

MARSHALL UNIVERSITY BOARD OF GOVERNORS

Policy No. SA-3

THE CODE OF STUDENT RIGHTS AND RESPONSIBILITIES

1 General Information.

- 1.1 Scope: This policy provides specifics on student rights and responsibilities. It is commonly known as the Student Code of Conduct.
- 1.2 Authority: W. Va. Code §18B-1-6
- 1.3 Passage Date: June 28, 2006
- 1.4 Effective Date: June 28, 2006
- 1.5 Controlling over: Marshall University and Marshall Community and Technical College
- 1.6 History:
 - 1.6.1 This policy is substantially equivalent to the Student code of Conduct (Code of Rights and Responsibilities) as was in place at Marshall University up to academic year 2005-06. This version updates references to the old Board of Trustees and includes the Marshall Community and Technical College in its language. In order to preserve the policy as it was in place, no other substantive changes have been made.
 - 1.6.2 This policy implements and expands on MUBOG Policy No. SA-2.

2 Policy.

PURPOSE: The Code of Student Rights and Responsibilities – also referred to as the Code of Conduct -- reflects the University 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 University 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 University community. Any student or organization may be referred by any complainant to the Office of Judicial Affairs. Official University action will be taken when a student's or student group's behavior violates community standards, interferes either with the University'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 University community, accused students are subject to separation from the institution.

Thus, the primary purpose of this Code is to serve the interests of both the Marshall community and the individual student by: (1) establishing the University'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 University setting to protect, deter, and educate.

AUTHORITY FOR STUDENT DISCIPLINE: The Marshall University Student Judicial System and The Code of Student Rights And Responsibilities are promulgated under the authority of the Board of Governors. Board of Governors Policy No. SA-1 (previously Board of Trustees' Policy Bulletin 57) sets forth policies, rules and regulations regarding student rights, responsibilities and conduct in West Virginia Universities and Colleges. Students should familiarize themselves with Policy No. SA-1, which is available on the Board of Governors web page.

By action of the Board of Governors, the President of the University is responsible for all matters of student discipline, including the preservation of due process procedures. This responsibility is normally delegated to the Dean of Student Affairs and the Office of Judicial Affairs 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 presumed by this Code.

The Code of Student Rights and Responsibilities and the Student Judicial System are subject to change and amendment. Marshall University's student-based system gives students maximum opportunities to participate in the formulation of policies concerning student conduct and in the adjudication of cases arising under that policy. Because maintenance of discipline and preservation of community standards are properly the concern of all students, faculty, staff, and administration, all members of the University community will be provided with appropriate opportunities for representation or involvement in the development, revision, and maintenance of the Code of Student Rights and Responsibilities. All changes made shall take effect immediately following approval by the Student Conduct and Welfare Committee, the Faculty Senate, and the President of the University.

STUDENT RIGHTS AND RESPONSIBILITIES: All students, undergraduate and graduate, as defined by the Board of Governors and in this Code, are subject to the provisions of this Code.

A student's application for admission to Marshall represents an optional and voluntary decision to partake of the University's program and privileges and to abide by the University's policies, rules and regulations. The University's approval of that application, in turn, represents the extension of a right or privilege to join the Marshall community and to remain a part of it so long as the student fulfills the academic and behavioral expectations set forth by Marshall University and its Board of Governors. Upon acceptance to the University, each student acquires rights and assumes responsibilities as an individual member of the University community. Therefore, students and student organizations are expected at all times to conduct themselves in accordance with University policies and regulations.

The Marshall University Board of Governors Policy No. SA-1 establishes and explains the following basic rights and responsibilities of students in West Virginia's state colleges and universities:

- Freedom of Expression and Assembly;
- Freedom of Association;
- Right to Privacy;
- Assumption of the Responsibilities of Citizenship;
- Fundamental Fairness in Disciplinary Proceedings.

Students charged with violating University regulations or standards are guaranteed fundamental fairness in the notification of charges, the conduct of hearings, the imposition of sanctions, and the routes of appeal. Marshall University pledges to uphold students' rights guaranteed under the United States Constitution and Federal and State statutes.

