



I GOVERNANCE

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GOVERNANCE - INTRODUCTION

The Evergreen State College is an academic community sustained by society at large with such means as place, time, faculty, equipment, and the academic freedom necessary for the pursuit of learning. As members of the Evergreen community, we understand that in addition to being bound by the laws of the larger society, we acknowledge our mutual responsibility for maintaining conditions under which learning may flourish--conditions characterized by openness, honesty, civility, and fairness.

These conditions carry with them certain rights and responsibilities that apply to us as groups and as individuals. These rights and responsibilities also require more explicit understanding between each of us and the college, the learning community that we have chosen to join.

The purpose of the social contract, student code, and grievance and appeal policy is to inform students of their rights and responsibilities as members of The Evergreen State College community. The social contract explains the mutual expectations for the social behavior of all campus constituencies: faculty, staff, and students. The student conduct code, specifically the grievance and appeal policy section, defines unacceptable behavior, possible corrective action for such behavior, and the appeal process for any student charged with an infraction.

For further information contact the vice-president for student affairs office, library 3236.

WAC 174-121-010 THE SOCIAL CONTRACT--COLLEGE PHILOSOPHY

- (1) **GENERAL:** Evergreen is an institution and a community that continues to organize itself so that it can clear away obstacles to learning. In order that both creative and routine work can be focused on education, and so that the mutual and reciprocal roles of campus community members can best reflect the goals and purposes of the college, a system of governance and decision-making consonant with these goals and purposes is required.

(2) **PURPOSE:**

- (a) Evergreen can thrive only if members respect the rights of others while enjoying their own rights. Students, faculty, administrators, and staff members may differ widely in their specific interests, in the degree and kinds of experiences they bring to Evergreen, and in the functions which they have agreed to perform. All must share alike in prizing academic and interpersonal honesty, in responsibly obtaining and in providing full and accurate information, and in resolving their differences through due process and with a strong will to collaboration.

- (b) The Evergreen community should support experimentation with new and better ways to achieve Evergreen's goals. Specifically, it must attempt to emphasize the sense of community and require members of the campus community to play multiple, reciprocal, and reinforcing roles in both the teaching/learning process and in the governance process.

- (3) **FREEDOM AND CIVILITY:** The individual members of the Evergreen community are responsible for protecting each other and visitors on campus from

physical harm, from personal threats, and from uncivil abuse. Civility is not just a word; it must be present in all our interactions. Similarly, the institution is obligated, both by principle and by the general law, to protect its property from damage and unauthorized use and its operating processes from interruption. Members of the community must exercise the rights accorded them to voice their opinions with respect to basic matters of policy and other issues. The Evergreen community will support the right of its members, individually or in groups, to express ideas, judgments, and opinions in speech or writing. The members of the community, however, are obligated to make statements in their own names and not as expressions on behalf of the college. The board of trustees or the president speaks on behalf of the college and may at times share or delegate the responsibility to others within the college. Among the basic rights of individuals are freedom of speech, freedom of peaceful assembly and association, freedom of belief, and freedom from intimidation, violence, and abuse.

(4) **INDIVIDUAL AND INSTITUTIONAL RIGHTS:** Each member of the community must protect:

- (a) The fundamental rights of others in the community as citizens;
- (b) The right of each member in the community to pursue different learning objectives within the limits defined by Evergreen's curriculum or resources of people, materials, equipment, and money;
- (c) The rights and obligations of Evergreen as an institution established by the state of Washington; and
- (d) Individual rights to fair and equitable procedures when the institution acts to protect the safety of its members.

(5) **SOCIETY AND THE COLLEGE:**

- (a) Members of the Evergreen community recognize that the college is part of the larger society as represented by the state of Washington, which funds it, and by the community of greater Olympia, in which it is located. Because the Evergreen community is part of the larger society, the campus is not a sanctuary from the general law or invulnerable to general public opinion.
- (b) All members of the Evergreen community should strive to prevent the financial, political, or other exploitation of the campus by any individual or group.
- (c) Evergreen has the right to prohibit individuals and groups from using its name, its financial or other resources, and its facilities for commercial or political activities.

(6) **PROHIBITION AGAINST DISCRIMINATION:**

There may be no discrimination at Evergreen with respect to race, sex, age, handicap, sexual orientation, religious or political belief, or national origin in considering individuals' admission, employment, or promotion. To this end the college has adopted an affirmative action policy approved by the state human rights commission and the higher education personnel board. Affirmative action complaints shall be handled in accordance with state law, as amended (e.g., chapter 49.74 RCW; RCW 28B.16.100; chapter 251-23 WAC).

