

**EFFECTIVE JANUARY 10, 2018 THROUGH AUGUST 16, 2018**

**UNC Charlotte  
University Policy 406**

**The Code of Student Responsibility**

**As amended, effective for violations occurring on or after January 10, 2018**

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**Preface**

University Policy 406, The Code of Student Responsibility (“the Code”) fulfills the duty of the Chancellor to regulate matters of student conduct in the University community. University Policy 407, The Code of Student Academic Integrity governs student behavior relating to academic work. All UNC Charlotte Students are expected to be familiar with both Codes and to conduct themselves in accordance with these requirements. Any person may report an alleged violation(s) of the Code online at <http://incidentreport.uncc.edu>. Individuals may report crimes or incidents involving imminent threat of harm to Police and Public Safety at 704-687-2200.

All Student inquiries concerning these Policies should be directed initially to the Associate Dean of Students and Director of Student Conduct (“Director”) in the Office of Student Conduct.

The current version of either policy, which may be revised from time to time, is available from the Office of Student Conduct or online at <http://legal.uncc.edu/policies/up-406> (The Code of Student Responsibility) and <http://legal.uncc.edu/policies/up-407> (The Code of Student Academic Integrity).

Special Note: Any Student needing assistance because of a disability may contact the Office of Disability Services at 704-687-0040.

**Chapter 1. Philosophy and Purpose**

The University of North Carolina at Charlotte strives to assist students in their development by creating a community that embraces, respects, and practices the values of the Noble Niner: scholarship, integrity, respect, accountability, dignity, honor, compassion, character, and nobility.

The mission of the University student conduct process is to support the goals and objectives of the University and the values of the Noble Niner by (a) encouraging appropriate standards of individual and community responsibility; (b) fostering an environment of personal accountability for decisions; (c) promoting personal, social, and ethical development; and (d) striving to care for the well-being, health, safety, and property of all members of the University community.

In accordance with The University of North Carolina Board of Governors Policy 700.4.2:

1. The University embraces and strives to uphold the freedoms of expression and speech guaranteed by the First Amendment of the U.S. Constitution and the North Carolina Constitution. The University has the right under appropriate circumstances to regulate the time, place, and manner of exercising these and other constitutionally protected rights.
2. All students are responsible for conducting themselves in a manner that helps enhance an environment of learning in which the rights, dignity, worth, and freedom of each member of the academic community are respected.
3. Violations of University policies, rules or regulations, or federal, state, or local law may result in initiation of the Conduct Procedures and a violation(s) of the Code.
4. In determining whether a Student or Student Organization has violated the Code, 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. Advice should be sought from the Office of Legal Affairs, as appropriate.

## Chapter 2. Definitions

When used in the Code, the following terms have the meanings provided below, though not every term in the Code is formally defined:

1. **Accused of a Violation** occurs when the Director or designee brings a Formal Charge(s) against a Student or Student Organization to initiate the Conduct Procedures.
2. **Administrative Hearing Officer** means a trained University staff or faculty member, or a trained third party, appointed by the Director or designee, who addresses a Formal Charge(s) against a Respondent.
3. **Administrative Hearing Panel** means a body of three voting members appointed by the Director or designee, consisting of either (a) trained University staff and/or faculty members or (b) one or more trained University staff and/or faculty members and one or more Student Government Association (SGA) Judicial Branch member(s), that addresses a Formal Charge(s) against a Student or Student Organization.
4. **Advisor** means a person invited to the Conduct Procedures by a Respondent, Complainant, or witness pursuant to Chapter 6, Section II of the Code.
5. **Affirm** means to approve and uphold the determination or recommendation of a lower level decision-maker.
6. **Code** means University Policy 406, The Code of Student Responsibility.
7. **Complainant** means an individual who allegedly experienced Sexual and Interpersonal Misconduct while he/she was a Student or University employee.
8. **Conduct Rules** means the prohibited conduct set forth in Chapter 5 of the Code.
9. **Conduct Procedures** means procedures addressing alleged conduct of a Student or Student Organization, during which a designated University official or Hearing Panel considers information and/or documentation in order to address whether a Student or Student Organization has violated the Code.
10. **Consent** means an affirmative decision by all participants to engage in mutually acceptable sexual activity. Consent means unambiguous, clear, knowing, and voluntary approval given by words or demonstrated actions to engage in sexual activity. This decision must be made freely and actively by all participants. If any confusion or ambiguity on the issue of Consent arises at any time during the sexual activity, each participant must stop and confirm with the other participant(s) a willingness to continue. Silence, passivity, or lack of resistance does not imply Consent. A previous relationship or prior participation in a sexual activity between the participants does not indicate current Consent. Consent to one form of sexual activity does not imply Consent to other forms of sexual activities. Consent to engage in sexual activity with one person does not imply Consent to engage in sexual activity with another person. Being under the influence of drugs or alcohol does not relieve one's responsibility to obtain Consent.

Consent cannot and has not been obtained in situations where someone:

- a. is forced, threatened, unreasonably pressured, intimidated, manipulated, involuntarily physically restrained or confined, coerced, isolated, or beaten or has reasonable fear that he/she or another will be injured if he/she does not submit to or engage in the sexual activity;
- b. is unable to give Consent or is prevented from resisting sexual activity because he/she is asleep, unconscious, unaware that sexual activity is occurring, or incapacitated (physical and/or mental inability to make informed, rational judgments and/or decisions) due to drugs or alcohol, or some other medical condition;

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- c. has a mental or physical disability that inhibits his/her ability to give Consent to sexual activity; or
  - d. would qualify as the victim of a statutory offense under N.C.G.S. Chapter 14, Article 7B.
11. **Day** (unless otherwise specified) means any day except Saturday, Sunday, or any other day when no University classes are held.
  12. **Dean of Students** means the Associate Vice Chancellor for Student Affairs and Dean of Students, who acts as a Deputy Title IX Coordinator for the purposes of the additional Conduct Procedures applicable to reports of Sexual and Interpersonal Misconduct, as set forth in Chapter 8 of the Code.
  13. **Director** means the Associate Dean of Students and Director of Student Conduct.
  14. **Distribute** or **distributing** means sale or exchange of any controlled substance for personal benefit for oneself or another.
  15. **FERPA** means the Family Educational Rights and Privacy Act (20 U.S.C. Section 1232g; 34 C.F.R. Part 99), a federal law that protects the privacy of student education records, Additional information can be found in University Policy 402, Student Education Records (FERPA).
  16. **Formal Charge** occurs when the Director or designee initiates the Conduct Procedures to address an alleged violation(s) of the Code by a Student or Student Organization.
  17. **Gambling** means operation of any "game of chance" or playing at or betting on any game of chance at which any money, property, or other thing of value is bet, whether the same be at stake or not. A "game of chance" is any game or scheme in which receiving something of value depends on chance rather than skill.
  18. **He/she** or **his/her** refers to any person identifying with a binary gender pronoun, personal gender pronoun, gender-neutral pronoun, or other preferred pronoun.
  19. **Hearing** means the resolution method involving a Student Hearing Panel, Administrative Hearing Panel, or Administrative Hearing Officer.
  20. **Hearing Panel** means either a Student Hearing Panel or an Administrative Hearing Panel.
  21. **In Absentia Resolution** means the resolution method in which a case is resolved in the Respondent's or Complainant's (if applicable) absence, as set forth in Chapter 6, Section VII of the Code.
  22. **Investigation Report** means a report developed by an Investigator who has conducted an investigation of an alleged violation(s) of the Code.
  23. **Investigator** means an official designated by the Director or designee to conduct the investigation of an alleged violation(s) of the Code and who acts as the primary witness in the event of a Hearing. In cases of Sexual and Interpersonal Misconduct, the Investigator will be the Title IX Coordinator, who may then appoint one or more designees, to conduct the investigation of an alleged violation(s) of the Code and who will act as the primary witness(es) in the event of a Hearing.
  24. **Minor Violation** means a case in which, based on the Respondent's prior conduct record or facts and circumstances related to the case, the Director or designee determines that the possible sanctions are **less than** Conduct Suspension or Expulsion for a Student or **less than** Registration Suspension or Registration Revocation for a Student Organization.
  25. **Mutual Resolution** means the resolution method in which, if offered, a Respondent or Complainant (if applicable) voluntarily accepts the determinations on responsibility and