JURISDICTION: Because the primary purpose of this Code is to support the protection and advancement of the University community's particular educational interests, conduct proscribed and reviewed under the Code of Student Rights and Responsibilities will, in most cases, refer to behaviors that occur on or about University premises, at University-sponsored events, or that are engaged in by University-recognized student organizations. However, Marshall University retains the right to review, under the Student Judicial System, the off-campus conduct of students when such conduct is alleged to

- Interfere with the Mission of the University; and/or
- Compromise the University's integrity in the granting of degrees or other certification; and/or
- Threaten the health or safety of members of the campus community; and/or
- Interfere with the orderly operation of the University.

Complaints about students' off-campus behavior will be considered on a case-by-case basis, following these guidelines, to determine whether they merit review within the Student Judicial System.

Marshall University enjoys close and mutually supportive relationships with the communities in which its campuses are located and expects University students to abide by the laws of these communities. Marshall acknowledges the right and duty of these communities to prosecute and hold accountable any persons found in violation of their laws.

Group Responsibility: The Code of Student Rights and Responsibilities applies to the behavior of recognized student organizations both on and off campus. Marshall University has established the following group responsibility policy to define organizations' responsibility for the actions of their members. This policy pertains, but is not limited, to incidents involving hazing, discrimination, vandalism, theft, alcohol or substance abuse, dishonesty, disorderly conduct, violence, misuse of organization or University funds and any other violations of the Code of Student Rights and Responsibilities.

Upon registration or recognition, or application for recognition, by the University, each student organization becomes responsible for acting in accordance with the provisions of the Code of Conduct and all other applicable University and community policies and standards. Official University action will be taken when the behavior of the members of a student organization violates community standards and interferes either with the University's educational purpose, or with its duty to protect individual health, welfare, and property.

The degree to which an organization is responsible for the activity of its members is not necessarily dependent upon the number of members engaging in the activity, but depends upon whether the activity is related to the organization as described in the four categories listed below. Student organizations may be held responsible for the acts of individual members,

--when a member of an organization is violating local, state, or federal law or University regulations and other members present, by failing to discourage such activity, tacitly condone the behavior;

--when the acts grow out of or are directly related to the student organization's activities or an environment created by the organizations;

--when the acts are those of guest of an organization, or by persons authorized or permitted to represent themselves as connected with the organization;

--when an organization places prospective members in a subordinated status prior to achieving full membership, or imposes any kind of probationary period prior to full membership, and hazing occurs.

In addition to the group being held culpable, members and officers may be cited and held responsible as individuals for their roles in any violations of the Code.

CONCURRENT CRIMINAL PROCEEDINGS: Because students are also members of larger communities such as city, state and nation, their conduct may also be subject to review within another jurisdiction(s), when such conduct violates the laws of those jurisdictions. Criminal prosecution in the court system is designed to be punitive and to provide social consequences for convicted offenders. Therefore, disciplinary action under the Code of Student Rights and Responsibilities is not and cannot be a substitute for judicial mechanisms of the larger community. Students charged under the University's Code of Conduct may also be held responsible for violating existing local, state, and federal law. Because the purposes and consequences of the two processes are so different, such concurrent reviews are mutually exclusive and do not create double jeopardy for charged students.

Disciplinary action at the University will in most case proceed during the pendency of criminal proceedings and will not be subject to challenge on the ground that criminal charges involving the same incident have been dismissed or reduced. However, the University reserves the right to postpone campus disciplinary proceedings during the pendency of criminal proceedings when the conduct of such campus proceedings would interfere with the concurrent civil or criminal process. The decision to postpone on the grounds of interference will be made by the President or his/her designee upon the request of the accused student or of the prosecutor or complainant.

INTERPRETATION OF REGULATIONS: The purpose of publishing disciplinary regulations is to give students general notice of proscribed behavior. This Code is not written with the specificity of a criminal statute.

DEFINITIONS

For the purposes of this policy all references to "Marshall University", "University", "Institution", etc., shall mean all institutions under the control of the Marshall University Board of Governors including the Marshall Community and Technical College.

Activity: All or any operations conducted, sponsored, promoted, operated or otherwise engaged in by Marshall University, including, by way of illustration and not as limitation of the foregoing, classroom and course activities, recreational and cultural programs, committee or other business activity, registration, advising, teaching, research, or service.

