

Student Conduct Code

Student Conduct Code

I. Rights and Responsibilities of Students

Academic institutions exist for the transmission of knowledge, the pursuit of truth, the development of students, and the general well-being of society. Winthrop University recognizes that its students retain all of the rights provided by the constitutions of the United States and State of South Carolina, Federal and state statutes, and applicable University policies, while attending the University.

Free inquiry and free expression are indispensable to the attainment of these goals. As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in a sustained and independent search for truth.

Freedom of the individual may be defined as the right to act or speak, so long as it does not adversely affect the rights of others. Believing in this concept, Winthrop University will protect freedom of action and freedom of speech for both students and employees, so long as it is not of an inflammatory or demeaning nature and does not interfere with the students' living and study conditions and the administration of its affairs. It shall constitute a disruptive act for any member of the campus community to engage in any conduct which would substantially obstruct, interfere with or impair instruction, research, administration, authorized use of University facilities, the rights and privileges of other members of the Winthrop community, or disciplinary proceedings. Moreover, Winthrop University is committed to improving the quality of student life by promoting a diversified educational and cultural experience. Therefore, racist conduct or other acts of bigotry will not be tolerated.

Rights and freedoms imply duties and responsibilities. Note should be taken that a student who exercises his or

her rights as a private citizen—whether individually or as a member of a group—must assume full responsibility for his or her actions. All Winthrop students and employees must abide by local, state, and federal laws and with all published University policies and regulations. Violations of laws and regulations will subject the charged student to disciplinary action by the University and/or the appropriate civil or criminal court.

II. Authority and Responsibility

Responsibility for good conduct rests with students as adult individuals. Student organizations have similar responsibility for maintaining good conduct among their members and guests and at activities they sponsor. Organizations wishing to become chartered that violate Winthrop policy or do not fulfill requirements to be a chartered organization can still be subject to this Student Conduct Code and possible restrictions outside the code. Restrictions will be overseen by the Assistant Director for Student Activities and monitored by the Dean of Students office if no formal charges are brought. All members of the campus community are expected to use reasonable judgment in their daily campus life and to show due concern for the welfare and rights of others.

This code is promulgated in accordance with the policies of the Board of Trustees of Winthrop University. The Vice President for Student Life as the President's designee in these matters shall normally obtain the advice of the Judicial Council before recommending changes in rules governing student rights, responsibilities and conduct. Under normal circumstances, the Vice President for Student Life will designate the responsibility for the operation of the Student Conduct Code to the Department of Student Affairs, particularly the Dean of Students. This responsibility includes formulating and implementing operating procedures for the judicial consideration of conduct violations and the imposition of sanctions in an efficient, consistent, fair, legal and educational manner.



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The Dean may further delegate responsibility to various judicial bodies and administrative staff.

The President of Winthrop University is authorized to assign disciplinary cases to special hearing committees or officers as the President deems appropriate.

III. Application of Laws and Off-Campus Activities

Winthrop University is not a sanctuary beyond the reach of the criminal laws of the United States, the State of South Carolina, and the City of Rock Hill. While the rules and regulations of Winthrop University are not meant to duplicate general laws, there are some aspects in which the lawful interests of the institutions as an academic community coincide with the broader public interest treated in general laws. Students, or student organizations, 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. Winthrop students, or student organizations are subject to the provisions of this Student Conduct Code while on University premises or University-related premises, and when involved with off-campus Winthrop activities. Students, or student organizations will be held accountable to this code for their off-campus activities when it can be ascertained the off-campus act has a direct detrimental impact on the University's educational functions. Any disciplinary action imposed by Winthrop may precede and be in addition to any penalty imposed by an off-campus authority.

IV. Prohibited Conduct

The following constitutes the official record of general violations of conduct rules and regulations at Winthrop University. Students and student organizations are expected to abide by these regulations. These regulations are not designed to define prohibitive conduct in exhaustive terms. Additional rules and regulations may be adopted and will be promulgated through campus communication channels. A student or student organization that is responsible for misconduct or is responsible for being an accessory to misconduct shall be subject to the sanctions authorized by this code. Students who anticipate or observe a violation of university policy are expected to remove themselves from participation and are encouraged to report violations. Areas of misconduct include:

A. Actual or threatened disruption of classes,

seminars, research projects, or functions or activities of the University. Behavior that disturbs the public order and peace and/or the living and learning environment of the residence halls, recreational facilities, student organizations or other learning environments is prohibited. Excessive and unreasonable requests and/or demands for university services and resources, to the extent that they limit or interfere with the ability of faculty/staff to meet other university needs and functions, are disruptive to the operations of the university.

