

**FAYETTEVILLE STATE UNIVERSITY  
CODE OF STUDENT CONDUCT**

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## CODE OF STUDENT CONDUCT

### I. AUTHORITY

*The Code of the Board of Governors of the University of North Carolina* provides to the Chancellor of Fayetteville State University (University) the “full authority in the regulation of student affairs and in matters of student discipline...” This responsibility may be delegated to certain University administrators and committees. However, the Chancellor may intervene directly in any matter when deemed necessary. Except for such intervention, no offense shall be recognized, nor sanction imposed on any student except as provided in this *Code of Student Conduct (Code)*.

### II. JURISDICTION

The University reserves the right to take necessary and appropriate action to protect the safety and well-being of its campus community. This Code applies to all undergraduate and graduate students as defined below. The University’s jurisdiction and conduct processes shall be limited to behavior which occurs on University premises, at University-sponsored events or at other off-campus locations if the conduct adversely affects the University community and/or the pursuit of its objectives as determined by University officials

A student whose conduct has been found to be in violation of established University policies and regulations may also be subject to appropriate actions by individual University offices which may or may not give rise to a formal charge under the Code. In addition, an incident may result in criminal or civil charge as well as a University disciplinary action. Unless otherwise provided by law, University disciplinary proceedings and court proceedings may occur concurrently. University proceedings, investigations, and resolutions shall be prompt, fair, and impartial.

The University also reserves the right to dismiss any student prior to his or her enrollment by rescinding that student’s admission, without a hearing, upon a finding of cause to do so. Such a finding shall be an administrative decision rendered by the Provost or the Vice Chancellor for Student Affairs or his or her designee.

### III. DEFINITIONS

- A. **Academic Integrity Board (AIB)** shall mean the board composed of students and faculty who address whether a student has violated the University’s the academic dishonesty policy of the Code.
- B. **Administrative Hearing Body** shall mean the trained hearing officer, or panel of trained hearing officers, who will make determinations of responsibility and preside over hearings referred through the *Prohibited Sexual Conduct Policy* and other cases as determined by the Director of Student Conduct. Students may not serve as members of the Administrative Hearing Body. Additionally, the Administrative Hearing Body will serve as the hearing body for all non-academic misconduct, by the same Respondent, arising out of the same situation of the misconduct that is governed by the *Prohibited Sexual Conduct Policy*. *The Title IX Coordinator (or deputy or investigator) may not serve on the Administrative Hearing Body.*
- C. **Alcohol** shall be defined as malt beverages, unfortified wines, fortified wines, spirituous liquor and/or mixed beverages.
- D. **Associate Vice Chancellor** shall mean the Associate Vice Chancellor for Student Affairs whose duties include, but are not limited to, making a determination or recommendation for non-academic misconduct sanctions.
- E. **Assistant Vice Chancellor** shall mean the Assistant Vice Chancellor for Student Affairs who is involved in the reconsideration of no-contact orders.
- F. **Business days** shall mean days when the University is open for business.
- G. **Campus Appearance Ticket (CAT)** shall mean a document which contains a specific report of misconduct against a student issued by a University police officer. It is given to a student to notify the student of a complaint that has been made against the student. A CAT may be issued in lieu of a uniform citation for violations of the NC General Statutes. If the misconduct is also a serious criminal offense, the CAT will be issued in addition to affecting an arrest and/or criminal citation.
- H. **Code** shall mean the University *Code of Student Conduct*.
- I. **Compelling new evidence** shall mean evidence that must not have been available to the student or not known or reasonably discoverable by the student at the time of the hearing.
- J. **Complainant** shall mean an individual or individuals making a report of misconduct against an individual or a group of individuals. In cases governed by the *Prohibited Sexual Conduct Policy*, the alleged victim is considered the Complainant.
- K. **Director of Student Conduct (“Director”)** shall mean the University official whose responsibilities shall include, but not be limited to, reviewing reports of misconduct, determining whether to bring a formal charge, interviewing and advising parties involved in non-academic misconduct proceedings on matters pertaining to the Code, maintaining student non-academic misconduct records, and providing support to the non-academic misconduct hearing bodies.

- L. Expulsion** shall mean permanent dismissal from the University, unless at a later date the University concludes on the basis of the former student's petition and any supportive documentation that the individual should be given a new opportunity to pursue higher education. A former student who has been expelled from one constituent institution of the University of North Carolina may not be admitted to another constituent institution, unless and until the sanction of expulsion has been rescinded by the institution that imposed the sanction.
- M. Formal charge** shall refer to the written accusation of a violation of the Code made by the Director of Student Conduct. The Director shall issue a formal charge in the following situations:
- 1) if the Director believes that the report of misconduct may have merit; or
  - 2) if the Title IX Office forwards to the Director an investigatory report regarding a violation of the *Prohibited Sexual Conduct Policy*.
- The formal charge is not a determination of whether the student should be held responsible. The formal charge will initiate a formal non-academic proceeding by the University against a student or student organization alleging that the student or student organization has violated the Code.
- N. Institution and/or University** shall mean Fayetteville State University and all of its academic and administrative units.
- O. Member of the Campus Community** shall mean a University employee or student.
- P. Provost** shall mean the Provost and Vice Chancellor for Academic Affairs who is the University's chief academic officer.
- Q. Report of misconduct** shall mean a written complaint of a non-academic infringement of the Code that is made by anyone other than the Director of Student Conduct.
- R. Respondent** shall mean any University student or student organization who must answer or respond to a report of misconduct or formal charge. "Respondent" shall also refer to a faculty member who responds to a student's appeal of an academic dishonesty charge.
- S. State, Federal, or Local Law** shall mean any rule or system of rules adopted by any federal, state or local agency, institution, organizational, legislative, judicial, or governing body. State, Federal, or Local Law shall include, but not be limited to, any statute, legislation, regulation, policy, ordinance, order, executive order, procedure, or any other rule.
- T. Student** shall mean any person who has accepted admittance to the University for student status and who is currently registered or enrolled as an undergraduate or graduate student or certificate program participant, whether matriculating or non-matriculating, fulltime or part-time, resident, distance-learning, or commuter, paid or delinquent. Such a person shall also be considered a "student" during intersession/summer periods and University sponsored commencement events in which he or she is a participant.
- U. Student Conduct Board (SCB) shall mean** the disciplinary procedures board composed of students who address whether a student or student organization has violated the University's non-academic misconduct policy of the Code. The SCB shall not determine responsibility in cases governed by the *Prohibited Sexual Conduct Policy*.
- V. Student organization** shall mean a student group that has been officially recognized or sponsored by the University in accordance with the policies and guidelines of the University's Division of Student Affairs.
- W. University official** shall include any University employee exercising their assigned duties.
- X. University premises** means buildings or grounds owned, leased, operated, managed, controlled or supervised by the University.
- Y. University sponsored activity** shall mean any activity or event on or off campus which is initiated, aided, authorized or supervised by the University.
- Z. Vice Chancellor** shall mean the Vice Chancellor for Student Affairs.
- AA. Weapon** shall mean any object or substance designed or used to inflict a wound, cause injury, or incapacitate, including, but not limited to, a BB gun, air rifle, air pistol, hand gun, rifle, pistol, shotgun, or firearm of any kind, dynamite cartridge, bomb, explosive, fireworks of any kind, hazard materials of any kind, grenade, mine or powerful explosive, knife (including, but not limited to a Bowie knife and switchblade knife), machete, dirk, dagger, sword, sling shot, leaded cane, switch blade knife, blackjack, metallic knuckles, stun gun, paint gun, bullet(s), razors and razor blades (except solely for personal shaving) and any sharp pointed or edged instrument (e.g., box cutters) and chemicals such as tear gas.

#### IV. NON-ACADEMIC MISCONDUCT

A student's non-academic behavior on- or off-campus may be subject to disciplinary action as outlined below.

##### A. Reports of Non-Academic Misconduct

###### 1. Individual Student

A report of non-academic misconduct may be made against a student by any person. A report of non-academic misconduct is not considered a formal charge.

Reports of non-academic misconduct may also be filed as a result of, or during a conduct process which may result in a separate formal charge and hearing.

A person who files a report will be required to cooperate as required by the Director and appear and testify at any proceeding related to the report.