Administrative Hearing Examiner: A faculty or staff member versed in the judicial process who, as an alternative to a hearing panel, hears cases of alleged violations, renders decisions, and recommend sanctions.

Advocate: A full-time student approved to provide, on a voluntary basis, advice, assistance and representation to students charged with violating the Code of Student Rights and Responsibilities; or to represent the University or assist or represent student complainants in presenting their cases at judicial hearings. Advocates must meet established criteria and complete University-sponsored training.

Advocate Society: An organization of students dedicated to the promotion and preservation of student rights and responsibilities at Marshall University.

Authorized: As used in this Code, the term refers to any behavior or activity that is specifically permitted by policy or by the express action of a University official who has the right to grant such permission.

Complainant: Any person who brings to a University official a complaint, whether written or oral, about the conduct of a student. This term may be synonymous with Member of the University Community, as defined below.

Day: The term “day” shall refer to calendar days unless otherwise specified.

Director of Judicial Programs: The staff member designated by Marshall University as responsible for administration of the Code of Student Rights and Responsibilities. The Director’s duties include but are not limited to investigating complaints, charging students with violations, imposing sanctions, and representing the University in hearings. The Director supervises the selection and training of student justices and advocates.

Due Process: Appropriate protection of the rights of an individual while determining his/her liability for wrongdoing and the applicability of sanctions.

Hearing Officer: Any Marshall University faculty or staff member, or experienced upper class or graduate student, well versed in the judicial process, appointed to preside over a student judicial hearing. The Hearing Officer’s function is to ensure that a hearing is conducted fairly and in compliance with stated policy. A Hearing Officer provides “technical” advice to the hearing panel, but does not vote or participate in decision-making.

Hearing Panel: The three- or five-member group of student justices, or student and faculty or staff justices, assigned to hear a specific case.

Intent, Intentional, and Intentionally: These terms shall apply to conduct engaged in or committed by purposeful design or with reckless disregard for the consequences of the act.

Judicial Affairs: The division of the Department of Student Affairs responsible for the University-wide implementation of the Code of Student Rights and Responsibilities and the student judicial system.

Judiciary: The aggregate association of full-time students, faculty, and staff members from which are drawn members who serve on hearing panels and serve as hearing officers, hearing examiners, and advocates.

Member of the University Community: Any officer, administrator, faculty member, staff member, employee, or student of Marshall University, as well as any person authorized to participate in an institutional activity at the time applicable.

Justices: Full-time students and faculty and staff members who, on a voluntary basis, hear student judicial cases and recommend sanctions for students found in violation of the Code of Conduct. Justices must meet established criteria and complete University-supervised training.

President: The chief executive officer of Marshall University or Marshall Community and Technical, College, whether responsible directly to the Board of Governors or through some other officer to the Board of Governors, and shall include all those acting for or on behalf of such chief executive officer, at or by his or her direction, or at or by the direction of the Board of Governors.

Reasonable Care: That degree of care which would be exercised by the ordinarily prudent person under like or similar circumstances.

Respondent: In any given judicial case, the respondent is the student about whom a complaint has been made or against whom charges have been filed. Also referred to as “accused” or “charged” student.

Student: Any person who has been admitted to an institution to pursue a course of study, research or service, who is currently engaged in an institutional-sponsored activity, or who has some right or privilege to be on campus or in the facilities of the institution, or who yet has some right or privilege to receive any benefit, service, or recognition or certification from the institution, under the rules, regulation, or policies of the Board of Governors or the Institution. The term “student” when used in this code includes all persons taking courses at or from Marshall University, both full-time and part-time, pursuing undergraduate, graduate, or professional studies and those who attend educational institutions other than Marshall University and who reside in Marshall University residence halls or utilize Marshall University facilities or services for the purpose of pursuing studies at those institutions. For the purposes of the Code of Conduct, persons who have been admitted to Marshall University, but are not officially registered for a particular term, and/or who have a right to, or expectation of, a continuing or future student relationship with Marshall University are considered “students.” A person shall be considered a student during any break or holiday period that occurs during a term in which that person is registered or between terms for which that person registers. A person shall be considered a student while suspended from the institution, or while the person is attending or participating in any activity preparatory to the beginning of a term, including, but not limited to, athletic training, orientation, placement testing, and residence hall check-in.

