

West Virginia Northern Community College

Interpersonal Violence Rule

Rule Number: NC-1004

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Authority Reference: Title VII of the Civil Rights Act of 1964; West Virginia Human Rights Act

Replaces previous rule dated: Sexual Assault Rule, April 1, 2008

Rule:

The College is committed to providing a safe learning and working environment. This safe environment includes all campus and all off-campus locations, all College-related activities and sites. Interpersonal violence is a violation of the College rules and of state law. Interpersonal Violence is sexual harassment, sexual misconduct, sexual assault, domestic violence, dating violence and/or stalking by any two or more individuals by any means. Interpersonal violence is prohibited.

Sexual harassment and discrimination are addressed by the College in separate rules for students and employees. Copies of the current sexual harassment and discrimination rules are available in the Student Handbook, College Catalog, and Employee Reference Manual.

Definitions:

Adviser refers to the person the complainant or respondent brings to a disciplinary hearing.

College refers to West Virginia Northern Community College.

Complainant is the alleged victim or the individual who has been the subject of interpersonal violence.

Consent requires the response of yes, not the absence of no. Consent requires conversation. The person who initiates sexual activity is responsible for asking for consent. The absence of a clear verbal signal means you do not have consent. Both parties must have unimpaired judgment (examples that may cause impairment include but are not limited to alcohol, drugs, and mental health conditions). Prior to sexual activity, both parties must disclose personal risk factors such as any known STDs, and both parties must use safer sex practices. Consent means that both partners decide together to have sex. Regardless of your prior sexual history consent is required each time you have sexual activity. Both parties must have a clear and accurate understanding of the intended sexual activity. It is not your partner's job to resist; it is your responsibility to respect his/her boundaries. At any time when consent is withdrawn or not verbally agreed to, the sexual activity must stop. Silence is not consent. You cannot rely on assumptions on what your partner does or does not want.

Incapacity of the complainant does not constitute consent on the part of the complainant. A person is determined incapable of consent when such person is less than sixteen years old, or mentally defective, or mentally incapacitated, or physically helpless. Mentally defective means that the person suffers from a mental disease or defect, which renders such person incapable of appraising the nature of his or her conduct. Mentally incapacitated means that a person is rendered temporarily incapable of appraising or controlling his or her conduct as a result of the influence of a controlled or intoxicating substance administered to such person without his or her consent or as a result of any other act committed upon such without his or her consent. Physically helpless means that a person is unconscious or for any reason is physically unable to communicate unwillingness to an act. It is the position of the College that an interpersonal violence also occurs against the complainant who willingly takes a controlled or intoxicating substance if the sexual contact occurs after the complainant becomes temporarily incapable of appraising or controlling his or her conduct as a result of the controlled or intoxicating substance. A student charged with interpersonal violence can be prosecuted under West Virginia law AND disciplined in accordance with College policies and regulations. A student found guilty of interpersonal violence through the campus Student Conduct system may be subject to suspension or expulsion.

Dating violence means violence by a person who has been in a romantic or intimate relationship with the complainant. Whether there was such relationship will be gauged by its length, type and frequency of interaction.

Discrimination means actions that deprive others of educational or employment access, benefits or opportunities on the basis of their actual or perceived membership in a Protected Category.

Domestic Violence/Intimate Partner Violence/Abuse means the occurrence of any of the following acts/conditions between those in or having previously been in an intimate relationship to each other, including dating, domestic and/or any other intimate relationship.

Attempting to cause or intentionally, knowingly or recklessly causing physical harm to another with or without dangerous or deadly weapons;

Placing another in reasonable apprehension of physical harm;

Creating fear of physical harm by harassment, stalking, and psychological abuse or threatening acts;

Committing sexual assault, sexual abuse, domestic battery or domestic assault as those terms are defined under West Virginia criminal law;

Holding, confining, detaining or abducting another person against that person's will.

Hostile Environment means an environment created by oral, written, graphic, or physical conduct that is sufficiently severe, persistent, or pervasive and objectively offensive so as to interfere with, limit, or deny the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits, or opportunities.

