

# Washburn University Student Conduct Code

**TABLE OF CONTENTS**

<b>Preface.....</b>	<b>iii</b>
<b>Section 1: Philosophy Statement.....</b>	<b>1</b>
<b>Section 2: Jurisdiction and Definitions .....</b>	<b>2</b>
<b>Section 3: Violations of the Law.....</b>	<b>4</b>
<b>Section 4: Standards of Conduct.....</b>	<b>5</b>
<b>Section 5: Overview of the Student Conduct Process.....</b>	<b>10</b>
<b>Section 6: Student Conduct Appeals.....</b>	<b>13</b>
<b>Section 7: Student Conduct Procedures.....</b>	<b>16</b>

## PREFACE

### Washburn University Core Values

- **Integrity:** acting in an honest, fair, and ethical manner, creating a culture of trust evident in all University activities and decision-making.
- **Excellence:** serving our scholarly community by delivering consistently high-quality programs, teaching, service, and scholarship.
- **Inclusion:** cultivating and inclusive learning, living, and working community, facilitating the success of all people, and supporting all individuals.
- **Accountability:** ensuring academic, programmatic, and fiscal integrity and value through prudent management of resources entrusted to the University.
- **Respect:** embracing diversity and treating others collegially with civility, openness, and professionalism in all interactions, activities, and decision-making.
- **Collaboration:** working toward common goals with others in the University and the community while valuing teamwork, participation, and diversity of ideas and perspectives.
- **Innovation:** encouraging, considering, and supporting development of ideas by fostering individual ingenuity and creativity and creating an environment with opportunities for growth and change.

### Washburn University Motto

**Non Nobis Solum**  
**“Not for ourselves alone”**

Washburn University values the uniqueness of each member of our community and expects each individual to treat others with respect and dignity.

**Washburn students are responsible for knowing the information, policies and procedures outlined in this document. Washburn University reserves the right to make changes to this code as necessary and once those changes are posted online, they are in effect. Students are encouraged to check online [www.washburn.edu/knowthecode](http://www.washburn.edu/knowthecode) for the updated versions of all policies and procedures.**

# Washburn University: Student Conduct Code

## SECTION 1: PHILOSOPHY STATEMENT

Washburn University is committed to fostering a campus environment that is conducive to academic inquiry, a productive campus life and thoughtful study and discourse. The student conduct program within the Office of Student Life is committed to an educational and developmental process that balances the interests of individual students with the interests of the University community.

A community exists on the basis of shared values and principles. At Washburn University, student members of the community are expected to uphold and abide by certain standards of conduct within a set of core values that include integrity, excellence, inclusion, accountability, respect, collaboration, and innovation. This expectation forms the basis of the Student Conduct Code. These standards are embodied in the idea that Washburn University students build and enhance their community, are just and equitable in their treatment of all members of the community, and act to discourage and/or intervene to prevent unjust and inequitable behaviors.

Each member of the Washburn University community bears responsibility for their conduct and assumes reasonable responsibility for the behavior of others. When members of the community fail to exemplify these six core values by engaging in behavior that violates the rules below, campus conduct proceedings are used to assert and uphold the Student Conduct Code.

The student conduct process at Washburn University is not intended to punish students; rather, it exists to protect the interests of the community and to challenge those whose behavior is not in accordance with our policies. Sanctions are intended to challenge students' moral and ethical decision-making and to help them bring their behavior into accord with our community expectations. When a student is unable to conform their behavior to community expectations, the student conduct process may determine that the student should no longer share in the privilege of participating in this community.

Students should be aware that the student conduct process is quite different from criminal and civil court proceedings. Procedures and rights in student conduct procedures are conducted with fairness to all, but do not include the same protections of due process afforded by the courts. Due process, as defined within these procedures, assures written notice and a hearing before an objective decision-maker. No student will be found in violation of Washburn University policy without information showing that it is more likely than not that a policy violation occurred and any sanctions will be proportionate to the severity of the violation and to the cumulative conduct history of the student.

## SECTION 2: JURISDICTION AND DEFINITIONS

“Washburn University” or “Washburn” or “University” shall mean Washburn University, including but not limited to its major academic and Student Life units and Washburn Institute of Technology (Washburn Tech).

The Associate Vice President for Student Life shall be the principal officer responsible for implementing the Student Conduct Code. The Associate Vice President for Student Life, or designee, shall provide due process for students by following the proper steps related to the initiation, investigation, and disposition of complaints against a student as outlined in this document. The Associate Dean of Student Services at Washburn Tech, or designee, shall serve as the officer responsible for enforcement of the Student Conduct Code for infractions by Washburn Tech students.

The term “Student Conduct Administrator” means a University official authorized on a case-by-case basis by the Associate Vice President for Student Life to determine whether a student has violated the Student Conduct Code and to impose sanctions upon any student(s) found to have violated the Student Conduct Code.

The term “Appeals Board” means any person or persons authorized by the Vice President for Student Life, or designee, to consider an appeal from a Student Conduct Administrator’s determination as to whether a student has violated the Student Conduct Code or from the sanctions imposed by the Student Conduct Administrator.

Students at Washburn University are provided a copy of the Student Conduct Code annually in the form of a link on Washburn University website. Hard copies are available upon request from the Office of Student Life. Students are responsible for having read and abiding by the provisions of the Student Conduct Code.

The Student Conduct Code and the student conduct process apply to the conduct of individual students at Washburn University, both undergraduate and graduate, Washburn Tech students, and all University-affiliated student organizations. Conduct of Washburn University law students is addressed via the Washburn University School of Law [Honor Code](#).

**Notice of Non-Discrimination:** Washburn University [prohibits discrimination](#) on the basis of race, color, religion, age, national origin, ancestry, disability, sex, sexual orientation, gender identity, genetic information, veteran status, or marital or parental status. The following person has been designated to handle inquiries regarding the non-discrimination policies: Dr. Pamela Foster, Equal Opportunity Director/Title IX Coordinator, Washburn University, 1700 SW College Ave, Topeka, Kansas 66621, 785-670-1509, [eodirector@washburn.edu](mailto:eodirector@washburn.edu).