(7) **RIGHT TO PRIVACY:**

- (a) All members of the college community have the right to organize their personal lives and conduct according to their own values and preferences, with an appropriate respect for the rights of others to organize their lives differently.

- (b) All members of the Evergreen community are entitled to privacy in the college's offices, facilities devoted to educational programs, and housing. The same right of privacy extends to personal papers, confidential records, and personal effects, whether maintained by the individual or by the institution.
- (c) Evergreen does not stand in loco parentis for its members.

(8) **INTELLECTUAL FREEDOM AND HONESTY:**

- (a) Evergreen's members live under a special set of rights and responsibilities, foremost among which is that of enjoying the freedom to explore ideas and to discuss their explorations in both speech and print. Both institutional and individual censorship are at variance with this basic freedom. Research or other intellectual efforts, the results of which must be kept secret or may be used only for the benefit of a special interest group, violate the principle of free inquiry.
- (b) An essential condition for learning is the freedom and right on the part of an individual or group to express minority, unpopular, or controversial points of view. Only if minority and unpopular points of view are listened to and are given opportunity for expression will Evergreen provide bona fide opportunities for significant learning.
- (c) Honesty is an essential condition of learning, teaching, or working. It includes the presentation of one's own work in one's own name, the necessity to claim only those honors earned, and the recognition of one's own biases and prejudices.

(9) **OPEN FORUM AND ACCESS TO INFORMATION:**

- (a) All members of the Evergreen community enjoy the right to hold and to participate

in public meetings, to post notices on the campus, and to engage in peaceful demonstrations. Reasonable and impartially applied rules may be set with respect to time, place, and use of Evergreen facilities in these activities.

- (b) As an institution, Evergreen has the obligation to provide open forum for the members of its community to present and to debate public issues, to consider the problems of the college, and to serve as a mechanism of widespread involvement in the life of the larger community.
 - (c) The governance system must rest on open and ready access to information by all members of the community as well as on the effective keeping of necessary records.
 - (d) In the Evergreen community, individuals shall not be intimidated or be subject to reprisal for voicing their concerns or for participating in governance or policy making.
 - (e) Decision making processes must provide equal opportunity to initiate and participate in policy making, and Evergreen policies apply equally regardless of job description, status, or role in the community. However, college policies and rules shall not conflict with state law or statutory, regulatory and/or contractual commitments to college employees.
- (10) **POLITICAL ACTIVITIES:** The college is obligated not to take a position, as an institution, in electoral politics or on public issues except for those matters which directly affect its integrity, the freedom of the members of its community, its financial support, and its educational programs. At the same time, Evergreen has the obligation to recognize and support its community's members' rights to engage, as citizens of

the larger society, in political affairs, in any way that they may elect within the provision of the general law.

[Revised by Board of Trustees Resolution 88-25 dated 8-17-88; 87-30 dated 10-19-87; 83-32 dated 7-14-83; 78-50 dated 10-19-78; 71-15 dated 11-18-71]

(Previously part of WAC Chapter 120)
Renumbered/Approved by Board of Trustees,
October 11, 1989.

CHAPTER 174-120 STUDENT CONDUCT CODE - GRIEVANCE AND APPEAL PROCESS

WAC 174-120-010 DEFINITIONS:

- (1) **HEARING BOARD:** Five community members appointed by and from the different sectors of the college community (i.e., one faculty; one classified or exempt staff; three students). The vice-president shall be responsible for ensuring that hearing board members and their alternates are appointed. The vice-president will appoint the chair of the hearing board who, with the technical and clerical assistance of the vice-president's office, will write and issue the board's finding. The attorney general, an administrative law judge, or any other qualified community member may serve as a nonvoting advisor to the hearing board on the hearing process.
- (2) **GRIEVANCE OFFICER:** A faculty or staff person appointed by and accountable to the vice-president. The grievance officer is responsible for determining if violations of this policy have occurred, for investigating and initiating formal disciplinary action on behalf of the college, and for keeping all records specified in these hearings procedures. In cases involving violations of the housing contract, the director of housing or designee shall act as the grievance officer.
- (3) **CAMPUS MEDIATOR:** Designated intervenor in potential conflicts between two members or groups of the community which do not involve alleged violations of the student conduct code, issues about employee performance, or matters covered by other grievance procedures. The mediator will assist the two parties to reach informal resolution. If successful, the parties will sign an agreement stating that resolution has been reached. If unsuccessful, both parties may agree to arbitration wherein the finding of the mediator will be binding. This individual is appointed by the vice-president and typically has been the dean of student development or his or her designee.
- (4) **PREPONDERANCE OF THE EVIDENCE:** The greater weight of evidence or evidence more convincing to the mind than not.
- (5) **SPONSORED EVENT OR ACTIVITY:** Activities scheduled by the college and supervised and controlled by college employees.
- (6) **COLLEGE FACILITIES/PREMISES:** Property owned, leased, operated, controlled, or supervised by the college.
- (7) **TRIER OF FACT:** The hearing board, administrative law judge, or any other individual(s) [e.g. campus mediator, affirmative action officer] designated by the vice-president and responsible for determining the facts relevant to settle a controversy.
- (8) **REVIEWING OFFICER:** An individual designated by the president to provide a review of the trier of fact's finding.
- (9) **EXCEPTION TO TRIER OF FACT'S FINDINGS:** An exception is a written request by either the grievance officer or the student requesting a review of the findings by the reviewing officer.
- (10) **VICE-PRESIDENT:** The vice-president for student affairs or his or her designee. The vice-president or designee shall advise students on matters of jurisdiction related to this policy and to other college grievance and conflict resolution mechanisms.

