

NEW RIVER COMMUNITY AND TECHNICAL COLLEGE

Policy Number: C.200

Effective Date March 3, 2005

TITLE: Student Conduct Code

RATIONALE: To provide a comprehensive Student Conduct Code complete with legal procedures for the adjudication of student misconduct.

POLICY STATEMENT

STATEMENT OF GENERAL PRINCIPALS

New River Community and Technical College's Student Conduct Code seeks to promote the peaceful pursuit of intellectual and subsidiary activities under the auspices of the College and to ensure the safety of persons engaging in those pursuits. It further seeks to protect the free and peaceful expression of ideas and to assure the integrity of various academic processes.

It is expected that students will conduct their affairs with proper regard for the rights of others and of the College. All members of the College community share a responsibility for maintaining an environment where actions are guided by mutual respect, integrity and reason.

All members of the College are governed by College regulations, local ordinances, and state and federal laws. Individuals in violation of state and federal law are subject to prosecution by appropriate state and federal authorities regardless of whether the activity occurs on or off campus. In addition, the student may be subject to disciplinary action by the College pursuant to this Code. The severity of the imposed sanctions will be appropriate to the violation.

In seeking to encourage responsible attitudes, the College places much reliance upon personal example, counseling and admonition. In certain circumstances where these preferred means fail, it must rely upon the rules and procedures described in this Code. **IN THE ENFORCEMENT OF THIS CODE, THE COLLEGE FUNCTIONS IN AN ADMINISTRATIVE MANNER.**

I. Jurisdiction

The New River Community and Technical College Student Conduct Code shall apply to the following:

- A. Any person(s) enrolled in any course or program offered by the College at the time of the alleged offense.
- B. Any recognized student organization which is responsible for compliance with College policy, rules and regulations.
- C. The Conduct Code shall be applied only in cases of conduct:
 - 1. occurring on any campus of New River, or on other real property held by the College, or on College-related real property, or
 - 2. involving College-held or College-related personal property, or
 - 3. occurring at activities pursued under the auspices of the College, or
 - 4. regardless of where it occurs when clearly indicating that the presence of the student or organization at the College results in a substantial danger of physical harm to persons or property in the College community.

II. Definitions

- A. Real property -- held by the College and College-held personal property, which includes property held in any manner, whether owned, rented, chartered, or otherwise engaged.
- B. College-related property and College-related personal property -- such property as is held by members of the faculty or administration or by other College officers or employees as a direct result of and in connection with their service for the College, and such property as is held by College-approved organizations. College-related personal property shall include also any document or record issued or purporting to be issued by the College.
- C. Activities pursued under the auspices of the College -- includes any activities specifically sponsored or participated in by the College or by any College organization. Such activities do not include informal off campus gatherings of students.

III. Violations

Violations include those activities which directly and significantly interfere with the College's (1) primary educational responsibility of ensuring the opportunity of all members of the College community to attain their educational objectives, or (2) subsidiary responsibilities of protecting the health and safety of persons in the College community, maintaining and protecting property, keeping records, providing living accommodations and other services, and sponsoring nonclassroom activities such as lectures, concerts, athletic events, and social functions.

Upon satisfactory proof that a student organization has violated a College policy, rule or regulation, the organization may be subject to disciplinary action.

The violations listed below are considered in the context of the student's responsibility as a member of the academic community.

The following violations indicate categories of inappropriate conduct or activity. Those listed have been delineated in such a way as to give reasonable warning to students that such conduct or attempted conduct is inappropriate. These definitions of violations should not be rigidly construed.

A. Educational Mission

1. knowingly supplying false information to members of the College faculty or to other officers or employees of the College in pursuit of their official duties, to a conduct committee in the course of a disciplinary proceeding, or knowingly causing false information to be thus supplied.
2. violation of a published and/or promulgated professional code of ethics to which the student is bound, i.e., behavior that demonstrates good taste and high moral and ethical behavior.
3. unauthorized representation of the College, a College officer, or a College employee.
4. tampering with or falsifying official records.
5. refusal to identify one's self to a representative of the College in pursuit of her/his official duties.
6. direct interference with, or failure to comply with, a directive from a faculty or staff member, or officer of the College in the performance of her/his duties.