Student Organization: Any group of persons who have complied with formal requirements for provisional or full recognition as a student organization at Marshall University, including social fraternities and sororities, and organizations whose recognition has been suspended.

Unauthorized: An act or behavior not permitted by policy or by the express action of a University Official with the authority to grant such permission.

University: This term, where used in this document, refers to Marshall University, including all branch campuses and affiliated units and centers.

University Official: This term includes any person employed by Marshall University or the Board of Governors, performing assigned duties or professional responsibilities.

University Premises: All the land, buildings, facilities, and other property including intellectual and virtual property, owned, used, or controlled by Marshall University, including adjacent streets and sidewalks. This incorporates the Board of Governors definitions for “property,” “facility,” and “campus.”

STANDARDS and PROSCRIBED CONDUCT

The following standards, which express the University’s expectations for student conduct, are essential to the University’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 the Office of Judicial Affairs or to another University office responsible for examining and upholding standards of conduct, in accordance with the due process guarantees and procedures defined in this Code and in Board of Governors Policy No. SA-1.

The *maximum* sanction applicable to each proscribed behavior is noted in parentheses following the description of the behavior: P = Probation; PS = Probationary Suspension; SP = Suspension; EX = Expulsion.

Standard 1: Marshall University students and student groups observe the highest principles of honesty and integrity and support a campus environment conducive to trust and scholarship. Violations of this standard include but are not limited to:

1.A. All forms of academic misconduct, wherever committed, as defined in the Statement of Student Academic Rights and Responsibilities. Such misconduct includes cheating, plagiarism, misrepresentation or falsification of data, or collaboration with others on an academic assignment unless specifically permitted by the instructor. Under Marshall University Board of Governors Policy No. SA-2 (previously West Virginia Board of Trustees Policy Bulletin No. 60), disciplinary action for academic misconduct will, in most cases, be the responsibility of the academic unit in which the misconduct occurred. Sanctions and appeal routes for academic misconduct are described in the Statement of Student Academic Rights and Responsibilities. (EX)

1.B. Unauthorized taking or possession of academic records, University documents, academic documents, or the academic work of others. (EX)

1.C. Unauthorized alteration of academic records, University documents, academic documents, or the academic work of others. (EX)

1.D. Furnishing false information to the University by forgery, alteration, or misuse of documents with the intent to deceive. (EX)

1.E. Furnishing to a University office or official a written or oral statement known to be false. (EX)

1.F. Falsification, distortion, or misrepresentation of information before a University judicial officer, hearing panel, or grievance board. (EX)

1.G. Complicity with others in violation of this standard. (EX)

Standard 2: Marshall University students and student groups respect and promote the health, safety, and welfare of all persons, including themselves. Violations of this standard include but are not limited to:

2.A. Inflicting bodily harm or coercing or restraining any person, including himself or herself. (EX)

2.B. Threatening to inflict bodily harm or to coerce or restrain any person, including himself or herself. (SP)

2.C. Sexual assault, abuse, or misconduct, including any sexual acts committed without the legitimate consent of the victim and any other violation of University policies concerning sexual misconduct. (EX)

2.D. Brandishing of weapons. (EX)

2.E. Possession or storage of any weapon, dangerous devices or substances, including, but not limited to, any firearm, pellet gun, illegal knife, sling shot, ammunition, dangerous chemical, fireworks or explosive device, or other dangerous weapon. [see the Weapons Policy in the Student Handbook] (SP)

2.F. Fighting. (SP)

2.G. Intentionally initiating or causing to be initiated any false report, warning, or threat of impending fire, explosion, or any emergency. (EX)

2.H. Intentionally causing the evacuation of a University building for reasons known to be false. (EX)

2.I. Tampering with, misusing, abusing, or altering any safety equipment or devices, including but not limited to, fire extinguishers, elevators, emergency telephones, elevators, etc. (EX)

2.J. Violation of the Board of Governors or University policies concerning hazing. Hazing is defined in the Student Handbook. (SP)