A report of non-academic misconduct may be by any method allowed by the Director which may include, but not be limited to, either of the following methods:

###### a. Campus Appearance Ticket (CAT)

A CAT is a document issued by the University's Police and Public Safety Department (University Police Department) when a police officer believes that a student has committed an act(s) in violation of the Code and/or other University policies. The University Police Department may amend a CAT to reflect additional violations or a more accurate description of an initial violation.

b. University Incident and Student Complaint Form. Anyone may report misconduct against a student by completing a report through Maxient, the University's electronic student conduct system. The form can be submitted online at <https://cm.maxient.com/reportingform.php?FayettevilleStateUniv>. The form must be submitted within five (5) business days of the alleged incident. Upon good cause, the Director may extend this deadline.

###### 2. Student Organization

A report of misconduct may be made against a student organization by a member of the campus community or the external community. Such reports shall be directed to the Director.

Except when exempted by the Director, the report must be in writing, signed and dated and should include sufficient detail as to provide an understanding of the issues involved (i.e. name of the complainant, date, time and place of the incident, names of individuals involved, description of events and circumstances, and names of witnesses). If the complainant wishes to make an anonymous report of misconduct, the complainant should provide his or her address and telephone number on a document that is not attached to the report.

The Director will make every effort to inform the student organization of the report of misconduct within ten (10) business days following receipt of the written report.

###### 3. Reports Involving Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence and Sex - Based Stalking by a Student

The University is committed to fostering a safe campus environment where sexual harassment, sexual misconduct, domestic violence, dating violence, and sex-based stalking are unacceptable and are not tolerated. In keeping with this commitment, the University has implemented a *Prohibited Sexual Conduct Policy* prohibiting such misconduct by a student or employee against a student, employee, or other person attempting to access a University program or activity. The purpose of the policy is to protect the rights of a victim, as well as the rights of a Respondent. Most reports of sexual harassment, sexual misconduct, dating violence, domestic violence, and sex-based stalking by a student against a student, employee, or other individual seeking to access a University activity or program will be investigated as required by the *Prohibited Sexual Conduct Policy*. Adjudications of responsibility shall meet the requirements of that policy as well as the Code.

The following allegations shall not be resolved under the University's *Prohibited Sexual Conduct Policy* and may be resolved under the normal Code procedures:

- i. When a Complainant chooses not to file a formal complaint with the Title IX office and the Title IX Coordinator declines to file on behalf of that Complainant,
- ii. When a Complainant is not participating in or attempting to participate in a University education program or activity,
- iii. When allegations occurred outside the United States, and/or
- iv. When incidents did not occur as a part of a University program or activity.

[Note: The Director should make the Title IX coordinator aware of these complaints. Such complaints against students may be resolved under the Code of Student Conduct provisions as determined by the Director].

## B. Student Disciplinary Process

### 1. Interim Actions

The University may take one or more interim actions to safeguard the University community before a student conduct process begins or is completed. Interim actions may be imposed effective immediately, without prior notice, when, in the University's judgment, there is a need to implement an individualized response based on the status of the student, the seriousness of the alleged violation(s) of the Code and/or the potential for an ongoing threat or disruption to the University community.

a. **Interim Suspensions (Individual Student).** Interim suspensions may be imposed based upon the following:

- The student poses an ongoing threat of disruption of, or interference with, the normal operations of the University; The student poses a threat of causing physical harm to others or of placing others in fear of imminent danger; The student poses a threat of causing significant property damage;
- The student threatens the safety or well-being of the campus community;
- The student has been charged with a violation of the University's Illegal Drugs and Alcohol policy; or
- The student has been charged with sexual misconduct, domestic violence, dating violence, or stalking. Interim actions governed by the *Prohibited Sexual Conduct Policy* must also meet the requirements of the Interim Action provision of that policy.

**Imposition of Interim Suspension.** The Vice Chancellor, in consultation with other university officials, may impose an interim suspension. Such interim suspension shall become immediately effective without prior written notice. The Director will notify a student of the report of misconduct against him or her when the interim suspension is initially imposed. A formal charge shall be filed as soon thereafter as practical in accordance with the Code.

**Process for Appeal.** Within five (5) business days from the effective date of the interim suspension, the student may make a written request that the Vice Chancellor reconsider the interim suspension based upon the following issues only:

- Whether the allegation(s) concerning the student's conduct is based upon reliable information; and,
- Whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the student on the University premises poses a substantial threat.

The written request must contain specific and sufficient information to support the student's contention. If no review of the interim suspension is requested, the student shall remain on interim suspension.

If a review is requested, within five (5) business days of receiving the student's request, the Vice Chancellor shall consider the information submitted and provide the student, in writing, the Vice Chancellor's decision.

Interim suspensions shall remain in effect unless the Vice Chancellor lifts the interim suspension, sanctions are imposed under this Code, or a decision of non-responsibility is issued by the University.

**Restrictions Imposed During Interim Suspension.** During the interim suspension, the student shall be denied access to University premises, including residence halls. The student may not attend University classes, engage in University activities on- or off-campus or receive any privileges for which the student might otherwise be eligible. A student found on University premises after an interim suspension has been imposed will be issued a trespass citation by the University Police Department and may be subject to arrest for subsequent violations.

b. **Interim Suspensions (Student Organization).** A student organization may be subject to an interim suspension by the Director when there is a report or evidence of a potential violation of the Code. During an interim suspension all activities, on- or off-campus (to include but not be limited to programs or social events) are suspended.

c. **Other Interim Actions.** The University may take interim actions other than suspension to ensure the safety and wellbeing of the campus community including, but not limited to, "no contact" orders, relocation in University housing facilities, registration holds, and adjustments to class schedules. Any interim actions taken may not be used as evidence to support charges under the Code.

## 2. Conduct Review

a. **Individual Student.** A conduct review for an individual student shall be conducted as follows.

- i. **Scheduling a Conduct Review.** A Respondent who receives a written report of misconduct is expected to contact, in writing, the Director of Student Conduct, within three (3) business days, of receiving the report to schedule a conduct review.

A Respondent who fails to contact the Director of Student Conduct within three (3) business days may be deemed to have forfeited the Respondent's right to a conduct review and may be notified in writing of a formal charge (if any).

- ii. **Attending a Conduct Review.** A conduct review will consist of an informal, non-adversarial meeting between the Respondent and the Director of Student Conduct to determine whether the report of misconduct would constitute a violation under the Code. Such a violation would warrant filing of a formal charge. Following the conduct review, the Director of Student Conduct will notify the student of the determination.

A Respondent who fails to attend a conduct review may be deemed to have forfeited the Respondent's right to a conduct review and may be notified in writing of the formal charge, if any.

- iii. **Mediation.** Mediation is a voluntary, confidential process in which the Director of Student Conduct shall assist students in finding a mutually acceptable solution to their problem. The Director of Student Conduct will determine whether mediation is an appropriate alternative to formal charges. If so determined, both Complainant and Respondent must agree to mediation. The Director of Student Conduct or designee shall oversee the mediation.

If the parties involved obtain a mutually acceptable agreement during mediation, the Director of Student Conduct may dismiss the case.

If the parties involved fail to obtain a mutually acceptable agreement during mediation, the Director of Student Conduct may file a formal charge or dismiss the case.

- iv. **Prohibited Sexual Conduct Policy.** Conduct reviews and mediations described in the Code shall not occur for incidents governed under the *Prohibited Sexual Conduct Policy*. Upon receipt of the investigative report, the Director shall within 5 business days issue a formal charge to the Respondent and forward the formal charge and investigative report to the Administrative Hearing Body. Written pleas, mediations, and other informal resolutions shall be governed by the *Prohibited Sexual Conduct Policy* and not this Code.

### b. **Student Organization**

- i. **Investigation.**

At the discretion of the Director of Student Conduct or designee, reports of potential violations of the Code committed by a student organization may be investigated prior to initiating the student disciplinary process. The investigative process may be initiated based upon reports of behavior that could result in a student organization's suspension/dismissal from the University.

If, following an investigation, the Director concludes that the student disciplinary process should be initiated, a representative from the student organization must schedule a conduct review within three (3) business days from the date that the Director notifies the student organization.

If a representative from the student organization fails to contact the Director of Student Conduct within the three (3) business day time period, the student organization may be deemed to have forfeited its right to a conduct review and may be notified in writing of a formal charge, if any.

- ii. **Attending a Conduct Review.** At a conduct review, the student organization shall be informed of the options (if any) available for resolution of the case without requiring that formal charges be filed. A conduct review will normally consist of an informal, non-adversarial meeting between representatives of the student organization and the Director of Student Conduct to determine whether the report of misconduct would constitute a violation under the Code which would warrant filing of a formal charge. Following the conduct review, the Director of Student Conduct will notify the student of the determination.

Representatives of the student organization who fail to attend a conduct review may be deemed to have forfeited the student organization's right to a conduct review and may be notified in writing of the formal charge.