WAC 174-120-030 STUDENT CONDUCT CODE - SPECIFIC EXAMPLES OF SOCIAL CONTRACT VIOLATIONS: In addition to the social contract, students must abide by the rules below in order to maintain community

membership. Examples of specific violations are set forth here in order to provide information to students. They are not designed to define violations in exhaustive terms. Students may be accountable to civil and/or criminal authorities and to the college for acts occurring on or off campus which constitute violations of law.

- (1) **DESTROYING OR DAMAGING PROPERTY:** Intentionally and/or recklessly destroying or damaging college property or the property of others on college premises or at college-sponsored events.
- (2) **DISRUPTING COLLEGE FUNCTIONS:** Intentionally and/or recklessly interfering with normal college or college-sponsored activities, including but not limited to studying, teaching, research, college administration, fire, police, campus security, or emergency services.
- (3) **DRUGS:** Use, possession, or distribution of any controlled substance or illegal drug on college premises or at college sponsored activities (as defined in the Uniform Controlled Substances Act chapter 69.50 RCW, as amended).
- (4) **FALSE ALARMS:** Intentionally causing a false police or fire alarm that involves college property or a college-sponsored event.
- (5) **FALSE INFORMATION:** Intentionally providing false information to the college for the purpose of gaining admission or employment or to avoid determination of facts in accordance with any college investigation or hearing.
- (6) **HARASSMENT/PHYSICAL HARM:** Threatening, intimidating, or harassing another person with intent to substantially harm that person with respect to his or her physical safety or mental health. This includes causing physical harm to any person or property on college premises or at any college

sponsored activity or causing reasonable apprehension of such harm to another person.

- (7) **HOUSING CONTRACT VIOLATIONS:** Violation of residence hall contracts.
- (8) **LIQUOR:** Use, possession, or distribution of liquor on college property. This is not intended to apply to use by students of legal age in a residence or at a college-sponsored event provided the event has an approved alcoholic beverage banquet permit (Ch. 174-157 WAC, as amended). However, public appearance on campus or at any college-sponsored event while intoxicated, as defined by state law, will be considered a violation.
- (9) **SMOKING:** Smoking in a prohibited area on college property as defined by college rules (WAC 174-136-160 to 174-136-170, as amended).
- (10) **THEFT OR CONVERSION:** Deprivation of another's property, including college property or services, without that individual's or the college's authorization.
- (11) **REFUSAL TO DESIST FROM PROHIBITED CONDUCT:** Refusal of students on college property to desist from conduct prohibited by these rules.
- (12) **WEAPONS, FIREARMS, EXPLOSIVES AND DANGEROUS CHEMICALS:** Unauthorized use, possession, or storage (other than storage with the campus security office) of any weapon, explosives, dangerous chemicals, substances, or instruments or other weapons, as defined by state law, which may be used to inflict bodily harm on another individual or damage upon college premises or at a college-sponsored event.

WAC 174-120-040 STUDENT CONDUCT CODE - CORRECTIVE ACTION: The primary purpose for imposing corrective measures is to protect the college community. Notification of corrective action shall be in

writing, and shall indicate the terms of any suspension or termination and any special conditions which must be met before readmission. Violations of WAC 174-120-030 (1) through (5), (6), (8), (10) through (12), inclusive, may result in expulsion, suspension, or summary suspension unless specific and significant mitigating factors are present. Factors to be considered in mitigation shall be the present demeanor and past disciplinary record of the student as well as the nature of the offense and the severity of any damage, injury, or harm resulting from it. Repeated or aggravated violations of any rule may also result in expulsion or suspension or in the imposition of such lesser corrective measures as may be appropriate. A student's off-campus criminal conduct may also be considered in determining what discipline is warranted for similar on-campus conduct.

