

## Yavapai College CODE OF CONDUCT

### Article 1: In General

#### I. Preamble

##### A. Purpose

1. Educational activities ideally are conducted in an environment that encourages reasoned discourse, intellectual honesty, openness to constructive change and respect for the rights of all individuals. This Code of Conduct ("Code") is designed to promote and protect such an environment at Yavapai College.
2. The primary purpose of this Code is to set forth the rules and standards of conduct expected of students and others who join the College community. The Code is intended to protect the College community, maintain order and stability, and preserve the educational functions of the College.

##### B. Jurisdiction

1. The Code has been adopted pursuant to Arizona Revised Statutes Sections 13-291 1 and 15-1444. The Code shall apply to, and its provisions may be enforced against, any individual who is present on the College campus or College-controlled property or who is attending any College-sponsored activity or event, or any student who engages in conduct on or off College property that affects the educational functions of the College.
2. Each student shall be responsible for his/her conduct from the time of first enrollment through the completion of his/her educational goals, even if such conduct occurs before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if that conduct is not discovered until after a degree is awarded. The Code shall apply to a student's conduct even if the student withdraws from school while a disciplinary matter is pending. The President, Dean of Student Services, or designee, shall decide if the Code shall be applied to conduct occurring off campus, on a case by case basis.

##### C. Code Coverage

1. The adoption of this Code does not prohibit the College from adopting or maintaining additional policies, regulations or procedures, and nothing in

this Code is intended to supersede the provisions of the Yavapai College Manual of Policy and Procedure. Charges brought pursuant to this Code may be combined with charges brought pursuant to other policies or regulations provided administrative procedures for enforcement of the Code are used to resolve the charges brought pursuant to the Code. Prohibitions and sanctions described in the Code are in addition to, and not in lieu of, other prohibitions and sanctions set out in College policy or local, state or federal law. Disciplinary action by the College may proceed during the pendency of criminal proceedings and will not be subject to challenge on the ground that criminal charges involving the same incident have been dismissed or reduced.

2. The following matters are specifically excluded from coverage under this Code:
  - a. Policies and regulations that are adopted by the College relating to the control of vehicles on College property.
  - b. Policies and procedures relating to student academic performance, except as noted in the official College catalog under the topics "Removal from Class" and "Academic Integrity."

## II. Definitions

- A. In this Code of Conduct, unless the context otherwise provides or requires:
  1. "**Accused student**" refers to any student or student organization accused of violating this Code.
  2. "**Address**" means the student's most recent mailing address on file with the College. All parties involved in the student disciplinary process are responsible for keeping the College informed of their current mailing address.
  3. "**Advisor**" means the person requested by the administrative representative or the accused student to attend an Appeal Hearing and to offer advice or support to either party. This person may or may not be an attorney. The advisor may not appear in lieu of either party.
  4. "**Aggravated violation**" means a violation which resulted or foreseeably could have resulted in significant damage to persons or property or which otherwise posed a substantial threat to the continuance of normal College or College-sponsored activities.
  5. "**Appeals Board**" means any person or persons authorized by the Dean of Student Services (or designee) to consider an appeal from a Student Conduct Officer's determination that a student has violated the student Code or residence hall regulations, or from the sanctions imposed by that officer.
  6. "**Board**" means the Yavapai College District Governing Board.
  7. "**Chairperson of the Appeals Board**" means an individual appointed by a Student Conduct Officer to facilitate the Appeal Hearing and prepare documentation of the outcome of the appeal.
  8. "**Cheating**" includes, but is not limited to 1) the use of any unauthorized assistance in taking quizzes, tests, or examinations; 2) use of sources

beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments; 3) the acquisition, without permission, of tests or other academic material belonging to a member of the College faculty or staff; 4) engaging in any behavior specifically prohibited by a faculty member in the course syllabus or class discussion.

9. **“College”** means the Yavapai County Community College District.
10. **“College Campus”** means all land, buildings, facilities and other property owned or controlled by the College.
11. **“College Community member”** means College students, administrative and staff personnel, members of the faculty and all other College employees.
12. **“College Official”** means any person employed by the College, performing assigned administrative or professional responsibilities, or any person affiliated with the college through a contracted service agreement acting in that capacity.
13. **“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.
14. **“College Property”** means all real and personal property: (1) owned by the College; or (2) in the possession of or subject to the control of the College.
15. **“College-sponsored activity”** means any activity on or off campus which is initiated, aided, authorized, sanctioned or supervised by the College.
16. **“Complainant”** means any member of the College community who submits a charge alleging that a student violated this Code. When a student believes that he/she has been a victim of another student’s misconduct, the student who believes he/she has been a victim will have the same rights under this Code as are provided to the complainant.
17. **“Conduct Officers”** means the College staff persons appointed by and authorized by the President, Dean of Student Services, or designee, to determine whether a student has violated the Code and to impose appropriate sanctions. These officers are responsible for overseeing the student discipline process, for selecting and assigning appeals board officers for individual cases. Conduct officers will include the Assistant Dean of Student Development (Prescott), Assistant Dean of Student Services (Verde), and the Director of Residence Life. Conduct officers may, but need not, be appointed on a case by case basis.
18. **“Day”** means normal business day, not including Saturday, Sunday, or any officially recognized College holiday.
19. **“Dean of Student Services”** is the person designated by the College President as being responsible for the administration, interpretation, and application of the Code, as well as for review and recommend revision of the Student Code of Conduct every two years.
20. **“Distribution”** means sale or exchange whether or not for personal profit.

