

## **Fraternal Conduct Board of Winthrop University By-laws**

Ratified by the Interfraternity Council – September 7, 2007

Ratified by the National Pan-Hellenic Council – September 7, 2007

Ratified by National Panhellenic Council – September 7, 2007

Amended April 21, 2008

Amended November 7, 2008

Amended December 4, 2009

Amended April 8, 2011

Amended October 23, 2011

Amended April 12, 2013

Amended March 24, 2017

### **Preamble**

The mission of the Fraternal Conduct Board (hereafter “the Board”) is to promote a sense of community, community standards and values, civility, accountability, and the maintenance of good character. The Board supports the educational mission of Winthrop University and shall strive to uphold the same. The mission of the Board will be accomplished by educating the Fraternal Community, settling disputes civilly, and hearing complaints against Fraternal Chapters.

### **Article I: Authority**

The authority of the Board is delegated from the three governing councils: College Panhellenic Council, National Pan-Hellenic Council, Interfraternity Council (hereafter “the Councils”), and in cooperation with the Dean of Students Office. The primary responsibility of the Board will be to resolve complaints and carry out the community disciplinary responsibilities. The Board will be self-governing and will require Chapters and members to be accountable for their actions.

### **Article II: Jurisdiction**

1. The Board will have jurisdiction to resolve allegations regarding the Constitutions and By-laws of the Councils, official Council decisions, disputes referred by Council Presidents, Rock Hill and York County Regulations, and violations found in Winthrop University’s Student Conduct Code.
2. Chapters and members who commit offenses against the laws of municipalities, states, or the United States are subject to prosecution by those authorities and may be subject to disciplinary action under University rules when their conduct violates institutional standards, as well as, the Board.
3. The Board does not charge individual members with violations. The Board expects Chapters to discipline members who violate rules or standards of the respective Chapter.
4. CPC Recruitment violations will not be presented to the Board unless the violation is referred to the Board by the CPC President or CPC Advisor. All violations of the Winthrop University College Panhellenic Council Recruitment Rules will be handled according to the National Panhellenic conference outline mediation procedures.

5. Mediation may be available to resolve disputes between two or more organizations.
6. If it becomes clear to the Board that a chapter is violating University policies and other risk management policies, but there is not enough evidence to charge the chapter with a violation, the board may contact the chapter to talk about the chapter's behavior without levying sanctions.

### **Article III: Composition**

#### **Section A. Board Members**

1. Members of the Board shall consist of a minimum of three members from each of the Councils. Three of the members will be the Vice Presidents of the Councils. The Council Presidents will serve on the board as an alternate member for a hearing.

#### **Section B. Officers and Advisor**

1. A Chair and Vice Chair will be elected from within the student Board members. An Advisor will be appointed by the Dean of Students and serve as a non-voting member. An employee of the Division of Student Life, appointed by the Dean of Students, will present information to the Board during hearings.

#### **Section C. Officer Responsibilities**

1. The Chair of the Board will:
  - a. Meet with Fraternity and Sorority Advisor on regular basis
  - b. Call Board meetings when necessary
  - c. Coordinate training with University Conduct Officer
  - d. Chair all hearings and meetings of the Board
  - e. Assist Councils with filling vacancies
  - f. Make recommendations for improvement from the Board to the Councils
  - g. Make official semester reports to the Dean of Students Office and Councils
  - h. Not be the current president of their organization.
  - i. Act as a non-voting member in a full board hearing.
2. The Vice Chair of the Board will:
  - a. Take and maintain minutes
  - b. Maintain Board membership information
  - c. Coordinate all official communications (except decision letters)
  - d. Serve as Chair of the Board in the absence of the Chair
  - e. Meet with Fraternity and Sorority Advisor when necessary

#### **Section D. Boards and Meetings**

1. The Chair, Vice Chair, Fraternity and Sorority Advisor, and Dean of Students (or designee) shall constitute the Administrative Board (hereafter "the Admin Board"), all serving with votes as described in these bylaws.
2. The nine Board members, Fraternity and Sorority Advisor and Dean of Students (or designee) shall constitute the Full Board. The Chair, The Fraternity and Sorority Advisor and

the Dean of Students (or designee) shall serve without a vote.

