of alleged prohibited conduct (the “Charge”).

9.3.2 The Charge shall be provided to any student suspected of prohibited conduct as soon as possible after the investigation is concluded, but in no event later than ninety (90) days after the complaint or allegation was submitted to the Office of Student Conduct. This time limit may be extended for good cause shown.

9.3.3 The Charge shall be addressed to the student who allegedly violated the Student Code (the “Accused Student”) and shall include a brief outline of the facts upon which the Charge is based and potential sanctions which may result if the Accused Student is found responsible.

9.3.4 In deciding which sanctions to seek, the Student Code Administrator shall consult with the appropriate College and/or University officials and ensure that the sanctions sought are commensurate with the alleged violations and the Accused Student’s prior student code of conduction violations, if any.

9.3.5 The Charge shall be delivered electronically to the Accused Student through the College’s designated student e-mail system regardless of where the student resides. Additionally, a copy of the Charge shall be sent via campus mail to any student who resides on campus or via regular mail to any student who resides off campus.

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

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

9.4 Agreed Resolution.

9.4.1 In all situations, including where suspension or expulsion is an available sanction, the Student Code Administrator and the Accused Student may agree on the facts and, if warranted, identify a mutually-agreeable sanction(s) to be imposed. In such a case, the agreed upon facts and sanction(s) shall be reduced to writing, dated, and signed by the Accused Student (“Agreed Resolution”).
9.4.2 An Agreed Resolution shall be final and not subject to any subsequent proceedings, unless the Accused Student submits a written objection to cancel the Agreed Resolution to the Student Code Administrator within one (1) calendar day of the date it was signed. If the Accused Student objects to the Agreed Resolution and no further agreement can be reached, the matter shall proceed in accordance with 9.4.3 or 9.4.4 below.

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

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

9.5 Conduct Conference.

9.5.1 The administrative disposition of complaints not seeking suspension or expulsion shall be handled by an informal conference between the Accused Student and the Student Code Administrator (“Conduct Conference”). The Conduct Conference will be used for determining responsibility and a sanction for matters or situations in which the alleged actions, if true, would not justify a suspension or an expulsion.

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

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

9.5.4 Appeal. The Outcome Letter that is issued following a Conduct Conference may be appealed in accordance with Section 10 below.

9.6 Pre-Hearing Procedures for Charges Seeking Expulsion or Suspension.
9.6.1 **Scheduling.** When necessary, a hearing shall be scheduled by the Student Code Administrator not fewer than five (5) nor more than fifteen (15) calendar days following the attempt to reach an Agreed Resolution. Maximum time limits for scheduling of hearings may be extended at the discretion of the Student Code Administrator.

9.6.2 **Hearing Notice.**

   a) The Student Code Administrator shall prepare a written notice of hearing (a “Hearing Notice”) that sets forth the date, time, location of the scheduled hearing, and anticipated witnesses that will be relied upon by the College to prove the alleged conduct.

   b) The Hearing Notice shall be sent to the Accused Student, any member of the University community who was directly impacted by the alleged misconduct (the “Victim(s)”) (if any), and all witnesses identified by the Student Code Administrator’s investigation.

   The Hearing Notice shall be delivered electronically using the College’s designated student e-mail system to the Accused Student and any other student-witnesses regardless of where the student resides. A copy of the Hearing Notice shall also be sent via campus mail if the Accused Student and/or witness(es) reside on campus or via regular mail if the Accused Student and/or witness(es) reside off campus.

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

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

9.6.4 **Evidence & Witnesses.**

   a) At least two (2) academic days prior to the scheduled hearing, the Accused Student shall submit to the Student Code Administrator and the Student Code Administrator shall send via College’s designated e-mail system to the Accused Student the names, applicable contact information, and purpose of any witnesses that they intend to rely on at the hearing.

   b) At least two (2) academic days prior to the scheduled hearing, the Accused Student shall submit to the Student Code Administrator and the Student Code Administrator shall submit to the Accused Student all documentary evidence
(pertinent records, information, and written statements) that is to be considered by the Hearing Panel.