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sanction(s) proposed by the Director or designee, as set forth in Chapter 6, Section VI of the Code.

26. **Notice of Outcome** means a written notification issued in accordance with Chapter 9 of the Code that contains the determinations on responsibility and sanction(s) (if applicable), due date(s) assigned for any sanction(s), the rationales upon which the determinations are based, and any available appeal rights, including the permitted grounds for appeal and the time limits in which to appeal.
27. **Possession** or **possessing** means knowingly or intentionally physically holding or controlling the subject item (including, but not limited to, alcohol, controlled substances, drug paraphernalia, weapons, stolen property, fireworks, or betting devices), or owning or controlling a room, vehicle, or other area where the item is present and where the person owning or controlling the room, vehicle, or other area knew or had reason to know that the item was present. The presence of the item in a room, vehicle, or other area creates a presumption that the person owning or controlling the room, vehicle, or other area had knowledge of the item's presence, unless sufficient evidence to the contrary is provided.
28. **Provost** means the Provost and Vice Chancellor for Academic Affairs.
29. **Record on Appeal** for appeal levels below the Board of Trustees means the notice of Hearing; the audio recording or written transcript of the Hearing; all documents offered as evidence at the Hearing, including the Investigation Report (if applicable); the summary of the Hearing; and any written decision of the Director, Vice Chancellor, or Provost. The Record on Appeal for appeals to the Board of Trustees or Board of Governors may include additional documents pursuant to other applicable policies and procedures.
30. **Representative** means a licensed attorney or non-attorney advocate who represents a Student or Student Organization pursuant to Chapter 6, Section III of the Code.
31. **Respondent** means a Student or Student Organization who has a pending Formal Charge(s).
32. **Responsible** means determined by the Conduct Procedures to be responsible for a violation(s) of the Code.
33. **Serious Violation** means a case in which, based on the Respondent's prior conduct record or facts and circumstances related to the case, the Director or designee determines that the possible sanctions include Conduct Suspension or Expulsion for a Student or Registration Suspension or Registration Revocation for a Student Organization, as those sanctions are defined in Chapter 10 of the Code.
34. **Sexual and Interpersonal Misconduct** means, collectively, committing a Sexual Act without Consent, Sexual Contact without Consent, Sexual Exhibitionism without Consent, Sexual Exploitation without Consent, Sexual Harassment, or Incest, as those terms are defined in Chapter 5, Paragraph p of the Code; Gender-Based Harassment, Dating Violence, Domestic Violence, or Stalking, as those terms are defined in Chapter 5, Paragraph a of the Code; and Retaliation, when related to any person making a report of Sexual and Interpersonal Misconduct or any person cooperating in the investigation, including providing a statement or testimony as a witness, of any allegation of Sexual and Interpersonal Misconduct, as defined in Chapter 5, Paragraph z of the Code. Sexual and Interpersonal Misconduct can occur between strangers or acquaintances, including people involved in an intimate or ongoing sexual relationship. Sexual and Interpersonal Misconduct can be committed by a person of any gender or gender identity, and it can occur between people of the same or different genders or gender identities.
35. **Staff Advisor** means a person designated by the Director to advise a Hearing Panel or Administrative Hearing Officer. The Staff Advisor in any particular case shall not be the same

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person who makes any determination on responsibility, recommendation on sanction(s), or determination on sanction(s) in that case, as those duties are set forth in Chapter 9 of the Code.

36. **Standard of Proof** means the standard by which it is determined whether or not a violation of the Code has occurred. For the purposes of the Conduct Procedures, the Standard of Proof required is a preponderance of evidence (i.e., the evidence demonstrates that it is more likely than not that a violation has occurred).
37. **Student** means an individual who has accepted an offer of admission to the University; is currently enrolled in coursework or has registered for coursework at the University; has a continuing relationship with the University; is an auditing Student; or is participating in an educational program sponsored by or affiliated with the University. The continuing relationship ends upon graduation, termination of the relationship, or a break in enrollment of twelve (12) consecutive months after the last semester attended at the University.
38. **Student Conduct Counselor** means a representative from the SGA Judicial Branch or a staff member designated by the Director.
39. **Student Hearing Panel** means a body of three voting members appointed from the SGA Judicial Branch that addresses a Formal Charge(s) against a Respondent. A Student Hearing Panel may also be referred to as a "Student Honor Court" in the Code.
40. **Student Organization** or **Organization** means a collection of persons associated with each other for a common purpose that has complied with formal requirements for registration through the Student Government Association. This includes, but is not limited to, registered student organizations, fraternities and sororities, student media organizations, and club sports teams.
41. **Substantial Emotional Distress** means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
42. **Title IX Coordinator** means the designated University official with ultimate oversight and responsibility for the University's compliance with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 et seq. ("Title IX") and the Campus Sexual Violence Elimination Act, part of the Violence Against Women Reauthorization Act of 2013 ("Campus SaVE"), as well as relevant supplemental guidance and regulations.
43. **University** means The University of North Carolina at Charlotte.
44. **University Premises** means buildings, properties, grounds, or vehicles owned, leased, operated, controlled, or supervised by The University of North Carolina at Charlotte. This includes, but is not limited to, University housing, dining, recreation, leisure, library, computer lab services, or other University facilities.
45. **Vice Chancellor** means the Vice Chancellor for Student Affairs.

### Chapter 3. Authority, Students' Rights, Standards of Due Process, and Evidentiary Standard

#### Section I. Authority

1. Section 502 D(3) of The Code of the University of North Carolina provides:

“Subject to any policies or regulations of the Board of Governors or of the Board of Trustees, it shall be the duty of the Chancellor to exercise full authority in the regulation of student affairs and student conduct and discipline. In the discharge of this duty, delegation of such authority may be made by the Chancellor to faculty committees and to administrative or other officers of the institution or to agencies of student government, in such manner and to such extent as may by the Chancellor be deemed necessary and expedient. In the discharge of the Chancellor's duty with respect to matters of student discipline, it shall be the duty of the Chancellor to secure to every student the right to due process.”