3. Quorum for business meetings (not hearings) shall be set at five Board members, providing there is at least one Board member from each governing council.

#### **Section E. Selection of Board Members**

1. The process of selecting members of the Board shall be done by through application, review, and selection by the Admin Board.
2. In the event both the Chair and Vice Chair positions are vacant, board members will be reviewed and selected by the respective Council Executive Board.

#### **Section F. Qualifications of Board Members**

1. Have and maintain a minimum 2.5 cumulative as well as semester GPA.
2. Must be in good standing with their Chapter, Council, and Winthrop University.
3. Must not have a University disciplinary history or pending disciplinary charges (including both academic or non-academic infractions and those occurring in the residence halls).

#### **Section G. Training of Board Members**

1. All members must attend all training sessions and maintain their commitment to the board throughout their term. This commitment will include obligations beyond simply hearing cases.
2. A member must attain proper training before he/she is eligible to serve on the Board.
3. It is the responsibility of the Admin Board to train the members of the Board.
4. All absences must have written excuse submitted at least 24 hours in advance of the absence. In the case of an emergency, written explanation must be submitted within 24 hours after said absence. All absences are to be submitted to the Chair and Vice Chair.

#### **Section H. Removal of Board Members**

1. Any Board member can be removed at any time, following a review of the accusations and/or concerns brought forward. Removal of a Board member would be based on evidence related to any of the following:
  - a. Their personal conduct
  - b. No longer being of good standing in their chapter, council, or Winthrop University
  - c. Failing to maintain the GPA requirement
  - d. Breaking the confidentiality agreement
2. The final decision to remove a member would be made by a majority vote of the Admin Board. Board members may also be removed from office, without the above procedure,

should they no longer meet the requirements listed in Article III, Section F.

### **Section I. Ratification and Amendments**

1. This By-laws will be ratified, and in force, with the approval through a majority vote of the Fraternal Conduct Board and Administration Board.

### **Section J. Confidentiality**

1. All members of the Board and advisor must sign a statement of confidentiality.
2. The Chair, Vice Chair, and Board members will maintain confidentiality regarding all proceedings.
3. Violation of confidentiality may result in immediate dismissal and may result in a referral to the Dean of Students Office.

## **Article IV: Procedures**

### **Section A. Complaints**

1. The Councils' President, Advisor(s), any fraternity or sorority chapter or member, any Winthrop University student, staff or faculty member, or any member of the Rock Hill community or public at-large may file an incident report involving an organization.
2. Complaints can be filed through the Councils, the Chair, the University, or the Fraternity and Sorority Advisor.
3. All complaints and reports are then collected by the Fraternity and Sorority Advisor. Upon receipt, the Fraternity and Sorority Advisor will contact the members of the Admin Board.
4. The Admin Board will meet and evaluate the complaint to determine if it warrants an investigation; and/or if there is sufficient information to suggest that a violation occurred, and if that, it could be the responsibility of the Chapter(s).
  - a. If so, the Chapter will be charged with the appropriate violation and the case will move to a hearing before the Board. Refer to Article VI for next steps in process.
  - b. If not, the complaint is filed with the Fraternity and Sorority Advisor (3 years) and handled as appropriate.
5. The Admin Board may request further information from the source of the complaint and the Chapter. Chapters will be invited to prepare a response to the allegation during this part of the process.
6. Mediation may be selected by the Admin Board where the complaint involves a dispute between two or more organizations.

### **Section B. Council-Based Disputes, Sanctions, and Appeals**

1. The Councils shall communicate to the Chair any alleged violations of their Constitutions

and By-laws and/or policies committed by a member organization that may impact the organization's standing with the Council within 2 business days of the Council finding sufficient information to support that there is a violation.

