

The Evergreen State College
DRAFT Proposed Code of Student Conduct
May 1, 2009

Purpose

The Evergreen State College exists to promote student learning. Learning occurs through personal engagement that strengthens students' capacity to judge, speak and act on the basis of reasoned beliefs. Learning develops global citizens who assume responsibility for their decisions, expression and actions. The Code of Student Conduct (Code) reflects the educational values and mission of the College. The Code further reflects the contract between campus community members to foster accountability for decisions, expression and actions and protect each other from harm.

I. Definitions

1. The term "College" means The Evergreen State College.
2. The term "student" includes all persons enrolled at the College. Persons who withdraw after allegedly violating the Code, who are not officially enrolled for a particular term but who have a continuing relationship with the College or who have been notified of their acceptance for admission are considered "students" as are persons who are living in College residence halls, although not enrolled in this institution. This Code applies in all locations of the College, including programs in locations other than Olympia, Washington.
3. The term "faculty member" means any person hired by the College to conduct teaching activities or who is otherwise considered by the College to be a member of its faculty.
4. The term "College official" includes any person employed by the College, performing assigned administrative or professional responsibilities.
5. The term "member of the College community" includes any person who is a student, faculty member, College official or any other person employed by the College. A person's status in a particular situation shall be determined by the Vice President for Student Affairs.
6. The term "College premises" includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the College (including adjacent streets and sidewalks).
7. The term "College-sponsored event or activity" means activities or events involving planning or funding or other approved authorized participation by the College.
8. The term "organization" means any number of persons who have complied with the formal requirements for College recognition. A group's status in a particular situation shall be determined by the Vice President for Student Affairs.
9. The term "policy" means the written regulations of the College as found in, but not limited to, the Code, the College website, and catalog.
10. The "Vice President for Student Affairs" is that person designated by the College President to be responsible for the administration of the Student Conduct Code.

11. The term “Senior Student Conduct Administrator” means the primary College official responsible for educating students about their rights and responsibilities and administering the Code of Conduct.

12. The term “Student Conduct Administrator” means a College official authorized to administer the Code of Conduct in response to a complaint. The Senior Student Conduct Administrator is also a Student Conduct Administrator.

13. The term “Student Conduct Appeal Board” means five community members including one faculty appointed by the faculty, one classified or exempt staff and three students appointed by the Vice President for Student Affairs to hear appeals of a Student Conduct Administrator’s Findings and recommended Corrective Actions.

14. The term “Complainant” means any person who submits a charge alleging that a student violated this Code. When a student believes that s/he has been the victim of another student’s misconduct, the student who believes s/he has been a victim will have the same rights under this Code as are provided to the Complainant, even if another member of the College community submitted the complaint itself. The Complainant has the right to inquire about the status of the complaint.

15. The term “Respondent” means any student alleged to have violated this Code.

16. The term “conduct hold” means a block prohibiting the student from registering for academic credit or receiving a copy of his/her transcript until s/he receives clearance from a Student Conduct Administrator.

17. The term “Finding” means a determination of whether or not the Respondent was responsible or not responsible for violating the Student Code of Conduct.

18. The term “Corrective Action” means those actions that serve as consequences for violations of the Student Code of Conduct.

19. The term “Recommendation for Corrective Action” means the decision of the Student Conduct Administrator regarding responsibility and the consequence(s) appropriate to the level of responsibility.

20. The term “Accountability Contract” means a mutual agreement between the Respondent and Student Conduct Administrator which states the violation(s) for which the Respondent is taking responsibility, the Finding, and the corrective actions and deadlines for completion the Respondent must execute to address the misconduct.

21. The term “Final Determination” means a decision by the Student Conduct Appeal Board stating the Finding and the corrective actions the Respondent must execute to address the misconduct.

22. The term “calendar day” means all days of the month not just working days. In cases where a specified due date falls on a weekend or holiday, the working day closest to the date due will be used (i.e. if the tenth day deadline falls on Saturday the document will be done on Friday).