21. **"Fabrication"** means intentional and unauthorized falsification or invention of any information or citation in an academic exercise.
22. **"Faculty"** means all employees of Yavapai College in teaching or service whose notice of appointment is that of full-time or adjunct faculty or is designated as faculty on the notice of employment.
23. **"Group"** means a number of persons who are associated with each other and have not complied with College requirements as an organization.
24. **"Organization"** means a number of persons who are associated with each other and who have complied with College requirements for registration as an organization.
25. **"Parties"** means the complainant and/or the administrative representative, and the accused student.
26. **"Plagiarism"** includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgement. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials. (1)
27. **"Policy"** means the written policies, rules, and /or regulations of the College as found in, but not limited to, the Code of Conduct, Student Handbook/Planner, Residence Hall Handbook, Computer Use policy, and the College Catalog.
28. **"President"** means the President of the College or designee.
29. **"Reckless"** means conduct which one should reasonably be expected to know would create a substantial risk of harm to persons or property or which would otherwise be likely to result in interference with College or College sponsored activities.
30. **"Reviewing Administrator"** means the Conduct officer responsible for reviewing and approving the determination and sanctions imposed by the Appeals Board. The reviewing administrator is also responsible for reviewing requests for a rehearing before the Appeals Board.
31. **"Student"** means any person registered or enrolled in one or more classes, except a faculty member or full-time employee who takes any course as a privilege of employment. 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 living in College residence halls, although not enrolled at this institution.
32. **"Student conduct hearing"** means a fact-finding meeting between a Conduct Officer and the accused student, to discuss the alleged violation of the Code.
33. **"Timely"** means as soon as reasonably possible, with consideration given to the backlog of discipline cases, number of individuals to be interviewed, and other factors which may impact the disposition of the case.

34. **“Weapon”** means any object or substance designed or used in a manner which would be likely to wound, cause injury or incapacitate, including, without limitation, all firearms, pellet guns, knives with blades four (4 ) or more inches in length, and chemicals such as “mace” or tear-gas, but excluding normally available over-the-counter self-defense chemical repellents.

### III. Student Conduct Authority

- A. The Dean of Student Services is authorized to develop policy recommendations relating to administration of the student discipline system and to adopt procedural rules for the conduct of student discipline hearings which are consistent with the provisions of this Code.
- B. A Student Conduct Officer shall conduct the initial hearing and impose sanctions for students found to be in violation of the Student Code of Conduct, Residence Hall regulations or other College policy.
- C. Decisions made by a Student Conduct Officer shall remain in effect during the appeals process.
- D. The Conduct officers shall determine the composition of the Appeals Boards. The Boards will include not fewer than three (3) persons and no more than seven (7) persons, and when reasonably possible, include representatives of the student body, faculty, staff and/or administrators.
- E. The Appeals Boards shall conduct appeals hearings for those students who wish to appeal the decision of a Student Conduct Officer, and will make determinations regarding the Officer’s decision and the sanctions imposed.
- F. One of the Student Conduct Officers or another College Official may be designated as the arbitrator of disputes within the student community in cases which do not involve a violation of the Code. All parties must agree to arbitration, and to be bound by the decision with no right to appeal.

### Article 2: Rules and Regulations

#### I. Prohibited Conduct

following  
subject

- A. The disciplinary regulations set forth in this section are intended to give general notice of prohibited conduct. The regulations should be interpreted broadly and are not designed to define misconduct in exhaustive terms.
- B. Any student found to have committed or to have attempted to commit the misconduct, whether done intentionally, knowingly or recklessly, is to disciplinary action:
  - 1. Physical abuse, verbal abuse, threats, intimidation, harassment, coercion and/or other conduct which threatens or endangers the health or safety of any person, or which causes the reasonable apprehension of a threat to a person’s health or safety. This also includes any student who presents a danger to him/herself.
  - 2. Sexual harassment, sexual misconduct, lewd or indecent behavior, or sexual assault of any member of the College community, or any person on the College campus or at a College-sponsored activity. This includes any sexual act which occurs without the consent of an individual, or that occurs when the individual is unable to give consent. The following

definition is from the College policy regarding sexual harassment:

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature. Sexual harassment also includes unwelcome sexual flirtations, advances or propositions, verbal abuse of a sexual nature, unnecessary touching of an individual, sexually degrading words used to describe an individual, any display of sexually suggestive objects or pictures, sexually explicit or offensive jokes, or physical assault.