### 3. Filing of Formal Charges

Within five (5) business days after the date of the conduct review or mediation (whichever is later), or with violations of the *Prohibited Sexual Conduct Policy* within five (5) business days of receipt of the Title IX investigative report, the Director of Student Conduct shall provide written notification of the formal charge (if any) to the Respondent. The formal charge shall include the following information:

- a. A brief recitation of the factual allegations supporting the formal charge.
- b. Possible sanctions.
- c. Notice that, within three (3) business days of the notification of the formal charge, the Respondent must make one of the following pleas, in writing, to the Office of Student Conduct:
  - Plead not responsible to the formal charge(s) and have the case heard by the appropriate Hearing Body. The appropriate Hearing Body will be determined by the Director.
  - Plead not responsible to the formal charge(s), waive rights to an SCB or Administrative Hearing Body review, waive rights to an attorney/non-attorney advocate, and have the case heard by the Associate Vice Chancellor for the purpose of determining responsibility and sanction(s), if any. If the Respondent decides to have the case heard by the Associate Vice Chancellor, a written record indicating such shall be signed by the Respondent.
  - Plead responsible to the formal charges, waive the right to a hearing and accept the sanction levied by the Associate Vice Chancellor.  
If a hearing has been waived by the Respondent, a written document indicating that the Respondent has waived the Respondent's right to a hearing must be signed by the Respondent.
  - Plead responsible to the formal charges and request an opportunity to be heard by the appropriate Hearing Body for the purpose of the Hearing Body recommending a particular sanction(s). The appropriate Hearing Body will be determined by the Director.  
[The Code plea options shall not be available for violations governed by the *Prohibited Sexual Conduct Policy*. These pleas shall be managed in accordance with the Informal Resolution provisions of that policy and accompanying procedures.]
- d. If the formal charge could result in expulsion, the notice must include this possibility and must specify that expulsion precludes matriculation at any UNC constituent institution.
- e. Notice that the failure to submit the written plea within three (3) business days of notification of the formal charges will automatically result in a finding of responsibility and a waiver of the right to a hearing and that sanctions shall be imposed by the Associate Vice Chancellor for Student Affairs without a hearing. This provision shall not apply to violations governed by the *Prohibited Sexual Conduct Policy*.

### 4. Hearing Referrals

If a formal charge is issued, the Director will refer the case to the appropriate hearing body. Once referred, written communication will be sent notifying the Respondent, Complainant, alleged victim, and any investigator of the referral to the appropriate hearing body and the time, date and location of the hearing.

The hearing shall be conducted by the hearing body without regard to the conduct review or any informal resolution or mediation attempted.

Charges against multiple students involved in the same incident may be heard in a single case if the Director so determines and each Respondent consents.

Reports of misconduct governed by *Prohibited Sexual Conduct Policy* shall be heard by the Administrative Hearing Body.

### 5. Time frames for Hearings

Unless the Respondent provides a written waiver providing otherwise, hearings shall occur within the following time frame:

#### a. **Level 1 Offense.**

A hearing for a **Level 1** offense must not be held sooner than ten (10) calendar days after the Respondent receives written notice.

#### b. **Level 2 Offense.** A hearing for a **Level 2** offense must not be held sooner than five (5) calendar days after the Respondent receives written notice.

C. **Hearing Procedures**

Procedures pertaining to student disciplinary hearings are as follows:

1. **Pre-hearing**

Prior to a hearing, the Complainant and Respondent must be given the opportunity to review any written evidence that will be used at the hearing and to obtain a list of witnesses.

2. **Continuances**

If the Respondent desires additional time to prepare for the case, a written request must be submitted to the Director at least fortyeight (48) hours prior to the scheduled hearing. For hearings involving the Administrative Hearing Body ninety-six (96) hours notice is required. The Director reserves the right to deny or grant such a request. The decision of the Director is final.

3. **Witnesses**

A witness shall be any person with direct knowledge relevant to a case. Information pertaining to notices to witnesses and their duty to appear are outlined below:

**a. Notice.** The Complainant and the Respondent must deliver in writing the names, addresses and telephone numbers of their witnesses at least five (5) business days before the hearing to the Director.

The Director shall ensure notification of such witness(es) in writing of the time, place, location and the purpose of their appearance.

**b. Duty to Appear.** The Director and/or the Hearing Body may require the appearance of witnesses. The Complainant/Respondent may present witnesses; however, the relevancy of their testimony shall be determined by the presiding officer. If it is determined that such testimony is not relevant, the presiding officer may decide not to allow such testimony.

Willful and deliberate failure and/or refusal of any student witness to honor a written request to appear may result in a Code violation.

4. **Presence of an Observer**

The Complainant(s) and Respondent may have an observer accompany him or her to the hearing. Observers shall not be allowed to participate in the hearing.

5. **Failure to Appear**

If the Respondent fails to appear at the Respondent's scheduled hearing, without previously providing a written request for a continuance which was approved by the Director, the hearing shall still be conducted. Except in cases brought under the Prohibited Sexual Conduct Policy, Respondent shall be deemed to have pleaded guilty to the formal charges resulting in a finding of responsibility. Recommended sanctions shall then be determined.

6. **Hearing**

A hearing shall be conducted as follows:

**a. Attendance.** The hearing shall be closed and shall be attended only by the following individuals:

- the Respondent, Respondent's witnesses/observer (if any);
- the Complainant, Complainant's witnesses/observer (if any);
- the applicable hearing body;
- the investigator (if any);
- the Director;
- any other persons called by the hearing body or the Director;
- Attorney or non-Attorney advocates of a Respondent or alleged victim in cases when attorneys or non-attorney advocates are allowed pursuant to the Code; and
- A University attorney if an attorney or non-attorney advocate of a Respondent or alleged victim is present at the hearing.

**b. Recording.** The hearing shall be recorded. A record of the proceedings, including documentary evidence, will be accessible only in accordance with the *Family Educational Rights and Privacy Act (FERPA)*.

**c. Hearing Order.** The hearing shall begin with the Complainant and/or investigator who shall state contentions and offer such proof as desired. When the Complainant and/or investigator have concluded presentation(s), the Respondent shall then present the Respondent's contentions and offer any proof. Both the Complainant and Respondent may question their witnesses.

Witnesses shall be asked to affirm that their testimony is truthful. Witnesses, other than the investigator, Complainant and the Respondent, shall be present in the hearing only when presenting their testimony.

The hearing body may ask the individual testifying questions, or direct that they elaborate on a particular line of inquiry. The hearing body may also seek such additional material or the attendance of such other persons as they deem necessary to obtain an understanding of the incident, even if it requires that the proceedings be continued until a further date. *Note:* In cases involving multiple students charged, evidence provided at one hearing may be used as evidence in related case(s).

Once both parties have made their presentations, the hearing body leader may request that each party present a final statement.

Once the final statements have been made, the hearing body leader shall conclude the hearing.

**d. Director's Discretion.** The Director has the discretion to determine whether a hearing should proceed as scheduled and under what conditions the hearing should be held.

**e. Participation of Attorneys or Non-Attorney Advocates in hearings with the Administrative Hearing Body**

A Respondent and Complainant have the right to be represented, at their own expense, by a licensed attorney or non-attorney advocate ("Advocate of Choice") of the student's own choosing during hearings with the Administrative Hearing Body. In cases governed by the *Prohibited Sexual Conduct Policy*, if a party does not have an Advocate of Choice, FSU will appoint an advocate of FSU's choice at no expense to that party who will participate for the sole purpose of cross-examining witnesses and parties at the hearing.

Despite the presence of an advocate, the University's process remains non-adversarial and educational in nature. Advocates of

Choice may fully participate in these proceedings only to the extent afforded to the student that is being represented. Formal rules of evidence regarding the admissibility of evidence or testimony applicable to criminal and civil causes of action do not apply except as required by Title IX Regulations, 34 CFR 106.45. Additionally, no advocate or Advocate of Choice may delay, disrupt, or otherwise interfere with the hearing process.

The following are requirements that must be met in order for a Respondent or Complainant to be represented by an Advocate of Choice:

**i. Notice of Representation**

A Respondent or Complainant who plans to have an Advocate of Choice fully participate in the hearing must notify the Director of Student Conduct of the Advocate of Choice's intended participation at least five (5) business days prior to the hearing. This notice must specify the following:

- The identity of the Advocate of Choice;
- Whether the Advocate of Choice is a licensed attorney or a non-attorney advocate; and
- An address, telephone number, and email address where the Advocate of Choice can be reached.