23. The term “business day” means all days of the month in which the College is open for business.

24. The term “shall” is used in the imperative sense.

25. The term “may” is used in the permissive sense.

II. Authority

1. The Vice President for Student Affairs is responsible for ensuring that Student Conduct Appeal Board members and their alternates are appointed. The Vice President for Student Affairs will appoint the chair of the hearing board, who, with clerical from assistance of the Vice President for Student Affairs, will write and issue the Board’s Finding and Accountability Conclusion.

2. The Vice President for Student Affairs may request that an assistant attorney general, an administrative law judge, or any qualified community member serve as a nonvoting advisor to the Appeal Board.

3. The Vice President for Student Affairs determines which Student Conduct Administrator shall be authorized to adjudicate each matter. Student Conduct Administrators identified in Residential and Dining Services (RAD) are generally responsible for adjudicating most violations of the Code allegedly committed by on-campus residents in or near residential facilities. The Senior Student Conduct Administrator is generally responsible for adjudicating most violations of the Code allegedly committed by all other students and in all cases where the Respondent is alleged to have engaged in acts and threats of physical abuse; sexual misconduct; and violations occurring near the end of or after a student’s contract with RAD, addressed by Police Services, and those that may result in suspension or expulsion from the College.

4. The Senior Student Conduct Administrator is responsible for developing policies for the administration of the student conduct system and procedural rules for the conduct of Board hearings that are not inconsistent with provisions of the Code.

5. Decisions made by a Student Conduct Administrator and the Appeal Board are final, pending the appeal process.

III. Jurisdiction of the Code

1. The Code applies to conduct that occurs on College premises or adjacent to College premises, or at College-sponsored events or activities.

2. The Code applies to conduct that occurs off campus and which adversely affects the College Community and/or the pursuit of its objectives. The Vice President for Student Affairs shall determine whether the Code shall be applied to conduct occurring off campus, on a case by case basis.

3. Each student is responsible for his/her conduct from the time of acceptance for admission through the actual awarding of a degree, even though conduct may occur before programs/courses begin or after they end, as well as during the academic year and during periods between terms of actual enrollment (and even if their conduct is discovered after a degree is awarded).

4. The Code applies to a student’s conduct even if the student withdraws from the College while a conduct matter is pending.

IV. Standards for Student Conduct

Students are required to engage in responsible conduct that reflects credit upon the College community and to model good citizenship in any community. Students are expected to

- Preserve College functions
- Maintain academic integrity
- Provide honest and accurate information
- Prevent harm to self or others
- Foster a safe community
- Protect and preserve College and personal property
- Adhere to published policies; contracts; and local, state, and federal laws

Attempting or engaging in the following conduct is specifically prohibited:

1. **Obstruction or disruption** of learning, teaching, research, administration, freedom of speech and movement, the adjudicative process, public service functions or College-sponsored activities on or off campus.
2. **Academic dishonesty** which includes but is not limited to the following:
 - a) plagiarism defined as appropriating as or incorporation of any other person's work in one's own work without full and clear acknowledgement.
 - b) copying from another person's academic work without proper acknowledgement
 - c) using unauthorized assistance or materials to complete an academic product or assignment
 - d) unauthorized collaboration with any other person during the completion of independent academic work
 - e) knowingly falsifying, obtaining, using, buying, selling, transporting, or soliciting in whole or in part the contents of academic work
 - f) permitting any other person to substitute oneself to complete academic work
 - g) engaging in any behavior specifically prohibited by a faculty member in the course syllabus or class discussion.
3. **Failure to be truthful and forthcoming** to the College or a College official. This includes but is not limited to making false charges against another member of the community, providing misinformation in application for admission, to gain employment, or to avoid determination of facts in a College investigation, hearing, or process.
4. **Forgery**, alteration, or misuse of college documents, records, or identification cards.
5. **Failure to comply** with directions of College officials or emergency response personnel acting in performance of their duties which includes failure to identify oneself to these persons when requested to do so.
6. **Engaging in physical abuse**, verbal abuse, threats, intimidation, harassment, coercion, and/or other conduct which threatens or endangers the health or safety of any persons, including oneself.
7. **Stalking** which is a pattern of unwanted behavior that is directed at a specific person that would cause a reasonable person alarm and/or fear.
8. **Making an audio or video record** of any person while on college premises **without his or her consent** when such a recording is of a private conversation or of images taken at a time and place where he or she would reasonably expect privacy.