Complaints of discrimination (harassment, sexual violence, and retaliation) are to be made to the Equal Opportunity Director/Title IX Coordinator. If such a complaint is filed with the Associate Vice President for Student Life, the complaint will be forwarded to the Equal Opportunity Director/Title IX Coordinator. Washburn University's non-discrimination policy and procedures can be found here: <http://washburn.edu/statements-disclosures/equal-opportunity/files/non-discrimination-policy.pdf>

For the purposes of student conduct, Washburn University considers an individual to be a student when an offer of admission has been extended and thereafter as long as the student has a continuing educational interest in Washburn University.

Washburn University retains conduct jurisdiction over students who choose to take a leave of absence, withdraw, or have graduated for any misconduct that occurred prior to the leave, withdrawal or graduation. If sanctioned, a hold may be placed on the student's account, which may affect their ability to re-enroll and/or obtain official transcripts and/or graduate. To be eligible to re-enroll, all sanctions must be satisfied. In the event of serious misconduct, committed while still enrolled but reported after the Respondent has graduated, Washburn University may invoke these procedures. Should the former student be found in violation of the Student Conduct Code, Washburn University may revoke that student's degree.

The Student Conduct Code applies to behaviors that take place on the campus, at Washburn University-sponsored events and may also apply off-campus when the Associate Vice President for Student Life, or designee, determines that the off-campus conduct affects a substantial University interest. A substantial University interest is defined to include:

- Any situation where it appears that the student's conduct may present a danger or threat to the health or safety of him/herself or others; and/or
- Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational mission and/or interests of Washburn University;

The Student Conduct Code may be applied to behavior conducted online, via email or other electronic medium. Students should also be aware that online postings such as blogs, web postings, chats and social networking sites are in the public sphere and are not private. These postings can subject a student to allegations of conduct violations if evidence of policy violations is posted online. Washburn University does not regularly search for this information but may take action if and when such information is brought to the attention of University officials. However, most online speech by students not involving University

networks or technology will be protected as free expression and not subject to this Code, with two notable exceptions:

- A true threat, defined as “a threat a reasonable person would interpret as a serious expression of intent to inflict bodily harm upon specific individuals”;
- Speech posted online about Washburn University or its community members that causes a significant on-campus disruption.

The Student Conduct Code applies to guests of Washburn students whose hosts may be held accountable for the misconduct of their guests. The Code may also be applied to resident non-students, campers, and high school bridge/extension/partner/dual-credit and continuing education programs by contractual agreements. Visitors to, and guests of, Washburn University may seek resolution of violations of the Student Conduct Code committed against them by Washburn students.

There is no time limit on reporting violations of the Student Conduct Code; however, the longer someone waits to report an offense, the harder it becomes for University officials to obtain information and witness statements and to make determinations regarding alleged violations.

Though anonymous complaints are permitted, doing so may limit Washburn University’s ability to investigate and respond to a complaint. Those who are aware of misconduct are encouraged to report it as quickly as possible to the Office of Student Life (785-670-2100) and/or to the Washburn University Police Department (785-670-1153).

A responding student facing an alleged violation of the Student Conduct Code will not cause an investigation to be terminated by withdrawing from the University. A responding student who does withdraw will still be given the same notice and opportunity to participate in the investigation as though he/she were still a student at Washburn.

University email is Washburn University’s primary means of communication with students. Students are responsible for all communication delivered to their University email address.

### **SECTION 3: VIOLATIONS OF THE LAW**

Alleged violations of federal, state and local laws may be investigated and addressed under the Student Conduct Code. When an offense occurs, over which Washburn University has jurisdiction, Washburn University’s conduct process will usually go forward notwithstanding any criminal complaint that may arise from the same incident.

Washburn University reserves the right to exercise its authority of interim suspension upon notification that a student is facing criminal investigation and/or complaint (additional grounds for interim suspension are outlined below, on p. 17-18). Interim suspensions are imposed until a hearing can be held, typically within two weeks. Within that time, the suspended student may request an immediate hearing from the Associate Vice President for Student Life to show cause why the interim suspension should be lifted. This hearing may resolve the allegation, or may be held to determine if the interim suspension should be continued. The interim suspension may be continued if a danger to the community is posed and Washburn University is delayed or prevented from conducting its own investigation and resolving the allegation. In such cases, the University will only delay its hearing until such time as it can conduct an internal investigation or obtain sufficient information independently or from law enforcement upon which to proceed.

## SECTION 4: STANDARDS OF CONDUCT

### A. Core Values and Behavioral Expectations

Washburn students are expected to conduct themselves in a manner that is consistent with the core values of the University as well as the principles of social justice and community. Washburn University considers the behavior described in the following sub-sections as inappropriate and in opposition to the core values of the University as well as the principles of social justice and community.

Washburn University encourages individuals to report to University officials all incidents that involve the following actions.

Any student found to have committed or to have attempted to commit misconduct described under the following headings is subject to the sanctions outlined in Section 7.