**ii. Release and Certification**

A Respondent or Complainant who plans to have an Advocate of Choice fully participate in the hearing process must present the following documentation at least five (5) business days prior to the hearing:

- 1. FERPA Release** - In order for an Advocate of Choice to represent a student at a hearing or to speak with University officials regarding a student, the student must complete and submit a written authorization that meets the requirements of a valid consent as specified by the FERPA.

Even if a student executes a valid FERPA consent authorizing the Advocate of Choice to receive information or documents regarding the student, the University will at all times correspond directly with the student. It is the student's responsibility to communicate and share information with the Advocate of Choice.

2. **Advocate Certification** – A Respondent or Complainant who plans to have a licensed Advocate of Choice represent the Respondent or Complainant at a hearing must submit a certification form signed by the Advocate of Choice stating that the Advocate of Choice has read in their entirety and understands the following documents:

- the University’s Code of Student Conduct;
- the University’s *Prohibited Sexual Conduct Policy* (if applicable to case);
- Section 700.4.1 of the UNC Policy Manual and the associated regulation; and
- Title IX Regulations, 34 CFR 106.45.

**f. Additional Provisions for Hearings to Determine Violations of the *Prohibited Sexual Conduct Policy*.**

In addition to the hearing requirements for all matters, hearings regarding violations of the *Prohibited Sexual Conduct Policy* must meet the requirements of the Title IX Regulations and the *Prohibited Sexual Conduct Policy* including, but not limited to:

- Complainants and Respondents shall not be allowed to cross-examine witnesses or each other; such cross-examinations shall be provided by the Advocate.
- The Director will make all evidence that was subject to the parties’ inspection and review during the investigation available at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
- The Administrative Hearing Body shall make its decision after an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and credibility determinations may not be based on a person’s status as a Complainant, Respondent, or witness.
- The Administrative Hearing Body shall not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
- Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party’s Advocate.
- At the request of either party, the University must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the Administrative Hearing Body and parties to simultaneously see and hear the party or the witness answering questions.
- Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Administrative Hearing Body must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
- Questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant’s prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.
- The Administrative Hearing Body cannot draw an inference about the determination regarding responsibility based solely on a party’s or witness’s absence from the live hearing or refusal to answer cross-examination or other questions.
- Live hearings pursuant to this paragraph may be conducted with all parties physically present in the same geographic location or, at the Director’s discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

**7. Determination of Responsibility**

All decisions by the hearing body shall be based solely upon evidence presented at the hearing. Irrelevant sexual history of either party may not be discussed during the hearing. However, prior records of disciplinary actions may be considered by the hearing body to recommend sanctions.

The standard of proof shall be the preponderance of the evidence. In finding a Respondent responsible under this standard of proof, the Hearing Body must be convinced, based upon evidence presented at the hearing that the conduct described more likely than not occurred.

**8. Disciplinary Sanction(s) Decision**

a. The Associate Vice Chancellor shall issue notice of the decision regarding responsibility and all sanctions, except expulsion, within ten (10) calendar days of the date the sanction decision is made.

b. If expulsion is recommended by the Associate Vice Chancellor, the Associate Vice Chancellor shall forward the determination regarding responsibility and recommendation for expulsion to the Vice Chancellor within seven (7) calendar days of the completion of the hearing.

If the Vice Chancellor recommends expulsion, the Vice Chancellor shall forward the recommendation to the Chancellor's within seven (7) calendar days. The Chancellor shall issue a decision within (10) calendar days of the date the decision is made. If the Vice Chancellor does not agree with the recommended sanction of expulsion, the Vice Chancellor shall determine the appropriate sanction. The Vice Chancellor's decision shall be final.

c. Sanctions should be fair and proportionate to the violation. In determining an appropriate sanction, any record of past violations and the severity of the current and past violations may be considered.

**9. Administrative Decision Timeline**

The decision of responsibility and sanctions (if any) must be reached within a specified amount of time, not to exceed forty-five (45) calendar days after the date of the hearing, unless there are extenuating circumstances.

**10. Notice of Responsibility and Sanction**

a. Who Will Be Notified. In all cases, the Director shall ensure the notification, in writing, of the Respondent of the decision and any appeal outcomes. The Director shall ensure the simultaneous notification, in writing, of the Complainant, the Respondent, and the Title IX Coordinator of the decision and any appeal outcomes of any University proceeding governed by the *Prohibited Sexual Conduct Policy*.

b. **Contents.** Contents of the notice of decision to be provided to the appropriate parties shall include the following:

i. In General:

- the name of the Respondent,
- the violation charged or committed,
- the essential findings supporting the conclusion,
- the sanction if any that is imposed and the duration of the sanction, and
- the date the sanction was imposed.

ii. Cases Governed by the *Prohibited Sexual Conduct Policy*:

- Identification of the allegations constituting a violation of the Prohibited Sexual Codncut Policy;
- A description of the procedural steps taken from the receipt of the formal complaint in the Title IX Office through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the Code and *Prohibited Sexual Conduct Policy* to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant;
- The University's procedures and permissible bases for the Complainant and Respondent to appeal.
- The University must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

## **D. Hearing Body**

### **1. Student Conduct Board (SCB)**

The SCB shall consist of up to 15 members who are current full-time undergraduate or graduate students. The Director has the discretion to determine whether a hearing should proceed as scheduled and under what conditions the hearing should be held.

#### **a. Election of Members**

Members of the SCB shall be elected yearly or more often as vacancies arise. The primary Student Government Association advisor, in consultation with the Director, shall determine when an off-cycle election will occur.

#### **b. Chief Justice and Associate Chief Justice**

Prior to the first scheduled hearing or as a need arises, the Director shall convene, if necessary, the SCB for the purpose of electing a Chief Justice and Associate Chief Justice. The Chief Justice or the Associate Chief Justice shall preside over all SCB hearings.

#### **c. Disciplinary Action against a SCB Member**

SCB members found in violation of the Code are not considered to be in good standing and will be removed from the SCB by the Director of Student Conduct.

#### **d. Conflicts of Interest**

At a hearing, any real or perceived conflicts of interest between the SCB and the parties shall be disclosed. If a conflict exists, the SCB member who is the subject of the conflict shall be prohibited from participating in the hearing and deliberations. The presiding officer, unless s/he is the conflicted member, shall determine whether a conflict exists.

### **2. Administrative Hearing Body**

The Administrative Hearing Body consists of a trained hearing officer, or panel of trained hearing officers, who will oversee hearings referred through the *Prohibited Sexual Conduct Policy* and other cases as determined by the Director. Additionally, the Administrative Hearing Body will serve as the hearing body for all non-academic misconduct, by the same Respondent, arising out of the same situation of the misconduct that is governed by the *Prohibited Sexual Conduct Policy*.

Students may not serve as members of the Administrative Hearing Body.

#### **a. Administrative Hearing Body Membership Appointment**

The Administrative Hearing Body shall be composed of (an) individual(s) assigned by the Vice Chancellor for Student Affairs in consultation with the Office of the General Counsel.

#### **b. Training of Conduct Officer and Decision-maker(s)**

The Administrative Hearing Body, Associate Vice Chancellor, Director and any other decision-maker(s) shall receive annual training on issues related to sexual harassment, dating violence, domestic violence, sexual assault, stalking and related retaliation and on how to conduct hearings that are fair, protect safety, promote accountability, and meet the requirements of Title IX Regulations, 34 CFR 106.45.

#### **c. Conflicts of Interest or Bias**

Prior to 10 days before a hearing to be held by an Administrative Hearing Body, any real or perceived conflicts of interest between the Administrative Hearing Body members and the parties or bias for or against a Complainant or Respondent generally or an individual Complainant or Respondent shall be disclosed. If a conflict exists as determined by the Director, an Administrative Hearing Body member who is the subject of the conflict shall be prohibited from participating in the hearing and deliberations.

### **3. Associate Vice Chancellor as Hearing Body:**

If a real or perceived conflict exists with the Associate Vice Chancellor for Student Affairs, written notice by the Respondent or Complainant must be provided to the Director of Student Conduct within three (3) business days after the date of the written hearing notice sent by the Director of Student Conduct. If the Vice Chancellor for Student Affairs assesses that a conflict exists, the Vice Chancellor will appoint a qualified administrator to hear the case in lieu of the Associate Vice Chancellor.

## E. Code Violations

Behavior that is subject to disciplinary action under the Code includes alleged violations of federal, state or local law that threaten the safety or well-being of the campus community, any act that constitutes violent behavior, and any other behavior that adversely affects the University or its educational programs or mission. Attempts to commit acts prohibited by the Code may also be addressed through the conduct process. All members of the University community have the responsibility to report non-academic misconduct.