9. **Possessing firearms or weapons** on campus; unauthorized use, possession or storage of any explosives, fireworks, dangerous chemicals, or substances; or possession or use of any instrument designed to cause harm, or realistic replica of such instrument, which might reasonably threaten or cause fear or alarm to others.

10. **Unauthorized entry** into or onto, or the unauthorized remaining in, or upon, any College facility or unauthorized use of a key.

11. **False alarms** which includes but is not limited to intentionally causing a false emergency response on college property or at college-sponsored activities **and improper use or disabling of safety equipment and signs.**

12. **Possession, use, manufacture, or distribution of alcoholic beverages** except as expressly permitted by law or College regulations. Alcoholic beverages may not, in any circumstance, be used by, possessed by, consumed by, or distributed to any person under 21 years of age.

13. **Possession, use, manufacture, cultivation, packaging, distribution, selling, or providing a controlled or illegal substance;** misusing prescription or nonprescription drugs on campus; or public appearance on campus or at any college-sponsored event while under the influence.

14. **Damaging College property or the property of others.** This may include but is not limited to taking, attempting to take, possessing, or aiding another to take property or services – personal, public, or college – without express permission.

15. **Misconduct motivated by bias** against someone’s actual or perceived religion, nationality, ability, age, gender, sexual orientation, gender identify, creed, racial or ethnic origin, cultural identity, veteran status, or political affiliation.

16. **Sexual misconduct**, defined as unwanted and/or non-consensual behavior with another person involving:

- verbal, written, pictorial and/or electronic contact that is sexual in nature
- voyeurism or exhibitionism
- sexual advances or requests for sexual favors
- sexual contact, activity, or intercourse
- coercion, including psychological pressure, intimidation and/or threats
- sexual violence which includes but is not limited to hitting or striking; the use of force or a weapon; or the use of body weight or other physical means of overcoming resistance

Consent is a voluntary and mutually understandable agreement. Consent may not be given or granted when one is under the influence of alcohol or drugs, unconscious, or is experiencing some other cognitive impairment.

Sexual misconduct can occur with any combination of genders, gender expressions and sexual orientations.

17. Refusal to **desist from prohibited conduct.**

18. **Failure to respond** to any notice to appear for a meeting or hearing as part of the student conduct process and **failure to comply** with an imposed sanction or any agreement made during the conduct process.

19. Failure to ensure that your **guest** adheres to the Code.

20. **Violation of any College policy, rule, or regulation** published by the College in hard copy or available electronically on the College website.

21. **Violation of Residential and Dining Services policies.**

22. **Hazing** which includes but is not limited to any activity or method of initiation into a student social, living, learning, or athletic group that causes, or is likely to cause, bodily danger or physical, mental, or emotional harm to another person.

23. **Alleged violation of federal, state or local law** by law enforcement or conviction of a felony or misdemeanor under circumstances where it is reasonable to conclude that the presence of the person at the College would constitute a danger to health, personal safety, or property or where the offense occurred on College premises or at College-sponsored activities.

24. **Failing to intervene with or knowingly assisting** another person to violate the Code.
(Recommendations as of March 13, 2009)

V. Procedures

1. Purpose

The Code of Conduct procedures are designed to afford Complainants and Respondents a fair and accessible process that educates students about their rights and responsibilities and provides due process.

2. Complaints

a) Anyone may submit a complaint against a student alleging violations of the Code. The complaint must be submitted in writing to a Student Conduct Administrator. A complaint should be submitted as soon as possible after the event takes place.

