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SR-02-03-(60) 90 SCWC

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STUDENT CONDUCT & WELFARE COMMITTEE RECOMMENDATION

SR-02-03-(60) 90 SCWC

Recommends the approval of the following proposed policy revisions to the 2003 Marshall University Student Code of Conduct:

1. The committee recommends changing all entries where it says Board of Trustees to "Board of Governors."
2. Make a revision to the Student Code of Conduct that reflects a more proactive approach to sexual misconduct on campus. The main reason for the proposed revision is to afford due process to the alleged perpetrators and to the victims. Currently, the student judicial process does not afford one the process to request a hearing until the Director of Judicial Programs, with regard to a violation of the code, has rendered a decision. Typically in sexual misconduct cases, the evidence is based upon a he said/she said scenario and the Office of Judicial Affairs has been unable to render a decision. This applies even in a "more likely than not" burden of proof that we apply in determining if violations of the student code have occurred.

Inserting on page 38 a definition for a newly created Administrative Review Board composed of two faculty/staff members and one student (currently part of the judiciary) to review cases where the Director of Judicial Programs cannot render a decision based upon the weight of the evidence. This will provide due process to all parties involved and insure students that their rights will be protected. This type of approach has been strongly recommended by the National Center for Higher Education Risk Management to protect colleges and universities from liability should they not review a potential case of sexual misconduct based on lack of evidence.

Administrative Review Board: An interim review board to assist the Director in adjudicating complicated cases where a decision cannot be rendered based upon the weight of the evidence. The board will consist of two faculty/staff members and one student who is currently part of the Faculty/Staff Board Members and the Student Justice/Advocate Society. This board will act as a decision making body to issue or not issue sanctions in accordance with the student code when a case is referred by the Director of Judicial Programs. Typically, this will be for cases where the Director is unable to render a sanction or dismissal based upon the weight of the evidence. This Review Board is not a replacement for the current Student Judicial Process, which is structured for the accused to have the ability to appeal a sanction issued by the Director.

Due to the nature of the Student Code of Conduct, with regard to sexual misconduct and the evidence that may or may not exist, all cases of this nature will be referred to the Administrative Review Board to determine if a sanction is warranted. The Director will determine other cases to be referred to the board. As with decisions rendered by the Director, all decisions rendered by the ARB may be appealed through the Student Judicial Process.

- 3. Inserting on page 62, before "Sexual Assault and Abuse Policy," a relationship violence policy that will support the reporting, investigating, and sanctioning of individuals committing acts of violence resulting from a personal, intimate relationship. This change is in response to the NCHERM recommendation that colleges and universities specifically address relationship violence in the Student Code of Conduct.

Relationship Violence Policy: Relationship violence will not be tolerated at Marshall University. Relationship violence means causing physical harm or abuse, and threats of physical harm or abuse, arising out of a personal relationship. Acts of relationship violence are criminal behaviors and considered violations of Marshall University's Student Code of Conduct. As with all violations these acts will be investigated and will subject an individual to disciplinary action under the University student conduct code, separate from any criminal prosecution or action.

RATIONALE:

- 1. These policy revisions are according to the current West Virginia Higher Education Governance Structure.
- 2. The proposed revisions will afford due process to the alleged perpetrators and to the victims. The definition for the newly created Administrative Review Board will provide due process to all parties involved and insure students that their rights will be protected.
- 3. The revisions will render Marshall University's Student Code of Conduct in compliance with NCHERM recommendations.

FACULTY SENATE PRESIDENT:

APPROVED BY SENATE: Jan Doff DATE: 5-13-03

DISAPPROVED BY SENATE: _____ DATE: _____

UNIVERSITY PRESIDENT:

APPROVED: Don Gyl DATE: 5/21/03

DISAPPROVED: _____ DATE: _____

COMMENTS: _____