3. Unauthorized use, possession, transportation or storage of any firearm(s), explosives (including fireworks), dangerous chemicals or other weapons while on the College campus or at a College-sponsored activity. A harmless instrument designed to look like a firearm, explosive, or dangerous or illegal weapon that is used by or is in the possession of a person is included in the above mentioned prohibition. While the possession of items such as mace and pepper spray as self-defensive or self-protection measures are not prohibited by this standard, offensive or reckless use of such items may constitute physical harassment or assault and subject an individual to disciplinary action.
4. Misusing, disabling, or damaging fire safety equipment, creating a fire hazard, or initiating or causing to be initiated any false report, warning, or threat of fire, explosion, or other dangerous conditions on the College campus or at a College-sponsored activity.
5. Interfering with normal College or College-sponsored activities or services, including, but not limited to, studying, teaching, research, administration, disciplinary proceedings, recreation, food service, or fire, police, or emergency services.
6. Unauthorized possession, use, sale, distribution, transportation, or possession for purposes of distribution of any controlled substance or illegal drug, or imitation controlled substance, on the College campus or at a College-sponsored activity. Students are also prohibited from possessing, transferring or using on the College campus, or at a College-sponsored activity, any drug paraphernalia including, but not limited to bong, pipes, and/or roach clips. An exception exists for medications issued resulting from a valid prescription and used in accordance with the prescription.
7. Possession, use, manufacture, or distribution of alcoholic beverages on the College campus. Possession or use of alcoholic beverages at off-campus College-sponsored activities is prohibited unless authorized by the President. Possession of a large quantity of alcohol or possession of a large volume container used to hold alcohol is considered a serious offense.
8. Intoxicated/impaired behaviors which may or may not be disruptive to the College community or the learning process. This is in compliance with Yavapai College's philosophy of zero tolerance as it pertains to drug and/or alcohol use. Impaired behaviors due to medical conditions may not apply.
9. Furnishing false information to any College Official or Office including, but not limited to submitting to any College Official or Office any document or instrument of identification containing false information.

10. Forgery, unauthorized alteration, or unauthorized or improper use of any College document, record or instrument of identification. Using forged or altered documents is prohibited, regardless of who made the change.
11. All forms of student academic dishonesty, falsification, and/or plagiarism.
12. Substantially interfering with the freedom of expression and/or movement of others on the College campus or at a College-sponsored activity, which includes pedestrian and vehicular traffic. This restriction is not intended to infringe on the right of the instructor to control classroom discussion.
13. Attempted or actual theft, damage, possession and/or misappropriation of property or of services of the College or of a member of the College community, or other personal or public property, on or off campus.
14. Failure to comply with the direction(s) of College Officials or law enforcement officers acting in performance of their duties, and/or failure to identify oneself when requested to do so.
15. Failure to comply with other published rules and regulations of conduct that may from time to time be adopted by the Board or the College.
16. Unauthorized possession, duplication, or use of keys to any College premises or, unauthorized entry in or use of the College campus, facilities or property.
17. Hazing which endangers the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing are violations of this rule.
18. Theft or other abuse of computer facilities and resources, including but not limited to:
  - (a) Unauthorized entry into a file, to read, or change the contents, or for any other improper purpose;
  - (b) Unauthorized transfer of a file;
  - (c) Use of another individual's identification and password.
  - (d) Use of computing facilities and resources to interfere with the work of another student, faculty member or College official;
  - (e) Use of computing facilities to send obscene or abusive messages;
  - (f) Use of computing facilities to interfere with normal operations of the College computing system;
  - (g) Use of computing facilities and resources in violation of

copyright laws.

- (h) Violation of the Yavapai College Acceptable Use Policy as defined by Information Technology Services (ITS).

19. Abuse or failure to comply with the student conduct system, including, but not limited to, any one or more of the following:

- (a) Falsification, distortion, or misrepresentation of information before a Conduct Officer or Appeals Board;
- (b) Failure to obey the summons of a Conduct Officer, Appeals Board or other College Official;
- (c) Disruption or interference with the orderly conduct of a conduct proceeding;
- (d) Attempting to influence the impartiality of a Conduct Officer or member of an Appeals Board prior to, and/or during the course of the Student Conduct proceeding;
- (e) Initiating a Student Conduct proceeding knowingly without cause or in bad faith;
- (f) Failure to comply with the sanctions imposed under the Code of Conduct;
- (g) Verbal or physical harassment and/or intimidation of a Student Conduct officer or member of an Appeals Board prior to, during, or after a proceeding.

20. Violation of any federal or state law, or city ordinance that occurs on the College premises or at a College-sponsored activity, or affects the operation of the College.