B. Actual or threatened physical assault or injury to persons.

C. Actual, threatened or attempted sexual misconduct and sexual harassment. This includes but is not limited to offensive touching; non-consensual sexual assault; forced sexual assault; stalking; or sexual exploitation and other sexual misconduct violations. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal, electronic, or physical conduct of a sexual nature that is severe or pervasive, and objectionably offensive, such that it undermines the victim's educational experience and denies equal access to an institution's resources and opportunities. Additionally sexual misconduct includes conduct that is directed towards a person or group because of their sexual orientation or gender identity or expression. See the expanded definitions and descriptions of sexual assault, sexual misconduct and sexual harassment as well as campus disciplinary procedures in the Sexual Misconduct Policy section of the Student Handbook.

D. Bullying – Intimidating or threatening an individual with harm is prohibited. Bullying is defined as any pattern of gestures or written, electronic, or verbal communications, or any physical act or any threatening communication which (1) places a person in actual and reasonable fear of harm to his/her person or damage to his/her property; or (2) creates or is likely to create a hostile environment by substantially interfering with a student's educational opportunities or benefits; or (3) involves coercion or required behaviors or activities defined as hazing in the hazing policy; or (4) includes personally abusive epithets when directly addressed to any ordinary person, in the context used and as a matter of common knowledge, are inherently likely to provoke an immediate violent reaction, whether or not they actually do so. Such

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words include, but are not limited to, those terms widely recognized to be derogatory references to race, ethnicity, religion, sex, gender, sexual orientation, disability, and other personal characteristics.

E. Disorderly conduct – Individual or group behavior which unnecessarily disturbs individuals or groups is prohibited. Such conduct includes, but is not limited to, unwelcome physical contact, hazing, and boisterous or threatening conduct which is unreasonable for the area, time, or manner in which it occurs.

F. Drugs – The manufacture, distribution, sale, use, offer for sale, or possession of drugs or narcotics, or drug paraphernalia in accordance with State statutes.

G. Behavior or activities which endanger the safety of oneself or others – This includes, but is not limited to, destructive behavior by individuals and/or groups and any-dangerous behavior that is disruptive.

H. Possession and/or use of firearms, fireworks, dangerous weapons and hazardous chemicals – Winthrop University is unwilling to allow even the mere presence of dangerous weapons. While some objects are clearly dangerous, what is used dangerously may also be considered a weapon.

I. Damage to property – Damage, destruction, or defacement of University property or property of any person as a result of a deliberate action or as a result of reckless or imprudent behavior.

J. Theft of property – Theft of University property or possession of stolen University property or property of any person.

K. Misuse of University documents – Forging, transferring, altering, or otherwise misusing any Winthrop document, including identification cards, course registration material, or other document or record.

L. Unauthorized use of the name or insignia of the University by individuals or groups.

M. Unauthorized presence in or forceful entry into a University facility or University-related premises.

N. Misuse of telephone – No student shall make or assist in making unauthorized or annoying telephone calls or otherwise misuse or abuse telephone equipment.

O. Violations of any of the restrictions, conditions or terms of any sanctions resulting from a previously held disciplinary hearing or failure to complete conditions or terms within the designated time.

P. Misappropriation or misuse of student organization funds or property – This includes, but is not limited to, over-extension of the budget of a student organization; spending receipts prior to proper deposit; and unauthorized personal use of equipment.

Q. Computer abuse – This includes, but is not limited to, plagiarism of programs; misuse of computer accounts; unauthorized destruction of files; creating illegal accounts; possession of unauthorized passwords; and disruptive or annoying behavior on the University's computer systems.

R. Providing false information – In the application for admission, petitions, requests, disciplinary hearing or other matters of record and transaction with officials of Winthrop University.

S. False reporting of an emergency – The false reports of a bomb, fire or other emergency in any building, structure or facility by means of activating an alarm or in any other manner is prohibited. This includes the tampering, damaging, or misuse of fire equipment.

T. Violation of Privacy – Photographing, audio or video recording, producing, or creating or distributing a digital electronic file or filming another person without that person's knowledge and consent, while the person is in a place where he or she would have a reasonable expectation of privacy is prohibited. Examples include residence hall rooms, bathrooms, locker rooms, study areas and instructional space. This item excludes students who are provided accommodations through the office of Accessibility. See also Winthrop University's Policy on the Appropriate Use of Information Technology Resources.

U. Failure to identify oneself when requested by persons in authority who are in the process of discharging their responsibilities.