1. **Falsification.** Knowingly furnishing or possessing false, falsified or forged materials, documents, accounts, records, identification or financial instruments;
2. **Academic Dishonesty/Impropriety.** Acts of academic dishonesty/impropriety as outlined in the Section 7 of the [Faculty Handbook](#);
3. **Collusion.** Action or inaction with another or others to violate the Student Conduct Code;
4. **Election Tampering.** Tampering with the election of any University-recognized student organization (minor election code violations are addressed by the WSGA);



5. **Taking of Property.** Intentional and unauthorized taking of University property or the personal property of another, including goods, services and other valuables. This includes retaining without consent or refusing to return someone's property after having gained consent to possess it for a temporary period of time. As an example, if a person lets a student look at their phone to read a text message and then the phone owner asks for the phone back, failure to return the phone at that time would be a violation of this provision;
6. **Stolen Property.** Knowingly taking or maintaining possession of stolen property;
7. **Disruptive Behavior.** Substantial disruption of University operations including obstruction of teaching, research, administration, other University activities, and/or authorized non-University activities which occur on campus;
8. **Rioting.** Causing, inciting or participating in any disturbance that presents a clear and present danger to self or others, causes physical harm to others, or damage and/or destruction of property;
9. **Unauthorized Access/Entry.** Misuse of, or unauthorized access to, University premises or unauthorized entry to or use of buildings, including trespassing, propping or unauthorized use of alarmed/locked doors for entry into or exit from a University building, unauthorized possession, duplication or use of means of access to any university building or failing to timely report a lost University identification card or key;
10. **Unauthorized use of Trademark.** Unauthorized use (including misuse) of University or organizational names and images. Please reference Washburn University's [trademark licensing regulations and procedures](#) for detailed information;
11. **Damage and Destruction.** Intentional, reckless and/or unauthorized damage to or destruction of University property or the personal property of another;
12. **Gambling.** Gambling as prohibited by the laws of the State of Kansas. Gambling may include raffles, lotteries, sports pools and online betting activities;
13. **Weapons.** Possession, use, or distribution of explosives (including fireworks and ammunition), guns (including air, BB, paintball, facsimile weapons and pellet guns), or other weapons or dangerous objects such as arrows, axes, machetes, nun chucks, throwing stars, or knives with a blade of longer than four (4) inches, including the

storage of any item that falls within the category of a weapon in a vehicle parked on University property<sup>1</sup>;

14. **Violation of Fire Safety Standards.** Violation of local, state, federal or campus fire policies including, but not limited to:
  - a. Intentionally or recklessly causing a fire which damages University or personal property or which causes injury.
  - b. Failure to evacuate a University-controlled building during a fire alarm;
  - c. Improper use of University fire safety equipment; or
  - d. Tampering with or improperly engaging a fire alarm or fire detection/control equipment while on University property. Such action may result in a local fine in addition to University sanctions;
  
15. **Ineligible Pledging or Association.** Pledging or associating with a student organization without having met eligibility requirements established by the University.
  
16. **Unauthorized Use or Possession of Animals.** Animals, with the exception of animals that provide assistance (e.g. service animals or approved emotional assistance animals), and pets as outlined in the Residential Living Handbook, are not permitted on campus except as permitted by law.
  
17. **Discrimination.** Any act or failure to act that is based upon an individual or group's actual or perceived status (sex, gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion, or sexual orientation, or other protected status) that is sufficiently severe in that it limits or denies the ability to participate in, or benefit from, Washburn University's educational program or activities. Complaints alleging violation of item 17 are to be made to the Equal Opportunity Director/Title IX Coordinator.
  
18. **Harassment.** Any unwelcome conduct based on actual or perceived status including: sex, gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion, sexual orientation or other protected status. Any unwelcome conduct should be reported to campus officials, who will act to remedy and resolve reported incidents on behalf of the victim and

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<sup>1</sup> Subject to statutorily conveyed rights to carry/possess weapons on campus and/or in locked vehicles on campus.

community. Complaints alleging violation of item 18 are to be made to the Equal Opportunity Director/Title IX Coordinator.

- a. Hostile Environment. Sanctions can and will be imposed for the creation of a hostile environment only when harassment is sufficiently severe, pervasive (or persistent) and objectively offensive that it unreasonably interferes with, limits or denies the ability to participate in or benefit from Washburn University's educational or employment program or activities<sup>2</sup>.

**19. Retaliatory Discrimination or Harassment.** Any intentional, adverse action taken by a responding individual or allied third party, absent legitimate nondiscriminatory purposes, against a participant or supporter of a participant in a civil rights grievance proceeding or other protected activity under this Code. Complaints alleging violation of item 19 are to be made to the Equal Opportunity Director/Title IX Coordinator.

**20. Abuse of Conduct Process.** Abuse or interference with, or failure to comply in, University processes including conduct and academic integrity hearings including, but not limited to:

- a. Falsification, distortion, or misrepresentation of information;
- b. Failure to provide, destroying or concealing information during an investigation of an alleged policy violation;
- c. Attempting to discourage an individual's proper participation in, or use of, the campus conduct system;
- d. Harassment (verbal or physical) and/or intimidation of a member of a campus conduct body prior to, during, and/or following a campus conduct proceeding;
- e. Failure to comply with the sanction(s) imposed by the campus conduct system;
- f. Influencing, or attempting to influence, another person to commit an abuse of the campus conduct system.

**21. Harm to Persons.** Intentionally or recklessly causing physical harm or endangering the health or safety of any person.

**22. Threatening Behaviors:**

- a. **Threat.** Written or verbal conduct that causes a reasonable expectation of injury to the health or safety of any person or damage to any property.

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<sup>2</sup> This policy attempts to balance the need of the community to create a civil climate while also embracing the 1<sup>st</sup> Amendment protection that attaches to most harassing speech that is simply offensive.

- b. **Intimidation.** Intimidation defined as implied threats or acts that cause a reasonable fear of harm in another.
23. **Bullying and Cyberbullying.** Bullying and cyberbullying are repeated and/or severe aggressive behaviors that the student knew or should have known would intimidate, intentionally harm or control another person physically or emotionally, and are not protected by freedom of expression.
24. **Hazing.** Defined as an act that endangers the mental or physical health or safety of a student, or that destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. Participation or cooperation by the person(s) being hazed does not excuse the violation. Failing to intervene to prevent and/or failing to discourage and/or failing to report those acts may also violate this policy.
25. **Intimate Partner/Relationship Violence.** Violence or abuse by a person in an intimate relationship with another. Complaints alleging violation of item 25 are to be made to the Equal Opportunity Director/Title IX Coordinator.
26. **Stalking.** Stalking is a course of conduct directed at a specific person that is unwelcome and would cause a reasonable person to feel fear. Complaints alleging violation of item 26 are to be made to the Equal Opportunity Director/Title IX Coordinator.
27. **Sexual Misconduct.** Includes, but is not limited to, sexual harassment, non-consensual sexual contact, non-consensual sexual intercourse, and/or sexual exploitation. Complaints alleging violation of item 27 are to be made to the Equal Opportunity Director/Title IX Coordinator.
28. **Public Exposure.** Includes deliberately and publicly exposing one's intimate body parts, public urination, defecation, and public sex acts.
29. **Alcohol.** Use, possession, distribution, or being under the influence of alcoholic beverages or paraphernalia except as expressly permitted by law on University premises or at University-sponsored events or except when explicitly authorized by Washburn University Policies, Regulations and Procedures. Persons having control

of and/or in the area in which and when the prohibited beverage is found shall be charged with violating this section of the Student Conduct Code.