2. The Council representatives shall meet with the Admin Board prior the meeting with the chapter and the Admin Board.
3. The Admin Board should be copied on all communications sent to the chapter found in violation of Council Constitution and By-laws and/or policies.
  - a. The Council President shall notify the chapter of the violation and request the chapter's presence at an Admin Board meeting with the appropriate Council reps and Admin Board to be scheduled within five business days of notification.
4. All communication during the Admin Board meeting shall go through the Chair and Vice Chair.
  - a. The council representatives will be present during the meeting for any clarification, but will not be leading the meeting. The president of the council will be one of the members present. The council member who is over the respective area in which a violation has occurred will be present as well. A maximum of two council representatives will be present.
  - b. The chapter in question may have a maximum of three representatives present at the meeting and may bring forth any new information that may dispute the violation.

### **Section C. Standard of Proof**

1. The standard of proof for a hearing is preponderance of the evidence. As such, the evidence as a whole must show that the violation more likely than not occurred.

### **Section D. Mediation**

1. The purpose of mediation is to find a satisfactory solution regarding disputes which involve two or more organizations.
2. The goal of mediation does not involve determining issues of policy.
3. Mediation occurs at the request of the Chair and Vice Chair. An organization and/or council may request that the Chair and Vice Chair call for mediation. However, this action is not binding on the Chair and Vice Chair.
4. The mediation team will consist of the Admin Board and three members of the Board. Members may be from the council and/or organizations in the mediated dispute if the Chair and Vice Chair allow it.
5. The mediation team will assist the organizations in achieving a solution to the dispute.
6. Mediation shall be closed to the public.

7. All organizations involved must have representation and may not have more than two present.
8. The mediation will continue until an agreeable solution is met or until all parties involved agree to terminate the mediation.
9. Agreement reached during mediation will be binding on the organizations involved. The outcome of the mediation will be emailed to the organizations. Any inaccuracies in the outcome must be contested within five business days. Changes to the results of the mediation will be determined by the Chair and Vice Chair. The Chair and Vice Chair can call another mediation hearing to resolve the contested inaccuracies if needed.
10. Any case of an organization violating a mediation agreement will be referred to the Board for failure to comply.

#### **Article V: Due Process**

1. Chapters and their members accused of violations heard by the Board will be entitled to due process. The Board is committed to a fundamentally fair process.
2. **Procedural Safeguards:** To further the mission of the Board and to conduct a fundamental fair process, the following procedural safeguards will be observed:
  - a. Notification of charges
  - b. To have an Advisor(s) present. The advisor(s) must be the one(s) registered with the Office of Student Activities as the Chapter Advisor. Advisors may not address the Board, question witnesses, or make statements. Alumni may NOT be present during the hearing.
  - c. Question information presented and witnesses
  - d. Present information and witnesses
  - e. Right to be heard before an impartial committee of peers
  - f. A pre-hearing interview with the Dean of Students Office in which three undergraduate representatives must attend
  - g. Respond responsible or not responsible to allegations
  - h. Right to decline to make any statements to avoid the possibility of individual or Chapter self-incrimination. Refusal to speak or answer questions will not be interpreted as evidence of responsibility.
  - i. Be present during all testimonies
  - j. Right to have access to all information and a list of witnesses
  - k. Right to appeal decisions

#### **Article VI: Pre-Hearing Procedures**

##### **Section A. Notification of Charges**

1. Chapters charged under these bylaws will receive notice from the Chair to the Chapter President and Advisor.
  - a. Chapters are responsible for maintaining an accurate listing of officer and advisor contacts with the Office of Fraternity and Sorority Affairs.

- b. Chapters will be instructed to initiate a pre-hearing interview with the Dean of Students. Refer to article VI, section two for more information regarding board members present at the hearing.

### **Section B. Delivery of Notifications**

1. All communications between the Board and Chapters will be done electronically and in writing.

### **Section C. Options for Resolution of Charges**

Chapter representatives have five business days after the pre-hearing interview to select an option for resolution of charge(s).