(questions re: codifying option for anonymity)

b) The Student Conduct Administrator may determine that the complaint can be addressed without adjudication, or may determine a complaint has merit. If the complaint is deemed to have merit the Student Conduct Administrator may impose interim restrictions on the Respondent prior to a hearing. These restrictions may include but are not limited to loss of privileges or no contact orders. Allegations of misconduct may be addressed as follows:

i) All parties involved may agree to an informal resolution via mediation, arbitration or a restorative justice intervention. No educational record is established.

ii) Charges of misconduct are conveyed to the Respondent and the charges are investigated and adjudicated.

iii) In a situation where the student is determined to present imminent danger to self, others, College property or the educational process, the Vice President for Student Affairs may invoke an emergency suspension

3. Adjudication of Complaints

a) When a complaint is determined to have merit by the Student Conduct Administrator, the complaint becomes a matter between the Respondent and the College and the Complainant provides information if a hearing occurs.

b) Notification

The Student Conduct Administrator issues written notification to the Respondent that a complaint has been filed alleging violations of specific provisions of the Student Conduct Code and the date of the alleged violation(s), a time for a hearing with the Student Conduct Administrator, and a copy of the Code of Conduct. (*Questions about police required meetings*)

At any time during, failure to meet with the Student Conduct Administrator at the appointed time may subject the Respondent to a conduct hold. If the Respondent fails to meet with the Student Conduct Administrator in a timely fashion the complaint will be adjudicated in the Respondent's absence.

c) Hearing

During the hearing, which may occur over a series of meetings, the Student Conduct Administrator explains the adjudicative process, the Respondent's rights and responsibilities, and reviews the complaint and alleged violation(s) of the Code. The Student Conduct Administrator seeks information from the Respondent regarding the allegations and may seek additional information from other involved parties or observers.

d) Hearing Outcomes

i) The charges are dismissed, no action is taken, and no educational record is established.
(? about keeping file)

ii) The Respondent accepts responsibility for the alleged violations and an Accountability Contract is signed by the Respondent and the Student Conduct Administrator.

iii) The Respondent does not accept responsibility for the alleged violations or the Respondent and Student Conduct Administrator are unable to reach agreement on an Accountability Contract. In this case, the Student Conduct Administrator issues a Finding and a Recommendation for Corrective Actions. This Finding and/or Recommendation may be appealed to the Student Conduct Appeal Board as per Section VI when the Recommendation does not include suspension or expulsion. In the case of Recommendations that include suspension or expulsion, the Finding and/or Recommendation may be appealed to the Student Conduct Board as per Section XX.

VI. Student Conduct Board Appeals

1. Appeals to the Student Conduct Administrator's Finding and/or Recommendation must be submitted to the Vice President for Student Affairs within five calendar days.
2. Except in cases of emergency suspension, the Respondent's status will not be altered until the final opportunity for appeal has passed. If an appeal is submitted, the Finding and Recommendation will be deferred until a final determination is made by the Hearing Board.
3. If the Respondent fails to submit a request for an appeal within the stated deadline, the Student Conduct Administrator's Finding and Recommendation stand.

VII. Appeal Hearings

1. The Vice President for Student Affairs schedules the Appeal Hearing and provides written notice to the Respondent at least five business days in advance of the Hearing. The five days may be waived by the Vice President, with the student's permission. The written notice includes

- a) the date, time, location and nature of the proceeding;
- b) a list of individuals who will be involved in sharing information;
- c) a description of any pertinent information that would be shared by the Student Conduct Administrator;
- d) a date by which the Respondent must identify individuals who will be involved in sharing information on his/her behalf;

2. If necessary, in order to ensure five Board members are present, faculty, staff and student members may be substituted for each other when others are not available. At least one student member must always be involved in the hearing. A chair will be selected by the Vice President for Student Affairs from the group assigned for each hearing and will preside over that meeting as the official representative of the committee.

2. The Respondent will have the opportunity to:

- a) review all materials that will be presented by the Student Conduct Administrator no later than two business days prior to the Hearing
- b) request the presence of individuals sharing information on his/her behalf,

3. The Student Conduct Administrator will provide the Student Conduct Appeal Board with the following:

- a) a copy of the Finding and Recommendation;
- b) the name and address of the Complainant;
- c) the name and address of the Respondent; and
- d) all pertinent information related to the case.