2. The University has the right to take necessary and appropriate action to protect the safety and well-being of the University community. The Chancellor has delegated to the Director and the Dean of Students the authority to administer the University student conduct process. The Director or designee may investigate a case as well as adjudicate or advise a Hearing. The investigation by the Director or designee may be in conjunction with Police and Public Safety and/or local police.
3. In all reports of Sexual and Interpersonal Misconduct, the Director and the Dean of Students will work in conjunction with the Title IX Coordinator to address the reports. In all cases of Sexual and Interpersonal Misconduct, the Title IX Coordinator will select and designate the Investigator.
4. When necessary, and in consultation with the Dean of Students, the Title IX Coordinator (if applicable), and the Office of Legal Affairs, the Director may alter the Conduct Procedures to protect the University community, property, or resources.
5. Students assume positions of responsibility in the University student conduct process through the Judicial Branch of the Student Government Association so that they may contribute their skills and insights to the resolution of alleged violation(s) of the Code. Final authority in student conduct matters, however, is vested in the University administration, subject to policies or regulations of the UNC Charlotte Board of Trustees or the University of North Carolina Board of Governors and to North Carolina law.
6. The procedures set forth in the Code apply to all cases in which a Student or Student Organization is Accused of a Violation of the Code. In cases of alleged Sexual and Interpersonal Misconduct, the additional procedures set forth in Chapter 8 of the Code are also applicable.
7. Appeals of student conduct determinations shall be in accordance with the procedures set forth in Chapter 11 of the Code.
8. The Code may be amended, in writing, by the Chancellor at any time.

#### Section II. Procedural Rights

##### 1. Rights of a Respondent

A Respondent has the following rights:

- a. to be provided a fair, impartial, and efficient process;
- b. to be presumed not responsible until determined otherwise through the Conduct Procedures;
- c. to be given written notice of any Formal Charge(s);
- d. to examine the documentary evidence that will be presented in any Conduct Procedures, provided that the evidence may be available only in a redacted format;

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- e. to present relevant information on his/her behalf, including witnesses and documentary evidence;
- f. to respond to information presented against him/her;
- g. to accept responsibility for any or all Formal Charge(s);
- h. to decline to make statements;
- i. to have access to a Student Conduct Counselor to assist in preparing for the Conduct Procedures;
- j. to have an Advisor present during the Conduct Procedures;
- k. to be represented, at his/her own expense, by a Representative during the Conduct Procedures, **except** when the violation:
  - i. will be addressed by a Student Honor Court (Student Hearing Panel), or
  - ii. is an allegation of academic dishonesty, as governed by University Policy 407, The Code of Student Academic Integrity;
- l. to obtain the list of witnesses who have been called to present information at the Hearing;
- m. to request a delay of the Hearing due to extenuating circumstances, provided that the granting of such request is in the discretion of the Director or designee pursuant to Chapter 6, Section VIII of the Code;
- n. to challenge the objectivity of a Hearing Panel member or an Administrative Hearing Officer if he/she believes that a bias or conflict of interest may exist;
- o. to pose relevant questions to any witness appearing at the Hearing in a manner consistent with the Code;
- p. to present any documents or letters regarding his/her character as part of the sanctioning phase of the Hearing;
- q. to present an impact statement as part of the sanctioning phase of the Hearing;
- r. to be notified in writing of the outcome of the Conduct Procedures;
- s. to appeal the decision of a Hearing Panel or Administrative Hearing Officer within the time limits and conditions specified in Chapter 11 of the Code; and
- t. to have any conduct records kept confidential to the extent permitted under Chapter 12 of the Code and University Policy 402, Student Education Records (FERPA).

**2. Rights of a Complainant**

A Complainant has the following rights:

- a. to be provided a fair, impartial, and efficient process;
- b. to be given written notice of any Formal Charge(s) against a Respondent in the case;
- c. to examine the documentary evidence that will be presented in any Conduct Procedures, provided that the evidence may be available only in a redacted format;
- d. to present relevant information on his/her behalf, including witnesses and documentary evidence;
- e. to respond to information presented against him/her;
- f. to decline to make statements;
- g. to have access to a Student Conduct Counselor to assist in preparing for the Conduct Procedures;
- h. to have an Advisor present during the Conduct Procedures;
- i. to be represented, at his/her own expense, by a Representative during the Conduct Procedures;
- j. to obtain the list of witnesses who have been called to present information at the Hearing;
- k. to request a delay of the Hearing due to extenuating circumstances, provided that the granting of such request is in the discretion of the Director or designee pursuant to Chapter 6, Section VIII of the Code;
- l. to challenge the objectivity of a Hearing Panel member or an Administrative Hearing Officer if he/she believes that a bias or conflict of interest may exist;
- m. to pose relevant questions to any witness appearing at the Hearing in a manner consistent with the Code;
- n. to present an impact statement as part of the sanctioning phase of the Hearing;

- o. to be notified in writing of the outcome of the Conduct Procedures;
- p. to appeal the decision of a Hearing Panel or Administrative Hearing Officer within the time limits and conditions specified in Chapter 11 of the Code; and
- q. to have any conduct records kept confidential to the extent permitted under Chapter 12 of the Code and University Policy 402, Student Education Records (FERPA).

**Section III. Standards of Due Process**

The University shall provide due process as follows:

1. Any Respondent is entitled to a Hearing before a Student Hearing Panel, an Administrative Hearing Panel, or an Administrative Hearing Officer, as specified in Chapter 6, Section VIII of the Code, except where the case is resolved through a Mutual Resolution or through an In Absentia Resolution, as provided in Chapter 6 of the Code.
2. The focus of inquiry in the Conduct Procedures is to determine whether the Respondent is or is not responsible for engaging in prohibited conduct under Chapter 5 of the Code.
3. Formal rules of evidence are not applicable, nor does deviation from prescribed procedures necessarily invalidate a decision or proceeding, unless significant prejudice to the Respondent, Complainant, or University results.

**Section IV. Evidentiary Standard**

For a Respondent to be found responsible for a violation(s) of the Code, the evidence must establish that the Respondent is responsible for the violation(s) by a preponderance of the evidence—that it is more likely than not that the Respondent violated the Code as charged. This determination must be based solely on the evidence presented during the Conduct Procedures.

**Chapter 4. Jurisdiction, Student Organizations, Pending Criminal Proceedings, and Help Seeking Protocol**

**Section I. Jurisdiction**

Jurisdiction under the Code may be exercised with respect to behavior that occurs at any time from an individual's acceptance of an offer of admission until the individual is no longer in a continuing relationship with the University. Jurisdiction extends to any incident related to an individual's application for admission or financial aid or otherwise related to his/her admission to the University.

The Code applies only to those instances of Student or Student Organization conduct that are harmful to the appropriate interests of the University, including:

1. the opportunity of all members of the University community to attain educational objectives consistent with the policies and purposes of the University;
2. the protection of the health, safety, welfare, and property of all persons in the University community; and
3. the protection of the University's integrity and its property.

Instances of prohibited conduct may be subject to the Code whether or not they occur on University Premises. The Director or designee shall determine whether an incident off campus affects University interests and thus falls within the scope of the Code. Off-campus instances of prohibited conduct that may be addressed include, but are not limited to, acts of harm, repeated or high-risk alcohol misuse, repeated or high-risk drug misuse, Sexual and Interpersonal Misconduct, and felony criminal charges.