2.K. Intimidation: Committing, conspiring to commit, or causing to be committed any act which causes or is likely to cause physical or mental harm or which tends to injure, actually injures, stigmatizes, frightens or demeans any person. Retaliation or threatened retaliation against any person who files a complaint or testifies in a campus judicial case is considered intimidation. (EX)

2.L. Stalking: engaging in an intentional course of behavior directed at a specific person, which frightens, intimidates, or harasses, and which serves no legitimate purpose. (EX)

2.M. Operating a motor vehicle while under the influence of alcohol or other drugs. (SP)

2.N. Negligent Bodily Harm: Failure to exercise reasonable care, thereby causing bodily harm. (SP)

2.O. Throwing objects from or causing objects to fall from University buildings. (SP)

2.P. Interference with Emergency Services and procedures. This includes obstructing or hindering the maintenance, provision, or function of such emergency services as fire department, police department, security, first aid, or rescue; and Obstructing or hindering emergency or practice evacuation or similar procedures announced for any building or facility. (EX)

2.Q. Violation of University policies regarding smoking and tobacco use on University property [refer to the Smoking Policy in the Student Handbook]. (P)

2.R. Complicity with others in violation of this standard. (EX)

Standard 3: Marshall University students and student groups respect and honor the human rights and dignity of other persons, groups, and organizations. Violations of this standard include but are not limited to:

3.A. Harassment: Committing, conspiring to commit, or causing to be committed any act which causes or is likely to cause physical or mental harm or which tends to injure or actually injures, intimidates, stigmatizes, frightens, demeans, degrades, or disgraces any person or group. This includes but is not limited to racial, sexual, or peer harassment. (EX)

3.A.1. *Racial Harassment*, as defined in the Student Handbook, includes acts exhibiting prejudice and/or racism and/or failure to follow University Policies concerning Acts of Intolerance. (EX)

3.A.2. *Sexual Harassment*, includes failure to follow University Policies concerning Acts of Intolerance and/or violation of University polices concerning sexual harassment as defined in Section 3 of the Marshall University Sexual Harassment Policy in the Student Handbook. (EX)

3.B. Incivility or disrespect of persons. (PS)

3.C. Lewd, indecent, or obscene conduct or expression. (SP)

3.D. Unlawful discrimination on the basis of race, sex, color, national origin, religion, political affiliation, handicap, age, or sexual orientation. (EX)

3.E. Commitment of any other violation in this code for the purposes of harassing and/or discriminating on the basis of race, sex, color, national origin, religion, political affiliation, handicap, age, or sexual orientation. (EX)

3.F. Complicity with others in violation of this standard. (EX)

Standard 4: Marshall University students and student groups uphold the mission of the University by **protecting and preserving a campus environment consonant with the University's educational and academic goals**. Violations of this standard include, but are not limited to:

4.A. Unauthorized possession or use of drugs or narcotics. This includes any drug for which the required prescription has not been validly obtained. (SP)

4.B. Unauthorized possession or use of alcoholic beverages or beer, as defined by alcoholic beverage policies established by the University and its governing bodies.(SP)

4.C. Behavior that evinces underage consumption of alcohol. (P)

4.D. Actual, attempted, or intended manufacture, cultivation, distribution and/or sale of drugs, narcotics or marijuana or other controlled substances. (SP)

4.E. Disruptive or disorderly behavior attributable to the use of alcohol or other controlled substance(s), including public intoxication. (SP)

4.F. Misbehavior at Sports Events, Concerts, or Social/Cultural Events. (SP) This includes, but is not limited to:

4.F.1. Throwing of any article into a crowd or onto a playing field, court or stage.

4.F.2. Bringing bottles, coolers or other prohibited items into the stadium, Henderson Center, track, theatre, or to any University sponsored events unless permitted by the appropriate University officials.

4.F.3. Displaying at any sports or cultural event any unauthorized or obscene, offensive, or obstructive banner or sign.

4.F.4. Inappropriate yelling at or harassment of performers, athletes, spectators or event staff.

4.F.5. Violations of the Conference USA code of spectator conduct as presented in the Student Handbook.