## II. Sanctions

- A. In addition to any other interim or final action which may be taken to enforce this Code, any person, whether a member of the College community or not, may be ordered to leave the College campus when the President or any other officer or employee designated by the President to maintain order on the College campus, has reasonable grounds to believe the person is committing any act which interferes with or disrupts the lawful use of College property by others or has reasonable grounds to believe any person has entered upon the College campus for the purpose of committing such an act.
- B. One or more of the following sanctions may be imposed for violation of the disciplinary regulations set forth in Article 2:
  - 1. **Warning:** a notice in writing to the student that s/he is violating or has violated institutional regulations and that further misconduct may result in more severe disciplinary action.
  - 2. **College probation:** a written reprimand for violation of specified regulations which references the probability of more severe disciplinary sanctions if the student during a designated period of time (the probationary period) violates the institutional regulation(s). Probation may include forfeiture of campus privileges. Appropriate College Officials shall be notified of the imposition of such sanctions.
  - 3. **Loss of privileges:** denial of specified privileges for a designated period of time.

4. **Fines:** previously established and published fines may be imposed.
5. **Restitution:** compensation for loss, damage, or injury. Forms of restitution include required service or monetary payment and/or material replacement payable to or for the benefit of the College persons, groups, or organizations.
6. **Discretionary sanctions:** work assignments, essays, service to the College or other related discretionary assignments such as educational interventions intended as a learning experience.
7. **Residence hall suspension:** exclusion of the student from the residence halls for a specified period of time, after which the student is eligible to return. Conditions for readmission to the residence halls may be specified.
8. **Residence hall expulsion:** permanent exclusion of the student from the residence halls.
9. **College suspension:** separation of the student from the College for a defined period of time, after which the student is eligible to return. Conditions for readmission may be specified. Permanent notification may appear on the student's transcript. Except where any administrative decision under this Code indicates otherwise, a student suspended under this Code shall not participate in any College-sponsored activity, may be barred from the College campus, and may be prohibited, during the specified period of time, from attending off-campus College activities.
10. **College expulsion:** permanent exclusion of the student from the College. An indication of expulsion will appear on the student's transcript. The student will also be barred from the College campus and be prohibited from attending off-campus College activities. The incident will permanently remain on file in the Dean of Student Services' Office.
11. **Revocation of Certificate and/or Degree:** a certificate or degree awarded from the College may be revoked for fraud, misrepresentation, or other violation of College standards in obtaining the certificate/degree, or for other serious violations committed by a student prior to graduation.
12. **Withholding Certificate/Degree:** The College may withhold awarding a degree otherwise earned until the completion of the process set forth in this Code, including the completion of all sanctions imposed, if any.

**C. Interim Suspension:** In certain circumstances, the Dean of Student Services, or a designee, may impose an interim College or residence hall suspension prior to the hearing before a Student Conduct Officer or the Appeals Board.

1. An interim suspension may be imposed only: (1) to ensure the safety and well-being of any member of the College community or preservation of College property; (2) to ensure the student's own physical or emotional safety and well-being; (3) if the student poses a definite threat of disruption or interference with the normal operations of the College.
2. During the interim suspension, the student shall be denied access to the residence halls and/or to the campus (including classes) and/or all other College activities or privileges for which the student might otherwise be eligible, as the Dean of Student Services or designee, may determine to be appropriate.

3. A student suspended on an interim basis shall be given an opportunity to have an informal hearing before the Dean of Student Services or designee, either before the imposition of an interim suspension, or as soon as possible thereafter, and in all cases within five (5) days from the effective date of the interim suspension. This informal hearing shall then be held only on the following issues:
  - a) The reliability of the information concerning the student's conduct, and any issue related to the identity of the student.
  - b) Whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the student on the College campus poses a substantial threat to any individual or to the stability and continuance of any normal College function.
4. A student suspended on an interim basis will be allowed (1) to schedule and take make-up exams which are to occur during the suspension period and (2) to turn in assignments which are due during the suspension period without penalty if submitted upon termination of the suspension period, in those cases wherein the suspension is rescinded as a result of a hearing pursuant to #3 above, and /or when the student is found not to be in violation of the infraction which resulted in the suspension.
5. The interim process does not replace the regular process, which will proceed on the normal schedule.

**D. Imposition of any sanctions should take into account the following:**

1. Mitigating factors may be considered. Factors to be considered in mitigation shall be the present demeanor and past disciplinary record of the individual charged with a Code violation, as well as the nature of the offense and the severity of the damage, injury, or harm resulting from it.
2. Repeated violations or an aggravated violation of any section of this Code shall be subject to sanctions of the Code to the same extent as completed violations.
3. Attempts or threats to commit acts prohibited by this Code shall be subject to sanctions of the Code to the same extent as completed violations.