1. Plead not responsible to the charge(s) and request a regular hearing before the Full Board.
2. Accept responsibility for the charges(s) and elect for the Admin Board to determine appropriate sanction(s). Depending on the nature of the alleged charges, the Administrative Board may refer the case to the Full Board.

### **Section D. Pre-Hearing Interview**

When the Board determines that official proceedings will be initiated, the charged Chapter (up to three representatives) is responsible for arranging a pre-hearing interview with the Dean of Students or designee. The purpose of the pre-hearing interview is to insure that the charged Chapter will be sufficiently familiar with the disciplinary process in order to adequately prepare and present a response at the hearing. At this interview the charged Chapter:

1. Will be advised immediately of the right to decline to make any statements to avoid the possibility of self-incrimination. Refusal to speak or to answer questions shall not be interpreted as evidence of responsibility.
2. Will be advised of the alleged violations and an explanation of the prohibited conduct will be provided. The Chapter will be advised if suspension is possible as a result of the hearing.
3. Will be advised of the identity of witnesses or others who will testify, the general content of their testimony, and the content of any written material or physical exhibit which will be presented at the hearing. If additional information or new witnesses are to be presented at the hearing, the charged Chapter will be informed at least three days prior to the hearing date and the information will be made available for the Chapter's review (for the up to three representatives that will be speaking for the Chapter at the hearing).
4. Will be advised that a list of those witnesses requested by the charged student must be provided and any written statements by those witnesses must be included in the case file three days prior to the hearing. Any additional written information must be available to the Board at least three days prior to the hearing date, for a determination of relevancy, and to be included in the case file for the hearing authority to review.
5. Will be advised that an advisor may be present at the hearing. The advisor may not address the

Board, question witnesses, or make statements. Alumni may NOT be present during the hearing.

6. Will be advised to consult further with the Dean of Students or designee concerning any questions or interpretations of procedure.
7. Will be advised that hearings are scheduled to provide the charged Chapter a minimum of five days from the date of notification of charges (excluding weekends and holidays) during which to prepare a response.
8. Will be advised that any request for a delay of the hearing must be in the form of a written petition to the Board, which schedules hearings and determines whether a delay will be granted. Such a delay will not affect the student's status.
9. Will be advised that the Board and/or Dean of Students may choose to delay the hearing for good cause. Such a delay will not affect the Chapter's status.
10. Will be advised of options for resolution of disciplinary charges.

### **Section E. Challenging of Board Members**

1. Chapters or Board Members have the right to contest any Board Member for cause within five business days following the Chapter's pre-hearing interview, upon receiving notification of the serving Board members along with details regarding the hearing (date, time, location, etc.).
2. The request to challenge a Board Member, with due cause, must be submitted in writing to the Admin Board within the time constraints listed above.
3. The Board member in question shall have the right to step down willingly upon proper investigation, or choose to remain on the Board. Should he or she choose to remain on the Board, the decision to remove him or her will be made by the remaining Board members with a majority vote.

### **Article VII. Hearing**

#### **Section A. Quorum and Protocol**

1. All hearings will be presided over by the Chair.
2. Quorum for hearings will be as follows:
  - a. Full Board hearings shall be a minimum of seven Board members.
  - b. Admin Board hearings shall be three voting members.
3. A minimum of three Chapter representatives must attend, with a maximum of no more than 10 in attendance.
  - a. The chapter may, in advance, waive their right to three members present. This information must be given to the Chair five business days before the set hearing date.

- b. The Chapter may choose up to three representatives who will speak and answer questions on behalf of the Chapter.
4. All information and witnesses will be presented. Board members and ex-officio members will be allowed to ask questions to all participants. Chapter representatives will be allowed to ask questions. Chapter Representatives will make summary statements.
5. The Board will recess for confidential deliberation. After determining responsibility, the Board may request the presence of any and all necessary parties for assistance regarding sanctions. In addition, the Board may review the Chapter's conduct history up to but not exceeding three years.