30. **Drugs.** Use, possession, distribution or being under the influence of illegal drugs and/or other controlled substances or drug paraphernalia except as expressly permitted by law on University premises or at University-sponsored events. Persons having control of and/or in the area in which and when the prohibited substance is found shall be charged with violating this section of the Student Conduct Code.
31. **Unauthorized/Illegal Use of Prescription Medications.** Misuse, sale, or distribution of prescription or over-the-counter medications;
32. **Failure to Comply.** Failure to comply with the reasonable directives of University officials or law enforcement officers during the performance of their duties and/or failure to identify oneself to these persons when requested to do so;
33. **Financial Responsibilities.** Failure to promptly meet financial responsibilities to the institution, including, but not limited to; knowingly passing a worthless check or money order in payment to the institution or to an official of the institution acting in an official capacity.
34. **Failure to Comply With Other Policies and Regulations.** Violating other published University policies or rules, including but not limited to all Residential Living policies, Acceptable Use of Technology Resources Policy, Tobacco Use Policy, and Policy on Skateboards, Skates and Bicycles.
35. **Health and Safety.** Creation of health and/or safety hazards (dangerous pranks, hanging out of or climbing from/on/in windows, balconies, roofs, etc.)
36. **Violations of Law.** Evidence of violation of local, state or federal laws, when substantiated through Washburn University's conduct process.

## SECTION 5: OVERVIEW OF STUDENT CONDUCT CODE PROCESS

This overview gives a general idea of how Washburn University's campus conduct process works, but it should be noted that not all situations are of the same severity or complexity. Thus, student conduct procedures are flexible, and are not exactly the same in every situation, though consistency in similar situations is a priority. More detailed information about formal conduct procedures can be found in Section 7.

A. Any person may file charges against a student for violations of the Student Conduct Code. A charge shall be prepared in writing and directed to the Associate Vice President for Student Life. Alleged violations of the Student Conduct Code involving Washburn Institute of Technology students may be sent directly to the Associate Director, Student Services.

Incident reports filed with the University Police will be forwarded to the Associate Vice President for Student Life or the Associate Director, Student Services at the Washburn Institute of Technology for review and processing.

*Complaints of discrimination (harassment, sexual violence, and retaliation) are to be made to the Equal Opportunity Director/Title IX Coordinator. Washburn University's non-discrimination policies and procedures can be found here: <http://washburn.edu/statements-disclosures/equal-opportunity/files/non-discrimination-policy.pdf>*

B. The Student Conduct Administrator may conduct an investigation to determine if the charges have merit and/or if they can be disposed of administratively by mutual consent of the parties involved on a basis acceptable to the Student Conduct Administrator. Such disposition shall be final and there shall be no subsequent proceedings. If the charges are not admitted and/or cannot be disposed of by mutual consent, the Student Conduct Administrator will initiate the procedures detailed below. If the student admits violating institutional rules, but sanctions are not agreed to, subsequent process, including an appeal hearing if necessary, shall be limited to determining the appropriate sanction(s).

C. All charges shall be presented to the Respondent in written form. A time shall be set for a Student Conduct Hearing, not less than five (5) (unless all parties wish to proceed more quickly) nor more than fifteen (15) calendar days after the student has been notified. Maximum time limits for scheduling of Student Conduct Hearings may be extended at the discretion of the Student Conduct Administrator, and all parties will be so notified.

D. Student Conduct Hearings shall be conducted by a Student Conduct Administrator according to the following guidelines except as provided by Section 5, item G below:

1. Student Conduct Board Hearings normally shall be conducted in private.
2. The Complainant, Respondent, and their advisor(s), if any, shall be allowed to attend the entire portion of the Student Conduct Hearing at which information is received (excluding deliberations). Presence of any other person to the Student Conduct Hearing shall be at the discretion of the Student Conduct Administrator.
3. In Student Conduct Hearings involving more than one Respondent, the Student Conduct Administrator, in his or her discretion, may permit the Student Conduct Hearings concerning each student to be conducted either separately or jointly.

4. The Complainant and the Respondent have the right to be assisted by an advisor they choose, at their own expense. The Complainant and/or the Respondent is responsible for presenting his or her own information, and therefore, advisors are not permitted to speak or to participate directly in any Student Conduct Hearing. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the Student Conduct Hearing because delays will not normally be allowed due to the scheduling conflicts of an advisor.
5. The Complainant, the Respondent and the Student Conduct Administrator may arrange for witnesses to present pertinent information to the Student Conduct Administrator. The University will try to arrange the attendance of possible witnesses who are members of the University community, if reasonably possible, and who are identified by the Complainant and/or Respondent at least two (2) business days prior to the Student Conduct Hearing. Witnesses will provide information to and answer questions from the Student Conduct Administrator.
6. Questions may be suggested by the Respondent and/or Complainant to be answered by each other or by other witnesses. Such questions will be directed to the Complainant and/or Respondent or other witnesses by the Student Conduct Administrator rather than the Complainant and/or Respondent directly. This method is used to preserve the educational tone of the hearing and to avoid creation of an adversarial environment. Queries of whether potential questions will be asked shall be resolved at the discretion of the Student Conduct Administrator.
7. Pertinent records, exhibits, and written or video statements (including Student Impact Statements) may be accepted as information for consideration by a Student Conduct Administrator, at their discretion.
8. All procedural questions are subject to the final decision of the Student Conduct Administrator.
9. After the portion of the Student Conduct Hearing concludes in which all pertinent information has been received, the Student Conduct Administrator shall determine whether the Respondent has violated each section of the Student Code which the student is charged with violating.
10. The Student Conduct Administrator's determination shall be made on the basis of whether it is more likely than not that the Respondent violated the Student Conduct Code.
11. Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in Student Conduct Code proceedings.