**II. Groups and Organizations**

- A. Student groups or organizations may be charged with violations of this Code. Members of a group or organization and its officers may be held collectively or individually responsible when violations of this Code by those associated with the group or organization have received the tacit or overt consent or encouragement of the group, or the organization, or its leaders, officers, or spokespersons.
- B. The officers, leaders, or any identifiable spokesperson(s) for such a group or an organization may be directed by the President of the College or designee to take appropriate action designed to prevent or end violations of this Code by the group or organizations or by any persons associated with the group or organization who can reasonably be said to be acting on its behalf. Failure to make reasonable efforts to comply with such a directive shall be considered a violation of this Code, both by the officers, leaders, or spokesperson(s) for the group or organization and by the members of the group or organization itself.
- C. Sanctions for group or organization misconduct may include revocation of the use of College facilities for a specified period of time or denial of recognition or registration, as well as other appropriate sanctions permitted under this Code.

- D. A group or organization shall be subject to the same procedures as any of its members would be if charged on an individual basis with a violation of this Code.

### **III. Miscellaneous Provisions**

- A. Provisions of this Code are hereby declared to be independent and severable and if any section, subdivision, word, sentence, or clause is held to be void or non-enforceable, such holding shall not affect the validity or ability to enforce any other part or parts of this Code which can be given effect without the invalid or non-enforceable portion.
- B. The Board reserves the right to take necessary and appropriate action to protect the safety and well-being of the College community.

## **Article 3: Student Disciplinary Procedures**

### **I. General process**

- A. The purpose of this section is to establish administrative procedures applicable to students for the fair enforcement of the rules and regulations set forth in the Code of Conduct while preserving due process of law. A student accused of a violation of the Code, or any student group or organization similarly accused, shall be subject to the procedures set forth in this policy.
- B. In summary, the administrative process set forth in this policy provides for the student:
  - 1. The right to be notified in writing of the charges with sufficient detail and time to prepare for the hearing. (Clarification may be requested of one of the Conduct Officers in person, if the student so chooses).
  - 2. The right to a prompt hearing before an appropriate Conduct Officer or Appeals Board.
  - 3. The right to be apprized of the general nature of the evidence which will be used in the hearing.
  - 4. The right to present evidence and witnesses in his/her own defense.
  - 5. The right to appeal the decision of a Student Conduct Officer.
- C. Formal rules of evidence shall not be applicable to any of the procedures, formal or informal, set forth in this policy. Deviation from the prescribed procedures set forth in this policy shall not necessarily invalidate a decision or proceeding, unless significant prejudice to the student or the College would result.

### **II. Disciplinary Procedures**

#### **A. Initiation of Procedure**

- 1. Disciplinary procedures shall be initiated through written referrals. A written referral accusing a student or student group or organization of violating the Code or residence hall regulations shall be on a form approved by the Dean of Student Services and available at the Dean's Office, as well as the offices of the Student Conduct Officers. The written referral must be signed by a complainant and filed with a Student Conduct Officer, a Campus Safety officer, or a Residence Hall Director.
- 2. In all cases, a hearing with a Student Conduct Officer shall first be initiated in an effort to resolve the matter.

## **B. Student Conduct Hearing Procedures**

1. Upon receipt of a written referral, a Conduct Officer shall:
  - a. Consult with the complainant and accused student and, to the extent the Conduct Officer deems appropriate or necessary, conduct an additional review and investigation to (1) ascertain the facts and (2) determine if the matter should be pursued; and
  - b. Make findings, a decision, and determine any sanctions to be imposed.
2. The findings, decisions and sanctions, if any, to be imposed (the "Decision") shall be put forth in writing and provided to the accused student in a timely manner.
  - a. If the accused student is willing to accept the decision of the Student Conduct Officer, all action on the referral shall be considered closed.
  - b. The student and the Conduct Officer (or designee) has the right to waive completion of the Student Conduct hearing and proceed to an Appeals Board hearing.
  - c. In all cases where the accused student desires to appeal the decision of the Conduct Officer, or waive completion of the initial hearing, the accused student shall complete a form entitled "Request for Hearing before the Appeals Board" available from any Conduct Officer, with whom the form shall be filed.
  - d. The request for hearing form must be filed within five (5) days after receipt of the Conduct Officer's determination. An accused student is presumed to have received notice of a decision within five (5) days of it being mailed, by registered or certified mail, to the accused student's most recent address listed with the college.
  - e. The Conduct Officer's decision shall remain in full force and effect pending the appeal procedures before the Appeals Board and/or President.
3. If a student is accused of academic misconduct, the matter shall be dealt with informally by the appropriate department or other academic unit through procedures established in the College catalog. Only if the recommendation resulting from such process is referred to the Conduct Officer shall the accused student be entitled to initiate the above referenced Conduct hearing and appeals board hearing procedures established by this policy. In all other cases, particularly where the decision is failure of the course or failure on a specific academic exercise, a student will be accorded no further proceedings under this policy but may be accorded additional appeal rights under procedures for grade appeals.