V. Intimidation or Harassment of any person involved in a campus disciplinary investigation or hearing or of faculty, staff, or student staff who are in the process of discharging their official responsibilities is prohibited.

W. Unauthorized use or possession of keys – No one may use or possess any University key without proper authorization. No student is allowed under any condition to have a University key duplicated.

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X. Sale of textbooks – The sale of a textbook by any student who does not own the book is prohibited without prior authorization from the owner of the book.

Y. Violation of the University’s alcoholic beverage policy.

Z. Violation of the University’s fundraising, solicitation, canvassing, assembly, and posting policies.

AA. Violation of the University’s hazing policy.

BB. Violations of the Residence Hall contract. This includes, any matters and behaviors not specifically listed under Judicial Board or Residence Life Office jurisdiction.

CC. Violations of University policies and procedures – Failure to abide by any published University policy or procedure is prohibited, including the General Conduct Policy.

DD. Unauthorized or misuse of University property or equipment.

EE. An arrest or issuance of a citation for commission of any act which is a violation of a criminal law of the United States.

FF. Violations of the Academic Misconduct Policy.

GG. Failure to comply with a reasonable request of authorized University personnel. This includes but is not limited to, Assistant Directors of Residence Life, Residential Learning Coordinators, Resident Directors, Resident Assistants (RA) or law enforcement officers acting in performance of their duties.

V. Student Academic Misconduct

A fundamental tenet of all institutions of higher learning is academic honesty. Academic work must depend upon respect for and acknowledgement of the research and ideas of others. Misrepresentation of someone else’s work as one’s own is a most serious offense in any academic setting.

Academic misconduct in any form cannot be condoned. Academic misconduct includes but is not limited to providing or receiving assistance in a manner not authorized by the professor in the creation of work to be submitted for academic evaluation including papers, projects, and examinations; presenting, as one’s own, the ideas or words of another for academic evaluation without proper acknowledgement; doing unauthorized academic work for which another person will receive credit or be

evaluated; and presenting the same or substantially the same papers or projects in two or more courses without the explicit permission of the professors involved. In addition, academic misconduct involves attempting to influence one’s academic evaluation by means other than academic achievement or merit. More explicit definitions of academic misconduct specific to certain academic disciplines may be promulgated by academic departments and colleges.

One who knowingly cooperates with another in an act of academic misconduct is an accessory to that academic misconduct. Thus a student who writes a paper or does an assignment for another student is an accomplice and will be held accountable just as severely as the other. Any student who knowingly permits another to copy from his or her own paper, examination or project shall be held as accountable as the student who submits the copied material.

The following procedural guidelines are to be followed in matters of alleged academic misconduct:

A. During the course of an examination or other exercise, an instructor or proctor who observes suspicious behavior such as copying or collusion may warn the individuals involved of the appearance of their actions and request them to cease immediately. Continuation of such behavior can be considered evidence of academic misconduct. The professor is not obligated to warn students beforehand and the cessation of the suspicious behavior does not relieve the student of a later judgment of academic dishonesty.

B. A remarkable similarity between works supposedly completed independently that are submitted for evaluation may be considered evidence indicating academic misconduct.

C. When a professor believes there is sufficient evidence to demonstrate a clear case of academic misconduct, the professor shall notify the student in writing. Notification should occur within 30 days of discovery of the academic misconduct. The notice shall indicate that unless the student requests a hearing, the professor shall impose the appropriate academic consequences warranted by the circumstances and that a disciplinary hearing may be initiated. The appropriate academic consequence for serious offenses is generally considered to be failure in the course (students may not withdraw from a course to avoid an F grade as the academic consequence for a violation). For less serious offenses regarding small portions of the course work, failure for that portion is suggested with the

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requirement that the student repeat the work for no credit. The faculty member is responsible for saving the evidence of academic misconduct in its original form and need not return any of the papers or other materials to the student. Copies of the student's work and information about other evidence will be provided to the student upon request.

D. The student is given five days (excluding weekends and holidays) from this first written notice to respond. If the student acknowledges responsibility or if the student does not respond to the written notice, the academic consequences shall be imposed by the professor who will also submit a report to the Dean of the college and the Dean of Students.

E. If the professor requests or if the student has a prior disciplinary record or unusual circumstances exist, the Dean of Students can initiate a hearing utilizing the regular discipline process as stipulated in the Student Conduct Code which may alter the student's status with the University.