Code violations are categorized into two (2) different classifications as follows specific acts:

- **Level 1 Offenses** - Such offenses are considered the most serious violations of the Code. Possible sanctions for a Level 1 violation include, but are not limited to suspension or expulsion.
- **Level 2 Offenses** - Such offenses are considered the lesser violations of the Code. Possible sanctions are less than suspension and expulsion.

Behavior that will be subject to disciplinary action include the following specific acts:

1. **Aiding and Abetting or Accessory** (Level 1 or 2) shall mean having knowledge of the violation before or after the fact and/or assisting in the commission of the act.
2. **Alcohol Violation** (Level 1 or 2) shall include, but not be limited to the following:
  - Possession and/or consumption of alcoholic beverages on University premises, except by persons 21 years of age or older at University events approved by the Chancellor per the University's Alcoholic Beverages policy;
  - Conduct that could form the basis of a charge related to driving while under the influence of drugs or alcohol;
  - A violation of North Carolina law regarding the purchase, possession, manufacture, and consumption of alcoholic beverages; or
  - Possession and/or consumption of alcoholic beverages in a University owned or leased residence hall.
3. **Creating a Safety Hazard** (Level 1 or 2) shall mean any act that intentionally or recklessly creates a safety hazard, including but not limited to the following:

Starting or attempting to start a fire or failing to exit a building when a fire alarm is sounded. Tampering with, damaging or misusing fire and/or other life safety equipment, including but not limited to fire alarms, smoke detectors, sprinkler systems, emergency exits, fire alarm systems, exit signs, or elevators.
4. **Dating Violence** (Level 1) shall mean any act of violence or pattern of abusive behavior committed by an individual who has been in a social relationship of a romantic or intimate nature with the Complainant. Whether there was such a relationship will be gauged by its length, type, and frequency of interaction.
5. **Disorderly Conduct** (Level 2) shall include, but not be limited to the following:
  - Acting in a manner that violates the University's Disruptive Behavior in the Classroom policy.
  - Conduct that is lewd or indecent in violation of N.C.G.S. § 14-190.9
  - Conduct that disrupts, interrupts or attempts to force the cancellation of any University-sponsored activity or authorized non-University activity, including educational activities, meetings, ceremonies, scheduled events, or essential University processes; or
  - Any use of electronic or other devices to make an audio or video record of any person without the person's consent.
6. **Disruption of the Functioning of the University** (Level 1 or 2) shall mean a "material and substantial disruption" which includes, but is not limited to, any or all of the following:
  - Any action that qualifies as disorderly conduct under N.C.G.S. § 14-288.4;
  - Any action that qualifies as a disruption under N.C.G.S. § 143-318.17;
  - Any action in violation of the chancellor's designation of a curfew period pursuant to N.C.G.S. § 116-212; or
  - Any action that results in a student receiving a trespass notice from law enforcement.

Such actions include protests and demonstrations that materially infringe upon the rights of others to engage in and listen to expressive activity when the expressive activity (a) has been scheduled pursuant to relevant UNC System or University policies, and (b) is located in a nonpublic forum.

7. **Disruption of the Student Conduct Process** (Level 1) shall include, but not be limited to the following:
- A failure to appear before a hearing body as required without prior approval;
  - Disruption or interference with the orderly conduct of a hearing proceeding (including the behavior of observers, attorneys or witnesses);
  - Attempting to discourage an individual's participation or use of the student conduct process;
  - Attempting to influence the impartiality of the hearing officer, a conduct board member, or an appeal administrator;
  - Pressuring or intimidating a hearing officer, conduct board member, or appeal administrator prior to, during, and/or after a student conduct proceeding;
  - Influencing or attempting to influence another person to commit an abuse of the conduct system; or Unauthorized disclosure of confidential information obtained as a part of the judicial process.
8. **Domestic Violence** (Level 1) shall include, but not be limited to any act of violence or pattern of abusive behavior committed by any of the following:
- a current or former spouse of the Complainant;
  - a person with whom the Complainant shares a child in common;
  - a person who is cohabitating with or has cohabitated with the Complainant as a spouse;
  - a person similarly situated to a spouse of the victim under the domestic or family violence laws of North Carolina; and/or
  - any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of North Carolina.

The State of North Carolina's definition of domestic violence can be found in North Carolina General Statute §50B-1 which is applicable to criminal prosecutions for domestic violence in North Carolina, but may differ from the definition used by the University to address violations of domestic violence.

9. **Failure to Comply** (Level 1 or 2) shall include, but not be limited to the following:
- Failing to comply with the directions of University employees, including University Police Department in performance of their duties;
  - Failing to submit identification upon request to duly authorized and properly identified University officials; or
  - Failing to comply with the sanctions imposed under this Code.
10. **Gambling** (Level 2) shall mean any illegal game or contest played for money or for any form of property or item of value. Gambling includes, but is not limited to, games played with cards, dice, or other gambling devices which involve betting and/or wagering.
11. **Harassment** (Level 1) shall mean any act which leads to a hostile environment when the conduct is as follows:
- directed toward a particular person or persons, unwelcomed,
  - based upon the person's race, color, religion, national origin, sex, gender, sexual orientation, gender-identity, creed, disability, veteran status, political affiliation or student organization affiliation,
  - severe, pervasive, and objectively offensive; and
  - unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the University-sponsored education or employment programs and/or activities.

The prohibition against harassment also includes a prohibition against retaliation. "Retaliation" is defined as adverse treatment of a person because that person filed a complaint about or otherwise opposed harassment or other forms of impermissible discrimination or provided information relative to a harassment or discrimination complaint or was involved in such a complaint in any way.

In determining whether such conduct violates this provision, all relevant facts and circumstances shall be considered. Care must be exercised in order to preserve freedoms of speech and expression, as articulated in current legal standards.

12. **Hazing** (Level 1) shall include, but not be limited to the following:

- Pressuring or coercing a student into violating state or federal law,
- Any brutality of a physical nature, such as striking **in** any manner, whipping, beating, branding, exposure to the elements, forced consumption of food, liquor, drugs, or other substances, or other forced physical activities that would adversely affect the health or safety of the student; or
- Subjecting a student to extreme mental stress, such as sleep deprivation, forced exclusion from social contacts, forced conduct that would be extremely demeaning or results in extreme embarrassment or any other forced activity that could adversely affect the mental health or dignity of the student.

For purposes of this definition, any activity as described above, or any action or situation that recklessly or intentionally endangers the mental or physical health or safety of a student for purposes, including, but not limited to, recruitment, initiation, acceptance or admission into or affiliation with an organization, shall be presumed to be hazing and a “forced” activity, regardless as to whether or not the student consented to participate in such activity.

13. **Infliction or Threat of Bodily Harm** (Level 1) shall include, but not be limited to the following:

Inflicting physical injury to a person; Intentionally or recklessly acting in a manner that creates a substantial risk of bodily harm to a person; or Placing a person in fear, or at risk of, physical injury or danger.

14. **Drugs** (Level 1) shall include, but not be limited to the following:

- Illegal possession or use of controlled substances as defined by the North Carolina General Statutes § 90-86 through § 90-113.8
- Manufacturing, selling, or delivering any controlled substance or possession with intent to manufacture, sell or deliver any controlled substance;
- Misuse of any legal pharmaceutical drugs;
- Knowingly breathing or inhaling any substance for the unlawful purpose of inducing a condition of intoxication; or
- Possession of drug-related paraphernalia, including but not limited to, all equipment, products and materials of any kind that are used to facilitate, or intended or designed to facilitate, violations of the *Code* or the University’s policy on *Illegal Drugs and Alcohol*.

For a comprehensive statement regarding illegal drug offenses and required sanctions see the University’s policy on *Illegal Drugs and Alcohol*.

15. **Prohibited Sexual Conduct Policy Violations** (Level 1) shall mean any act that violates the *Prohibited Sexual Conduct Policy*.

16. **Providing False Information** (Level 2) shall include, but not be limited to the following:

- Intentionally initiating or causing to be initiated any known false report, allegation, warning or threat of fire, explosion or other emergency;
- Forgery, alteration, or misuse of any University document, records, or instrument of identification; Furnishing false information, oral or written, to any University official, faculty or staff member, or office; or Possession or use of an instrument of identification that is not one’s own or is fictitious or altered.

Procedures for dealing with misconduct involving the falsification of an admission’s application are not covered under this Code. Such wrongdoing should be referred to the Director of Admissions for appropriate processing.