B. Safety and Environmental Health

1. physical assault.
2. harassment, intimidation, or verbal abuse.
3. false reports of fire or other dangerous conditions.
4. unauthorized use or possession of explosive components, chemicals, etc., such as fireworks, firearms, weapons, explosives, gas or compressed air, or violation of regulations concerning possession or misuses of firearms, as defined by policies established for each campus.
5. lewd, vulgar, or indecent behavior.
6. disturbance resulting in substantial disruption of authorized activities.
7. violations of alcoholic beverage regulations.
8. possession, use, or sale of illegal drugs.
9. violation of College health or safety regulations.
10. creation of a fire hazard or other dangerous condition.

11. restriction of normal traffic flow into or out of College facilities.
 12. hazing (defined as any action taken or situation created intentionally by an organization or with the knowledge or consent of an organization) to produce mental or physical discomfort, embarrassment, harassment, or ridicule to any member or prospective member.
 13. intentionally placing a person or persons in reasonable fear of imminent physical harm.
 14. sexual harassment.
 15. sexual assault.
 16. violation of local, state, or federal law.
- C. Care of Property
1. the theft, unauthorized acquisition, removal, or use of property and/or service.
 2. misuse or destruction of library material or other academic material.
 3. misuse, destruction or defacement of College property as defined above or that of other people while located on College property.
 4. trespassing or unauthorized presence on any College-held or College-related property.
 5. tampering with fire and safety equipment.
- D. Conduct Code
1. failure to comply with a sanction(s) imposed by the Conduct Officer or Conduct Committee.
 2. interference with an investigation or other procedures defined in this Code.
 3. continued infractions of this Code.
 4. knowingly assisting in the violation of any provisions of this Code.

IV. Sanctions

If a student or student organization admits to a violation of this Code to the conduct officer or the conduct committee (hereinafter referred to as "officer" or "committee," respectively), or upon determination by the officer or Committee that the student or organization has committed a violation of the Code, one or more of the following sanctions may be imposed by the campus where the student is currently enrolled, in accordance with the provisions of this Code (see Section V):

- A. Dismissal -- permanent separation from the College. However, a student may be readmitted if at some future time it can be demonstrated that another opportunity to attend is warranted.
- B. Suspension -- separation from the College for a stated period of time up to one academic year and/or until a stated condition(s) is/are met.

- C. Disciplinary Probation -- may include the loss of one or more privileges, normally for no more than one academic year.
- D. Official Censure or Admonition -- a warning.
- E. Restitution -- up to the replacement value of the items damaged (but not to exceed same).
- F. Such other action as the committee or officer within reason may deem appropriate (e.g., suspension of organization's official campus recognition).

V. Procedures

There will be a conduct committee. They will function in a like manner. The College president shall designate a College official to perform the functions of conduct officer and shall establish a conduct committee. Neither officer shall be a member of either committee.

ADMINISTRATION AND INTERPRETATION OF THE STUDENT CONDUCT CODE SHALL BE SOLELY WITHIN THE JURISDICTION OF THE CONDUCT COMMITTEE AND THE PRESIDENT OR HER/HIS DESIGNEE, SUCH INTERPRETATION BEING PURSUANT TO THE PROCEDURES OF THIS CODE.