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

9.7 Selection of the Hearing Panel for Charges Seeking Expulsion or Suspension.

9.7.1 At the beginning of each academic year, the Faculty Assembly will select faculty members to serve on the Student Conduct Board and the Student Government Association will select students to serve on the Student Conduct Board. Members of the Student Conduct Board shall constitute the pool of potential members of the College community who will ultimately evaluate the facts and circumstances related to each specific matter of student misconduct (“Hearing Panel”). The Student Conduct Board consists of: one faculty chairperson; no less than five additional faculty members; and no less than five students. For so long as the membership of the Student Conduct Board is consistent with this section, that Committee shall serve as the pool for each Hearing Panel.

9.7.2 Each Hearing Panel shall be composed of three members chosen from the pool of Student Conduct Board members.

9.7.3 Individuals selected to serve on a Hearing Panel shall maintain high ethical standards and in so doing, agree to be bound by a Code of Ethical Standards prepared by the Student Code Administrator, and attached here as Appendix 1.

9.7.4 At a minimum, each Hearing Panel shall be comprised of at least one student and a faculty majority.

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

9.7.6 Prior to the hearing, the Accused Student will have an opportunity to review a list of potential Hearing Panel members and will be given an opportunity to strike a maximum of two members from consideration for the Hearing Panel that will hear the Accused Student’s case. Each remaining member of the Hearing Panel shall recuse themselves if, for any reason, their ability to render an unbiased decision is compromised.

9.8 Hearing Procedures for Charges Seeking Expulsion or Suspension.

Hearings shall be conducted according to the following:
a) Hearings shall be conducted in private.

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

c) The Accused Student, Victim, and Student Code Administrator 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) The Hearing Panel may ask questions of a witness. Questioning of witnesses will be conducted in a format identified by the Chair.

h) Consideration of all evidence by the Hearing Panel shall be at the discretion of the Chair.

9.9 Attendance.

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

9.10 Legal Counsel or Advisors.

The Accused Student and the Victim, if any, may have an advisor accompany him or her to a hearing for charges seeking suspension or expulsion. The advisor may be an individual that is either a member of the faculty, staff, or a student at the College. Advisors may not participate in the proceedings and are only present to advise the Accused Student and the Victim.

In lieu of an advisor, the Accused Student may be represented by legal counsel at a hearing for charges seeking suspension or expulsion. Any lawyer appearing at a hearing on a student’s behalf shall be licensed to practice law in the State of West Virginia and can actively participate in the hearing.
A student should select an advisor or legal counsel whose schedule allows attendance at the scheduled date and time for the hearing. Delays will not normally be allowed due to the scheduling conflicts of an advisor or legal counsel. Further, failure to secure an advisor or legal counsel will not cause a hearing to be postponed or canceled.

**9.11 Deliberations.**

After the portion of the hearing concludes in which all pertinent information has been received, the Hearing Panel shall privately deliberate whether the Accused Student is responsible as charged. After determining whether the student is responsible, by a majority vote, for the alleged conduct by the Hearing Panel, the Accused Student shall be verbally notified of the finding by the Hearing Panel.

**9.12 Standard of Proof.**

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

**9.13 Imposition of Sanctions.**

In the event that an Accused Student has been found “Responsible” on any charge, the Hearing Panel shall receive additional information regarding the student’s academic transcript and student conduct history, request proposed sanctions from both the Accused Student and the Victim (if any), and hear impact statements by both the Accused Student and the Victim (if any). After receiving the aforementioned information, the Hearing Panel shall deliberate and agree, by a majority vote, on the sanction(s) in private. After a sanction has been determined by the Hearing Panel, the Accused Student shall be verbally notified of the sanction(s) by the Hearing Panel.

**9.14 Outcome Letter.**

At the conclusion of the hearing, the student is entitled to written notification of the outcome of the hearing (an “Outcome Letter”). Each Outcome Letter shall plainly state the decision and shall plainly state the rationale for the decision; in the event that the student is found responsible for any part of the Charge, the Outcome Letter will include a brief statement of the facts relied upon by the Hearing Panel, the assigned sanction(s), and an explanation of any appeal rights. The Outcome Letter will be sent through the College’s designated e-mail system within five business days of the decision.
9.15 Transcript of the Proceedings.