Incapacitation means as a state where a person cannot make rational, reasonable decisions because he or she lacks the capacity to give knowing consent (e.g., to understand the who, what, when, where, why or how of his or her sexual interaction).

Interpersonal Violence means sexual harassment, sexual misconduct, sexual assault, domestic violence, dating violence and/or stalking by any two or more individuals by any means.

Intimidation means implied threats or acts that cause an unreasonable fear of harm in another on the basis of actual or perceived membership in a Protected Category.

Minor means a person under the age of 16 years.

Non-Consensual Sexual Contact means any intentional Sexual Touching, however slight, with any object, by a person upon another person that is without consent and/or by force.

Non-Consensual Sexual Intercourse means any Sexual Penetration or intercourse (anal, oral or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force.

Physically helpless means that a person is unconscious or for any reason is physically unable to communicate unwillingness to an act.

Protected Category means a category under which an individual falls or is perceived to fall that is protected under federal, state, or local anti-discrimination laws, including race, color, religion, sex (including pregnancy), sexual orientation, gender identity, national origin, age, marital status, veteran or military status, disability, or genetic information.

Retaliation means any adverse action taken against a person who complained about harassment, supported a complainant involving harassment, or who participated in the investigation of a claim of harassment because of that person's participation in filing the complaint of harassment, supporting a complainant involving harassment, or for participating in the investigation of a claim of harassment.

Respondent is the alleged offender or the individual(s) who has been accused of interpersonal violence.

Sexual assault is sexual intercourse or sexual intrusion without consent. There are three levels of sexual assault in West Virginia:

1st Degree: The perpetrator inflicts serious bodily injury, uses a deadly weapon, or the perpetrator is over age 14 and the complainant is younger than 12 years old and is not married to that person. *Penalty:* An indeterminate term of not less than 15 nor more than 35 years in a state correctional facility; and/or a fine of not less than \$1,000 nor more than \$10,000. However, if the defendant is 18 or older and complainant is younger than 12, the penalty is not less than 25 nor more than 100 years in a state correctional facility, and or a fine of not less than \$5,000 nor more than \$25,000.

2nd Degree: Sexual intercourse or intrusion without consent and lack of consent is due to forcible compulsion or physical helplessness. *Penalty:* An indeterminate term of not less than 10 nor more than 25 years in a state correctional facility; and/or a fine of not less than \$1,000 nor more than \$10,000.

3rd Degree: Sexual intercourse or intrusion with someone who is mentally defective or mentally incapacitated, or when someone age 16 or older assaults someone less than 16 who is at least 4 years younger than the perpetrator and not married to him/her. *Penalty:* An indeterminate term of not less than 1 nor more than 5 years in a state correctional facility; and/or a fine of not more than \$10,000.

There is no statute of limitations for felony sex offenses (all degrees of sexual assault and 1st degree sexual abuse); 2nd and 3rd degree sexual abuse must be charged within 1 year after the offense was committed (*WVC§61-11-9*).

Sexual Exploitation means a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse, or Non-Consensual Sexual Contact. The term includes, but is not limited to, the following situations:

Sexual voyeurism, such as watching a person undressing, using the bathroom or engaging in sexual acts without the consent of the person observed;

Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent, such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent;

Sexual Harassment means any unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual/gendered-related nature. A form of sexual harassment occurs when submission to such conduct is made either explicitly or implicitly, a term or condition of an individual's employment or academic status, submission to or rejection of such conduct by an individual is used as the basis of employment or academic decisions affecting such individual, or such conduct creates a hostile environment.

Sexual Offenses means any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the complainant is incapable of giving consent.

A forcible sexual offense is any sexual act directed against another person, including unwanted touching, that is against that person's will or which involves the use of force, violence or the threat of force or violence, or a sexual act against a person incapable of giving consent. Forcible sexual offenses include sexual assault, sodomy, sexual assault with an object, and all forms of nonconsensual touching such as fondling.

Non-forcible sexual offenses are acts of unlawful sexual activity against persons incapable of giving consent, such as statutory sexual assault. Acts which are commonly expressive of familiar or friendly affection and accepted medical purposes are not included.