### **Section B. Order of Events**

1. Opening – All parties are present.
2. Chair commences hearing by doing the following:
  - a. Call all to order by announcing convening of the hearing process and ask for the tape recorder to be turned on.
  - b. Remind all that the hearing will be conducted according to procedures outlined in the FCB Bylaws, and that the purpose of the hearing is to determine the responsibility or sanctions if the organization has already accepted responsibility for alleged violations(s) of the FCB Bylaws in furtherance of the educational mission of Winthrop University. Note date and time.
  - c. Review of the Confidentiality Statement – Ask all to affirm.
  - d. Ask all present to identify themselves and to state their role related to the hearing.
  - e. Reminds organization(s) if there are any questions about procedures to please ask them.
  - f. Ask accused if the pre-hearing interview was and if process and rights as outlined in the FCB Bylaws.
3. Initiation of Charges and brief opening statement read by Dean of Students Designee
4. Opening Statement by the accused Chapter
5. Presentation of Evidence
  - a. Dean of Students Designee(s) present any evidence, documentation, list of witnesses to be called
    - i. Board may ask questions to Dean of Students and/or Chapter
    - ii. Chapter may ask questions/comments regarding the information presented
  - b. Chapter presents any evidence, documentation, list of witnesses to be called
    - i. Board may ask questions to Dean of Students and/or Chapter
    - ii. Dean of Students may ask questions/comments regarding the information presented
6. Chair gives each party a chance to recall any information presented to give the Board a final opportunity to ask any questions regarding the information presented.
7. Summation Statements given by Dean of Students Designee(s)
8. Summation Statement given by the accused Chapter.
9. The Board enters closed session
10. Closed session deliberations

11. Chair requests motion from a Board member regarding decision(s) (Responsible or Not Responsible for each individual charge. If the chapter has accepted responsibility in the pre-hearing interview, the board will determine appropriate sanctions.
  - a. The Determining Responsibility Form is completed (decisions and reasoning) and given to the Board Advisor. If Chapter already accepted responsibility and sanctions are being determined the
12. Recall and Decision: The Chair will read what has been outlined on the Determining Responsibility Form
13. Dismissal for Sanctioning
14. The Board enters closed session to determine appropriate Sanctions
  - a. After discussion and sanctions have been agreed upon, the Chair will complete the Sanctions Form that outlines sanctions and reasoning for sanctions.
15. Recall and Deliverance of Sanctions

### **Section C: Decisions of the Board**

1. In a closed session, the Board shall decide if there is sufficient information to support the alleged violations. The decision reached should be based upon the information presented at the hearing, which is most convincing, most credible, and of greatest weight or probability.
2. The goal of the Board is to make decisions based on consensus. When this is not an option, a majority vote will constitute the decision of the Board. The chair does not have voting privileges in a full-board hearing.
3. If the Board finds that there is not sufficient information to support the allegations based on the Standard of Proof (Article IV, Section C), the decision will be Not Responsible. If the Board that a violation occurred by the accused Chapter, the Board will determine the sanctions.
4. If the decision is responsible, five factors should be taken into consideration while deliberating on appropriate sanction(s):
  - a. The nature of the violation
  - b. The level of cooperation from the responding organization
  - c. The impact the violations have on the fraternity / sorority, university, and surrounding communities
  - d. The developmental impact of the sanctions on the organization
  - e. The University mission, values and expectations
  - f. Past Chapter offenses may be considered only if the boards finding is that the chapter is responsible for the alleged offense. No mention of past organizational offenses is allowed during the deliberation on responsibility.
5. The Board will balance these considerations and make appropriate sanctioning decisions.
6. Decisions resulting in suspension will require a clear and convincing standard and a

unanimous vote from the Board. All decisions will be written with the assistance of the Dean of Students Office. All Conduct files will be maintained by the Dean of Students office.