4. Hearings shall be conducted by the Student Conduct Appeal Board as follows:

The Appeal Board Chair shall insure the following:

- i) the proceeding is held in an orderly manner such that the rights of all parties to a full, fair and impartial proceeding that adheres to the Code are maintained;
- ii) only those materials and matters presented at the proceeding will be considered. The Chair reserves the responsibility to exclude incompetent, irrelevant, or unduly repetitious information.
- iii) The Student Conduct Administrator will present their Findings and Recommended Corrective Actions for the Respondent.
- iv) The Respondent will respond to the Student Conduct Administrator's Findings and Recommended Corrective Actions.
- v) The Student Conduct Administrator, followed by the Respondent, provide additional information and request presentations of information from relevant parties.
- vi) The Board may pose questions throughout the proceeding to all parties. Questions for all parties may be suggested to the Board by the Respondent, Student Conduct Administrator, and Complainant. The Chair of Board determines if the questions will be pursued at their discretion.
- vii) Only members of the Appeal Board and the advisor to the Board are present for deliberations. During deliberations the Board shall consider all the information presented and decide by majority vote whether it is more likely than not that the Respondent is responsible for violating the Code of Conduct and/or what Corrective Actions to impose. The Respondent is provided with the Board's Final Determination.
- viii)

a) Every attempt will be made to have the Appeal Board composition reflect the defined groups; however, faculty, staff, and student members may be substituted for each other when faculty, staff, or student members are not available. A chair will be selected from the group assigned for each hearing and will preside over that meeting acting as the official representative of the Board.

b) The Hearing is held in closed session. A closed proceeding includes only members of the Appeal Board; the advisor to the Board; the Student Conduct Administrator; the Complainant, the Respondent and their advisors, if any; and persons requested to provide pertinent information. Admission of any other person to the Hearing is at the discretion of the Board.

c) The Complainant and the Respondent have the right to be assisted by an advisor they choose, at their own expense. The advisor must be a member of the College community and may not be an attorney. The Complainant and/or the Respondent is responsible for presenting

d) e) The Hearing will be recorded, and the record shall be on file with the Vice President for Student Affairs

f) The Respondent's failure to cooperate with or attend a Hearing shall not preclude the Board from proceeding and making a Final Determination. Failure by the Respondent to cooperate may be taken into consideration by the Board in deciding the Final Determination.

g) Any person disruptive of the proceeding or any other procedure described in this document shall be excluded from the process by the Chair. Any student engaging in such interference shall be in violation of the Student Conduct Code and may be summarily suspended from the College by the Vice President for Student Affairs immediately. The student shall be subject to a suspension or any lesser sanction as may be determined by the Vice President at the time the interference takes place or within fifteen (15) working days thereafter.

h) If a Respondent charged with misconduct under this Code has been charged with a crime for the same act or closely related acts by federal, state, or local authorities, or if it appears that such criminal charge is under consideration, the Respondent may petition the Vice President of Student Affairs to postpone action on the complaint until there has been a disposition of the criminal charge or of the consideration of filing such charge.

IX. Procedural Appeals

The Respondent or the Student Conduct Administrator may submit a procedural appeal to the President. The procedural appeal must be received in writing within five business days of receiving the Appeal Board's Final Determination. The President will appoint a reviewing officer to review the record of the Appeal Hearing. Within five business days of filing the appeal, the reviewing officer must render a final written order.

X. Suspension/Expulsion Appeal Hearings

1. If the Respondent is charged with a violation that may result in corrective action of suspension or expulsion the appeal hearing is conducted according to the Administrative Procedures Act, RCW 34.05.410 through 34.05.494, as amended or superseded.

2. A written request for a hearing must be received by the Vice President for Student Affairs within 20 days of service of the Student Conduct Administrator's Finding and Recommendation. Except in cases of emergency suspension, the Respondent's status will not be altered until the final opportunity for appeal has passed. The Finding and Recommendation are deferred until 21 days after notice of said Finding and Recommendation, and if an appeal is filed, until a final determination is made by the Student Conduct Appeal Board.

XI. Emergency Suspension

The Vice President for Student Affairs may summarily suspend any student from the College pending investigation of an alleged conduct violation or violations, if the Vice President has reason to believe that the student's physical or emotional safety and well-being, or the safety and well-being of other University community members, or the protection of property requires such suspension.