Sexual Penetration means vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation by mouth to genital contact or genital to mouth contact.

Sexual Touching means any bodily contact with the breasts, groin, genitals, mouth or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

Stalking means a course of conduct (i.e., repetitive and/or menacing pursuit, following, harassment and/or interference with the peace and/or safety of another) directed at a specific person that is unwelcome and would cause a reasonable person to feel fear.

Third Party refers to any other participant in the process, including an individual who makes a report, participates in an investigation or judiciary process as a witness, or is affected by a prohibited conduct.

Title IX Coordinator is the Chief Human Resources Officer.

Protective Measures:

There are many things we can do to assist us in lessening the chance for interpersonal violence. Always be alert and aware of your surroundings, especially at night. Walk in well lighted areas. Avoid walking close to alleys, doorways and bushes. If possible, walk in pairs or a group. If you must walk at night, wear clothes and shoes that don't restrict movement. If possible, avoid carrying bulky items. Always have your key in hand when approaching your parked vehicle. Before opening a car door, look into the vehicle. Check out both the front and back seat areas. Once in the car, lock the doors. Drive with the windows up or slightly open until you are safely on the open road.

Students dealing with interpersonal violence can ask for special accommodations to help protect the complainant from the respondent while the complainant is on campus or if the respondent seeks special accommodations to help protect the respondent. These will be handled on a case by case basis.

Reporting Procedure:

Any interpersonal violence can be reported to any employee of the College. Any complaint of an interpersonal violence or any employee who receives a report of an incident will report the incident to a College Administrator.

Four options in reporting an interpersonal violence:

1. Report assault but choose not to pursue charges.
2. Report assault and pursue internal (College) charges.
3. Report assault and pursue criminal charges.

4. Report assault and pursue both internal (College) and criminal charges.

The College's Interpersonal Violence resources are updated each year and a listing is available at each campus service center and on the website.

Interpersonal violence cases that indicate a danger to the campus community as a whole will be forwarded to the Campus Safety Executive Team for release to protective notification to the campus community; the complainant will not be identified.

Reporting Procedures Related to Minors:

In compliance with state reporting mandates, all employees who become aware of or suspect child abuse, sexual abuse of minors, and/or criminal acts against minors will report that information to a College Administrator, who will report suspected cases of child abuse to Child Protective Services and a law enforcement agency immediately, and within not more than 48 hours. Clery Act reporting of offenses for statistical purposes occurs whether victims are minors or adult.

What to do if you are sexually assaulted:

Go to a safe place. For your own protection, call the police immediately, especially if the assailant is still in the immediate area. The police will help you whether or not you choose to prosecute the assailant. Call a friend or family member for support.

Seek medical attention immediately. The primary purpose of a medical examination following a sexual assault is to check for physical injury, the presence of sexually transmitted diseases or pregnancy as a result of the sexual assault. The secondary purpose of a medical examination is to aid in the police investigation and legal proceedings. So get medical attention as quickly as possible.

Do not wash. Don't bathe or douche. Bathing or douching might be the first thing you want to do. You might literally be washing away valuable evidence. Wait until you have an examination.

Preserve all physical evidence. Save your clothing. It is alright to change clothes. But save what you were wearing. Your clothing could be used as evidence for prosecution. Place each item of clothing in a separate paper bag for police.

Report the incident to the police

It is up to you, but reporting a sexual assault isn't the same thing as prosecuting a sexual assault. Prosecution can be determined later. Contact police by calling 911. College Administrators are willing and able to assist complainants in getting them information on how to report incidents to the proper authorities. If you are a complainant of an interpersonal violence and decide not to notify the police, please secure medical attention. The College will assist the complainant by providing a list of supporting agencies. You are not required to notify the police or the College.

At this time, the College does not provide campus services for counseling or mental health related to interpersonal violence. Please refer to the resource guide provided on each campus for Victim Assistance information.