#### **Section D: Sanctions**

1. Sanctions available to the Board may be found written in, but not limited to, Winthrop University's Student Code of Conduct (Article IX), with the exception of expulsion.
  - a. **Suspension** – Suspension is the action that consists of the removal, for a specified period of time, from the applicable Council and automatic loss of University recognition and all rights and privileges associated with recognition as outlined in Items e and f. The student organization is NOT guaranteed re-recognition at the end of such period of time, but is guaranteed a review of the case and a decision regarding eligibility for readmission as outlined in the resolution letter as well as the Recognition Guidelines for Winthrop University Fraternities and Sororities. A recommendation may be made to the National/International Organization to suspend or revoke the charter.
  - b. **Disciplinary Probation** – Subsequent violations of University rules, regulations or policies as outlined in Article II (even after a particular probationary period expires) could result in a more severe sanction. Disciplinary Probation is a status which may involve restrictions, conditions or terms imposed for a definite period of time. Restrictions, conditions, or terms of probation may include but are not limited to: ineligibility to participate in campus activities or events; periodic contact with a designated member of the campus community; restrictions on accessibility to University facilities. Restrictions, conditions, and terms will be imposed for a specific length of time not to exceed the length of the probationary period. Failure to comply with the terms and conditions of the probation or additional behavior in violation of this code during the probationary period will likely result in more serious disciplinary action.
  - c. **Disciplinary Warning** – Disciplinary Warning involves written notice to the Chapter indicating that specific behavior or activity was in violation of this code and that repetition of similar or other unsatisfactory behavior would likely result in more serious disciplinary action. Disciplinary Warning may also involve conditions, such as those listed above, that are intended to be educational in nature.
  - d. **Restitution** – Restitution is not a fine; it is reimbursement for actual damage to, destruction of, or misappropriation of University property or property of any person which results from conduct in violation of this code; or is compensation for services provided such as alcohol education. The Board will determine the appropriate reimbursement.
  - e. **Termination of the Privileges of a Registered Student Organization** – Termination of the Privileges of a Registered Student Organization is the loss of any or all privileges of a registered student organization. Imposition of this sanction does not preclude disciplinary charges against individual members of the organization.

- f. **Termination of the Registration of a Registered Student Organization** – Termination of the Registration of a Registered Student Organization is the discontinuation of the registration of the registered student organization. This means the organization can no longer function. Imposition of this sanction does not preclude disciplinary charges against individual members of the organization.
- g. **Creative Sanctions** – As deemed appropriate by the hearing officer, sanctions such as reflective papers, fines, work projects or other creative sanctions.
- h. **Social Probation** - In addition to the sanctions found in the Student Conduct Code, social probation may be imposed. Social probation prohibits hosting parties, mixers, date nights, or other functions social in nature. Social Probation shall be defined by the Board each time it is utilized through a Social Probation Agreement. The office of Fraternity and Sorority Affairs will provide guidance to Chapters on the terms of their social probation. Questions about social probation that cannot be mutually resolved between Chapters and the Fraternity and Sorority office, will be settled by the Admin Board and be considered binding.

#### **Section E: Community Notice**

1. The Fraternity and Sorority Advisor will inform the community of all Board decisions after the five business day appeal period.
2. Information will be limited to:
  - a. The charge
  - b. The Chapter's response (responsible or not responsible)
  - c. Who heard the case (full board or admin board)
  - d. The decision (responsible or not responsible)
  - e. The sanctions in full detail, and notification of an appeal, if pending. The community will be re-notified after any appeal process in detail at the discretion of the Fraternity and Sorority Advisor.
3. Once the Community Notice is sent out the information will be published on the Winthrop University website in accordance with the Tucker Hipps Transparency Act

#### **Section F: Appeals**

1. Chapters have the right to an appeal. Appeals will be in writing and submitted to the Dean of Students within five business days of the date on the sanction letter. Appeals must be based upon the following:
  - a. New information material to the case which were unavailable at the time of the hearing
  - b. Denial of due process or procedural error as defined in Article V, Section 2.
2. The Dean of Students will hear all appeals. Appeals for the sanction of suspension will be heard by the Dean of Students and the Council Presidents.