A. Responsibilities of Conduct Officer

1. the officer may initiate, investigate or supervise the investigation of alleged violations of this Code which are brought to her/his attention by College officials or employees, students, or members of the general public.
2. upon concluding the investigation, the officer shall notify the student of the charge(s), the complaint(s), the date(s) of alleged occurrence(s), the Code section(s) which is (are) alleged to have been violated, the maximum possible sanction which may be imposed, date of hearing, and the student's rights of appeal.
 - a. this notice shall indicate whether the hearing is to be before the officer or committee.
 - b. this notice may be given personally, by telephone call, or by written letter to the student mailed to the last known address. If notice is given by means of a personal meeting or telephone conversation, the student shall be informed that a written notice will be mailed to the student at the last known address or to some other address specified by the student.

- c. if the hearing is to be before the committee, this notice will afford the student the opportunity to meet with the officer at a designated time and place for a pre-hearing meeting.

B. Hearing(s) Before Conduct Officer

1. during the hearing(s) with the student, no party present shall be accompanied by legal counsel. The student may be accompanied by an advisor who may be a parent(s), legal guardian(s), or another student, faculty, or staff member. A student may utilize the services of a student advisor trained in the judicial process.
2. during the hearing(s), the officer may hear and consider any relevant information. Efforts will be made to obtain the most reliable information available.
3. the officer shall then:
 - a. dismiss the case, or
 - b. impose appropriate sanctions. Sanctions shall become operative within five days after notice, verbal or written, thereof has been given to the student. Sanctions shall be stayed in the event the student appeals to the committee in accordance with this Code (see Section C below), or
 - c. refer the matter to the committee if the officer is in doubt as to whether acts have been committed which constitute a violation of this Code, or
 - d. refer the matter to the committee if the officer is in doubt of which, if any, sanction ought to be imposed.
4. If the officer determines that the presence of the student at the College results in possible danger of physical harm to person(s) or property at the College, the officer may immediately suspend the student until the committee convenes to hear the case. The maximum period of such an interim suspension shall be five (5) working days. Imposition of an interim suspension shall not occur without a prior preliminary hearing unless it is impossible or unreasonably difficult to accord it prior to the interim suspension. An interim suspension shall be operative immediately upon receipt of notice, verbal or written, by the student.
 - a. if the accused student is found innocent of the charges, he/she will receive an excused absence for the interim suspension period.

C. Right of Appeal Beyond Conduct Officer

1. the student may appeal to the committee any finding or action of the officer.

2. such appeal shall be submitted to the officer in writing and shall state the specific ground(s) for the appeal and shall request a review by the committee. This written appeal must be received by the officer within five (5) working days after the student has received notice of the findings. The officer shall promptly forward the appeal to the committee.
3. requests for appeals of suspension or expulsion actions by the conduct officer will automatically be granted by the committee.

D. Responsibilities of the Conduct Committee

1. After written notification from the officer, the chairperson of the committee shall, as soon as practicable:
 - a. notify, in writing, the officer and the student of a date, place, and time for hearing with the hearing normally to be held not earlier than three (3) working days, nor later than five (5) working days after issuance of notification by the committee.
 - b. list the names of members of the committee in the notice to the student.
 - c. make arrangements for producing and maintaining audio tape record of the proceedings of the committee hearing. In cases of appeal, the principals may have access to the tapes for purpose of review relating to the appeal. Such tapes shall be kept by the College until all appeal rights have been exhausted, at which time such tapes will be destroyed.
2. Composition of Committee
 - a. the committee shall consist of five (5) members: two (2) faculty members and one (1) alternate faculty member selected by the faculty; two (2) student members and one (1) alternate student member appointed by the student government association; and one (1) non-student affairs professional member and one (1) alternate professional staff member appointed by the College president. The College president will select one of the faculty members to serve as chairperson of the committee. The committee will select a vicechairperson to serve in the absence of the chairperson. At least three (3) of the five (5) members must be present to hear a case.
 - b. the student charged with the violation, the officer, and the complaining witness, may have the right to challenge for cause any member of the committee by submitting to the committee chairperson a written memorandum stating the grounds for this challenge at least two (2) days prior to the scheduled meeting. Removal of members for cause shall be within the authority and at

the discretion of the chairperson of the committee or the vice-chairperson if the chairperson is unable to exercise that function or is challenged for cause.