Instances of prohibited conduct may also be subject to the Code if the alleged conduct occurred prior to an individual's acceptance of an offer of admission but an arrest or conviction occurs while the individual is a Student. The Director or designee shall determine whether the incident affects University interests and thus falls within the scope of the Code. Instances of prohibited conduct that may be addressed include, but are not limited to, Sexual and Interpersonal Misconduct and felony criminal charges and convictions.

The Code is set forth in writing in order to give Students and Student Organizations general notice of prohibited conduct. The Code should be read broadly and is not designed to define prohibited conduct in exhaustive terms.

**Section II. Student Organizations**

1. A Student Organization may be Accused of a Violation of the Code regardless of whether a member of the Organization is individually Accused of a Violation arising from the same incident(s).
2. A Student Organization and its officers, leaders, or any identifiable spokespersons may be held collectively or individually responsible when prohibited conduct by those associated with the Organization have received the tacit or overt consent or encouragement of the Organization or of the Organization's leaders, officers, or spokespersons.
3. The officers, leaders, or any identifiable spokespersons for a Student Organization may be directed by the Vice Chancellor, Dean of Students Office staff, Office of Student Conduct staff, Fraternity and Sorority Life staff, Student Activities staff, Title IX Office staff, or Police and Public Safety officers or other designated security or law enforcement agents to take appropriate action designed to prevent or end prohibited conduct by the Organization or by any persons associated with the Organization who can reasonably be said to be acting on the Organization's behalf. Failure to make reasonable efforts to comply with the directive shall be considered a violation of Chapter 5, Paragraph m of the Code both by the individual officers, leaders, or spokespersons for the Organization and by the Organization itself.

4. A Student Organization may be held accountable if any of the following situations regarding an alleged violation(s) of the Code apply: (a) it was committed by one or more members of the Organization; (b) it was committed by one or more members of the Organization, and Organization funds were used to finance the function; (c) it occurred in the context of an Organization-sponsored function; or (d) it occurred in the context of an Organization-sponsored activity that was advertised via Organization-controlled mediums (e.g., social media).
5. The president or equivalent officer of a Student Organization shall represent the Organization unless he/she petitions the Director or designee to substitute another Student to represent the Organization.

### **Section III. Pending Criminal Proceedings**

The Conduct Procedures in the Code differ from the criminal justice system in scope, purpose, procedure, and outcome, and they are not designed to replace state or federal criminal laws or procedures. Students are required to comply with all state and federal laws. Students may be accountable to both civil authorities and to the University for acts that constitute violations of law and the Code. Any Conduct Procedures under the Code that result in a revocation of privileges of enrollment or continued attendance are intended to uphold and promote the purpose and principles of the Code, and are not a substitute for any penalties associated with criminal laws. The Conduct Procedures in the Code will normally proceed during the pendency of criminal proceedings and will not be subject to challenge on the ground that criminal charges involving the same incident(s) have not been filed or have been dismissed or reduced.

### **Section IV. Help Seeking Protocol**

A priority of the University is Students' health, safety, and welfare. As Noble Niners, Students are expected to demonstrate compassion by seeking help in potentially dangerous or life-threatening situations. The University does not want the fear of student conduct repercussions to be a barrier for seeking help. In lieu of the Conduct Procedures, the Help Seeking Protocol provides Students an opportunity to seek help for themselves or others while being connected to campus and community resources. Additional information about the Help Seeking Protocol can be found at <http://helpseeking.uncc.edu>.

## Chapter 5. Prohibited Conduct

The following conduct is subject to initiation of the Conduct Procedures [Note: Letters r and u have been intentionally omitted for continuity in record-keeping.]:

### a. Acts of Harm

1. *Physical Injury* – Inflicting, attempting to inflict, or assisting in inflicting physical injury upon a person.
2. *Fear/Risk* – Placing a person in fear of imminent physical injury or danger or at risk of imminent physical injury or danger.
3. *Harassment/Intimidation/Bullying* – Engaging in unwelcome conduct directed toward a particular person or identifiable group of persons through any action, method, device, or means which is so severe or pervasive, and objectively offensive, that it unreasonably interferes with the target person's University employment, academic performance, or participation in University programs or activities, effectively denying equal access to University resources and opportunities (i.e., creates a hostile environment). This does not include Discriminatory Harassment or Gender-Based Harassment, which are prohibited under Chapter 5, Paragraphs a.8 and a.9 of the Code.
4. *Fighting Words* – Engaging in "fighting words" harassment, as that term is defined in University Policy 503, Fighting Words Harassment.
5. *Relationship Violence* – Engaging, attempting to engage, or assisting another in engaging in Relationship Violence, which includes:
  - i. *Dating Violence* – Committing violence against a person with whom the Student is or has been in a social relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on a consideration of the following factors: (a) the length of the relationship; (b) the type of relationship; and (c) the frequency of interaction between the persons involved in the relationship. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence does not include Domestic Violence, which is prohibited under Chapter 5, Paragraph a.5.ii of the Code.
  - ii. *Domestic Violence* – Committing violence that may constitute a felony or misdemeanor crime of violence against a person (a) who is a current or former spouse or intimate partner; (b) with whom the Student shares a child in common; (c) with whom the Student cohabitates or has cohabitated as a spouse or intimate partner; (d) who is similarly situated as a spouse under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or (e) who is a youth or adult and is protected from that Student's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
6. *Stalking* – Engaging in a course of conduct (two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties [by any action, method, device, or means] follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property) directed at a specific person that would cause a reasonable person (under similar circumstances and with similar identities to the victim) to (a) fear for his/her safety or the safety of others or (b) suffer Substantial Emotional Distress.
7. *Unwanted Contact* – Engaging in unwanted physical touching of or bodily contact with another person. This does not include Sexual Contact without Consent, which is prohibited under Chapter 5, Paragraph p.2 of the Code.
8. *Discriminatory Harassment/Intimidation* – Engaging in unwelcome conduct directed toward a particular person or identifiable group of persons based upon the target person's actual or perceived race, color, religion, age, national origin, ethnicity, disability, or veteran status through any action, method, device, or means which is so severe or pervasive, and objectively offensive, that it unreasonably interferes with the target person's University employment, academic performance, or participation in University

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programs or activities, effectively denying equal access to University resources and opportunities (i.e., creates a hostile environment).

9. *Gender-Based Harassment* – Engaging in unwelcome conduct based upon a target person’s actual or perceived gender, including harassment based on gender identity or non-conformity with gender stereotypes, which is so severe, persistent, or pervasive that it unreasonably interferes with a person’s University employment, academic performance, or participation in University programs or activities (i.e., creates a hostile environment). Gender-Based Harassment does not necessarily involve conduct of a sexual nature, and it does not include Sexual Harassment, which is prohibited under Chapter 5, Paragraph p.5 of the Code.
  
- b. **Weapons and Explosives** – Using, possessing, or storing any weapon or explosive without University authorization, except as explicitly permitted by law and University Policy 702, Weapons on Campus. Examples include, but are not limited to, all firearms; explosive agents; fireworks; chemicals such as mace and tear gas (if used in an illegal manner); air or canister propelled guns such as BB guns, pellet guns, and paintball guns; tasers or stun guns; metallic knuckles; switchblade knives; martial arts weapons; any object or substance used, attempted to be used, or intended to inflict a wound, cause injury, or incapacitate; or any other “weapon” as defined by N.C.G.S. §14-269.2.
  