- (1) **EXPULSION:** Permanent separation from the college and termination of community membership. The student may also be barred from college premises and/or college-sponsored events.
- (2) **REPRIMAND:** Warning(s) that further misconduct may result in more severe sanctions.
- (3) **RESTITUTION:** An alternative to other sanctions which the student may elect wherein payment may be made to the college or to other persons, groups, or organizations for damages incurred as a result of prohibited conduct.
- (4) **EJECTION FROM THE PREMISES:** Students on college property who willfully refuse to obey an order of the president, the president's designees, or law enforcement officers to desist from conduct prohibited by the college's rules and regulations may be ejected from the premises. Refusal to obey such an order will subject the student to arrest under the provisions of the Criminal Trespass Act, in addition to such other sanctions as may be applicable. Students who

repeatedly engage in any of the conduct prohibited above may be subject to other disciplinary action.

- (5) **SUMMARY SUSPENSION:** Students presenting imminent danger to themselves, others, college property, and/or the educational process may be immediately suspended from the college by the president, vice-president, or their designee(s) for a period of time not to exceed ten days. At the time of the suspension, the student shall be notified in writing if possible, and otherwise orally, of the circumstances constituting prohibited conduct and of his or her right to petition for a formal hearing. If oral notification is given at the time of the summary suspension, written notification shall be personally delivered or sent to the student's last known address within 24 hours.
- (6) **SUSPENSION:** Temporary dismissal from the college and temporary termination of community membership for a stated period of time, but no longer than one year. The student shall not participate in any college-sponsored activity and may be barred from college premises. Suspension implies that the student may eventually return if evidence or other assurances are presented that convincingly ensure that prohibited conduct will not be repeated.
- (7) **OTHER SANCTIONS:** Other sanctions may be imposed if related to the violation. For example, extracurricular activities may be limited; registration of motor vehicles may be restricted; community service may be assigned. Students may also be removed from college housing for housing contract violations.

WAC 174-120-050 STUDENT CONDUCT CODE - INFORMAL CONFLICT RESOLUTION:

- (1) **VOLUNTARY MEDIATION/ARBITRATION:** Community members who come into conflict with one another should make a determined effort to resolve problems peacefully and constructively between themselves. To facilitate this objective, the college encourages voluntary mediation and/or arbitration through the campus mediator or any mutually agreed upon third party. A student may bypass mediation/arbitration and file a complaint directly with the grievance officer if the student believes the student conduct code has been violated. The grievance officer will determine if a violation of the social contract - student conduct code has occurred.
- (2) **SETTLEMENT:** If the grievance officer decides to pursue a case in the name of the college, the student may accept or deny responsibility for the violation. If the student accepts responsibility, she or he may propose a sanction in writing to resolve the case. The grievance officer may also propose a sanction. If agreement on responsibility and sanction are reached, the agreement shall be made in writing and signed by the student and the grievance officer. The agreement may be withdrawn in writing within one working day. If the agreement is not withdrawn within one working day, the student waives her or his right to a formal hearing.
- (3) **SETTLEMENT AGREEMENT:** An agreement on responsibility and sanctions, if appropriate, shall be written and contain:
 - (a) A description of the violation for which responsibility is accepted;
 - (b) The agreed sanction if any;
 - (c) Signatures of the student and the grievance officer.
- (4) **FAILURE TO REACH AN AGREEMENT:** If no agreement is

reached on responsibility or sanction, the grievance officer shall bring the case before the trier of fact or shall dismiss the case.

- (5) **FAILURE TO RESPOND TO THE GRIEVANCE OFFICER'S REQUEST FOR A MEETING:** Failure to respond to a request for a meeting shall trigger a formal hearing as defined in WAC 174-120-060 through 174-120-080, as follows.

WAC 174-120-060 STUDENT CONDUCT CODE - GRIEVANCE OFFICER

- (1) **PURPOSE:** The basic role of the grievance office is to seek justice, not convictions. The grievance officer receives and investigates complaints and proposes corrective action, if warranted. The grievance officer has the responsibility to decide who is charged with a violation and when that charge is made.
- (2) **PROCEDURE:** If the grievance officer is satisfied that sufficient evidence exists to substantiate a violation and if a settlement has not been reached, he or she shall send to the student a notice of the formal charges, recommended corrective action, and the right to a hearing. If the student is charged with a violation potentially punishable by suspension or termination, the vice-president shall institute formal hearing board procedures unless otherwise waived by the student. If a student is not charged with a violation potentially punishable by suspension or termination, he or she must petition the vice-president for a formal hearing within ten days after receipt of the grievance officer's charges. If the student fails to petition the vice-president for a formal hearing, the recommended disciplinary action shall go into effect unless summary suspension has already occurred.