## **C. Appeals Procedures**

1. Appeal procedures under this policy involve a hearing before an Appeals Board. Membership of the Appeals Board may change from case to case as circumstances dictate. The chairperson of the Appeals Board, as well as the other members of the Appeals Board shall be selected by the Dean of Students or designee.
2. The following procedural guidelines shall be applicable in proceedings before the

Appeals Board:

- a. At least five (5) and no more than fifteen (15) days prior to the date set for the hearing, but not until after being informed that the parties have exchanged the written list of witnesses and exhibits, the chairperson of the Appeals Board or the Conduct Officer shall cause written notice of a hearing to be delivered personally served, after reasonable diligence, the notice may be mailed by means of certified mail, return receipt requested. The notice, a copy of which shall also be sent to the other members of the Appeals Board assigned to this matter shall include:
  - (i) A statement of the time, date, and place of hearing;
  - (ii) A statement of the specific Code provisions alleged to have been violated by the accused student;
  - (iii) A concise statement of the particulars of the alleged violation including, if known, the time, date, and place of the alleged violation;
  - (iv) The name of the complainant who initiated the case referral (this may be omitted in appropriate cases at the discretion of the Conduct Officer); and
  - (v) A copy of the Student Code of Conduct
- b. If an accused student fails to appear at a scheduled hearing, voluntarily departs from a hearing, or is removed from a hearing, the student will be deemed to have waived the right to present evidence and testimony on his/her behalf. The hearing will continue, and a ruling of misconduct will be required before any sanction is imposed.
- c. Within five (5) business days after filing a request for hearing form, the accused student and an administrative representative assigned to the matter shall exchange a written list of the names and addresses of the witnesses whom the respective parties intend to call to give testimony at the hearing, along with a statement of the general substance of the expected testimony of each witness and a copy of any affidavits or written exhibits expected to be offered into evidence at the hearing. The Conduct Officer shall inform the accused student of the name of the administrative representative so as to facilitate the required exchange of information. Depending on the circumstances, and at the discretion of the Appeals Board, a party may be barred from submitting non-disclosed evidence or testimony at the hearing. Rebuttal witnesses need not be disclosed.
- d. If the accused student fails to submit the written list of witnesses and exhibits as described above, within the required five (5) day time line, the Conduct Officer's decision will be deemed affirmed and no hearing will be set. In the event this happens, the accused student waives his/her right to request a hearing, however the accused student can petition the Conduct Officer in a timely fashion. Relief will only be granted in situations where (1) good cause is shown justifying the accused student's failure to submit the written list within the required time-lines and (2) no undue prejudice would result from relief being granted.
- e. Any party may challenge an Appeals Board member on the grounds

of personal bias. The challenge shall be made in writing and submitted to the Conduct Officer at least two (2) days prior to the date of the hearing, or within two days of the party first learning of the identity of the Appeals Board members and/or the facts concerning the alleged bias. The Chairperson shall either sustain or deny the challenge. In the event the Chairperson is challenged the Chairperson shall appoint a temporary chair to act on the challenge. If a member of the Appeals Board believes that he/she cannot give the party or parties a fair and impartial hearing and base his/her decision solely on the evidence submitted, then the member should disqualify him/herself.

- f. The Conduct Officer shall have the authority to issue a "request to appear" for the attendance of witnesses and a request for the production of books, records, documents, and other evidence and shall have the power to administer oaths. The request shall be in writing and shall be served upon the witness in person, by the Conduct Officer or his/her designee. College students, faculty, and staff are expected to comply with requests issued pursuant to this procedure, unless compliance would result in significant and unavoidable personal hardship or substantial interference with normal College activities. In extraordinary situations, an administrative subpoena, authorized pursuant to A.R.S. 12-2212 may be used.
- g. The Chairperson shall preside over and conduct the hearing and shall rule upon all matters of procedure, including the admission of evidence, subject only to expressly being overruled by the Appeals Board. The hearing will be conducted in two steps: an initial proceeding shall be held for the purpose of determining whether or not the accused student has violated the Code of Conduct or a College or residence hall policy; if the student is found to be in violation, a supplemental proceeding shall follow for the purpose of determining the appropriate sanction to be imposed. The hearing shall be conducted as follows:
  1. The hearing shall be conducted in an executive session closed to the public, except for the Conduct Officer the accused student and at the discretion of the Appeals Board, the complainant. Each such person attending may also bring an advisor. An open hearing can be requested by the accused student and may be granted at the discretion of the Appeals Board. Deliberations are conducted in closed sessions.
  2. The hearing shall be conducted in a fair and expeditious manner. The Chairperson shall exercise control over the hearing to avoid needless consumption of time and to prevent the harassment or intimidation of witnesses.

Immaterial, irrelevant, and/or repetitive evidence will be excluded. Any person, including the accused student, who disrupts a hearing or who fails to adhere to the rulings of the Chairperson, may be excluded from the proceedings.
  3. An Appeals Board legal advisor may sit in attendance at the hearing and will be accorded the privileges of Appeals Board members, but shall not vote. The legal advisor may

comment on questions of procedure and admissibility of evidence and will otherwise assist in the conduct of the hearing and will perform such other duties and functions as are set forth herein. A person may not serve as both an Appeals Board legal advisor and a member of the Appeals Board in any proceeding.