- c. **False Report** – Initiating or causing to be initiated any false report, warning, or threat of fire, explosion, or other emergency.
  
- d. **Disruption of Normal University Activities** – Interfering with or inciting others to interfere with normal University activities and services, including, but not limited to, teaching, studying, research, the free expression of ideas, speeches and other public or private events, University administration, and fire, police, or other emergency services. Acts prohibited include, but are not limited to, those acts prohibited in University Policy 601.13, Interference with University Operations, which prohibits, among other things, Student action taken "with intent to obstruct or disrupt any normal operation or function of the University," and University Policy 802, Conduct at Speech Events, which prohibits certain disruptive activities at speech events on campus.
  
- e. **Violating Sanctions** – Knowingly violating the terms of any sanction imposed in accordance with the Code.
  
- f. **Drugs**
  1. *Possession/Consumption/Use* – Possessing, consuming, or using any controlled substance under the North Carolina Controlled Substances Act (N.C.G.S. Chapter 90, Article 5).
  2. *Paraphernalia* – Possessing or using drug paraphernalia, including, but not limited to, bongs, bowls, pipes, roach holders, or scales.
  3. *Manufacturing/Distribution/Delivery* – Manufacturing (including growing marijuana), distributing, delivering, or taking delivery of any controlled substance, or attempting to manufacture, distribute, deliver, or take delivery of any controlled substance.
  4. *Possessing with Intent to Manufacture/Distribute/Deliver* – Possessing with intent to manufacture (including growing marijuana), distribute, or deliver any controlled substance.
  5. *Huffing/Sniffing* – Huffing or sniffing any substance not intended for such use.
  6. *Prescription Medication* – Misusing medically prescribed drugs.
  7. *Over-the-Counter Drugs* – Misusing over-the-counter drugs.
  8. *Driving Under the Influence* – Operating a motor vehicle under the influence of drugs or while impaired by the consumption or use of drugs.
  9. *Public Intoxication* – Being intoxicated in public attributable in part or in whole to the use of drugs.
  
- g. **Fire Safety** – Setting, attempting to set, or assisting in setting a fire, or misusing or damaging fire safety equipment or elevators.

h. **False Information**

1. *Furnishing* – Furnishing false information to the University.
2. *Failing to Report Felony Convictions* – Failing to report a felony criminal conviction(s) (a) to the admissions office if convicted between the time the individual has submitted an application for admission and has accepted an offer of admission to the University, or (b) to the Office of Student Conduct if convicted between the time the individual has accepted an offer of admission to the University and the individual is no longer in a continuing relationship with the University.
3. *Misrepresenting Organizational Affiliation* – Misrepresenting or concealing one's organizational affiliation(s) or sponsorship(s) for the purpose of enticing another person into joining or participating in an Organization.
4. *Misrepresenting University Affiliation* – Misrepresenting to a third party one's affiliation with the University.

i. **Fake Identification**

1. *Forgery/Counterfeiting* – Forging, counterfeiting, or altering without authorization any document or instrument of identification (ID).
2. *Possession/Use* – Possessing, using, or displaying an ID that is not one's own or is fictitious, canceled, revoked, or suspended.
3. *Loaning/Selling* - Loaning or selling an ID to another person not entitled to the ID.

j. **Unauthorized Electronic Recording** – Using any electronic or other device to make an audio, photographic, or video record of any person without his/her knowledge or without his/her effective permission in a place where he/she has a reasonable expectation of privacy, when such a recording is objectively likely to cause injury, embarrassment, or distress. This does not include Sexual Exploitation, which is prohibited under Chapter 5, Paragraph p.4 of the Code.

k. **Theft and Unauthorized Possession/Use**

1. *Theft/Attempted Theft* – Theft, attempted theft, or assisting in the theft of University or individual property or services.
2. *Breaking and Entering* – Breaking and entering, attempted breaking and entering, or assisting in breaking and entering into University property or the property of others, including, but not limited to, private vehicles.
3. *Confidential Information* – Using or accessing private or confidential information in any medium without authorization.
4. *Unauthorized Possession* – Possessing property that is not one's own without the owner's authorization.

l. **Vandalism** - Destroying, defacing, tampering with, or damaging the property of others or University property, including, but not limited to, chalking, spray painting, or otherwise marking without appropriate University approval.

m. **Failure to Comply** - Failing to comply with the reasonable directions of or meeting requests by University officials, including, but not limited to, Dean of Students Office staff, Office of Student Conduct staff, Police and Public Safety officers or other designated security or law enforcement agents, Housing and Residence Life staff, or Title IX Office staff, acting in performance of their duties.

n. **Violation of University Policies or Regulations** – Violating, aiding in violation of, or concealing evidence of violation of published University policies or regulations. Such policies or regulations include, but are not limited to, all Housing and Residence Life policies, the residence hall contract, and the Resident Handbook (collectively referred to as “Residence Life Policies”).

o. **Alcohol**

1. *Underage Possession/Consumption* – Possessing or consuming alcoholic beverages while under the legal drinking age pursuant to applicable law.

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2. *Driving Under the Influence* – Operating a motor vehicle under the influence of alcohol or while impaired by the consumption of alcohol.
  3. *Providing to Minors* – Furnishing or selling any alcoholic beverages to any person less than 21 years of age.
  4. *Public Intoxication* – Being intoxicated in public attributable in part or in whole to the use of alcohol.
  5. *Violation of University Policy* – Violating University Policy 706, Alcoholic Beverages, including, but not limited to, (a) failing to abide by the provisions of an "Acknowledgment of Responsibility for Service of Alcoholic Beverages" form; (b) making any sale of any alcoholic beverage on University Premises; (c) having common source containers within any University housing, any University outdoor area, or event sponsored by a Student Organization; or (d) possessing an open container on University Premises, unless specifically permitted under paragraphs V.B and V.C of University Policy 706, Alcoholic Beverages.
- p. **Sexual Misconduct**
1. *Sexual Act without Consent* – Engaging, attempting to engage, or assisting another in engaging in any sexual penetration (anal, oral, or vaginal), however slight, with any object, without Consent.
  2. *Sexual Contact without Consent* – Deliberately touching, attempting to touch, or assisting another in touching a person's intimate parts (including genitals, groin, breast, mouth, buttocks, or any other orifice or clothing covering any of those areas), touching a person with one's intimate parts, or causing a person to touch his/her own or another person's intimate parts, without Consent. Sexual Contact includes any intentional bodily contact in a sexual or unwanted manner, even if the contact does not involve contact with intimate parts.
  3. *Sexual Exhibitionism without Consent* – Engaging, attempting to engage, or assisting another in engaging in a sexual activity or exposing one's intimate parts (including genitals, groin, female breast [other than when breastfeeding a child], mouth, or buttocks) in the presence of others without their Consent.
  4. *Sexual Exploitation without Consent* – Taking, attempting to take, or assisting another in taking sexual advantage of a person without his/her Consent for one's own advantage or benefit or to benefit or advantage anyone other than the one being exploited, and the behavior does not otherwise constitute one of the other Sexual and Interpersonal Misconduct offenses. Sexual Exploitation includes, but is not limited to, prostituting a person; recording, photographing, or distributing identifiable images of a private sexual activity and/or the intimate parts (including genitals, groin, breasts, or buttocks) of a person; allowing a third party to observe private sexual activity; engaging in voyeurism; or otherwise invading sexual privacy.
  5. *Sexual Harassment* – Engaging in unwelcome conduct of a sexual nature which is so severe, persistent, or pervasive that it unreasonably interferes with a person's University employment, academic performance, or participation in University programs or activities (i.e., creates a hostile environment). Sexual Harassment does not include Gender-Based Harassment, which is prohibited under Chapter 5, Paragraph a.9 of the Code.
  6. *Incest* – Engaging, attempting to engage, or assisting another in engaging in any sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- q. **Trespassing** - Trespassing, including being present in, using, or assisting another in being present in or using, University Premises without University authorization or the premises or property owned or controlled by others without authorization.
- r. *[Intentionally omitted for continuity in record-keeping]*