If the Vice President finds it necessary to exercise the authority to summarily suspend a student, the Vice President shall:

- a) give to the student an oral or written notice of intent to determine if summary suspension is an appropriate action;
- b) give an oral or written notice of the alleged misconduct and violation(s) to the student;
- c) give an oral or written explanation of the information in support of the charge(s) to the student;
- d) determine a time for the summary suspension proceeding to be held within two (2) working days;
- e) give an oral or written notice of the time and place of the summary suspension proceeding before the Student Conduct Appeal Board; and
- f) give an oral or written explanation of the summary suspension which may be imposed on the student.

At the place and time designated for the summary suspension proceeding, the Student Conduct Appeal Board shall:

- b) consider the information relating specifically to the probability of danger to the student, to others, or to property;
 - c) provide the student with an opportunity to show why continued presence on campus does not constitute a danger to the physical and emotional well-being of self or others, or a danger to property;
 - d) give immediate oral notice of the decision to the student, followed by written notice;
 - e) if summary suspension is warranted, summarily suspend the student for no more than twenty (20) working days with a Student Conduct Appeal Board proceeding of the allegations to have commenced by the end of the suspension period.
- 2) If a student has been instructed by the Vice President to appear for summary suspension proceedings and then fails to appear at the time designated, the Vice President may suspend the student from the College, and shall give written notice of suspension to the student at the student's last address of record on file with the College.
 - 3) During the period of summary suspension, the suspended student is not permitted on College property other than to meet with the Student Conduct Administrator. However, the Vice President may grant the student special permission for the express purpose of meeting with faculty, staff, or students in preparation for a proceeding before the Student Conduct Appeal Board
 - b) No case shall be heard unless a full hearing board is present, unless approved by the appealing student.
 - c) The appealing student retains the option to request a member of the Board be replaced if he/she can show cause.

XII. Corrective Action

The following corrective actions may be agreed to by, or imposed upon a student found to have violated the Code. More than one action may be appropriate for any single violation.

1. Warning—A notice in writing to the student that the student is violating or has violated the Code.
2. Probation—A written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe corrective actions if the student is found to violate any College regulation during the probationary period.
3. Loss of Privileges—Denial of specified privileges. This may take the form of limited access or restriction from campus facilities, events, student employment, or participation in cocurricular activities.
4. Restitution—Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
5. Discretionary Actions—Including but not limited to work assignments, essays, service to the College.
6. No Contact—Dictates that the student may have no contact with other stated members of the College community.
7. Residence Hall Suspension—Separation of the student from the residence halls for a definite period of time, after which the student is eligible to return. Conditions for returning to the Hall may be specified.
8. Residence Hall Expulsion—Permanent separation of the student from the residence halls.
9. Deferred Action—Corrective action that will be immediately imposed if conditions of a Final Settlement or Accountability Contract are not met.
10. College Suspension—Separation of the student from the College for a definite period of time, after which the student is eligible to return. Conditions for reenrollment may be specified.
11. College Expulsion—Permanent separation of the student from the College with a notation on the transcript.
12. Withholding Admission or Degree—Admission to or a degree awarded from the College may be withheld for a specified amount of time.
13. Revocation of Admission or Degree—Admission to or a degree awarded from the College is revoked and noted on the transcript.

XIII. Records

The student's conduct may be expunged seven years after the final disposition of the case. When the Corrective Action includes College expulsion or revocation of a degree the record is retained.

In situations involving both a Respondent (or group or organization) and a Complainant claiming to be the victim of another student's conduct, the records of the process and of the corrective actions imposed, if any, shall be considered to be the education records of both the Respondent and the Complainant because the educational career and chances of success in the academic community of each may be impacted. Other than College expulsion, degree revocation,

incomplete Corrective Actions with suspension, or withholding of a degree, Corrective Actions shall not be made part of the student's permanent academic record, but shall be come part of the student's education record.

XIV. Interpretation & Revision

1. Any question of interpretation or application of the Code shall be referred to the Vice President for Student Affairs or his or her designee for final determination.
2. The Student Code of Conduct shall be reviewed every three years under the direction of the Senior Student Conduct Administrator.

Present for meeting 5/1/09:

Wendy Endress
Bill Gilbreath
Larry Locke
April Meyers
Anthony Rios
Crystal Robbins
Michael Sledge