4. The Chairperson, as presiding officer, may, upon request and for good cause or on his/her own, grant a postponement or continuance of the hearing.
  5. A mechanical and/or stenographic record of the hearing shall be made, and it shall be transcribed on request of any party, and the cost of such transcript shall be paid by the party making the request. All matters made part of the record shall be maintained by the Conduct Officer and shall be kept for a period determined reasonable by the College.
  6. Except as noted below, the testimony of any witness shall be given under oath. Prospective witnesses, other than the parties may, at the discretion of the Appeals Board, be excluded from the hearing during the testimony of other witnesses. In addition, the complainant may, in the discretion of the appeals board, be permitted to remain in the hearing even if other witnesses are excluded.
  7. The written statement of a witness, whose presence cannot be obtained after reasonable efforts to do so, may be admitted into evidence, but only if such statement contains the signature of the witness.
  8. The Conduct Officer and the accused student in any disciplinary proceeding may each be accompanied by an advisor, who may be an attorney. Except at the discretion of the Appeals Board, the advisor may not appear in lieu of either party. The Conduct Officer and/or the accused student is responsible for presenting his/her own case, and therefore, unless an exception is granted by the Appeals Board, advisors are not permitted to speak openly or to participate directly in any hearing.
- h. After the hearing, the Appeals Board shall determine, by majority vote whether the student has violated each section of the Code of Conduct which the student is charged with violating. The Appeals Board's determination shall be made on the basis of whether it is more likely than not, based on the evidence, that the accused student violated the Code. If a determination is made that a violation has occurred, the student's past records will be provided to the Board, and the Board shall then reach a final decision as to sanctions.
- i. The decision of the Appeals Board, which shall include a brief statement of the reasons for the Appeals Board's recommendation and findings of facts shall be reduced to writing and forwarded to the reviewing administrator within five (5) days of the conclusion of the hearing.
- j. Upon receipt and review of the Appeals Board's written decision, the

reviewing administrator shall approve, disapprove, amend, or otherwise issue a final decision in writing. A copy of this final decision shall be delivered or mailed to the parties and the date of delivery or mailing shall be the effective date of the decision. In certain circumstances, at the discretion of the reviewing administrator, a copy of the final decision may be provided to the complainant.

#### **D. Motion for Rehearing before the Appeals Board**

1. Any party aggrieved by the Appeals Board's decision may file with the Reviewing Administrator not later than five (5) days after the effective date of that decision, a written motion for rehearing or review specifying with particularity the grounds on which the motion is based. A copy of the motion shall be provided by the party filing the motion to the other party.
2. The opposing party may similarly file a response within five (5) days after service of the motion. The Reviewing Administrator may request, at his/her discretion, submission of written documentation or schedule a meeting with all involved parties.
3. Any supporting affidavits must be submitted with the motion. Any opposing affidavits must be submitted with, or prior to, submission of the response.
4. Only one request for rehearing may be filed by each party. A rehearing may be granted for any of the following causes materially affecting the accused student or complainant's rights:
  - a. Irregularity in proceedings before the Appeals Board, or any order or abuse of discretion whereby the person requesting the rehearing was deprived of a fair hearing.
  - b. Misconduct of the Appeals Board or prevailing party.
  - c. Accident or surprise not preventable by ordinary prudence.
  - d. Newly discovered material evidence which with reasonable diligence could not have been discovered and produced at the hearing.
  - e. Excessive or insufficient sanctions.
  - f. Error in the admission or rejection of evidence at the hearing, which error was prejudicial to the outcome of the hearing.
  - g. The decision being the result of passion or prejudice.
  - h. The decision not being supported by the evidence.
5. The Reviewing Administrator may affirm, modify, or grant a rehearing before the Appeals Board as to all or any part of the issues for any of the reasons in listed above within eight (8) days from receipt of the motion for a rehearing, if no response is filed. If a response is filed pursuant to section D above, the Reviewing Administrator's decision will be made no more than five (5) days from that receipt of that response. ANY order granting a rehearing shall specify the grounds on which the rehearing is granted and the rehearing will only cover the matters so specified. Procedures on rehearing shall, to the extent applicable, conform to the procedures utilized in the original proceedings conducted by the Appeals Board. The decision of the Appeals Board following a rehearing will not be subject to additional rehearing procedures.

## **E. Appeal of the Determination of the Conduct Officer**

1. Unless the sanction imposed by the Conduct Officer included expulsion, or suspension for more than ten (10) school days, the accused student shall have no right of appeal other than those set out above, and the matter shall be deemed concluded at this stage.
2. If the sanction imposed by the Conduct Officer included expulsion or suspension for more than ten (10) school days, the accused student has the right to appeal the decision to the President or designee.
3. Such appeals must be received in writing, including all supporting documentation, witness statements, and other information within five (5) days of the effective date of the Reviewing Administrator's decision, including, when applicable, any decision following a rehearing.
4. The President will review the appeal and determine at his/her discretion whether to grant an additional hearing, or make a determination based on a review of the appeal documents. The final determination will be made by the President no more than twenty (20) days from the date the appeal is filed at the President's office. If an additional hearing is scheduled, the parties (and, in the discretion of the President, the complainant) shall be notified in writing of the hearing no fewer than five (5) days prior to the hearing.
5. The parties will be notified in writing as to the final determination of the President. The decision of the President will be considered final, and there is no appeal beyond the President's decision.