F. If a student chooses to contest the charge of academic misconduct the student may request in writing to the professor with a copy to the Dean of Students, a disciplinary hearing to determine the facts of the alleged misconduct. The Dean of Students shall initiate the regular disciplinary process. The purpose of the hearing is to determine the student's responsibility for the alleged academic misconduct. If the student is deemed by the hearing authority as stipulated in the Student Conduct Code to be responsible for a violation, the professor shall determine the appropriate academic consequences within the course and the hearing authority will decide what regular disciplinary sanction, including suspension or expulsion, will be imposed. If the hearing authority determines the student was not responsible for a violation, no academic consequences within the course can be imposed by the professor.

G. The Dean of Students is responsible for assisting students, professors and hearing authorities in matters of process and procedure associated with Winthrop's academic misconduct policy. The Dean of Students will inform the Dean of the College in which the student is enrolled that the case has been reported and of any final action taken by the professor and/or the hearing authority.

H. Supplementary Procedures for Academic Misconduct for Graduate Students – Winthrop

holds its graduate students to the highest standard of academic and professional responsibilities. Because of these high standards, and due to specific academic accreditation requirements for many of our graduate programs, students found responsible for academic misconduct may be dismissed from the graduate program in which they are enrolled, even if the original regular hearing authority did not determine expulsion or suspension from the university. Students dismissed from a graduate program because of academic misconduct may apply for admission to a different graduate program after a period of two years if not expelled from the university by the original regular hearing authority. All documentation related to any prior academic misconduct will become part of the subsequent application.

Procedures for Cases of Graduate Academic Misconduct

The following outlines the disciplinary process for cases of academic misconduct at the graduate level.

- 1) In terms of assigning appropriate academic consequences for academic misconduct within a specific course, a faculty member will follow the same procedures for graduate students as undergraduate students as outlined in item V. C. of the Student Conduct Code. He or she will notify the student and copy the Academic Dean, the Dean of Students, and the Dean of the Graduate School.
- 2) Consistent with institutional policy in the Student Conduct Code, the graduate student has seven days to contest the charge of academic misconduct and request in writing to the professor with a copy to the Dean of Students a disciplinary hearing to determine the facts of the alleged misconduct. If the graduate student disputes the findings of fact, the case is referred by the Dean of Students directly to the Judicial Council or administrative hearing authority, and a hearing is conducted according to the procedures spelled out in the Student Conduct Code. If the Judicial Council or hearing authority determines the student was not responsible for a violation, no academic consequences within the course can be imposed by the faculty member.
- 3) If the graduate student has accepted his or her responsibility for academic misconduct or been found responsible, the faculty member who originally discovered the misconduct, the graduate program

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director/coordinator, or department chair may recommend in writing to the student's Academic College Dean that the student be dismissed from the student's graduate program for not meeting the professional standards, competencies and expectations for the student's graduate academic program.

- 4) This recommendation must be made in writing and copied to the student. This recommendation will be distinct from the original notice of disciplinary sanctions sent directly to the student and will be supported with all necessary information, including the findings of Judicial Council or hearing authority (if applicable).
- 5) When a recommendation for dismissal is brought forward to the Academic College Dean, he or she will review all of the available evidence and information, and consult with the faculty member, department chair, program coordinator, graduate director and other parties as appropriate. The Academic College Dean will decide to either 1) limit the academic consequences to those which were assigned in the class; or 2) affirm the academic consequences assigned in the class and recommend to the Dean of Students and Dean of the Graduate School that the student be dismissed from his or her graduate program. If the Academic College Dean chooses to recommend dismissal, he or she will make available all relevant information, including references to specific professional standards, that supports the recommendation for dismissal. The Academic College Dean will render his or her decision within seven days of receiving the formal recommendation. Regardless of the decision, the Academic College Dean notifies the student in writing of his or her recommendation and copies the Dean of Students, the Dean of the Graduate School, and the International Center (if applicable).
- 6) If the Academic College Dean formally recommends dismissal, the graduate student has 7 days from the written notice to respond to the Academic College Dean in writing copied to the Dean of Students and the Dean of the Graduate School. In his or her appeal, the graduate student will include any new or mitigating information to be considered. If the graduate student does not respond to the notice of pending dismissal from the Academic College Dean, he or she is accepting his or her dismissal from the graduate program and the case goes no further and the dismissal is final. The Dean of the Graduate School, in

this case, will notify the student in writing with copies to all appropriate parties.