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- s. **Disorderly Conduct**
  - 1. *Disturbance* – Creating a disturbance, including, but not limited to, fighting, creating the threat of imminent fighting or other violence, drunk and disorderly conduct, or generally engaging in objectively disruptive behavior.
  - 2. *Disruption of Classroom Environment* – Engaging in conduct that objectively disrupts or interferes with the normal functions of a class, including, but not limited to, failure to conform to the instructor’s announced expectations for classroom decorum. A Student who persists in disruptive conduct as described in the Code is subject to an interim suspension pursuant to Chapter 6, Section IV of the Code.
- t. **Hazing** – Engaging in Hazing, as defined by University Policy 405, Hazing.
- u. *[Intentionally omitted for continuity in record-keeping.]*
- v. **Computer Abuse** - Engaging in computer abuse, including, but not limited to, violation of University Policy 302, Web Communications; University Policy 304, Electronic Communication Systems; University Policy 601.14, Proprietary Software; Standard for Communications Security; Standard for Responsible Use; or University Policy 311, Information Security and its related supplemental University Policies 311.2 through 311.9.
- w. **Gambling** – Gambling for money or other things of value, except as permitted by law. Prohibited gambling includes, but is not limited to, betting on, wagering on, or selling pools on any athletic or other competitive event; possessing any card, book, or other device (including that which uses the Internet) for registering bets; or bookmaking in connection with betting.
- x. **Presence During Prohibited Conduct** – Being present during prohibited conduct by another Student or Student Organization and not removing or attempting to remove oneself from the situation. Students who are present during prohibited conduct are expected to remove themselves from the situation and are encouraged to report the conduct to a University official.
- y. **Violation of Law** – Committing an act, attempting to commit an act, or assisting another in committing an act that violates state or federal law or local ordinances that is not otherwise a violation of the Code.
- z. **Retaliation** – Retaliating against a person who has engaged in protected activity, including, but not limited to, reporting an alleged violation, providing a statement or testimony as a witness in the Conduct Procedures, or participating in an investigation regarding an alleged violation(s) of the Code. Retaliatory acts may include threats, intimidation, coercion, or harassment and will be addressed separately from the underlying alleged violation(s) of the Code.

**Chapter 6. Case Referrals and Adjudication Methods**

**Section I. Case Referrals**

1. Any Student, staff member, or faculty member may refer a Student or Student Organization suspected of violating the Code to the Office of Student Conduct or, if the Student or Student Organization is suspected of Sexual and Interpersonal Misconduct, to the Title IX Office. If appropriate, reports to the Title IX Office will be referred to the Office of Student Conduct.

The referral to the Office of Student Conduct or the Title IX Office must include factual information supporting the allegation. A person making such a referral will normally be expected to appear before a Hearing Panel or Administrative Hearing Officer as a witness. Referrals should be made as soon as possible after the alleged violation(s) occurred. Anonymous referrals may limit the University's ability to appropriately respond to the referral. Any person may report an alleged violation(s) of the Code online at [incidentreport.uncc.edu](http://incidentreport.uncc.edu).

Based on such a referral, the Director or designee will determine whether a Formal Charge(s) shall be pursued and whether the Formal Charge(s) constitutes a Minor Violation or a Serious Violation, based on the Respondent's prior conduct record or facts and circumstances related to the case. This determination should be made within ten (10) Days after the initiation of the referral; however, a reasonable extension of this time limit is permissible. No Respondent is permitted to withdraw from enrollment at the University after being charged with a Serious Violation until determinations on responsibility and sanction(s) (if applicable) are made.

In some instances, an Investigator may be assigned to investigate an alleged violation(s) of the Code. The Investigator will conduct interviews with the Respondent, the Complainant (if applicable), and any relevant third party witnesses; will collect and review any other information relevant to the report; and will submit a written report to the Director or designee summarizing his/her findings. If an investigation is anticipated to last for an extended period of time, the Director or designee, in his/her discretion, may pursue a Formal Charge(s) following a preliminary investigation that can be modified at the conclusion of the investigation.

In instances when a Student or Student Organization is suspected of Sexual and Interpersonal Misconduct, the investigation shall be in accordance with [Chapter 8, Section VII](#) of the Code.

2. If the Director or designee determines that a Formal Charge(s) shall be pursued, he/she will deliver a written notice of referral to the Respondent. The notice of referral will include the following:
  - a. notice of the Formal Charge(s);
  - b. information regarding next steps in the Conduct Procedures (e.g., a request that the Respondent participate with the Director or designee in a meeting to discuss details related to the alleged violation(s), or a referral to an investigation);
  - c. if a Serious Violation, notice that possible sanctions include Conduct Suspension or Expulsion for a Student or Registration Suspension or Registration Revocation for a Student Organization;
  - d. if a Serious Violation, notice that the Respondent's University account and official academic transcript will be placed on hold until determinations on responsibility and sanction(s) (if applicable) are made;
  - e. a statement indicating that the Respondent has the right to be represented, at his/her own expense, by a Representative during the Conduct Procedures pursuant to [Chapter 6, Section III](#) of the Code; and
  - f. if the Director or designee requests a meeting, notice that the Respondent is required to respond to the Director's or designee's request within three (3) Days of delivery of the notice of referral.

If the Respondent attends the meeting requested by the Director, the Respondent has the option to stop the meeting in order to retain a Representative. The meeting will be rescheduled as soon as possible thereafter. The same rights described in Chapter 6, Section I of the Code apply to a Complainant (if applicable).

## **Section II. Participation of an Advisor**

The Respondent, the Complainant, and any witnesses may each invite an individual to the Conduct Procedures to serve solely as an Advisor. During the Conduct Procedures, the Advisor may confer with the Respondent, the Complainant, or the witness he/she is advising but may not address a University official or Hearing Panel, other parties, or witnesses, and may not unreasonably delay, disrupt, or otherwise interfere with the proceedings. An Advisor may not argue, make statements, or question witnesses; however, an Advisor may respond to questions if asked to do so.

The Respondent, Complainant, and any witnesses must complete a FERPA Consent Form prior to being accompanied by an Advisor.

The Advisor may be in addition to the Respondent's and the Complainant's respective Representatives pursuant to Chapter 6, Section III of the Code.

## **Section III. Participation of a Representative**

### **1. Conduct Procedures in which a Representative May Participate**

In accordance with N.C.G.S. §116-40.11, and subject to the requirements set forth in Chapter 6, Section III.2 of the Code, the Respondent may be represented, at his/her own expense, by a Representative during the Conduct Procedures, **except** when the violation:

- a. will be addressed by a Student Honor Court (Student Hearing Panel), or
- b. is an allegation of academic dishonesty, as governed by University Policy 407, The Code of Student Academic Integrity.