17. **Retaliation**: The prohibitions against harassment, sexual harassment, domestic violence, dating violence, sex-based stalking, and sexual misconduct also include a prohibition against retaliation. “Retaliation” is defined as intimidation, threats, coercion, or discrimination against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing related to Harassment, Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence, or Sex-based Stalking.

In determining whether such conduct violates this provision, all relevant facts and circumstances shall be considered. Care must be exercised in order to preserve freedoms of speech and expression, as articulated in current legal standards.

18. **Sexual Harassment** (Level 1) shall mean unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when such conduct is so severe, pervasive, and objectively offensive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the University's education or employment programs and/or activities. Sexual Harassment includes but is not limited to Sexual Misconduct, Domestic Violence, Dating Violence, and Sex-Based Stalking.
19. **Sexual Misconduct** (Level 1) shall mean any act of a sexual nature perpetrated against an individual without effective consent or when an individual is unable to freely give consent. Sexual misconduct includes, but is not limited to the following:
- **Rape**  
The penetration, no matter how slight, of the vagina or anus with any body part or object or oral penetration by a sex organ of another person, without consent of the victim.
  - **Fondling**  
The touching of the private parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
  - **Incest**  
Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - **Statutory Rape**  
Sexual intercourse with a person who is under the statutory age of consent.
- Sexual Misconduct includes "any sexual act directed against another person without the consent of the victim, including instances where the victim is incapable of giving consent."
20. **Soliciting** (Level 2) shall mean any unauthorized effort to sell goods or services or to raise money on behalf of any company, club, society, religious organization, political party, or similar organization and/or the distribution of any materials such as leaflets or flyers for those organizations in violation of the University's Solicitation Policy.
21. **Stalking** (Level 1) which is not based upon sex/gender shall mean a course of conduct (two or more occurrences) directed at a specific person that would cause a reasonable person to feel fear. Stalking involves repeated and continued harassment made against the expressed wishes of another individual, which causes the targeted individual to feel emotional distress, including fear and apprehension.
22. **Sex-Based Stalking** (Level 1) shall mean engaging in a course of conduct based on sex that is directed toward another person if that conduct would cause a reasonable person to:
- a. suffer substantial emotional distress; or
  - b. fear for their safety or the safety of others.
23. **Theft** (Level 1 or 2) shall include, but not be limited to the following:
- Stealing or attempting to steal (including embezzlement) another's (including the University's) property, money or services;
  - Knowingly possessing, purchasing, or exchanging stolen or embezzled property, money or services; Unauthorized use or access to private or confidential information in any medium;
  - Unauthorized possession, duplication, or use of keys or card access to any University premises; or Use of counterfeit money to purchase goods/services.
24. **Trespassing** (Level 1 or 2) shall include, but not be limited to the following:
- Unauthorized entry to University premises, including intruding upon, forcibly entering, or otherwise proceeding into unauthorized areas of University premises, or the residential space of another without permission; or
  - Unauthorized entry on to University premises when the individual has been notified that his or her access to or presence on University property has been restricted, withheld or removed.
25. **Unauthorized Use of Computer Resource** (Level 1) shall include any violation of the University's Use of Computer Resources policy and /or similar policies.
26. **Vandalism, Defacement or Arson** (Level 2) shall mean any act that intentionally or maliciously destroys, damages, or defaces University property or property of any person on University premises or at University-sponsored activities.

27. **Violations of Law** (Level 1 or 2) shall mean committing any act, attempting to commit an act, or assisting another in committing an act that violates State, Federal, or Local Law that is not otherwise a violation of this Code. Such acts will be adjudicated as if they are violations of this *Code*.

The University reserves the right to proceed with a hearing and the possible imposition of a sanction under this Code prior to, concurrent with, or subsequent to, civil litigation, criminal arrest, and/or criminal prosecution.

28. **Violations of University Rules, Regulations or Policies** (Level 1 or 2) shall mean violating, aiding in violation of, or concealing evidence of violation of published University rules, policies or regulations. Such rules, policies or regulations include, but are not limited to, all Housing and Residence Life policies and contracts.
29. **Weapons or Explosive Devices** (Level 1) shall include, but not be limited to the following:
- Illegal or unauthorized possession of weapons on University premises or at University-sponsored activities;
  - Possession or use of weapons in any manner that harms, threatens, or causes fear to others; or
  - Unauthorized possession or use of fireworks or explosive devices on University premises.
30. **Other Offenses** (Level 1 or 2) shall include violations of University policy or State, Federal or Local Law not listed in this section if committed on University premises or at University-sponsored activities.

## F. Sanctions

One or more of the sanctions listed below may be imposed on individuals/organizations for non-academic misconduct:

1. **Additional Sanctions**. Additional sanctions not specifically listed may be imposed. Such sanctions, where appropriate, may include, but are not limited to, community service or research projects, required counseling, participation in educational programs, restitution for damage to or destruction of property, relocation to another room or residence with coordination of appropriate University staff, behavioral contracts, trespass notices, or removal from a particular class as allowed by the University's Disruption.
2. **Disciplinary Probation**. (*Applicable to individual students and organizations*) Disciplinary Probation may be imposed for a period no less than the remainder of the current semester up to the remainder of the student's academic career at the University. If found responsible for a violation while on disciplinary probation, a student/organization may face more severe sanctions up to and including suspension or in the case of a student, expulsion or in the case of an organization, revocation. Conditions restricting a student's privileges or eligibility for activities may be imposed. Such privileges and eligibility are automatically restored upon completion of the probation period if the student has complied satisfactorily with all conditions and refrained from further Code violations.

3. **Expulsion**

(*Applicable to individual students only*) Expulsion is a permanent separation of a student from the University, unless at a later date the Chancellor concludes on the basis of the former student's petition and any supportive documentation that he or she should be approved for reinstatement. A student who is expelled is not permitted to be on University premises or attend University-sponsored activities.

Expulsion shall result in a permanent transcript notation. Expulsion precludes enrollment at any UNC constituent institution. Also, the student's name will be included in the UNC System database which includes the names of suspended/expelled students who attended UNC institutions.

4. **Removal from University Housing**. (*Applicable to individual students only*) A student may be removed from University housing or have their housing assignment changed on disciplinary grounds. Eviction may be permanent or for a specified period. Students subject to removal from a University housing facility will be trespassing from entering all University housing facilities.
5. **Restriction of Privileges**. (*Applicable to individual students and organizations*) A student may be restricted from participating in activities held on University premises or sponsored by the University.
6. **Revocation**. (**Applicable to organizations only**) The University may temporarily or permanently revoke recognition of an organization as an official student organization. In such case, the organization will be temporarily or permanently barred from the University.

7. **Suspension. (Applicable to individual students only)** A student may be separated from the University for a specified period of time. Any suspension will be noted on the student's transcript. A student who is suspended is not permitted to be on University premises or attend University-sponsored activities, during the period of the suspension, without the written approval of the Vice Chancellor for Student Affairs. A trespass citation will be issued by the University Police Department to a suspended student who has not received such authorization from the Vice Chancellor.  
Notations of the suspension will appear on the student's transcript. Also, the student's name will be included in the UNC System database for suspend ed/expelled students.
  8. **Suspension. (Applicable to organizations only)** The University may suspend an organization. During the suspension period, the organization will not be recognized as an official student organization and will not be permitted to sponsor activities or participate in University sponsored activities as an organization. During the suspension period, the members of the organization will not be allowed to wear the organization ' s paraphernalia.
  9. **Written Reprimand.** (Applicable to individual students and organizations) A disciplinary written reprimand serves as notice that continuation or repetition of prohibited conduct may be cause for additional disciplinary actions.
- G. **No-Contact Order:** A student may be issued a written " no-contact" order by (1) the Associate Vice Chancellor or (2) by the Director of Student Conduct. A no contact order may prohibit the student from having first or third-party contact with an individual.

If a no-contact order is issued, the student may submit a written request for reconsideration of the no-contact order to the Assistant Vice Chancellor for Student Affairs within three (3) calendar days of written notice of the no-contact order. The Assistant Vice Chancellor's decision shall be final.

