

Recommended Revisions to the Student Conduct Code

A DTF, a Disappearing Task Force or a temporary committee with a specific charge, has been working since spring of 2008 to recommend improvements to the Student Conduct Code. The DTF shared preliminary recommendations last year and spent the fall and winter of this year refining the proposed modifications based on the valuable feedback we received.

Key aspects of the current Code have been **preserved**:

- student involvement in determining outcomes
- due process and appeal process
- many standards and sanctions

The **major changes** that are recommended include:

- more current language
- more explicit articulation of standards and sanctions
- some new standards and sanctions
- jurisdiction expansion
- schedules that support timely learning

Resources that may be useful in reviewing the recommendations include:

Info Sessions	April 12	4-5 pm	A1105
	April 19	3-4 pm	A1105

[DTF Website](#)

[Recommended Evergreen Student Conduct Code](#)

[Current Evergreen Student Conduct Code](#)

[Side by Side Codes](#)

Feedback Opportunities

The DTF will be formally seeking comments on the recommendations during the month of April.

	<u>Date</u>	<u>Time</u>	<u>Location</u>
Conduct Code Seminars	April 14	1-3 pm	A1107
	April 14	7-8 pm	HCC
	April 15	Noon-1 pm	B1107
	April 21	3-5 pm	A1107
Tabling	April		Red Square/ Greenery

And/or post your comments to our [blog](#) or [email](#) or talk directly with any member of the DTF. <<http://www.evergreen.edu/committee/studentconduct/home.htm>>

Student Conduct Code DTF

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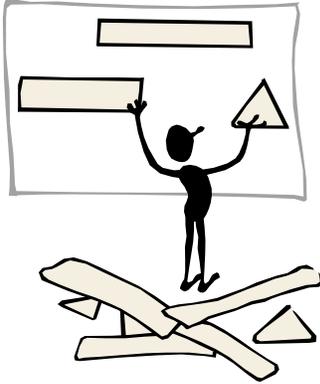
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Student Conduct Code DTF FAQs

- What student rights are preserved by the Code?
- What are the options for addressing faculty and staff misconduct?
- Why would the College want to address student conduct that occurs off campus?
- Who determines if off-campus conduct should be addressed?
- Using a toy gun is free speech, why is it prohibited in certain circumstances?
- Why is there a standard encouraging students to intervene when misconduct is occurring?
- Does the Code cover tearing down of posters?
- What is the point of interim restrictions and when can they be put into place?
- Why can a student's misconduct be addressed by the Code and law enforcement simultaneously?
- What is a reasonable person standard?
- Why do we use a decision making standard of more likely than not? Why don't we use a higher standard?
- How are students involved in administering the Code?
- Why don't we equate misconduct with specific sanctions?
- Revocation of Degree and Admission seem extreme. Why are they included as possible Sanctions and Resolutions?
- How are members of the Appeal Board identified?
- What happens next?

Purpose

What student rights are preserved by the Code?

Students are provided written notice of any allegations and are provided an opportunity to respond to a complaint in both the current and proposed Code. Case law related to student conduct in higher education has provided some clarity that at a minimum these must be ensured. The proposed Code specifies how a complaint is addressed and further delineates both the student's and the College's responsibilities.



The Code only addresses student conduct. What are the options for addressing faculty and staff misconduct?

This is specifically a code about *student* conduct; it was never intended to address conduct by other members of the community. Recourse for addressing alleged misconduct of faculty, staff or administration varies. Employees are expected to adhere to College policies (e.g. [Non-discrimination](#), [Smoking](#), and [Appropriate Use of Information Technology Resources](#)) and violations of the law may be pursued by law enforcement.

In contrast, some student violations of the law that occur on campus are handled solely by the Code through an agreement with local authorities to address minor infractions with education rather than criminal prosecution.

Alleged misconduct of classified staff and faculty is addressed as per the respective collective bargaining agreements and contracts which delineate how the College may respond to these employees' misconduct. Alleged misconduct of administration is addressed via the employee's supervisor. Ultimately administrators are "at will" employees and may be terminated as deemed necessary.

Alleged misconduct by	Student	Student Employee	Faculty	Classified Staff	Exempt Staff
Would be addressed by	Code of Conduct	Code of Conduct or Student Employee Grievance Process	United Faculty of Evergreen Contract	Washington Federation of State Employees Higher Education Contract	Supervisor

Jurisdiction

Why would the College want to address student conduct that occurs off campus?

Currently the Code permits the College to address conduct when there has been a violation of the law off-campus.