## **III. Application of the Code of Conduct in situations where a mental or physical condition**

**contributes to or results in prohibited conduct:** The primary goals of the Code of Conduct are to protect persons and property while on College property or attending a College event and to ensure that the educational process is not subject to unnecessary interruptions. Therefore, the Code of Conduct will be applied to an individual regardless of whether a mental or physical condition of that individual contributes to or causes him/her to engage in prohibited conduct. The following special rules and procedures, however, may have application in such situations.

- A. An individual accused of misconduct may offer as mitigating circumstance, with respect to the determination of an appropriate sanction, the fact that a mental or physical condition of the individual contributed to or caused the individual to engage in prohibited conduct. If a mental or physical condition will be offered as a mitigating circumstance at any hearing conducted pursuant to the Code of Conduct or other College policy or procedure, the individual accused of misconduct shall inform the Student Conduct Officer of the details of such and offer evidence not less than two (2) business days before the hearing.
- B. In any situation reasonably deemed appropriate in the judgment of both the Student Conduct Officer (or designee) and the Dean of Student Services (or designee), a student may be required to undergo a mental health diagnostic evaluation by a licensed health care provider chosen by the College, including but not limited to a licensed psychiatrist or psychologist. Situations where such an evaluation may be appropriate include, but are not limited to, those where:
  1. The student plans to offer evidence of a mental or physical condition as a mitigating factor in the determination of an appropriate sanction;
  2. There is reasonable concern as to whether, as a result of a possible mental or physical condition, the student presents a danger to him/herself or others or to property of the College or others; or

3. There is reasonable concern as to whether the student has the capacity to respond to the charges of misconduct. (If such is found to be the case, the Student Conduct Officer may assign a College employee to assist the student).
- C. If a student has been referred for an evaluation, the student will make all efforts to have the evaluation completed as soon as reasonably possible. The Student Conduct Officer (or designee) may order that any pending hearings and/or determinations to be held in abeyance pending the outcome of the evaluation. Depending on the circumstances, an interim suspension may be imposed pending the outcome of the evaluation and subsequent hearing.
- D. The College shall be responsible for the cost of any evaluation required pursuant to the above two paragraphs.
- E. In situations where, as a result of misconduct of a student, (i) it is determined that a student's presence on College property and/or at College events should be restricted or prohibited, but (ii) it is also determined that a mental or physical condition of the student contributed to or caused the student to engage in the misconduct, the Student Conduct Officer, Appeals Board, Dean of Students, or College President, as the case may be, has the discretion to designate the recommended or imposed sanction as an involuntary administrative withdrawal rather than a suspension or expulsion.

#### **IV. Disciplinary Files and Records**

- A. Student discipline referrals may result in the development of a disciplinary file in the name of the accused student. The file of a student found in violation of any charges will be retained as a disciplinary record for three (3) years from the date of the letter providing notice of final disciplinary action. Disciplinary records may be retained for longer periods of time or permanently, if so specified in a sanction.
- B. After the minimum retention period of three (3) years, disciplinary records may be purged by the President or designee for good cause, upon written petition of the person affected. Factors to be considered for review of such petition shall include:
  1. The present demeanor of the person;
  2. The conduct of the person subsequent to the violation;
  3. The nature of the violation and the severity of any damage, injury, or harm resulting from it;
- C. There is no further administrative appeal from denial of petition to purge disciplinary records.

Yavapai College October, 1994  
Student Code of Conduct Revised: August 2005

#### **MENTAL HEALTH POLICY**

Students exhibiting disruptive behaviors, or behaviors indicative of psychological or mental problems which are potentially harmful to themselves or others, in the judgment of one of the Student Conduct officers (the Dean of Student Services, Assistant Dean of Student Development [Prescott campus], Assistant Dean of Student Services [Verde Campus] and/or the Director of Residence Life), or their designee, may be required to submit to a mental health diagnostic evaluation as a condition for continuing enrollment. The student may be suspended pending the outcome of the evaluation and, if the student refuses to submit to the evaluation, may be withdrawn from classes. Selection of the mental health professional and payment for the evaluation is the responsibility of Yavapai College.

The decision to permit continuing enrollment for the student in question will be based on information gathered from the diagnostic evaluation and any recommendations received from mental health professionals, and other facts pertaining to the case. The College reserves the right to exercise the final judgment with respect to the student's continuing enrollment.

Procedures for implementation of this policy may be obtained from the offices of the individuals listed above.