## H. Appeals

- i. **Bases of Appeal.** A Respondent who the University has found responsible and sanctioned may appeal the decision in writing. Appeals from disciplinary decisions are allowable only on the following grounds:
  - demonstration of a violation of due process; and/or
  - demonstration of a material deviation from substantive and procedural standards adopted by the UNC Board of Governors; and/or
  - In decisions based on violations of the *Prohibited Sexual Conduct Policy*, demonstration of procedural irregularity that affected the outcome of the matter, newly discovered evidence that could affect the outcome of the matter, and/or that any Title IX personnel, investigator, and/or an Administrative Hearing Body member had a conflict of interest or bias that affected the outcome of the matter.
- ii. **Decision Other than Expulsion** A decision, other than expulsion, may be appealed in writing to the Vice Chancellor. Such an appeal must be submitted within five (5) business days of the date of the decision from the Associate Vice Chancellor. A decision by the Vice Chancellor shall be final.
- iii. **Expulsion.** A Respondent who has been expelled may file a written appeal, within fourteen (14) calendar days of the notice of the Chancellor's decision, to the University Board of Trustees. The Board of Trustees' decision shall be final.
- iv. **Complainant Appeals.** The Complainants of an incident governed by the *Prohibited Sexual Conduct Policy* may file a written appeal about the University's responsibility decisions on the following grounds to the Vice Chancellor:
  - demonstration of a violation of due process; and/or
  - demonstration of a material deviation from substantive and procedural standards adopted by the UNC Board of Governors; and/or
  - demonstration of procedural irregularity that affected the outcome of the matter, newly discovered evidence that could affect the outcome of the matter, and/or that any Title IX personnel, investigator, and/or an Administrative Hearing Body member had a conflict of interest or bias that affected the outcome of the matter.

No other Complainant appeals are allowed under the Code.

Complainant must submit the written appeal including appealable details within five (5) business days of the date of the Associate Vice Chancellor's decision.

If the Vice Chancellor disagrees with the Complainant's appeal, the Vice Chancellor's decision shall be final.

If the Vice Chancellor agrees with Complainant, the Vice Chancellor shall find the Respondent responsible and make a decision/ recommendation about sanction(s). If expulsion is recommended, the Vice Chancellor must refer the matter to the Chancellor for a decision. If the Chancellor decides to expel, the Respondent may submit a written appeal of the responsibility decision and/or sanction in accordance with IV.H.iii describing in detail any basis allowed under IV.H.i.

If the Vice Chancellor's decision is not expulsion, the Respondent may submit a written appeal of the responsibility and/or sanction to the Chancellor within five (5) business days of the date of the Vice Chancellor's decision on any bases described in IV.H.i. The Chancellor's decision shall be final.

The final administrative decision must be made within 45 calendar days of the hearing.

## V. ACADEMIC DISHONESTY

It is expected that all members of the University community will work to actively deter academic dishonesty and thus will share in the responsibility and authority to challenge and make known to the appropriate authority acts of apparent academic dishonesty. The Division of Academic Affairs shall be responsible for ensuring the adherence to the procedures outlined below should any student be charged with academic dishonesty.

### A. Definition

Academic dishonesty is the giving, taking, or presenting of information or material by a student with the intent of unethically or fraudulently aiding oneself or another on any work which is to be considered in the determination of a grade or the completion of academic requirements.

### B. Acts of Academic Dishonesty

The commission of any of the following acts shall constitute academic dishonesty. This listing is not, however, exclusive of other acts that may reasonably be said to constitute academic dishonesty.

#### 1. Facilitating Academic Dishonesty

Such conduct includes, but is not limited to, giving unauthorized assistance to another in order to assist that person in cheating, plagiarizing, falsifying or engaging in professional dishonesty.

#### 2. Attempting Academic Dishonesty

Such conduct shall include, but not be limited to, attempting any act that if completed would constitute a violation as defined herein.

#### 3. Cheating

Such conduct includes, but is not limited to, a student receiving unauthorized aid or assistance on any form of academic work.

#### 4. Falsification

Such conduct shall include, but not be limited to, the unauthorized changing of grades or conduct involving any unit rth, either spoken or written regarding any circumstances related to academic work.

#### 5. Plagiarism

Plagiarism includes, but is not limited to, copying the language, structure, ideas and/or thoughts of another, without giving appropriate recognition and/or adopting the same as one's own original work.

### C. Filing of and Response to Acts of Academic Dishonesty

#### 1. Notification

In cases where a faculty member believes that a student has attempted or committed a violation, the faculty member shall communicate to the student, verbally or in writing, about the charge and investigate the matter.

- Undergraduate Student– If the faculty member concludes that such an act has occurred, the faculty member shall conduct an interview with the student.
- Graduate Student– After the investigation, but prior to the interview, the faculty member shall notify the Graduate Council of the charge within three (3) days of the faculty member's notification to the student of the charge. Notification to the Graduate Council shall be in writing. Such Graduate students who have been charged with academic dishonesty shall be prohibited from withdrawing from the course that is the subject of the academic dishonesty. Should the graduate student subsequently be found not responsible and if the withdrawal date has passed, the graduate student may petition the Graduate Council to allow for withdrawal from the course.

## **2 Interview**

The student must be notified of the date of the interview within five (5) business days after the alleged violation has come to the attention of the faculty member. At the interview, the student and the faculty member may each have an independent nonparticipating observer. The faculty observer shall be the chair of the department. The student may select a student, staff or faculty member as he or she desires. The observers are to observe the procedures impartially. At the interview, the faculty member shall present evidence in support of the charge or charges against the student.

The student shall be given the opportunity to respond and present evidence to rebut the charge or charges. After hearing the student, the faculty member may either dismiss the charge or find it supported on the basis of the evidence. If supported, the faculty member may issue community services or record a failing grade in the course or some portion thereof.

## **3. Referral to the Academic Integrity Board**

After completion of the interview and on the basis of the evidence presented, if the faculty member is of the opinion that issuance of a community service and/or a failing grade sanction would be inadequate disciplinary action, the faculty member may refer the entire case to the AIB for appropriate action. In this case, a hearing will be conducted by the AIB without regard to the findings made or any disciplinary action taken during the interview. A failing grade or community service sanction issued by the faculty member may remain in effect even if further discipline is recommended.

The referral must be submitted to the Senior Associate Vice Chancellor for Academic Affairs within five (5) business days after the faculty member has notified the student of his or her decision.

## **4. Appeal to the Academic Integrity Board**

The student may appeal the decision of the faculty member following the interview to the AIB if the student believes the penalty is too severe and/or the student contests the decision of the faculty member on the basis of the evidence presented. The appeal must be submitted to the Senior Associate Vice Chancellor for Academic Affairs within five (5) business days after the student receives notification of the decision by the faculty member.

## **D. Academic Integrity Board**

The purpose of the AIB is to investigate the incident giving rise to the appearance of academic dishonesty, to reach an informed conclusion as to whether academic dishonesty occurred, and to make a recommendation to the Provost and Vice Chancellor for Academic Affairs ("Provost") as to sanctions. A hearing by the AIB should not be considered as an adversarial proceeding similar to criminal or civil legal trials.

### **1. Composition**

The AIB shall consist of six (6) persons who shall include three (3) faculty members and three (3) students. In the event that a student accused is a graduate student, then at least one of the student members shall be a graduate student and one of the faculty members shall be a member of the Graduate Faculty.

### **2. Student Members**

The President of the Student Government Association shall appoint annually three (3) student members and two (2) alternates to the AIB. At least one of the alternates shall be a graduate student who will serve when the accused is a graduate student. Such appointments shall be subject to the approval of the Student Senate.

### **3. Faculty Members**

The Chairperson of the Faculty Senate shall appoint annually three (3) faculty members and two (2) alternates to serve on the AIB. At least one of the alternates shall be a member of the Graduate Faculty who will serve when the accused is a graduate student.

### **4. Academic Integrity Board Chair**

Prior to hearing its first case, the Senior Associate Vice Chancellor for Academic Affairs shall convene with the AIB for the purpose of electing a chairperson. The chairperson shall vote only in the case of a tie.

## **E. Hearing Procedures**

### **1. Notification**

The Senior Associate Vice Chancellor for Academic Affairs shall notify the parties involved that an appeal/referral has been received and that a hearing will be held by the AIB. Such notification must be received by the parties within five (5) business days after receipt by the Senior Associate Vice Chancellor for Academic Affairs. The Senior Associate Vice Chancellor for Academic Affairs shall notify each of the parties no later than ten (10) business days prior to the hearing of the date, time and place of the hearing. If a grade for the student in the course must be submitted, the faculty member shall record a grade of incomplete, pending a decision by the Provost and Vice Chancellor for Academic Affairs.