If applicable, a Complainant may be represented, at his/her own expense, by a Representative. The Complainant and his/her selected Representative are subject to the same requirements in Chapter 6, Section III.2 of the Code as the Respondent and his/her Representative.

When scheduling a meeting or Hearing in which the Respondent or the Complainant has notified the University that a Representative plans to participate, the University will make reasonable efforts to accommodate the Representative's schedule. The University will, however, prioritize the availability of the Respondent, Complainant (if applicable), witnesses, the designated Hearing Panel members or Administrative Hearing Officer assigned to the matter, Investigator (if applicable), and other necessary participants when determining the date and time for a meeting or Hearing.

A Representative may fully participate in the Conduct Procedures only to the extent afforded to the Respondent or Complainant he/she represents. The Representative may not unreasonably delay, disrupt, or otherwise interfere with the Conduct Procedures.

An attorney or other individual representing the University may participate in the Conduct Procedures in which a Representative is participating.

Nothing in the Code shall be construed to create a right to be represented at public expense during the Conduct Procedures.

### **2. Requirements for Serving as a Representative During Conduct Procedures**

In order for a Representative to participate in the Conduct Procedures, the Respondent or Complainant must provide the Director or designee with a completed Notice of Attorney or Non-

Attorney Advocate Representation form that includes the Notice of Representation, FERPA Consent, and Certification by Representative described in Chapter 6, Section III.2.a-c of the Code. The notice must be submitted at least three (3) Days prior to the scheduled meeting or Hearing.

**a. Notice of Representation**

A Respondent or Complainant who plans to have a Representative during the Conduct Procedures must notify the Director or designee in writing of the Representative's planned participation. This notice must specify the following:

1. the identity of the Representative;
2. whether the individual is a licensed attorney or a non-attorney advocate; and
3. an address, telephone number, and email address where the Representative can be reached.

**b. FERPA Consent**

In order for a Representative to participate in the Conduct Procedures or to communicate with any University official regarding the Respondent or Complainant he/she represents, the Respondent or Complainant must complete and submit a written authorization that meets the requirements of a valid consent as specified by the Family Educational Rights and Privacy Act (FERPA), if applicable. Even if the Respondent or Complainant executes a valid FERPA consent authorizing the Representative to receive information or documents regarding the Respondent or Complainant, the University, its officials (other than the Office of Legal Affairs), and the Director or designee will at all times correspond directly with the Respondent or Complainant regarding the Conduct Procedures. It is the Respondent's or Complainant's responsibility to communicate and share information with his/her Representative.

**c. Certification by Representative**

A Respondent or Complainant who plans to be represented by a Representative during the Conduct Procedures must submit a certification statement signed by the Representative stating that the Representative has read in their entirety and understands the following documents:

1. University Policy 406, The Code of Student Responsibility;
2. University Policy 402, Student Education Records (FERPA);
3. Residential Student Handbook (if applicable);
4. University Parking Ordinances (if applicable);
5. UNC Board of Governors Policy 700.4.1, Policy on Minimum Substantive and Procedural Standards for Student Disciplinary Proceedings;
6. UNC Board of Governors Regulation 700.4.1.1[R], Applicable to Student Disciplinary or Conduct Procedures: Right to an Attorney or Non-Attorney Advocate for Students and Student Organizations; and
7. The Code of The University of North Carolina, Section 502 D(3).

**d. Presence of Respondent or Complainant**

A Respondent's or Complainant's Representative may participate in the Conduct Procedures only when the Respondent or Complainant is also present.

Failure to meet the requirements as set forth in Chapter 6, Section III.2 may result in the loss of the Respondent's or Complainant's right to participation of a Representative in the Conduct Procedures.

A Representative may act on behalf of the Respondent or Complainant he/she represents in any instance where the action is not inherently personal to the Respondent or Complainant. Inherently personal actions include, but are not limited to, personal testimony, signing documents, and completing sanctions.

#### **Section IV. Interim Suspension**

##### **1. Students**

When the University determines that the continued presence of a Student on University Premises or in University housing (a) is potentially threatening, harmful, or dangerous to others or the University community; (b) poses a threat of significant property damage; (c) impacts the stability and continuity of normal University activities; and/or (d) directly and substantially impedes the lawful activities of others, the Director or designee, in consultation with the Title IX Coordinator (if applicable), may suspend the Student for an interim period, pending the outcome of any Conduct Procedures.

A Student who persists in disrupting a particular class in violation of Chapter 5, Paragraph s.2 of the Code after a warning by the instructor may, in the discretion of the Director or designee, and provided other normal University functions are not at risk, be suspended from that class only, for an interim period pending the outcome of any Conduct Procedures.

Within five (5) Days of the effective date of the interim suspension, the Student may submit a written request for termination or modification to the Director or designee. In reviewing the request, the Director or designee shall consider the following issues only:

- a. the reliability of the information concerning the Student's conduct, including an assertion of mistaken identity; and
- b. whether the conduct in the surrounding circumstances reasonably indicates that the continued presence of the Student on University Premises, in University housing, or in the classroom is threatening, harmful, or dangerous to others or the University community; poses a threat of significant property damage; impacts the stability and continuity of normal University activities, including the normal conduct of class; and/or directly and substantially impedes the lawful activities of others.

The Director or designee may, in his/her discretion, meet with the Student and utilize information gathered in that meeting to make a decision whether to terminate or modify the interim suspension. The Student may be represented in that meeting, at his/her own expense, by a Representative pursuant to Chapter 6, Section III of the Code.

Under certain circumstances, as a condition for termination or modification of the interim suspension, the Director or designee may require that certain conditions be met, such as the Student's consent to completion of a medical or psychological evaluation to be arranged by the University. The Student shall ensure that the medical or psychological evaluation report or other requested report is delivered to the University promptly. Within five (5) Days after delivery of such report, the Student may submit a written request for termination or modification of the interim suspension to the Director or designee. The Director or designee shall consider such report in making a decision whether to terminate or modify the interim suspension.

No Student is permitted to withdraw from enrollment at the University after being suspended on an interim basis until (a) determinations on responsibility and sanction(s) (if applicable) are made as part of the Conduct Procedures or (b) the interim suspension is terminated. Any restrictions related to being charged with a Serious Violation, as set forth in Chapter 6, Section I.1 of the Code, shall still apply regardless of the status of the interim suspension.

The Conduct Procedures shall be initiated as soon as practicable; however, a Student may request a deferral of the Conduct Procedures until the conclusion of any criminal proceedings or

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medical treatments. Within five (5) Days of the effective date of the interim suspension or the decision on termination/modification, the Student may submit a written request for deferral to the Director. In reviewing the request, the Director shall consider the following:

- a. whether the interests of the University will be served by postponing the Conduct Procedures until after the criminal process or medical treatment has been concluded;
- b. the amount of time the resolution may take;
- c. the availability of witnesses at the time of the request and the likelihood of their availability in the future; and
- d. any federal or state laws or policies that would not permit the process to be delayed.