E. There shall be a single verbatim record, such as an audio recording, of all Student Conduct Hearings before a Student Conduct Administrator (not including deliberations). Deliberations shall not be recorded. The record shall be the property of the University.

F. If a Respondent, with notice, does not appear for a Student Conduct Hearing, the information in support of the charges shall be presented and considered even if the Respondent is not present.

G. The Student Conduct Administrator may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the Complainant, Respondent, and/or other witness during the hearing by providing separate facilities, by using a visual screen, and/or by permitting participation by telephone, video conferencing, video recording, audio recording, written statement, or other means, where and as determined in the sole judgment of the Associate Vice President for Student Life to be appropriate.

H. The decision of the Student Conduct Administrator and the sanction(s), if applicable, shall be delivered orally upon conclusion of deliberations. The decision will also be reduced to writing and will be delivered via the student's address on file with the University and/or the Respondent's Washburn University email address. The Respondent is responsible for having accurate mailing information on file with the University.

## **SECTION 6: STUDENT CONDUCT APPEALS**

### **A. Appeals**

1. A decision reached by, or sanction imposed by, the Student Conduct Administrator may be appealed by the Respondent(s) or Complainant(s) to an Appeals Board within five (5) school days of the decision, barring exigent circumstances. Any exceptions are made at the discretion of the Associate Vice President for Student Life. Failure to file an appeal within the required time period will constitute, and will be construed as, full acceptance of the findings by all parties.

2. Except as required to explain the basis of new information, an appeal shall be limited to a review of the verbatim record of the Student Conduct Hearing and supporting documents. Appeal requests are limited to one or more the following grounds, which must be substantially addressed in the written appeal request:

- a. A procedural error occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.) Deviations from designated procedures will not be a basis for sustaining an appeal unless significant prejudice results.
- b. New information or other relevant facts not brought out in the original hearing, sufficient to alter a decision, are available, and such information and/or facts were



- not known to the person appealing at the time of the original Student Conduct Hearing.
- c. The sanction imposed was inappropriate for the violation of the Student Conduct Code which the student was found to have committed.
  - d. The decision was not supported by the preponderance of the evidence or is arbitrary, capricious, or unreasonable.
3. Appeal requests must be made in writing and shall be delivered to the Associate Vice President for Student Life.
4. Timely appeal requests will be shared with the other party (parties) when appropriate under procedure or law (e.g., if the Respondent appeals, the appeal is shared with the Complainant, who may wish to file a response, or request and appeal on the same grounds or different grounds). The other party will have five (5) school days to respond in writing to the appeal request.
5. If Associate Vice President for Student Life finds the appeal request not to be timely or substantively eligible, the original finding and sanction will stand.
6. Appeal requests found to be timely and substantively eligible will be forwarded to the Appeals Board for a hearing, typically within five (5) school days. All decisions of the Appeals Board are to be made within five (5) school days of the appeal being submitted to the Appeals Board.
7. In review, the original finding and sanction are presumed to have been decided reasonably and appropriately, thus the burden is on the appealing party(ies) to show clear error. The Appeals Board must limit its review to the challenges presented.
8. If an appeal is upheld by the Appeals Board, by majority vote, the matter shall be returned to the original Student Conduct Administrator for re-opening of the Student Conduct Hearing to allow reconsideration of the original determination and/or sanction(s). In cases where the original Student Conduct Administrator may be unduly biased by a procedural or substantive error, the case will be referred to a new Student Conduct Administrator for reconsideration.
9. On reconsideration, the Student Conduct Administrator may affirm or change the original findings and/or sanctions. Procedural or substantive errors should be corrected, new evidence should be considered, and sanctions should be proportionate to the severity of the violation and the student's cumulative conduct record.
10. If an appeal is not upheld, by majority vote of the Appeals Board, the original finding and sanction of the Student Conduct Administrator will stand.

11. A Respondent or Claimant disagreeing with the decision of the Associate Vice President for Student Life to not forward an appeal to the Appeals board, or who disagrees with the decision of the Appeals Board, or who disagrees with reconsideration of the Student Conduct Administrator, may make a final appeal to the Vice President for Student Life. Such appeals must be made in writing following the same guidelines as the original appeal. The decision of the Vice President for Student Life shall be final.

#### **A. The Appeals Board**

Three-member Appeals Boards are selected by the Associate Vice President for Student Life from an appeals board pool, with the following requirements to serve:

- 1) they did not participate in the initial hearing in any way
- 2) they were not involved in the investigation in any way
- 3) they have been properly trained in appeals procedures

Students serving on Appeals Boards must:

- 1) Be in academic good standing and have completed a minimum of fifteen (15) hours of academic credit at Washburn University, with a cumulative GPA of at least 2.0.
- 2) Be in good standing with respect to the conduct process throughout the term in which they serve. Good standing is defined as having no record of misconduct during the semester(s) in which a student wishes to serve on the panel, as well as not currently being on any probation. A serious history of misconduct could disqualify a student for service.

The Vice President for Student Life will have final authority to approve all those serving on Appeals Boards. The parties may challenge a member(s) of the Appeals Board on the basis of potential bias, and any board member who cannot render an impartial decision must recuse themselves. The Vice President for Student Life will make the determination as to the validity of any challenge or need for recusal. In the event of a recusal from the panel, the Vice President for Student Life will solicit a replacement from the pool of panelists.