3. Hearing Preliminaries

- a. At any proceeding before the committee, the officer, the student, or other party to the hearing may have the assistance of an advisor. If the case involves suspension or dismissal the student may have legal counsel present. The student must inform the conduct officer at least 48 hours prior to the hearing whether an attorney will be present. Such assistance will be at the option of the student. That is, if the student chooses such assistance, the officer or Conduct Committee shall have the right to similar assistance. The role of legal counsel is explained in V.4.f.
- b. The hearing shall be open except at the request of the accused student, the officer or the complainant. The committee chairperson may close the hearing in order to protect complaining witnesses or other parties.
- c. If the student or the charging party (either the officer or a complaining witness) is not present at the time appointed for the hearing, the committee shall first attempt to determine the reason for that person's absence. The committee may proceed in a normal manner or may continue the hearing to a later date. The committee may not consider the absence of a party as relevant to whether the accused committed the alleged violation of the Code.

4. Hearing Procedures

- a. Responsibility for recognizing and calling persons to speak rests with the chairperson.
- b. Persons disruptive to any stage of the hearing may be evicted at the reasonable discretion of the chairperson.
- c. The officer shall first present the results of the investigation and/or the charges against the student.
- d. The officer and/or the complaining witness may present oral testimony and/or written statements from any person including the suspected student.
- e. The student may then present written documentation or oral testimony from the student and/or other witnesses.
- f. At any time during the proceedings, members of the conduct committee may question witnesses or parties to the proceeding; witnesses or parties may ask questions at the discretion of the chairperson. Legal counsel may serve in an advisory capacity to the

accused student in such cases. Legal counsel or advisors may not speak on behalf of the student or otherwise participate directly in the proceedings.

- g. After the presentation of all the evidence to the committee, each party may present arguments to the committee on the applicability of this Code or the interpretation of any sections herein. At this time, the officer and the student may make recommendations to the committee as to the appropriate sanctions should a violation(s) be found to have been committed.
- h. During the hearing the committee may consider any relevant information, shall not be bound by the strict rules of legal evidence, and may take into account any information which is of value in determining the issues involved. Efforts will be made to obtain the most reliable information available.
- i. After all parties present their respective information; the committee shall go into closed session to determine whether the student has committed the alleged violation and, if so, the sanctions to be imposed. A member should vote against the accused student only if convinced by a clear preponderance of the information presented that the accused student has committed the act(s) as charged. A majority vote of the committee members present and voting shall prevail. The committee chairperson is entitled to a vote.
- j. Within three (3) days of the hearing the committee shall inform the student in writing of the decision through the officer. Any disciplinary sanctions imposed by the committee shall be operative immediately unless otherwise specified.
- k. The notice to the student of the finding of the committee shall include:
 - (1) the facts found to be true.
 - (2) the section of this Code found to have been violated.
 - (3) the disciplinary sanction imposed or other sanction to be taken.
 - (4) the student's right to appeal and a statement of the expiration date for the filing of that appeal.

E. Right of Appeal Beyond Conduct Committee

In the event the committee approves a sanction of suspension or dismissal, the student may request review by the president or her/his designee. Such request for review must be made within five (5) working days of notification of imposition of sanction. The appeal shall be in writing and limited to:

- 1. review of the procedures followed.
- 2. appropriateness of the sanction. The president may not impose a more severe sanction. The decision of the president or her/his designee shall be

the final campus decision and shall be communicated to the student in writing.

F. Right of Appeal Beyond the President

A student may appeal the sanction of dismissal to the Chair, New River's Board of Governors, pursuant to section 7.5 of NRCTC's Board of Governor's Policy No. 14, "Student Rights and Responsibilities." Information regarding this process may be obtained from the Vice President of Student Services.

RELATED POLICIES:

RESPONSIBLE OFFICE: Vice President of Student Services