The DTF is recommending that the jurisdiction expand to include conduct that occurs on properties adjacent to College premises. These allegations would be addressed in the same manner as allegations for on-campus conduct. The expansion also includes off-campus conduct "where it is reasonable to conclude that the presence of the Respondent at the College would constitute a danger to health or personal safety or where harm has occurred to another member of the College community and the continued presence of the Respondent may cause additional harm."

In recent years there have been some situations that have come to the attention of the College that have not been addressed because the conduct has occurred off-campus, yet the nature of the incidents have raised serious concerns for the well-being of members of the College community and have impacted teaching and learning. This is of particular concern when the conduct is occurring at apartment complexes adjacent to the College where the majority of residents are students. In these instances law enforcement's capacity to address the conduct has been restricted due to the nature of the conduct (insufficient evidence or not rising to the level of



breaking a law) or due to the length of time required to prosecute. Examples include allegations of physical or sexual assault and threats.

The DTF is recommending expanded jurisdiction in order for the College to be able to intervene if the learning opportunity and/or the health and safety of another member of the community may be at risk. It is a value the DTF is suggesting the College manifest in this tangible manner. The Codes for the other Washington four-year institutions include misconduct that occurs off-campus. Some (UW, EWU, WSU and CWU) incorporate a broader scope than Evergreen is proposing.

Case law indicates that colleges can address off campus conduct but there must be a nexus to the mission. The misconduct must be serious and impact teaching and learning. Reports of misconduct off campus could be submitted by law enforcement or other members of the community. This expansion would not permit the College to address a student's participation in a demonstration; participating in civil disobedience in and of itself would not constitute causing harm to health and safety of others. However, harming another person in the midst of a demonstration may be a violation of the Code that might be addressed.

Who determines if off-campus conduct should be addressed?

The DTF is recommending that this responsibility be held by an individual in order to mitigate concerns regarding familiarity with the Code, consistency, timeliness, accountability, and institutional liability. In addition, the respondent may always appeal this decision to the Appeal Board which is composed of three students, one faculty, and one staff.

The person making a determination about whether or not alleged misconduct that occurs off-campus should be addressed has to meet a number of special criteria. First, they must have a working knowledge of the Code and they must be able to properly apply the standard outlined in the Code. They also must be independent from the Senior Student Conduct Administrator. The first criteria could be met by the Conduct Administrator, but having the decision to apply the standard outlined in the Code, and the decision on resolving the complaint rest in one person's hands seems too centralized. Balanced with the need for being consistent, quick, and accountable, there are few senior level positions that meet these criteria.

Standards

- **Using a toy gun is free speech, why is it prohibited in certain circumstances?**

Use of a toy gun is not prohibited. Use of a realistic replica with direct intention to threaten or cause fear or alarm is prohibited.

- **Why is there a standard encouraging students to intervene when misconduct is occurring?**

This standard is intended to operationalize a key aspect of the Social Contract. See: <http://www.evergreen.edu/about/social.htm>

"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. 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.”

Many institutions operate with an honor code which explicitly puts the responsibility for maintaining community standards on all members of the community, not an appointed few. This standard is intended to encourage tangible behaviors that foster a shared commitment to the health, safety and well-being of everyone in the community.

Does the Code cover tearing down of posters?

Yes. Such an action is a violation of Standard # 17 - damaging, destroying, or tampering with College property or property belonging to any person.

Procedures

What is the point of interim restrictions and when can they be put into place?

Interim restrictions can be put into place when issues of health or safety arise. The most common interim restrictions include a no contact order or a restriction from various areas on campus for a specific period of time while a conduct case is resolved. A no contact order would be put in place between the student and the reporting party. This order is to protect the reporting party from possible retaliation and would prohibit both parties from engaging in direct, indirect, or electronic communication. Depending on the situation, a no contact order could also include a restriction from certain parts of campus that would allow for the reporting party to study, work, or live without impact or fear. Specific examples would be limiting access to the residence hall or classroom of the reporting party. Once a case is resolved, any interim restrictions would be removed or replaced by permanent restrictions or mediated agreements. This practice has been a regular part of the conduct system and students who are the reporting party have stated that they feel more comfortable that immediate action can take place while the conduct process is completed.

Why can a student’s misconduct be addressed by the Code and law enforcement simultaneously?