The campus will investigate interpersonal violence complaints in accordance with the College rules and regulations. Both the complainant and the respondent are entitled to the same opportunities to have others present during the hearing process, and each will be notified of the final determination and any sanction on the respondent (only of the campus disciplinary process). The College will work with the complainant to make reasonable accommodations to the student's schedule as a result of the alleged offense.

Disciplinary Action

Offenses of interpersonal violence can result in a final determination of disciplinary action and the College may impose a maximum sanction of expulsion for the actions of sexual assault, acquaintance sexual assault or other forcible or non-forcible sex offenses for the first offense or any subsequent offenses.

The College may impose the following disciplinary actions after a final determination regarding sexual assault, domestic violence, dating violence, sexual assault, or stalking. These sanctions will be in addition to criminal or civil penalties imposed by federal or state courts.

1. Disciplinary Warning
2. Disciplinary Probation
3. Disciplinary Suspension
4. Disciplinary Expulsion

Please see the Student Code of Conduct for the explanation of the disciplinary sanctions.

Confidentiality

The College treats all information shared about a reported incident of interpersonal violence, including information shared during an investigation and the discipline process as confidential. This means information gathered through an investigation and this discipline process will only be shared with others on a need-to-know basis. Those who participate in an investigation and/or the discipline process should respect the confidentiality of the process and any information shared throughout. The College respects the privacy of those reporting prohibited conduct and will endeavor to respect requests for confidentiality to the extent permissible by law.

However, the College has certain legal obligations to address this conduct and to prevent its recurrence and, as a result, cannot guarantee confidentiality to a complainant in all cases.

Federal Timely Warning Obligations

Complainants of interpersonal violence should be aware that the College's administrators must issue timely warnings to the College community for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. No such warning will identify a complainant or contain information that could do so unless permitted by the complainant.

Full Disclosure

The College promptly investigates all complaints of alleged violations of the College's Interpersonal Violence Rule. Students and employees are expected to cooperate fully and truthfully with any investigation and/or the discipline process. The College may use a Title IX assessment or investigation and/or disciplinary action, as appropriate to the situation.

Investigation Process

The College will conduct procedures that provide a prompt, fair and impartial investigation and resolution. Upon receipt of information about an alleged incident of interpersonal violence, the College has the obligation to investigate and may pursue disciplinary action regardless of whether the Complainant files a complaint. This investigation will be conducted by individuals who receive training annually on issues related to domestic violence, dating violence, sexual assault and stalking and will be coordinated by the Title IX Coordinator, Peggy Carmichael, who is available by telephone at 304-214-8901, email at pcarmichael@wvnc.edu, or in person at 1704 Market Street, Wheeling, WV, 26003, Wheeling campus, B&O building, Room 125, Human Resources Office. An investigation may begin prior to the receipt of a formal complaint, or it may occur if a formal complaint is not made. The College may also include a disciplinary process related to an event following the College's Student Code of Conduct policy (available in the Student Handbook on the College's website), including the steps listed below. The students and employees are expected to cooperate fully and truthfully with any investigation and/or the discipline process.

Protection from Retaliation

The College does not tolerate retaliation or discrimination against any person and/or persons who brings forward a complaint, who cooperates in the investigation of a complaint, or who participates in the discipline process for an alleged violation of the Interpersonal Violence Rule. Anyone who believes he/she has been retaliated against as a result of his/her involvement with an investigation and/or discipline process for an alleged violation of the Interpersonal Violence Rule should immediately report the alleged retaliation to the Title IX Coordinator, Peggy Carmichael, who is available by telephone at 304-214-8901, email at pcarmichael@wvnc.edu, or in person at 1704 Market Street, Wheeling, WV, 26003, Wheeling campus, B&O building, Room 125, Human Resources Office. An independent investigation will be conducted, and appropriate disciplinary action will be taken.

Dishonest or Frivolous Complaints

If a complainant is found to have been intentionally or maliciously dishonest, reckless, or frivolous in making the allegations, the complainant shall be subject to appropriate disciplinary action.