### **2. Conduct of the Hearing**

- a. The hearing shall be closed and shall be attended only by the student and his or her witnesses, the faculty member and his or her witnesses, the independent nonparticipating observer(s) present at the interview, the AIB members and any other persons called by the chair of the Board.
- b. The hearing shall be recorded.
- c. The hearing shall begin with the individual who requested the review by the AIB (“Complainant”) who shall state his or her contentions and offer such proof as he or she desires. When the Complainant has concluded his or her presentation, the individual responding to the Complainant’s request for a hearing (“Respondent”) should then present his or her contentions and any such proof. Both the Complainant and Respondent may question witnesses.
- d. The members of the AIB may ask the Complainant and/or Respondent and their witnesses questions, or to develop a particular line of inquiry. The members may also seek such additional material or the attendance of such other persons as they judge necessary to an understanding of the incident, even if it requires that the proceedings be continued.
- e. Once both parties have made their presentations, the AIB may request that each party present a final statement. Once the final statements have been made, the chair shall conclude the hearing.

## **F. Determination of Responsibility**

Decisions regarding responsibility shall be based solely upon evidence presented at the hearing. The standard of proof shall be the preponderance of the evidence. In finding a Respondent responsible under this standard of proof, the AIB must be convinced, based upon evidence presented at the hearing that the conduct described *more likely than not occurred*.

Following the hearing, the AIB shall meet privately to discuss the case, and reach a finding by a majority vote.

### **1. Finding of No Responsibility**

If the AIB finds an attempt or act of academic dishonesty did not occur, or that the evidence presented was insufficient to sustain the charge or charges, the AIB shall notify, through the Senior Associate Vice Chancellor, the Complainant and the Respondent of its decision, within five (5) business days after the hearing. The issue of the student’s continuation in the class(es) and other related issues must be resolved by the dean or department chair in consultation with the student and the faculty member.

### **2. Finding of Responsibility**

If the AIB finds that an attempt or act of academic dishonesty did occur, it shall recommend to the Provost through the Senior Associate Vice Chancellor, one of, or a combination of sanctions. The Provost shall notify the Complainant and the Respondent of the AIB’s decision within ten (10) business days after the hearing. The Provost shall include in the notification sanction(s) that will be imposed. A sanction, other than expulsion, imposed by the Provost shall be final. A decision to expel a student shall be forwarded by the Provost to the Chancellor. The Chancellor shall notify the parties involved of his or her decision within fourteen (14) calendar days of the receipt of the Provost decision.

## **G. Sanctions**

One or more of the sanctions listed below may be imposed for a finding for academic dishonesty:

### **1. Community Service**

A student may be given community service hours in lieu of a more severe sanction. Such service shall be supervised by a University employee.

## **2. Failing Grade**

A student may be given a failing grade on the assignment, paper, program, test or exam on which the violation occurred and/or no credit/failing grade for the course.

## **3. Probation**

A student may be placed on academic integrity probation for the remainder of his or her academic career at the University. A student who is found to have committed another act of academic dishonesty while on academic integrity probation may be subject to suspension or expulsion from the University.

## **4. Suspension**

A student may be separated from the University for a specified period of time if he or she has previously engaged in an act of academic dishonesty or if a student commits an act or attempts to commit an act that warrants suspension. In cases where a student will complete graduation requirements during the current semester, suspension is to take effect immediately.

In cases where a student will complete graduation requirements during either of the summer sessions, the suspension period will be applied to the summer session. Any suspension will be noted on the student's transcript.

## **5. Expulsion**

Expulsion is a permanent separation from the University and a student will be expelled if he or she is a repeat offender or commits an act(s) which is considered to be a substantial violation of academic integrity. Expulsion results in a permanent transcript notation.

## **H. Appeals**

A student who has been expelled for academic dishonesty may file a written appeal, within fourteen (14) calendar days of the receipt of the Chancellor's decision, to the University Board of Trustees. The Board of Trustees' decision shall be final.

# **VI. OTHER CODE RELATED PROVISIONS**

## **A. Confidentiality of Proceedings and Student Records**

Individual student information generated during the course of a Code procedure shall be confidential in accordance with the Family Educational Rights and Privacy Act (FERPA). Student disciplinary records are specifically protected under FERPA. Any person who, without authorization, reveals such information may be subject to disciplinary action.

### **1. Notification of Alcohol and Drug Violations**

Parents and/or guardians may be notified when students who are under the age of 21 are found responsible for any drug and/or alcohol violations. Drug convictions may be reported to the Office of Financial Aid if the offense occurred while the student was receiving federal student aid.

### **2. Notification of Victims of Crimes of Violence or Non-forcible Sex Offenses**

Pursuant to FERPA, victims of crimes of violence may be notified of the outcome of the disciplinary proceeding of the alleged assailant. "Outcome" means the following:

- the name of the student assailant, the violation charged or committed,
- the essential findings supporting the conclusion that the violation was committed, the sanction if any is imposed,
- the duration of the sanction, and the date the sanction was imposed.

In cases governed by the *Prohibited Sexual Conduct Policy*, both the accuser and the accused shall be simultaneously informed in writing of the following:

- the outcome of the disciplinary proceeding,
- the institution's procedures for the accused and the victim to appeal the outcome,
- any change to the outcome that occurs prior to the time that the results become final, and when the results become final.

### **3. Public Records of Crimes of Violence or Non-forcible Sex Offense**

The North Carolina Supreme Court has determined that, if a public records request is made, State institutions must release the final results (including Respondent names, violations, and sanctions imposed) when the institution has found a student Respondent has violated the University's Code or other policy regarding a crime of violence or non-forcible sex offense. The University shall not disclose the name of any other student, including a Complainant, victim or witness, without the prior consent of that student. Prior to releasing such information, University employees shall consult with the Office of General Counsel.

#### **4. Records Retention and Disposition**

Records of all non-academic disciplinary cases will be maintained in the Division of Student Affairs. Records of academic dishonesty will be maintained in the Office of the Provost. Records in which less severe sanctions are imposed shall be removed in accordance with the University's Records Retention and Disposition Schedule.

#### **B. Section 504 of the Rehabilitation Act and the Americans with Disabilities Act**

When a student with a disability is charged with an offense, the University will assure that all requirements of Section 504 of the Rehabilitation Act and the Americans with Disabilities Act are met.

#### **C. Freedoms of Expression and Speech**

Students are permitted to assemble and engage in spontaneous expressive activity as long as such activity is lawful and does not materially and substantially disrupt the functioning of the University, subject to the requirements of the University Policy Statement of Free Speech and Expression. A "material and substantial disruption" includes, but is not limited to, any or all of the following:

- Any action that qualifies as disorderly conduct under N.C.G.S. §14-288.4;
- Any action that qualifies as a disruption under N.C.G.S. §143-318.17;
- Any action in violation of the Chancellor's designation of a curfew period pursuant to N.C.G.S. §116-212;
- Any action that results in the individual receiving a trespass notice from law enforcement.

Access to campus for purposes of free speech and expression shall be consistent with the University Policy Statement on Free Speech and Expression, the University Use of Space Policy, and the Board of Governor's Policy on Free Speech and Free Expression Within the University of North Carolina.

Responsible officers for the reporting of freedom of speech concerns include the Office of the Director of Student Conduct (910) 672-1788 and attorneys in the Office of Legal Affairs (910) 672-1145.

#### **D. Violations Occurring During the Last Thirty Days of a Semester or During the Summer Sessions**

For violations that occur thirty (30) calendar days or less prior to the end of a semester or during a summer session, the Director may allow the case to be heard the next semester.

#### **E. Attorney/Advisor Attendance or Participation**

The University allows attorneys or non-attorney advocates (advocates) to attend an academic or non-academic conduct proceeding when the charge is also the subject of a pending criminal charge or governed by the *Prohibited Sexual Conduct Policy*. In most cases, the advocate may not participate in the hearing but may confer with their client during the proceeding, so long as the advocate does not address the hearing body or other parties or witnesses and does not delay or disrupt the proceeding. Advocates may fully participate in proceedings involving the *Prohibited Sexual Conduct Policy* in accordance with Section IV.C.6.e of the Code.

#### **F. Prior Disciplinary Records**

A student's prior disciplinary record will be considered only during the sanctioning phase of deliberations, not to determine whether or not to find the student responsible for the alleged violation.

#### **G. Notice**

Whenever this *Code* requires giving notice, such notice shall be in writing. Unless otherwise noted in this *Code*, written notice will be provided via Maxient, the University's electronic student conduct system or an official University email address.

#### **H. Final Interpretation of Code**

The final interpretation of the non-academic misconduct provisions of the *Code* shall rest with the Vice Chancellor for Student Affairs. The final interpretation of the academic dishonesty provisions of the *Code* shall rest with the Provost and Vice Chancellor for Academic Affairs.

*Revised 9/30/2021*