WAC 174-120-070: STUDENT CONDUCT

CODE - FORMAL HEARING NOTICE AND RIGHTS:

- (1) Notice of the hearing, including a statement of the particular rules involved and matters asserted, shall be provided at least ten days before any hearing, as called for by RCW 28B.19.120(1), as amended or superseded. Both parties may submit to the designated trier of fact, brief written position statements. Both parties have:
 - (a) The right to question witnesses, have someone appear on their behalf to defend them, and have a maximum of three character witnesses appear on their behalf. The parties shall inform each other of their witnesses and representatives at least three days before the hearing. Representatives may not appear in lieu of the student charged.
 - (b) The right to have subpoena(s) issued by the vice-president and/or trier of fact, subject to a convincing showing of the general relevance and reasonable scope of the evidence sought.
- (2) The failure of the party charged to appear will result in a default judgement against all parties. This default judgement must be served on all parties stating the grounds for the order. The student or the grievance officer has a minimum of seven days in which to file a written motion requesting that the order be set aside and stating the grounds for this request. The trier of fact must respond to this request in writing within seven days. The student or grievance officer may appeal the trier of fact's response to the reviewing officer as set forth in WAC 174-120-080, (6) and (7). Failure to provide a list of witnesses and/or the name(s) of their representatives at least three days before the hearing will result in disqualification of those witnesses and/or representatives.

WAC 174-120-080 STUDENT CONDUCT CODE - FORMAL PROCEDURES:

- (1) **GENERAL:** Students have a right to a fair and impartial hearing on any charge of prohibited conduct and the right to confer with a representative present during the hearing. Pursuant to state law, the college president authorizes the vice-president to determine the trier of fact. Unless the vice-president determines otherwise, the formal hearing shall be conducted by the hearing board. Any such hearing shall be conducted pursuant to state law, RCW 28B.19.110 - 28B.19.150, as amended or superseded. Hearings are closed to the public and shall be deemed confidential. The student may request the presence of his or her representative. An open hearing may be held, in the discretion of the trier of fact, if requested by the student.
- (2) **CHALLENGES:** Each party has the right to one peremptory challenge of a member of the hearing board. Any party may challenge any hearing board member based on cause, such as personal bias. The unchallenged hearing board members shall hear the challenge for cause and make a finding. If cause is found, the vice-president shall fill the vacancy forthwith. The hearing board advisor may also challenge a hearing board committee member. Except for peremptory challenges, hearing board members may be disqualified upon majority vote of the remaining board members. The trier(s) of fact should not discuss the case outside of the hearing, and shall base their decision upon the evidence presented at the hearing.
- (3) **BURDEN OF PROOF:** The burden of proof shall be on the college which must establish, by a preponderance of the evidence, that the student is responsible for a violation of the social contract and/or the student conduct code.

- (4) **FORMAL RULES OF EVIDENCE DO NOT APPLY:** Formal procedural rules of evidence shall not be applicable, nor shall harmless procedural errors necessarily invalidate a decision or proceeding, unless significant prejudice to the rights of the student or the college would result. The trier of fact shall recognize rules of confidentiality and privilege, but shall otherwise admit all matters into evidence which reasonable persons would accept as having probative value in the conduct of their affairs. Undue repetitious or irrelevant evidence may be excluded. Illegally obtained evidence may not be used.
- (5) **TRIER OF FACT DECISION:** The trier of fact shall reach a final decision within 30 days of receipt of the petition or within 15 days of the close of the hearing, whichever is greater. Decisions of the hearing board shall be by majority vote of the members present and voting. The trier of fact's written findings and conclusions shall be delivered to the student by hand or certified mail to his or her last known address.
- (6) **REVIEWING OFFICER DECISION:** Either the grievance officer or the student may file an exception to the findings of the trier of fact with the college's designated reviewing officer. This exception must be filed within five days of the findings, mailed, and the reviewing officer must review the record and afford the parties opportunity to present written argument. The reviewing officer may allow each party to make oral argument. Within 15 days of the filing of the exception, the reviewing officer must render a final written order. No further agency appeal is required or provided for.
- (7) **STATUS PENDING FINAL ACTION:** Except in cases of summary suspension, the student's status shall not be altered

pending final decision by the reviewing officer.

[Revised by Board of Trustees Resolution 88-25 dated 8-18-88]

Approved by Board of Trustees
October 11, 1989.