Rights of Those Involved

Rights of the Complainant (the person making the complaint of an alleged violation)

- The right to make a complaint that will initiate the College's discipline process
- The right to an explanation of the options available to them
- The right to an adjustment to their academic schedule if such changes are reasonably available
- The right to the confidentiality of the discipline process to the extent possible
- The right to request that the College instruct the Respondent not to have contact with the Complainant as an interim measure during the discipline process
- The right to file a police report and take legal action separate from and/or in addition to the College discipline process
- The right to know, in advance, the names of all persons to be called in the hearing
- The right to be present throughout the hearing and to inspect all statements and materials presented
- The right to speak and present information on one's own behalf
- The right to be informed of the outcome of the hearing in a timely manner

Rights of the Respondent (the person charged with an alleged violation)

- The right to an explanation of the charges and the discipline process
- The right to receive a copy of the complaint filed against them
- The right to the confidentiality of the discipline process to the extent possible
- The right to an adjustment to their academic schedule if such changes are reasonably available
- The right to request that the College instruct the Complainant not to have contact with the Respondent as an interim measure during the discipline process

- The right to know, in advance, the names of all persons to be called in the hearing
- The right to be present throughout the hearing and to inspect all statements and materials presented
- The right to speak and present information on one's own behalf
- The right to be informed of the outcome of the hearing in a timely manner

Filing a Complaint

Complainants are encouraged to file a complaint promptly, and it is expected that complaints will be filed by current students. To file a complaint and initiate the College's discipline process for an alleged violation of this policy, contact a College administrator and her/she will explain the complaint procedures. Students with a protective order, restraining order, no contact order or similar order issued by a criminal, civil or tribal court should bring a copy of that document to the Campus Security Liaison Officer in Wheeling, the Campus Dean in Weirton or New Martinsville or their designee for review and evaluation of an individualized plan based on the review.

The College promptly investigates all complaints of alleged violations of the College's Interpersonal Violence Rule. While there is no deadline for filing a complaint, in order for a hearing to occur, the Respondent must be enrolled at the College at the time the complaint is made and throughout the hearing process. The College will, however, investigate all complaints made by students who are no longer enrolled at the College. The investigation of such complaints may or may not take the form of a hearing as described below. The Judicial Board will use a preponderance of the evidence standard to determine responsibility.

The following Complaint Resolution procedures apply to complaints of alleged violations of the Interpersonal Violence Rule where the Complainant is a student. Please consult with Human Resources for the procedures for cases in which the Complainant is an employee or a student employee.

The Complainant and the Respondent may invite a support person to accompany them through all parts of the College complaint resolution procedure.

Investigation related to student disciplinary action

The College will conduct procedures that provide a prompt, fair and impartial investigation and resolution. A disciplinary hearing is conducted by a Judicial Board which is trained annually and the process is administered by College officials who are trained annually on issues related to domestic violence, dating, violence, sexual assault and stalking, as well as how to conduct a hearing process and that protects complainant's safety and promotes accountability.

A. The Complainant will be asked to submit a written statement of the incident.

B. The Respondent must submit a written response to the complaint within a reasonable time frame, as determined by the hearing process.

C. The College through its investigative process will review all information and seek out related information as applicable.

Next Steps for student disciplinary hearing process

A. The hearing coordinator may instruct both the Complainant and the Respondent to refrain from contact with each other outside of the hearing process until the investigation and the hearing process are completed. This “no contact” instruction will include prohibiting indirect contact via phone, electronic means, or through other people. Failure to comply with these instructions will result in disciplinary action by the College.

B. The Executive Safety Committee or designee will determine whether the Respondent may be a danger to the community. If it is determined that the Respondent may be a danger to the community, appropriate action will be taken until the investigation and discipline process are completed including Interim Suspension of the student.

C. The hearing coordinator will ask the Complainant and the Respondent for the names, phone numbers, and mailing and e-mail addresses of their adviser and witnesses, if applicable.

D. All witnesses are asked provide a written statement containing the information they have about the alleged incident to the hearing process. The hearing process will establish a deadline for the submission of witness statements and other evidence.