- 7) If the graduate student formally appeals in writing the Academic College Dean's recommendation for dismissal, he or she may continue to register and/or attend classes until the time at which the final decision is rendered by the Graduate School Judicial Review Committee, which is comprised of the Vice President for Academic Affairs, the Dean of Students, and the Dean of the Graduate School. After receiving the formal appeal, the Dean of Students will convene the Graduate School Judicial Review Committee, which will review all of the information, including the findings of the original Judicial Council or hearing authority (if applicable), and consult with any and all parties as appropriate.
- 8) The Graduate School Judicial Review Committee will 1) accept the recommendation and dismiss the student from the graduate program; or 2) reject the recommendation and allow the student to continue in his or her graduate program of study. Regardless of the decision, the Vice President for Academic Affairs notifies the student in writing and copies all appropriate parties. All records are maintained in accord with appropriate university protocols.

VI. Disciplinary Process

All students and student organizations are subject to the disciplinary procedures prescribed in this code. If a student, allegedly involved in a violation of the Student Conduct Code, separates or graduates from the University prior to resolution, the disciplinary process can continue at the discretion of the University. If a hearing is not pursued upon the separation of the student, the pending charges will be resolved, at the discretion of the University, prior to any future readmission.

A. Initiation of Charges – The Department of Student Affairs bears the responsibility for the initiation of disciplinary procedures against a student for alleged misconduct which could result in expulsion or suspension from the University. The Department of Student Affairs will review instances of reported misconduct to determine if disciplinary proceedings should be initiated. Any member of the campus community may register a complaint in writing with the Department of Student Affairs against a student for alleged violation of University policy. In the absence of sufficient information as determined

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by the Dean of Students or designee, a complaint will be dismissed.

B. Notification of Charges – Once it is determined that disciplinary proceedings will be initiated, the charged student or student organization will be provided written notification of the charges. Notification will specify the alleged violation of this code. Notification will also inform the charged student to arrange immediately a pre-hearing interview with the Dean of Students or designee.

If the student does not arrange for a pre-hearing interview, the Student Conduct Code and a letter scheduling a hearing will be sent to the student.

C. Options for Resolution of Disciplinary Charges – It should be clearly understood that there is a fundamental difference between the nature of student discipline and that of criminal law.

Regardless of the options exercised for resolution of charges, the discipline of students within the University community must be consistent with the educational mission of the institution.

At the pre-hearing interview with the Dean of Students or designee, the charged student will have all the disciplinary options for responding to the charges brought forth, as outlined below, fully explained:

1. Plead not responsible to the charge(s) and have a regular hearing before the Judicial Council where a determination of responsibility will be made. If held responsible by the Judicial Council, an appropriate sanction(s) will be determined.
2. Plead not responsible to the charge(s) and request an administrative hearing before the Vice President for Student Life or designee where a determination of responsibility will be made. If held responsible by this administrative hearing officer, an appropriate sanction(s) will be determined. The Vice President or designee may decline to conduct the hearing, in which case the matter must be heard by the Judicial Council.
3. Accept responsibility for the charge(s) and elect for the Judicial Council to determine an appropriate sanction(s).
4. Accept responsibility for the charge(s) and elect for the Dean of Students or designee to determine

an appropriate sanction(s). The Dean of Students or designee may decline to conduct the hearing, in which case the matter must be heard by the Judicial Council.

D. Pre-Hearing Interview – When the Department of Student Affairs determines that official proceedings will be initiated, the charged student or student organization 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 student 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 student:

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 student will be advised if suspension or expulsion 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 student will be informed at least three days prior to the hearing date and the information will be made available for the student's review.
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 Department of Student Affairs 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 hearing officer or panel or other persons at the hearing unless permitted by the hearing officer or panel. The role of the advisor will be to consult

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with the charged student at reasonable intervals during the course of 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 student 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 Department of Student Affairs, 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 Department of Student Affairs may choose to delay the hearing for good cause. Such a delay will not affect the student's status.

10. Will be advised of options for resolution of disciplinary charges.

E. Failure to Respond – If the charged student or student organization has been properly notified of the charges and hearing date, and still does not attend the scheduled hearing, the hearing will be conducted by the Vice President for Student Life or designee and a determination will be made based upon the available information. The charged student will be considered properly notified when the formal charge letter, the Student Conduct Code and the letter scheduling the hearing have been delivered to the student's address as indicated in the most current Student Directory compiled by the Registrar's Office.

F. Dismissal of Charges – If the Dean of Students or designee determines as a result of the pre-hearing interview that insufficient information exists to justify a hearing, the charge will be dismissed.