The Associate Vice President for Student Life or designee serves as the non-voting advisor to the Appeals Board, with responsibility for training the board and ensuring a fair process for the Complainant and Respondent.

The presumptive stance of the University is that all decisions made and sanctions imposed by the original Student Conduct Administrator are to be implemented during the appellate process. At the discretion of the Associate Vice President for Student Life, implementation of sanctions may be stayed pending review, generally only in extremely exigent circumstances. This does not include proximity to graduation, end of term, or exams. Instead, it refers to an overwhelming likelihood, as determined by the Vice President for Student Life and Associate Vice President for Student Life, in consultation, that the appeal would result in a reversal of the finding and/or substantial modification of the sanctions.

## **B. Interpretation and Revision**

The Associate Vice President for Student Life will develop procedural rules for the administration of hearings that are consistent with provisions of the Student Conduct Code. Material deviation from these rules will, generally, only be made as necessary and will include reasonable advance notice to the parties involved, either by posting online and/or in the form of written communication. The Associate Vice President for Student Life may vary procedures with notice upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Code. The Associate Vice President for Student Life may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party. Any question of interpretation of the Student Conduct Code will be referred to the Associate Vice President for Student Life, whose interpretation is final. The Student Conduct Code will be updated annually under the direction of the Associate Vice President for Student Life with a comprehensive revision process being conducted every five (5) years.

## **SECTION 7: STUDENT CONDUCT PROCEDURES**

### **A. University as Convener**

Washburn University is the convener of every action under this code. Within that action, there are several roles. The responding student (Respondent) is the person who is alleged to have violated the Student Conduct Code. The party bringing the complaint (Complainant), who may be a student, employee, visitor, or guest, may choose to be present and participate in the process as fully as the Respondent. There are witnesses, who may offer information regarding the allegation. The Student Conduct Administrator will also serve as the investigator, whose role is to present the allegations and share the evidence that Washburn University has obtained regarding the allegations.

### **B. Group Violations**

A student group or organization and its officers and membership may be held collectively and individually responsible when violations of this code by the organization or its member(s):

- Take place at organization-sponsored or co-sponsored events, whether sponsorship is formal or tacit;
- Have received the consent or encouragement of the organization or of the organization's leaders or officers; or
- Were known or should have been known to the membership or its officers.

Hearings for student groups or organizations follow the same general student conduct procedures. In any such action, individual determinations as to responsibility will be made and sanctions may be assigned collectively and individually and will be proportionate to the involvement of each individual and the organization.

### C. Amnesty:

#### 1) For Victims

Washburn University provides amnesty to victims who may be hesitant to report to University officials because they fear that they themselves may be accused of lesser policy violations, such as underage drinking, at the time of the incident. Educational options will be explored and records regarding provision of amnesty will be maintained, but no conduct proceedings or conduct record will result.

#### 2) For Those Who Offer Assistance

To encourage students to offer help and assistance to others, Washburn University pursues a policy of amnesty for minor violations when students offer help to others in need. At the discretion of the Associate Vice President for Student Life, amnesty may also be extended on a case-by-case basis to the person receiving assistance. Educational options will be explored and records regarding the provision of amnesty will be maintained, but no conduct proceedings or conduct record will result.

#### 3) For Those Who Report Serious Violations

Students who are engaged in minor violations but who choose to bring related serious violations by others to the attention of Washburn University are offered amnesty for their minor violations. Educational options will be explored and records regarding the provision of amnesty will be maintained, but no conduct proceedings or record will result.

Abuse of amnesty requests can result in a decision by the Associate Vice President for Student Life not to extend amnesty to the same person repeatedly.

#### 4) Safe Harbor

Washburn University has a Safe Harbor rule for students. Washburn University believes that students who have a drug and/or addiction problem deserve help. If any Washburn University student brings their own use, addiction, or dependency to the attention of University officials outside the threat of drug tests or conduct sanctions and seeks assistance, a conduct complaint will not be pursued. A written action plan may be used to track cooperation with the Safe Harbor program by the student. Failure to follow the action plan will nullify the Safe Harbor protection and campus conduct processes will be initiated.

#### **D. Interim Measures**

Under the Student Conduct Code, the Associate Vice President for Student Life or designee may impose restrictions and/or separate a student from the community pending the scheduling of a student conduct hearing on alleged violation(s) of the Student Conduct Code. Generally interim measures are implemented when a student represents a threat of serious harm to others, is facing allegations of serious criminal activity, to preserve the integrity of an investigation, to preserve University property and/or to prevent disruption of, or interference with, the normal operations of Washburn University. Interim measures can include separation from the institution or restrictions on participation in the community pending the scheduling of a student conduct hearing on alleged violation(s) of the Student Conduct Code. A student who receives an interim suspension may request a meeting with the Associate Vice President for Student Life or designee to demonstrate why an interim suspension is not merited. Regardless of the outcome of this meeting, Washburn University may still proceed with the scheduling of a student conduct hearing.

During an interim suspension, a student may be denied access to University housing and/or Washburn University campus/facilities/events. As determined appropriate by the Associate Vice President for Student Life, this restriction may include classes and/or all other University activities or privileges for which the student might otherwise be eligible. At the discretion of the Associate Vice President for Student Life and with the approval of, and in collaboration with, the appropriate Dean(s), alternative coursework options may be pursued to ensure as minimal an impact as possible on the Respondent.

#### **J. Hearing Preparation**

Students for which a conduct hearing will be held will be given a minimum of five (5) days to prepare unless all parties wish to proceed more quickly. Preparation for a conduct hearing is summarized in the following guidelines:

- 1) Notice of the time, date and location of the hearing will be in writing and may be delivered by one or more of the following methods: in person by the Student Conduct Administrator, or designee; mailed to the local or permanent address of the student as indicated in official University records; or emailed to the student's University-issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered.
- 2) If there is an alleged victim of the conduct in question, the alleged victim may serve as the party bringing the complaint or may elect to have Washburn University administration serve as the party bringing the complaint forward. Where there is no alleged victim, Washburn University administration will serve as the party bringing the complaint forward.