9.15.1 All hearings will be recorded. The University will maintain the audio recordings of all hearings (not including deliberations) which remain the property of the University. Participants are prohibited from making their own recordings. Upon written request, an Accused Student shall be provided access only in compliance with the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g (2012)) and pursuant to any other conditions for access as may be deemed necessary by the Vice President for Student Affairs or his/her designee.

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

Section 10: Appeals Process.

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

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

10.3 Normally, sanctions are stayed pending the appeal outcome. However, if there is a perceived danger to College property or to the College community, interim sanctions such as residence hall removal or suspension from the campus may remain in place until the appeal process is complete.

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

   a) To determine whether jurisdiction was properly asserted under this Student Code;

   b) To determine whether the underlying proceeding was conducted fairly in light of the charges and evidence presented, and in conformity with prescribed procedures, such that no significant prejudice to a student or the College resulted;
c) To determine whether the decision reached was based on substantial evidence, that is, whether there is evidence a reasonable mind might accept as adequate to support the decision reached; and

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

10.4.1 The Dean of Student Affairs or designee shall consider the appeal and deliver a decision within thirty (30) days of receipt of such appeal, except where adherence to such time period would be impracticable, in which case such time period shall be extended as warranted by the particular circumstances.

10.4.2 The Dean of Student Affairs or his/her designee may decide to:

a) Deny the appeal;

b) Modify, reduce or otherwise limit the sanction(s) imposed (more severe sanctions may not be imposed on appeal by the Dean of Student Affairs or his/her designee);

c) Direct the Office of Student Conduct to provide a new proceeding, or allow the student to have his or her case handled beginning at any specific stage of the Student Conduct process; or

d) Remand the matter to the original decision maker with specific instructions that shall be carried out.

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

Section 11: Charges of Discrimination, Harassment, Sexual & Domestic Misconduct, Stalking, and Retaliation.

11.1 This Student Code is intended to complement West Virginia University Board of Governors Policy 44, Policy Regarding Discrimination, Harassment, Sexual & Domestic Misconduct, Stalking, and Retaliation, and any procedure implemented in support of Policy 44; to the extent that a conflict arises, Policy 44 and its implementing procedure shall govern.

11.2 In charges of discrimination, harassment, sexual or domestic misconduct, stalking, or retaliation, as defined in Policy 44, the Victim is granted the same rights afforded to the Accused Student under this Student Code in order to achieve a prompt and equitable resolution.

11.3 Discrimination, harassment, sexual or domestic misconduct, or stalking, or retaliation charges will be handled in accordance with the provisions set forth in this Student Code except to the following extent:
a) Investigation.

Allegations of a student’s alleged discrimination, harassment, sexual or domestic misconduct, or stalking, or retaliation, from any credible source, will be thoroughly investigated by the Student Code Administrator under the direction of WVU’s Title IX Coordinator. Such an investigation will take place in the same manner set forth in Section 9.2, except that the decision whether there are reasonable grounds to conclude that the Accused Student committed discrimination, harassment, sexual or domestic misconduct, or stalking, or retaliation will be made jointly by WVU’s Title IX Coordinator and the Student Code Administrator.

At a minimum, the Student Code Administrator must make sufficient inquiry to determine if there is basis for further investigation. A recommendation based on this information will be made to WVU’s Title IX Coordinator. If the Title IX Coordinator and the Student Code Administrator agree there are not reasonable grounds to conclude that the Accused Student committed discrimination, harassment, sexual or domestic misconduct, or stalking, or retaliation, the Student Code Administrator will notify, in writing, both the Accused Student and Victim and the matter will be closed. This notification will be filed with WVU’s Title IX Coordinator. If there is not concurrence, the investigation will proceed.

b) Charge.