G. Hearing Procedures

1. During a hearing, the charged student is entitled to:

a. Appear in person, hear all information presented and present any relevant information, call witnesses, and ask questions of witnesses present at the hearing.

b. Elect not to appear at the hearing, in which case the hearing may be conducted in the accused's absence.

c. Refuse to answer any questions or make a statement; the hearing authority shall make its decision solely on the basis of information presented at the hearing.

d. Challenge the presence of a Judicial Council member for cause. Cause is defined as personal bias, prior involvement, or inappropriate access to information concerning the incident. The removal of a Judicial Council member for cause will be at the discretion of the remaining council members as determined by majority vote.

e. Confidentiality. All hearings shall be conducted in private session. All statements, information, or comments given during hearings will be held in the strictest confidence by members of the Judicial Council, University staff, witnesses and advisors before, during, and after deliberation. Video, audio, stenographic, or photographic recording of hearing proceedings are prohibited, except as authorized by the Department of Student Affairs.

2. The hearing authority will exercise control over the hearing to avoid needless consumption of time, repetition of information, and/ or prevent the harassment or intimidation of participants. The hearing can be recessed at any time.

3. All hearings shall be conducted in an informal manner and technical rules of evidence will not be applied. The taking of statements of witnesses may be done by discussion, though the testimony of each witness may be subject to question and rebuttal. While written statements are admissible, the charged student shall have the opportunity to question and rebut the testimony, unless extenuating circumstances preclude this option. Any written witness statements must be available in the file for review three days prior to the hearing date.

4. Witnesses shall be present during a hearing only during the time they are testifying unless the violation is one in which there is a specific individual victim.

5. Cases in which there is a specific victim include but are not limited to violations of sexual misconduct or physical assault. In such cases the standard of evidence used to determine responsibility is the Preponderance of the Evidence Standard. In other words, responsibility is determined if there is credible information that shows that

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it is “more likely than not” that a violation occurred. The victim/primary witness may be present throughout the hearing and can have an advisor present. The charged student/respondent, may also have an advisor present. Questioning of the victim/primary witness by the charged student/respondent will be directed to the Council and the chair of the Council will direct the question to the victim.

Questioning of the charged student/respondent by the victim/primary witness, will also be directed to the Council and chair of the Council will direct the question to the charged student/respondent.

6. The Dean of Students or designee is responsible for scheduling, coordinating, and presenting all cases.

7. The Dean of Students or designee will make a tape recording of all hearings, where a student pleads not responsible or when a charged student requests it. The charged student shall have the right, upon request, to listen to the recording in the presence of a staff member of the Department of Student Affairs. The charged student may request a duplicate copy of the recording within a period of six months from the date of the hearing and must assume the cost of this expense.

VII. Hearing Decisions

1. Upon completion of the hearing, the hearing authority shall in private session consider the information presented to determine responsibility or to drop the charges due to insufficient information.

2. The hearing authority shall consider only the information presented at the hearing, and make determinations of responsibility by a clear and convincing standard. In compliance with Title IX of the Education Amendments of 1972, a preponderance of the evidence standard will be used when determining responsibility for allegations of sexual assault, sexual misconduct and sexual harassment.

3. In a Judicial Council hearing, a majority vote of council members shall be required to find the charged student responsible and to assign a sanction. Four members constitute a quorum. The Dean of Students or designee may offer an opinion regarding appropriate sanctions.

4. If responsibility is acknowledged or determined, prior to the determination of the sanction(s), the hearing authority shall allow the introduction of information concerning the past conduct record of the charged student and a victim impact statement which details the impact on the victim the violation caused.

The statement may be written or oral. These will be provided by the Dean of Students or designee in the presence of the charged student.

5. If the student found responsible does not choose to be present, the student’s prior record and victim impact statement will be introduced in his or her absence.

VIII. Notification of the Decision

1. Upon completion of all deliberations, the hearing authority will notify the Dean of Students or designee of the full decision.

2. The written decision from the hearing authority shall consist of written confirmation of the decision including the findings of fact, the determination of responsibility, the complete description of any sanction imposed or the decision to drop the charge(s) due to insufficient information. The hearing authority will generally send the letter to the Dean of Students or designee within 24 hours after completion of the hearing.

IX. Disciplinary Sanctions

The purpose of imposing sanctions are twofold: to protect the University community from behaviors that are detrimental to the educational process of the community; and to assist students in identifying acceptable parameters of their activities and consequences of future behaviors. The severity of the sanctions imposed is intended to correspond with the severity or frequency of violation, as well as the student’s willingness to recommit themselves or herself to good citizenship through behaviors that fall within the conduct regulations of the University. The following disciplinary sanctions may be imposed upon a student responsible for a violation either singly and/or in combination:

A. Expulsion – Expulsion is permanent disciplinary separation from the University involving denial of all student privileges. Expulsion shall be effective on the date of notice of the expulsion, or later if so stated in the notice; and shall be entered into the student’s permanent record (transcript). Students separated from the University by expulsion may not enter University premises or University-related premises without securing prior approval from the Vice President for Student Life.