- 3) If a responding student fails to respond to notice from the Student Conduct Administrator, or designee, the Student Conduct Administrator, or designee, may initiate a complaint against the student for failure to comply with the directives of a University official and give notice of this offense. Unless the student responds to this notice within two (2) business days by answering the original notice, a student conduct hearing may be scheduled and held on the student's behalf. As a result, the student may be administratively withdrawn from attending classes or a disciplinary hold may be placed on their University account, deeming them ineligible to register for courses or University housing and/or receive copies of transcripts until such time as the student responds to the initial complaint.
- 4) At least three (3) business days before any scheduled student conduct hearing, the following will occur:
  - a) The Respondent will deliver to the Student Conduct Administrator, a written response to the complaint;
  - b) The Respondent will deliver to the Student Conduct Administrator, a written list of all witnesses for Washburn University to call at the hearing;
  - c) The Respondent will deliver to the Student Conduct Administrator, all physical evidence the student intends to use or needs to have present at the hearing and will indicate who has possession or custody of such evidence, if known, so that the Student Conduct Administrator can arrange for its presence;
  - d) The Complainant will deliver to the Student Conduct Administrator a written list of all witnesses for Washburn University to call at the hearing;
  - e) The Complainant will deliver to the Student Conduct Administrator all items of physical evidence needed at the hearing and will indicate who has possession or custody of such evidence, if known, so that the Student Conduct Administrator can arrange for its presence;
  - f) The Complainant and the Respondent will notify the Student Conduct Administrator of the names of any advisors/advocates who may be accompanying the parties at the hearing.
- 5) The Student Conduct Administrator will ensure that the hearing information and any other available written documentation is shared with the parties at least two (2) days before any scheduled hearing.

## K. Student Conduct Hearing Procedures

The parties have the right to be present at the hearing; however, they do not have the right to be present during deliberations. If a student cannot attend the hearing, it is that student's responsibility to notify the Student Conduct Administrator no less than three (3) days prior to the scheduled hearing to arrange for another date, time and location. Except in cases of grave or unforeseen circumstances, if the responding student fails to give the requisite minimum three (3) day notice, or if the responding student fails to appear, the hearing will proceed as scheduled. If the party bringing the complaint fails to appear, the complaint may be dropped unless Washburn University chooses to pursue the allegation on its own behalf, as determined by the Student Conduct Administrator.

The Student Conduct Administrator will conduct the student conduct hearing according to the following guidelines:

- 1) Hearings will be closed to the public.
- 2) Admission to the hearing of persons other than the parties involved will be at the discretion of the Student Conduct Administrator.
- 3) In hearings involving more than one Respondent, the standard procedure will be to hear the complaints jointly; however, the Student Conduct Administrator may permit the hearing pertinent to each Respondent to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each Respondent.
- 4) The parties have the right to an advisor/advocate of their own choosing, including attorneys. Typically advisors are members of the campus community, but the parties may select whomever they wish to serve as their advisor. The advisor may not make a presentation or represent the Complainant or Respondent during the hearing. They may confer quietly with their advisee, exchange notes, clarify procedural questions with the Student Conduct Administrator and suggest questions to their advisee.
- 5) The Complainant, Respondent, and the Student Conduct Administrator will have the privilege of questioning all present witnesses and questioning all present parties. Such questions will be directed to the Complainant and/or Respondent or other witnesses by the Student Conduct Administrator rather than the Complainant and/or Respondent directly. Questions should be submitted in writing to the Student Conduct Administrator in advance (if applicable/possible) or during the hearing. This method is used to preserve the educational tone of the hearing and to avoid creation of an adversarial environment. Queries of whether potential questions will be asked shall be resolved at the discretion of the Student Conduct

Administrator. Unduly repetitive witnesses can be limited at the discretion of the Student Conduct Administrator.

- 6) Pertinent records, exhibits, and written statements may be accepted as information for consideration by the Student Conduct Administrator. Formal rules of evidence are not observed. The Student Conduct Administrator may limit the number of character witnesses presented or may accept written affidavits of character instead.
- 7) All procedural questions are subject to the final decision of the Student Conduct Administrator.
- 8) After a Student Conduct Hearing, the Student Conduct Administrator will deliberate and determine whether it is more likely than not that the Respondent has violated the Student Conduct Code. Once a finding is determined, if the finding is that of a policy violation, the Student Conduct Administrator will determine an appropriate sanction(s) and communicate the sanction(s) to the Respondent. The Associate Vice President for Student Life , or designee, is responsible for informing the Student Conduct Administrator of applicable precedent and any previous conduct violations or other relevant pattern information about the Respondent.

#### **L. Conduct Sanctions**

One or more of following sanctions may be imposed upon any student for any single violation of the *Student Conduct Code*:

- 1) **Warning:** An official written notice that the student has violated University policies and/or rules and that more severe conduct action will result should the student be involved in other violations while the student is enrolled at Washburn University.
- 2) **Restitution:** Compensation for damage caused to Washburn University or any person's property. This could also include situations such as failure to return a reserved space to proper condition – labor costs and expenses. This is not a fine but, rather, a repayment for labor costs and/or the value of property destroyed, damaged, consumed, or stolen.
- 3) **Fines:** Reasonable fines may be imposed. Fines will depend on the severity of the violation, previous offenses, degree of involvement, and the circumstances. Fines shall not exceed \$250 per violation.
- 4) **Community/University Service Requirements:** For a student or organization to complete a specific supervised Community/University service. May include reflection on the service through the lens of an identified student learning outcome.