E. The hearing coordinator will distribute copies of all statements and any other evidence, including any Security or local police investigative reports, to the Judicial Board, the Complainant, and the Respondent before the hearing.

F. If a statement or evidence is introduced after the deadline but before the hearing, the hearing process will determine whether it is relevant and whether its belated introduction is for good reason. The hearing process may admit the statement or evidence and, if necessary, may reschedule the hearing to allow both parties and the Judicial Board time to review the new information.

Hearing Procedure

A. The hearing coordinator will include reasonable efforts to schedule the hearing in a timely manner. The hearing coordinator will be part of the entire hearing process but is a non-voting part of the hearing process.

B. The hearing coordinator will include every reasonable effort to secure a space for the hearing that is appropriate, private, and provides sufficient places for the parties to confer and the witnesses to wait.

C. The hearing shall be closed to all but the hearing coordinator, the Judicial Board, the Complainant, the Respondent, the advisers of both the Complainant and Respondent, and the witnesses (during their respective interviews).

D. All speakers must be recognized by the hearing process prior to their speaking. No interruptions will be tolerated.

E. Both the Complainant (or Designee but not both) and the Respondent (or Designee but not both) may ask questions about all information shared during the hearing. The Judicial Board Chair will determine whether a question is relevant. The Judicial Board Chair's decision on such matters is final.

F. If a new statement or evidence is introduced at the hearing, the Judicial Board Chair will determine whether it is relevant and whether its introduction at the hearing is for good reason. The Judicial Board Chair may admit the new statement or evidence and, if necessary, may grant a recess or reschedule the hearing to allow both parties and the Judicial Board time to review the new information.

G. Brief breaks will be taken at the request of either party or the Judicial Board. The Judicial Board Chair will determine the reasonableness of requests for breaks.

H. Hearing Outline: Generally, hearings will follow the order of business listed below. Variations may occur depending on the circumstances of an individual case.

1. The Judicial Board Chair makes introductions.
2. The Judicial Board Chair explains the hearing process.
3. The Complainant may make an opening statement in addition to his or her written statement.
4. The Respondent may make an opening statement in addition to his or her written statement.
5. The Complainant answers questions from the Judicial Board and the Respondent.
6. The Respondent answers questions from the Judicial Board and the Complainant.
7. The witnesses provide their statements and answer questions from the Judicial Board, the Complainant, and the Respondent, one at a time.
8. The Judicial Board may pose further questions to the Complainant and the Respondent.
9. The Complainant may make a final statement.
10. The Respondent may make a final statement.

11. The Judicial Board Chair dismisses all participants.

Deliberation and Decision Making

Upon completion of the hearing, the Judicial Board will deliberate in private to determine if any violation(s) of the policy occurred and what the specific violation is. The Judicial Board will use a preponderance of the evidence standard to determine responsibility. If it is not possible for the Judicial Board to make a decision the same day as the hearing, the panel will reconvene as soon as possible and shall meet until a decision is reached.

The Judicial Board will base its decision on the hearing, participants' written statements, the investigative report, and information shared during the hearing. The Judicial Board will determine whether the Respondent is:

Not Responsible: The Respondent will be found not responsible when the Judicial Board determines that it is more likely than not that the alleged behavior did not occur and/or the alleged behavior occurred but was not in violation of College policy.

OR

Responsible: The Respondent will be found responsible when the Judicial Board determines that it is more likely than not that the alleged behavior did occur and that the behavior was in violation of College policy.

Notification of Decision

If the Respondent is found not responsible from the hearing decision, a letter will be sent to both the Respondent and the Complainant.

If the Respondent is found responsible, the Judicial Board will determine sanctions; the Judicial Board may include the Respondent's prior conduct history, if any. A letter will be sent to both the Respondent and the Complainant.

Copies of the hearing decision letter may be sent to others as needed depending on the nature of any sanctions.

Sanctions

Note: The College may impose an Interim Suspension or interim measures based on the health or safety of members of the College community during the investigation and through the hearing process until a final decision is completed.