B. Suspension – Suspension is temporary disciplinary separation from the University involving denial of all student privileges. Suspension shall be effective on the date of notice of the suspension or later if so stated in the notice; shall be entered into the student’s

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permanent record (transcript); and shall prescribe the date and conditions upon which the student may petition for readmission. Conditions for readmission may include, but are not limited to, disciplinary probation for a specified length of time; non-residence on campus; restricted visitation to specified campus facilities; and written statement from an accredited mental health professional or medical doctor verifying the capability of the student to function successfully at the University.

Students separated from the University by suspension may not enter University premises or University-related premises without securing prior approval from the Vice President for Student Life.

The suspension notation will be removed from the student's permanent record, by the Registrar, upon the student's graduation. The suspension notation may also possibly be removed earlier by petitioning the Vice President for Student Life.

C. Residence Hall Separation – Residence Hall Separation involves removal from the campus residence hall community for conduct which clearly demonstrated an inability to function appropriately in the residence hall living situation. Such separation may be permanent or for a specified number of semesters. Such separation prohibits accessibility to all or designated residence halls and associated dining facilities. Visitation will not be permitted without securing prior approval from the hearing officer or panel. In no case will separation be less than the remainder of the semester in which it takes place.

D. Disciplinary Probation – A period of review and observation during which a student has been officially notified that his/her conduct, although not serious enough to warrant suspension, was very inappropriate. Subsequent violations of University rules, regulations or policies (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 and/or housing areas; and change of housing assignment. 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.

E. Disciplinary Warning – Disciplinary Warning involves written notice to the student 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.

F. 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 administrative hearing officer or hearing panel will determine the appropriate reimbursement.

G. 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.

H. 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.

I. Creative Sanctions – As deemed appropriate by the hearing officer, sanctions such as reflective papers, fines, work projects or other creative sanctions.

J. Parental Notification for Violating the University's Drug or Alcoholic Beverage Policy – When found responsible for violations of these conduct standards, the hearing authority may decide to notify the responsible students' parents or legal guardians of these violations as allowed by Federal law. This will only

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occur after the hearing authority has discussed this possible notification with the student and the student is under 21.

X. Appeals

Appeals must be presented, specifically described in writing to the next level of authority in the disciplinary chain of command. An appeal is not a new hearing. It is a review of the record of the original hearing. The charged student and his/her advisor has the right to review the charged student's disciplinary file, including any tape recording of the hearing.

An appeal may be dismissed if not sought on proper grounds. If an appeal is upheld, the case with procedural specifications shall be referred to the original hearing officer/panel. Any sanction imposed as a result of a hearing shall remain in effect during the process of appeal. The appeal officer has the authority, under extenuating circumstances, to defer the imposed sanction while an appeal is in process. In cases involving alleged violations of the Sexual Misconduct Policy, both the victim/primary witness and the charged student/respondent, may appeal the outcome of the hearing. An appeal may be sought on two grounds:

A. On a claim of error in the hearing procedure. Appeals on such grounds must be presented, specifically described, in writing within five days (excluding weekends and holidays) of the announcement of the decision.

B. On a claim of new evidence or information material to the case which was not available at the time of the hearing. Appeals on such grounds must be presented, specifically described, in writing within five days (excluding weekends and holidays) of the new evidence having been discovered.

The following is the disciplinary chain of command:

Hearing Authority	Appeal Officer
Judicial Council	Vice President for Student Life
Dean of Students of designee	Vice President for Student Life
Vice President for Student Life	President

XI. Summary Action

A. Summary action requires a student to immediately leave University property, and not return during the suspension period, and/or comply with other stated conditions for a specified period. Summary suspension may also be imposed upon a student by the Vice President for Student Life or a designee when there is reason to believe, based on available facts, that the student represents an immediate threat to the safety, health, or welfare of herself/himself, other persons, or property.

This summary action is warranted by potential or threatened danger or disruption, but is utilized only when the serious nature or immediacy of the threat makes it impractical to follow normal disciplinary procedures. Students charged with violations of the Student Conduct Code and are not currently registered, are subject to summary action.