4.G. Unauthorized animals on campus or other violation of the University's Animal Policy [presented in the Student Handbook]. (P)

4.H. Disruptive or disorderly conduct; disturbing the peace through noise, rowdiness, or pranks.(P)

4.I. Obstructing or interfering with the orderly conduct of University affairs including teaching, research, administrative and disciplinary procedures, University sponsored elections, or any University-sponsored activity. (SP)

4.J. Obstructing the free flow of vehicular or pedestrian traffic on University premises. (PS)

4.K. Failure to comply with the lawful direction of University or other law enforcement officers, or University officials in the proper performance of their duties. (PS)

4.L. Complicity with others in violation of this standard. (SP)

Standard 5: Marshall University students and student groups respect the property of others, and the property, facilities, and resources of the University. Violations of this standard include, but are not limited to:

5.A. Defacement, damage, destruction, or interference with any property, property right, or service belonging to other persons, groups, or organizations. (EX)

5.B. Theft or unauthorized possession of, or misuse of property belonging to other persons, groups, or organizations. This includes possessing, receiving, or storing property known to have been wrongfully taken from the University or from any person or group. (EX)

5.C. Theft or unauthorized use of, or 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, tutoring services, photocopying services, etc. (EX)

5.D. Negligent Destruction or Impairment of Property or Services: Failure to exercise reasonable care, thereby causing damage, defacement, destruction, theft or loss of property belonging to the University or any person or group. (SP)

5.E. Negligent Risk of Destruction or Impairment of Property or Services: Failure to exercise reasonable care, thereby creating a risk of damage, defacement, destruction, theft or loss of property belonging to the University or any person or group. (PS)

5.F. Misuse of University Keys: The unauthorized duplication, attempted duplication, use, loan, or possession of any key to any building, room, property, or facility owned or controlled by the University. (SP)

5.G. Forcibly breaking into and/or entering, or attempting to break into, any building, room, locker, vehicle, or other facility. (EX)

5.H. Misuse of computing networks, services, systems, or equipment, including but not limited to, unauthorized accessing of accounts, sharing of passwords, and all other provisions of the University's usage and abuse policies for its Information Technology Environment, as approved by the Student Conduct and Welfare Committee and set forth in the Student Handbook. This includes using computer services to violate or aid in the violation of any other provision of this code. (EX)

5.I. Unauthorized presence or trespassing in or use of any University building or facility. (SP)

5.J. Improper or unauthorized usage of any university building or facility. (PS)

5.K. Misuse of University telephones, including charging or causing to be charged any long distance or other toll telephone call to a University telephone without proper authorization. (SP)

5.L. Misuse of any University identification material, including loaning, transferring, altering, or borrowing. (SP)

5.M. Complicity with others in violation of this standard. (EX)

Standard 6: Marshall University students and student groups uphold the mission of the University by being responsible citizens. Marshall University students and student groups comply with the policies, procedures, and programs of the University, and obey all Federal, State, and local laws. Violations of this standard include but are not limited to:

6.A. Gambling, including but not limited to participation in chain letters, games of chance, betting pools, and unauthorized raffles or lotteries. (SP)

6.B. Scalping: selling tickets to University functions for any price higher than the price shown on the ticket or higher than the original price of the ticket. (SP)

6.C. Violation of the University's Fundraising, Sales and Solicitation Policy. (PS)

6.D. Violation of the policies for demonstrations and mass gatherings. (PS)

6.E. Violation of University policies governing the Posting of Information. (P)

6.F. Violations of Residence Services policies and/or procedures as stated in university publications provided that these documents have been approved by the Student Conduct and Welfare Committee. (P) Standard 6F addresses policies specific to the operation of campus residence halls and includes, but is not limited to, policies concerning quiet hours, visitation, unauthorized moves, guest registration, defacement, pranks, pets, smoking, appliances, and room key usage.