If the Respondent is found responsible for violating the Interpersonal Violence Rule, the Judicial Board may impose one or more of the following sanctions as indicated for the specific violation. If more than one type of violation of the Interpersonal Violence Rule occurred, the Respondent will be sanctioned accordingly:

For a finding of Interpersonal Violence Rule:

- Disciplinary Warning
- Disciplinary Probation, which may include restriction from particular buildings, areas of campus, and/or College activities
- Disciplinary Suspension from the College for a minimum of one semester
- Disciplinary Expulsion

In addition to the above sanctions, the Judicial Board reserves the right to invoke additional requirements.

Appeal

A. Both the Respondent and the Complainant may appeal the Judicial Board's decision. An appeal must be made in writing within five business days of receipt of the Judicial Board's decision letter.

B. Upon receipt of an appeal, an Appeals Committee will be selected to review the appeal from within the original Hearing Committee.

C. Both the Complainant and the Respondent will be notified if either party submits an appeal and may themselves submit a written response for the Appeals Committee to consider. The hearing process will determine an appropriate deadline by which a response must be submitted in order for it to be considered by the Appeals Committee.

D. An appeal may be made on one or more of the following grounds only:

1. There was a process or procedural error made that was significant to the outcome of the hearing as it affects the student appealing.
2. New information, not available or known to the student appealing at the time of the hearing, has arisen, which, when considered, may materially alter the outcome. Note: Information that the appealing student chose not to present at the time of the hearing is not considered new information.
3. The sanctions were not appropriate for the specific policy violation for which the Respondent was found responsible.

E. An appeal is not a new hearing, and the Appeals Committee (a subset of the original Hearing Committee) will meet alone.

F. The Appeals Committee will consider the merits of the appeal based only on the written appeal request, the hearing recording and the written record of the case, and the Respondent's prior conduct history (if the appeal is based on the appropriateness of the sanction) in making its decision. Based on these materials, the Appeals Committee will:

1. reject the appeal if the committee finds that the grounds for an appeal are unsubstantiated; or
2. reject the appeal if the committee finds that any procedural errors were minor in nature and would not have altered the outcome of the hearing or the sanctions imposed; or
3. modify the sanction(s) if they are found to be inappropriate; or
4. Return the case to the Judicial Board for further deliberation if new information, as defined above, has arisen (In such cases the original Judicial Board will be reconvened as soon as possible. If a member of the original panel is no longer available, the hearing process will select a new member from the Judicial Board; or
5. Remand the case to a different Judicial Board for a new hearing when a substantial procedural error is determined to have occurred and has unfairly influenced the original hearing.

G. Once the Appeals Committee has made its decision, the Respondent, the Complainant, and the Judicial Board will be notified of its decision in writing.

H. The Appeals Committee's decision is final, and there are no further appeals permitted by either party.

Record of Process

A. An audio recording will be made of the hearing for the use of the Judicial Board and the Appeals Committee.

B. The audio recording and copies of all statements, evidence, and letters associated with the hearing will be maintained by the Vice President of Student Services in a case file in accordance with the College's record retention policy for a period of seven years after the conclusion of the case.

C. The hearing decision letter and the appeal decision letter, if applicable, will be kept in the student's permanent record.

Awareness Programs

All new students, newly hired employees and existing employees will be trained in primary prevention and awareness programs relating to sexual misconduct, domestic violence, stalking, dating violence, and related offenses.

At a minimum, that training will inform on the nature of prohibited conduct, the definitions of various prohibited behaviors, the definition of "consent" as applied by the institution, safe and positive options for bystander intervention in risky situations, means

of recognizing signs of domestic violence and abusive behavior and ongoing prevention and awareness related issues.

In addition, that training will inform attendees of the relevant provisions of this rule for purpose of recognizing reporting instances of prohibited conduct.

The institution will provide ongoing training, programs, and preventions campaigns throughout the academic year. Programs and campaigns will include and are not limited to domestic violence, dating violence, sexual assault, stalking, bystander intervention, consent, and other related interpersonal violence topics. Educational information will be made available regarding risk reduction and recognizing warning signs of abusive behavior and how to avoid potential attacks.