Summary actions authorized by this policy include:

1. Temporary suspension of a student's eligibility for enrollment or attendance, as well as denial of the student's access to University facilities or property. A student may be summarily suspended for a specified period of time or the suspension may be scheduled contingent upon certain events or conditions.
2. Temporary suspension or limitation of a student's eligibility to enjoy certain privileges, or participate in or attend certain events (or certain kinds of events) without the suspension of enrollment status. This summary action may prohibit a student's presence on University property or certain facilities, or impose conditions which must be met in order for that student to enjoy certain privileges, participate in activities, or attend events.
3. Temporary suspension or limitation of a student's eligibility to communicate (verbal, written, or electronic, or through another individual) with identified students, staff or faculty members.
4. Temporary suspension or limitation of a student organization's eligibility to enjoy certain privileges, participation in or attendance at certain events (or certain kinds of events), access to University facilities or property, or university recognition.

B. When a student is subject to summary action, she or he is given a copy of this policy and notice explaining the reason for, and duration of the action, as well as any conditions that may apply. A student notified of such summary action shall, upon written request, be given an opportunity to meet with the Vice President for Student Life or a designee within five business days from the date of the request. This meeting shall be held to consider only the following issues related to the summary action:

1. The reliability of information alleging a student's misconduct, and
2. Whether the conduct or surrounding circumstances reasonably indicate the student's presence on campus or continued unrestricted participation in campus affairs would pose an

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immediate threat to the safety, health, or welfare of persons or property.

NOTE: It is not the purpose of the meeting to hear information concerning responsibility of pending or possible charges against the student.

C. Following the imposition of summary action, standard University disciplinary procedures shall be provided as expeditiously as possible. Unless circumstances render the implementation of standard disciplinary procedures impossible or unreasonably difficult, these procedures shall be initiated within 10 University business days from the effective date of the summary action.

D. Any student who is summarily suspended and returns to the campus or University property and/or violates other stated conditions during the specified period shall be subject to further separate action and may be treated as a trespasser. Permission to be on campus for a specific purpose (e.g., to take an exam, to consult with the Vice President for Student Life or designee, or to participate in disciplinary procedures) must be requested and obtained in writing or by telephone prior to any conduct contrary to the suspension or conditions, and may be granted by the Vice President for Student Life or designee.

XII. Disciplinary Files-Retention and Access

Disciplinary files are retained by the Department of Student Affairs and are considered part of the educational record. A student's disciplinary file is not released outside the University without written consent of the student. Disciplinary information will be provided within the University to individuals who are determined to have a legitimate, educational interest in obtaining this information in accord with the Family Educational Rights and Privacy Act of 1974 (as amended).

A student's disciplinary file is retained for a specified length of time. The maximum sanction imposed determines how long a file is retained before being destroyed:

- *Permanently Maintained:* Expulsion, Termination of Registration of a Registered Student Organization
- *Maintained Three Years After Graduation:* Suspension
- *Maintained Until Graduation:* Residence Hall Separation, Academic Misconduct

- *Maintained Until Graduation or Seven Years from Date of Hearing (whichever is earlier):* Disciplinary Probation, Disciplinary Warning, Restitution

- *Maintained Three Years from Date of Hearing:* Termination of the Privileges of a Registered Student Organization

The sanctions of Expulsion and Suspension are the only disciplinary sanctions that are entered into a student's permanent record (transcript). A student's disciplinary file is maintained separately from any other academic or official file at the University. In cases where the charged student is found not responsible, no official disciplinary file will be retained. When charges are dropped, due to insufficient information, an official disciplinary file will be maintained until graduation or seven years from the date of the hearing.

XIII. Judicial Council

A. The Judicial Council in addition to being a hearing authority shall serve as an advisory board with regard to formulating and implementing appropriate policies and procedures in discharging responsibility for the total operation of the Student Conduct Code.

B. Recommendations of the Judicial Council shall be forwarded to the Vice President for Student Life. The Vice President will consult with the President of Winthrop University who retains the right to make final decisions in accordance with the governance policy of the institution.

C. The Judicial Council shall consist of the following eleven members: A chair appointed from the faculty by the President of the University, four faculty members appointed by the Academic Vice President, one graduate student appointed by the Dean of the Graduate School, two faculty members elected by the Faculty Conference, and three undergraduate students appointed by the Council of Student Leaders.

Each case brought before the Judicial Council will be heard by a five member panel randomly selected and available to serve. The hearing panel will be comprised of two students and three faculty members. A four person panel may hear a case when deemed necessary and approved by the Vice President for Student Life.

It shall be the prerogative of the President of the University to appoint alternate members of the faculty to serve during holidays and the summer months.