- 5) **Loss of Privileges:** The student will be denied specified privileges for a designated period of time.
- 6) **Confiscation of Prohibited Property:** Items whose presence is in violation of University policy will be confiscated and will become the property of Washburn University. Prohibited items may be returned to the owner at the discretion of the Associate Vice President for Student Life and/or Campus Police.
- 7) **Behavioral Requirement:** This includes required activities including, but not limited to, seeking academic counseling or substance abuse screening, writing a letter of apology, etc.
- 8) **Educational Program:** Requirement to attend, present and/or participate in a program related to the violation. It may also be a requirement to sponsor or assist with a program for others on campus to aid them in learning about a specific topic or issue related to the violation for which the student or organization was found responsible. Audience may be restricted.
- 9) **Restriction of Visitation Privileges:** May be imposed on a resident or non-resident student. The parameters of the restriction will be specified.
- 10) **University Housing Probation:** Official notice that, should further violations of Residential Living or University policies occur during a specified probationary period, the student may immediately be removed from University housing. Regular probationary meetings may also be imposed.
- 11) **University Housing Reassignment:** Reassignment to another University housing facility. Residential Living personnel will decide on the reassignment details.
- 12) **University Housing Suspension:** Removal from University housing for a specified period of time after which the student is eligible to return. Conditions for re-admission to University housing may be specified. Under this sanction, a student is required to vacate University housing within twenty-four (24) hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Director of Residential Living. This sanction may be enforced with a trespass action if deemed necessary. Prior to reapplication for University housing, the student must gain permission from the Director of Residential Living, or designee,. This sanction may include restrictions on visitation to specified buildings or all University housing during the suspension.
- 13) **University Housing Expulsion:** The student's privilege to live in, or visit, any University housing structure is revoked indefinitely. This sanction may be enforced with a trespass action if deemed necessary.

- 14) **University Probation:** The student is put on official notice that, should further violations of University policies occur during a specified probationary period, the student may face additional sanctions, including suspension or expulsion. Regular probationary meetings may also be imposed.
- 15) **Eligibility Restriction:** The student is deemed “not in good standing” with Washburn University for a specified period of time. Specific limitations or exceptions may be granted by the Associate Vice President for Student Life and terms of this conduct sanction may include, but are not limited to, the following:
- a) Ineligibility to hold any office in any student organization recognized by Washburn University or hold an elected or appointed office at Washburn University; or
  - b) Ineligibility to represent Washburn University to anyone outside the Washburn University community in any way including: student employment, participating in the study abroad program, attending conferences, or representing Washburn University at an official function, event or intercollegiate competition as a player, manager or student coach, etc.
- 16) **University Suspension:** Separation from Washburn University for a specified minimum period of time, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension. The student is required to vacate the campus within twenty-four (24) hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Associate Vice President for Student Life. During the suspension period, the student is banned from university property, functions, events and activities without prior written approval from the Associate Vice President for Student Life. This sanction may be enforced with a trespass action as necessary.
- 17) **University Expulsion:** Permanent separation from Washburn University. The student is banned from university property and the student’s presence at any University sponsored activity or event is prohibited. This action may be enforced with a trespass action as necessary.
- 18) **Other Sanctions:** Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the Associate Vice President for Student Life or designee.

The following sanctions may be imposed upon groups or organizations found to have violated the Student Conduct Code:

- 1) One or more of the sanctions listed above.

- 2) Deactivation, de-recognition, loss of all privileges (including status as a University registered group/organization), for a specified period of time.

### **M. Parental Notification**

Washburn University reserves the right to notify the parents/guardians of dependent students regarding any conduct situation, particularly alcohol and other drug violations. Washburn University may also notify parents/guardians of non-dependent students who are under the age of twenty-one (21) of alcohol and/or other drug violations. Parental notification may also be utilized discretionarily by administrators when permitted by FERPA or consent of the student.

### **N. Notification of Outcomes**

The outcome of a student conduct hearing is part of the education record of the Respondent and is protected from release under the Federal Education Rights and Privacy Act (FERPA), except under certain conditions. As allowed by FERPA, when a student is accused of a policy violation that would constitute a “crime of violence” or forcible or nonforcible sex offense, Washburn University will inform the alleged victim/party bringing the complaint in writing of the final results of a hearing regardless of whether Washburn University concludes that a violation was committed. Such release of information may only include the alleged student’s/responding student’s name, the violation committed, and the sanctions assigned (if applicable). In cases of sexual misconduct and other offenses covered by Title IX, only, the rationale for the outcome will also be shared with all parties to the complaint in addition to the finding and sanction(s).

In cases where Washburn University determines through the student conduct process that a student violated a policy that would constitute a “crime of violence” or nonforcible sex offense, Washburn University may also release the above information publicly and/or to any third party. FERPA defines “crimes of violence” to include:

- 1) Arson
- 2) Assault offenses (includes stalking)
- 3) Burglary
- 4) Criminal Homicide—manslaughter by negligence
- 5) Criminal Homicide—murder and nonnegligent manslaughter
- 6) Destruction/damage/vandalism of property
- 7) Kidnapping/abduction
- 8) Robbery
- 9) Forcible sex offences
- 10) Non-forcible sex offences

**O. Failure to Complete Conduct Sanctions**

All students, as members of Washburn University community, are expected to comply with conduct sanctions within the timeframe specified by the Student Conduct Officer. Failure to complete conduct sanctions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions and/or suspension from Washburn University. In such situations, resident students may be required to vacate University housing within twenty-four (24) hours of notification by the Associate Vice President for Student Life, though this deadline may be extended upon application to, and at the discretion of, the Director of Residential Living and/or the Associate Vice President for Student Life. A suspension will only be lifted when compliance with conduct sanctions is satisfactorily achieved. This determination will be made by the Associate Vice President for Student Life.

**Q. Disciplinary Records**

All conduct records are maintained by Washburn University for seven (7) years from the time of their creation except those that result in separation (suspension or expulsion, including from housing) and those that fall under Title IX, which are maintained indefinitely.

**R. Approval and Implementation**

This Student Conduct Code was approved on January 18, 2018 by Washburn University administration, and implemented on January 22, 2018.