6.G. Violations of Student Center, Facilities Scheduling, and Food Services policies and procedures as approved by the Student Conduct and Welfare Committee and/or the Student Center Governing Board. (P)

6.H. Passing worthless checks or failing to promptly redeem a worthless check submitted to any unit within the University. (SP)

6.I. Violation of Federal, State, local, city, county, or municipal laws or ordinances. To be charged under this section the student will, in most cases, have been found guilty or declined to contest charges in a court of law. (EX)

6.J. Violation of Board of Governors Policies not covered in this Code. (EX)

6.K. Repeated or Multiple Violations, Violations of Probation or Mediation Agreements. This applies to students who have demonstrated a history of violating University regulations, and/or who commit any violation of the terms of any University-imposed sanction or mediation agreement, and/or who fail to comply with sanction(s) imposed under the student code. (EX)

6.L. Failure to report a change of address to the Registrar. (P)

6.M. Failure to comply with a directive or request issued by a duly constituted campus judicial or hearing body. (PS)

6.N. Failure to report to University officials a known or suspected violation of University policies. (SP)

6.O. Complicity with others in violation of this standard. (EX)

SANCTIONS: The purpose of a sanction, in addition to protecting others, is primarily to educate an individual by increasing his/her awareness of the importance of responsibility to the University community for one's actions. This will ordinarily be the guiding force behind imposition of sanctions by the University judicial system. In some instances, however, the community's need to properly function outweighs the University's ability to so educate an individual. In such a case, for the benefit of both the student and the community, suspension from the University may result.

Normally, students facing suspension or expulsion from the institution will be entitled to a hearing prior to the imposition of the sanction. However, a student may be temporarily suspended pending final action on the charges when the student's continued presence on campus would constitute a potential for serious harm to himself/herself or to the safety of other members of the institutional community. Such temporary suspension shall be followed with speedy disciplinary proceedings consistent with these policies, rules and regulations. Also, a student who is expelled from one may not be considered for admission to the University until one year has elapsed after the student has been expelled. In addition, all other stipulations as stated in the Board of Governors Policy No. SA-2 shall apply.

The following sanctions may be imposed for violation of this code:

A. Expulsion:

Termination of all student status, including any remaining right or privilege to receive some benefit or recognition or certification. Conditions for re-admission may be established only through written appeal to the President no sooner than one complete calendar year from the date the expulsion was placed in effect. During the expulsion, the person is barred from coming onto or using University property and facilities. The action will appear on the student's official transcript until such time as an appeal is made to and granted by the President to terminate the expulsion.

B. Suspension:

This action involves separation of the student from the University as specified by the Judicial Board of the Office of Judicial Affairs for a definite stated period of time up to one academic year. Conditions on resumption of activities, if any, also may be imposed. Notification appears on the student's official transcript until the expiration of the sanction. A suspended student may apply for re-admission to the University through the Office of Judicial Affairs at the end of the suspension period specified by the judicial action. The Office of Judicial Affairs may deny re-admission in those instances where the suspended student fails to demonstrate a positive change in behavior which indicates that the suspended student is prepared to become again a responsible member of the University community. Numerous resource persons and agencies may be used to assist the student in identifying and clarifying experiences, goals, educational and career choices, and other personal objectives.

Two additional forms of suspension exist:

(1) Probationary Suspension:

Suspension is withheld pending careful evaluation of a student's behavior during a probationary period not to exceed one year. If the student is involved in any further offense, or if otherwise warranted, this suspension of disciplinary action may be revoked by the Dean of Student Affairs or his/her designee and the full sanction of suspension enforced subject to appeal to the Judicial Board. While a student is on Probationary Suspension, any of the conditions outlined under probation may be imposed.

(2) Deferred Suspension:

This is suspension which becomes effective at a specified future date. It is normally used near the end of a semester to avoid the financial penalty of immediate suspension. During this period of deferred suspension, probationary status as described in Probationary Suspension above will exist.

C. Probation:

This action involves a specified period of time, not to exceed one year, determined by the Judicial Board or the Judicial Affairs Office during which a student in violation of one or more University regulations is given an opportunity to prove that he or she can become a responsible and positive member of the University community.

A student violating any University regulation or the terms of probation while on probation may be subject to disciplinary action as specified under this Code.

When a student is placed on probation, the Office of Judicial Affairs will notify appropriate University offices of that action.

Probation may include one or more of the following:

(1) Loss of Participation:

The student may not represent the University in any extracurricular activities such as intercollegiate athletics, debate teams, University theater, band, etc.; however, the student may participate in informal activities of a recreational nature sponsored by the University.