1. If, after investigating the complaint or allegation of discrimination, harassment, sexual or domestic misconduct, or stalking, or retaliation, there are reasonable grounds to conclude that the Accused Student violated the Student Code, the Student Code Administrator, under the direction of WVU’s Title IX Coordinator, will apprise the Accused Student and the appropriate College departments, offices, units, or employees of the allegation by providing a written notice of the Charge.

2. In the Charge, the Student Code Administrator, under the direction of WVU’s Title IX Coordinator, shall notify the Accused Student and all other applicable College departments, offices, units, or employees that retaliation is prohibited and that it should be reported if it occurs.

3. The Charge will also be provided to the Alleged Victim.

c) Interim Remedial Measures for Complaints of Discrimination, harassment, sexual or domestic misconduct, or stalking, or retaliation Against Students.

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

d) Agreed Resolution.

In non-violent discrimination, harassment, sexual or domestic misconduct, or stalking, or retaliation allegations, there will be an opportunity for an Agreed Resolution in situations where an Accused Student elects not to dispute facts upon which the charge of discrimination, harassment, sexual or domestic misconduct, or stalking, or retaliation is based and both the Accused Student and Victim agree to the sanctions which are assessed, subject to the approval of WVU’s Title IX Coordinator.

e) Hearing Procedures.

At any hearing, both the Accused Student and the Victim must have an equal access to information and opportunity to present relevant witnesses and other evidence. However, the Accused Student and legal counsel (if present) are not permitted to question the Victim directly. Rather, the Accused Student and legal counsel (if present) must submit all questions to ask of the Victim to the Chair of the Hearing Panel, who will then ask the questions. Or, in the alternative, the Accused Student’s legal counsel and/or the accused may question the Alleged Victim directly with permission from the Victim and the Chair of the Hearing Panel.

The Victim shall receive an Outcome Letter that specifies whether or not discrimination, harassment, sexual or domestic misconduct, or stalking, or retaliation occurred and, if so, sanctions relevant to the Victim.

f) Legal Counsel.

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

Both the Accused Student and the Victim may file an appeal as set forth in this Student Code.

Section 12: Withholding Transcripts, Grades, and Degrees.

The Student Code Administrator may direct the Registrar to withhold the issuance of an official transcript, grade, diploma, certificate, or degree to an Accused Student, pending a hearing or conference, agreed resolution, and/or exhaustion of appellate rights if in the opinion of the Student Code Administrator, the best interests of the University would be served by this action. In the event that such action is taken pending the conclusion of the proceedings, the Student Code Administrator shall inform the Registrar of the action within five (5) consecutive days of the conclusion of the proceedings and shall withdraw or continue such withholding, as is determined by the Hearing Panel or in any other agreed-upon disposition.

Section 13: No Reprisal or Retaliation.

No reprisal or retaliation of any kind shall be taken by any member of the College community against any student who asserts his/her rights under this Student Code.

Section 14: Disclosure of Final Results.

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 (2012), then, pursuant to 34 C.F.R. § 99.31(a)(14)(i) (2014) and the University’s Family Educational Rights and Privacy Act notification, the University may disclose the final results of the proceedings. 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.

Section 15: Student Organizations.

15.1 For purposes of this Student Code, the term “student organization” means any group of students who have complied with the formal requirements for College recognition.

15.2 If the charge involves a student organization allegedly engaged in specific acts of prohibited activity, the matter may be referred to the Student Affairs Office. Procedures which may be followed in such instances will be identified by that office. However, if individual members of any such student organization are involved in specific acts of prohibited activity, then charges against the individuals may be brought in accordance with this Student Code and heard simultaneously with charges against the student organization.
The following sanctions may be imposed upon a student organization: warning, probation, loss of selected rights and privileges for a specified period of time, fines, restitution, and deactivation (loss of all privileges, including College recognition, for a specified period of time).

Section 16: Campus Discretion.

Subject to Board of Governors Policy 31, the Dean of Student Affairs shall have sufficient latitude and authority to implement any reasonable measures necessary for the fair and efficient administration of this Student Code.

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