The same conduct may be addressed by the Code and the criminal justice system simultaneously; however the two processes are distinctly different and have very different standards and ramifications. One seeks to determine whether a student can continue to function as part of the College community and under what circumstances. The criminal justice system seeks to address the interests of the larger society. The Code’s standards do not necessarily meet the criteria for violations of the law and students may be found responsible if the Student Conduct Administrator or Appeal Board determine that it is more likely than not that the student engaged in the misconduct. Students found responsible may, in the most severe cases face restrictions to their access to an education at Evergreen. In contrast, a citizen may be found guilty of violating the law if a judge or jury determines beyond a reasonable doubt that a law was broken and may face incarceration.

What is a reasonable person standard?

The term “reasonable person” is used as a comparative standard to represent an average member of this community. A reasonable person exercises an ordinary degree



of reason, prudence, care, foresight and intelligence and whose conduct, conclusion or expectation in relation to a particular circumstance or fact is used as an objective standard.

The student conduct code uses this term since it includes people coming from a variety of backgrounds; people who have different political and religious beliefs, differing levels of education and work experience, and different interests and convictions. The use of "competent" to define a person is not used since it has legal connotations and the conduct code administers an educational process.

Why do we use a standard of more likely than not? Why don't we use a higher standard?

There are several standards of proof - both philosophic and legal - as to a person's responsibility in a matter. If "absolute certainty" about the exact nature of a student's involvement in any conduct matter was possible, then that is the standard that the Code would require. However, such a thing is not possible. We must move from 100% certainty to a level that is both achievable and useful for the purpose intended. In most cases, the standard of proof being used is not at play, nor is responsibility a dichotomous issue. Instead, both student and administrator focus on understanding the larger view of what really happened, why, and what can be done constructively in response. In this vein, the dialogue explores the student's decisions, actions, and roles on a continuum of responsibility. "More likely than not" is the standard used throughout the United States in higher education.

How are students involved in administering the Code?

Students are involved in administering the Code on a number of levels.

Students participate in conduct conferences and have the opportunity to participate in developing a mutually agreed upon Contract of Accountability that reflects the determination of responsibility and associated resolution and sanctions.

Students are involved as appointed members of the Student Conduct Appeals Board. Students hold the majority of seats on the Appeals Board and the Board hears cases to determine responsibility and sanctions and resolutions. If you are interested in serving as a student representative to the Board, please contact the Office of the Vice President of Student Affairs at (360) 867- 6296.

In the spirit of Evergreen's Social Contract, members of the Evergreen community share in a mutual responsibility to maintain civility and uphold the values of the College. In this process, students are expected to actively hold each other accountable to shared standards of conduct and respect. Additionally, as part of the revised Code, students are expected to address and intervene with a violation by, at a minimum, reporting the action to college officials.

Sanctions & Resolutions

Why don't we equate misconduct with specific sanctions?

In an effort to account for individual and extenuating circumstances, the Code does not pre-assign specific sanctions to certain acts of misconduct. When designing sanctions and resolutions, the student respondent, Student Conduct Administrator, or



Student Conduct Appeals Board considers a number of factors, including the individual's motivation, previous conduct history, degree of responsibility assumed, and the impact of the behavior on the community. The intention is to facilitate opportunities appropriate for each individual's personal development and learning.

All possible resolution and sanctions (e.g. probation, degree revocation, etc.) are either agreed upon in meetings with the Student Conduct Administrator or are issued via a hearing with a Board composed of three students, one faculty, and one staff. The resolution and sanction must match the misconduct according to a reasonable person standard.

Revocation of Degree and Admission seem extreme. Why are they included as possible Resolution and Sanctions?

Revocation of Degree would likely only be used if a student was found to have engaged in such egregious academic dishonesty that it was determined they did not actually earn their undergraduate degree. Revocation of Admission would likely only be used if a student was found to have provided false information on their application such that the admission decision was not warranted.

Appeals

How are members of the appeal board appointed?

The Vice President for Student Affairs is the senior level professional charged with insuring that the Conduct Code is properly administered. Having one person responsible for appointing or confirming the Board members assures quickness and accountability for having members who are trained and prepared for the responsibility. The Vice President's office is equipped to work with the Geoduck Student Union to confirm recommendations for student appointments or to invite all students to pursue the opportunity to serve on the Board. Faculty is identified by the Faculty Agenda Committee and staff is invited to serve on the Board by the Vice President.

What happens next?

The DTF plans to proceed as follows:

- April 2010 Seeking input from the College community
- May 2010 Committee discussion and refinement of Code
- June 2010 Committee submits recommendations to the VPSA

In early fall the VPSA will respond to the recommendations and determine if the processes for codifying the revised version of the Code should proceed. If it proceeds, a required public hearing would likely be held in late November or early December.