(2) Self Improvement:

A program of self development will be planned in conjunction with a faculty or staff person assigned to assist in a counseling/guidance capacity. Numerous resource persons and agencies may be used to assist the student in identifying and clarifying experiences, goals, educational and career choices, and other personal objectives.

(3) Surrender of Student Activity Privileges:

A student required under this section to relinquish Student Activity privileges paid for by the Student Activity Fee may not participate in, or attend, events for which the Activity Fee is required or provides a discount or privilege. Exceptions may be granted by the Judicial Affairs Office in those instances where attendance at such events is required by academic courses or programs.

JUDICIAL APPEALS: The party being charged and any complainant other than employees of Marshall University acting in their official capacities may appeal the decision.

1. Appeals from decisions of the Director of Judicial Programs will be directed to the Judicial Board.

2. Appeals from recommendations of the Judicial Board should be directed to the President or Dean of Students as indicated below:

(a) In those cases where the recommended sanction is formal warning, probation, or probationary suspension, appeals shall be directed to the Dean of Students or his/her designee whose decision will be final.

(b) In those cases where the recommended sanction is deferred suspension, suspension, or expulsion, appeals shall be directed to the President whose decision, which must be rendered within ten (10) days, will be final, except in cases where the President has imposed a sanction of expulsion, in which case an appeal may be filed with the Board of Governors.

The request for appeal from a recommendation of the Student Hearing Panel, Hearing Examiner, or Dean of Student Affairs must be submitted in writing on an Intent to Appeal Form to the Office of Judicial Affairs within forty-eight (48) hours (not including days the University is closed) from the conclusion of the hearing. The President or Dean of Student Affairs at his/her discretion may extend the deadline for filing an appeal upon the motion from either party.

The Judicial Board's findings regarding the charge(s) must be affirmed or remanded to the original hearing panel. The Judicial Board's recommendation regarding sanctions may be affirmed, modified, or remanded to the original hearing panel for further action as deemed appropriate.

A written explanation of the grounds for appeal should be presented by the appellant within five (5) business days from the date of the appeal is filed. The scope of review shall be limited to the following:

1. Procedural errors.
2. Evidence not available at the time of the hearing.
3. Insufficient evidence to support the findings of the Judicial Board.
4. Misinterpretation of University policies and regulations by the Judicial Board.
5. A sanction or sanctions disproportionate to the offense.
6. Lack of jurisdiction.

All appeals shall be considered upon the record of the original proceedings of the Board. The President or Dean of Student Affairs, at his/her discretion, may defer the imposition of sanction pending final disposition of the appeal. In the case of expulsion, the President must defer the imposition of sanction when a student files an appropriate appeal with the Board of Governors. A student desiring to appeal the sanction of expulsion must, within three (3) working days, indicate to the President, in writing, an intent to appeal the decision to the Board of Governors. A written petition of appeal must be filed with the Chair of the Board of Governors within fifteen (15) days of the institutional President's decision. If the Board of Governors determines that the petition will not be heard, the decision of the President of the institution is affirmed and sanctions imposed therein shall be effective upon the President's receipt of the statement of denial.

NOTIFICATION OF PARENTS: The Dean of Student Affairs has the authority to notify parents or guardians when students under the age of 21 are found to have committed violations of University policies related to the possession, use, or distribution of alcohol or drugs. The notification of parents is indicated when (1) The violation involved harm or threat of harm to persons or property; (2) The violation involved an arrest in which the student was taken into custody; (3) The violation resulted in or could result in the student being suspended from the University and/or dismissed from residence halls; (4) The student has shown a pattern of violations - even if they are minor. Two or more violations associated with drug or alcohol use would be reasonable cause for notice; and/or (5) The student who committed the violation became physically ill and/or required medical intervention as a result of consumption of alcohol and/or drugs.

Nothing in these guidelines shall prevent University officials from notifying parents or guardians of health or safety emergencies, regardless of the judicial status of the student. Nothing in these guidelines shall prevent the University from notifying parents or guardians when students under the age of twenty-one are involved in a group activity off campus, in which the students' organization is found to have violated University policy with respect to the use and/or consumption of alcohol or drugs. Whenever possible, students will be informed that parental notification is planned in advance of their parents' receiving the notice.

The notification of parents is simply an act of notice and is not subject to Judicial Appeal.