**2. Student Organizations**

When the University determines that the continued activities of a Student Organization (a) are potentially threatening, harmful, or dangerous to others or the University community; (b) pose a threat of significant property damage; (c) impact the stability and continuity of normal University activities; and/or (d) directly and substantially impede the lawful activities of others, the Director or designee, in consultation with the Title IX Coordinator (if applicable), may suspend the activities of the Organization for an interim period, pending the outcome of any Conduct Procedures. The interim suspension may require the Organization to cease activities both on campus and off campus until the Conduct Procedures have been conducted.

Within five (5) Days of the effective date of the interim suspension, the Organization may submit a written request for termination or modification to the Director or designee. In reviewing the request, the Director or designee shall consider the following issues only:

- a. the reliability of the information concerning the Organization's conduct, including an assertion of mistaken identity; and
- b. whether the conduct in the surrounding circumstances reasonably indicates that the continued activities of the Organization are threatening, harmful, or dangerous to others or the University community; pose a threat of significant property damage; impact the stability and continuity of normal University activities; and/or directly and substantially impede the lawful activities of others.

The Director or designee may, in his/her discretion, meet with the Student Organization and utilize information gathered in that meeting to make a decision whether to terminate or modify the interim suspension. The Student Organization may be represented in that meeting, at its own expense, by a Representative pursuant to Chapter 6, Section III of the Code.

The Conduct Procedures shall be initiated as soon as practicable.

**Section V. Administrative Resolution of Residence Life Policy Violations**

An Administrative Resolution may be applied in cases in which the Director or designee determines the following:

1. there is a preponderance of the evidence that a Student has engaged in a single, first-time violation of Residence Life Policies, as described in Chapter 5, Paragraph n of the Code;
2. there is little additional information needed to resolve the case;
3. important information relevant to the policy violation may be communicated to the Student in writing, without a face to face meeting; and
4. the appropriate response to the violation is limited to an official written notice to the Student educating him/her about the policy that has been violated.

The Administrative Resolution will result in a letter to the Student from the Director or designee that:

1. provides notification of the charge;

2. educates the Student about the policy that has been violated;
3. offers the Student the opportunity to engage in a Mutual Resolution;
4. notifies the Student that he/she has three (3) Days to request a Mutual Resolution; and
5. notifies the Student that if he/she does not respond to the letter within three (3) Days, the Administrative Resolution stands, and the case will be closed.

## **Section VI. Mutual Resolution**

### **1. Mutual Resolution for the Respondent**

If the Director or designee determines that the Mutual Resolution process is appropriate, he/she will offer the Respondent the option of a Mutual Resolution during the meeting scheduled after the notice of referral or at a subsequent meeting. The Respondent has three (3) Days to respond to an offer of a Mutual Resolution.

A Respondent who accepts a Mutual Resolution must voluntarily accept the determinations on responsibility and sanction(s) proposed by the Director or designee and waives his/her right to a Hearing. The Mutual Resolution must be in writing and signed by the Respondent and the Director or designee. The signed Mutual Resolution may not be appealed. For cases including a Formal Charge(s) related to Sexual and Interpersonal Misconduct, a Mutual Resolution must be accepted by both the Respondent and the Complainant pursuant to Chapter 6, Section VI.2.

If the Director or designee does not offer a Mutual Resolution or the Respondent does not accept a Mutual Resolution, the Director or designee shall refer the case to a Hearing pursuant to Chapter 6, Section VIII of the Code.

If the Respondent fails to respond within seven (7) Days of an initial request from the Director or designee for a meeting, the case may be resolved in the Respondent's absence pursuant to Chapter 6, Section VII.1 of the Code.

### **2. Mutual Resolution for the Complainant (if applicable)**

If the Respondent accepts a Mutual Resolution for violation(s) including a Formal Charge(s) related to Sexual and Interpersonal Misconduct, the Director will request a meeting with the Complainant to discuss the proposed Mutual Resolution and to determine whether the Complainant accepts the Mutual Resolution. The Director will provide the Complainant with a summary outlining the proposed determinations on responsibility and sanction(s) and the rationale related only to those Sexual and Interpersonal Misconduct violation(s). The Complainant has three (3) Days to respond to an offer of a Mutual Resolution.

A Complainant who accepts a Mutual Resolution must voluntarily accept the determinations on responsibility and sanction(s) accepted by the Respondent and waives his/her right to a Hearing. The Mutual Resolution must be in writing and signed by the Complainant and the Director. The signed Mutual Resolution may not be appealed.

If both the Respondent and the Complainant accept the Mutual Resolution, the case is resolved with a waiver of a Hearing and no further right of appeal.

If the Director does not offer a Mutual Resolution or either the Respondent or Complainant does not accept a Mutual Resolution, the Director shall refer the case to a Hearing pursuant to Chapter 6, Section VIII of the Code.

If the Respondent accepts a Mutual Resolution and the Complainant fails to respond within seven (7) Days of an initial request from the Director for a meeting, the case may be resolved in the Complainant's absence pursuant to Chapter 6, Section VII.2 of the Code.

**Section VII. In Absentia Resolution**

**1. Resolution in the Absence of the Respondent**

If the Respondent fails to respond within seven (7) Days of an initial request from the Director or designee for a meeting, the case may be resolved in the Respondent's absence through an In Absentia Resolution. If the case is resolved through an In Absentia Resolution, the Respondent waives his/her right to a Hearing. The Director or designee will, in his/her professional judgment, make a determination on responsibility for any Formal Charge(s) and may specify any appropriate sanction(s).

The Respondent shall be notified of the In Absentia Resolution in writing no later than five (5) Days after the determination is made. The Office of Student Conduct may place a hold on the Respondent's University account until such time as the Respondent confirms receipt of the written resolution.

Within five (5) Days after delivery of the written resolution, the Respondent may petition the Director or designee in writing to rescind the In Absentia Resolution. If granted, the Director or designee will move forward with either a Mutual Resolution or a Hearing. The Director or designee may consider any factors in rescinding the In Absentia Resolution, including, but not limited to, extenuating circumstances related to the Respondent's failure to respond and access to information not available at the time of the In Absentia Resolution.

**2. Resolution in the Absence of the Complainant (if applicable)**

If the Respondent accepts a Mutual Resolution for violation(s) including a Formal Charge(s) related to Sexual and Interpersonal Misconduct and the Complainant fails to respond within seven (7) Days of an initial request from the Director for a meeting, the case may be resolved in the Complainant's absence through an In Absentia Resolution. If the case is resolved through an In Absentia Resolution, the Complainant waives his/her right to a Hearing, and the Mutual Resolution accepted by the Respondent is final.

The Complainant shall be notified of the In Absentia Resolution in writing no later than five (5) Days after the determination is made.

Within five (5) Days after delivery of the written resolution, the Complainant may petition the Director in writing to rescind the In Absentia Resolution. If granted, the Director will move forward with either a Mutual Resolution or a Hearing. The Director may consider any factors in rescinding the In Absentia Resolution, including, but not limited to, extenuating circumstances related to the Complainant's failure to respond and access to information not available at the time of the In Absentia Resolution.

**Section VIII. Resolution through Hearing**

If the case is not resolved through a Mutual Resolution or an In Absentia Resolution, the Director or designee shall refer the case to a Hearing. The Director or designee may modify the Formal Charge(s) based on information provided before or during the Mutual Resolution process.

The scheduling of a Hearing may be delayed at the discretion of the Director or designee during times of heavy caseloads, if the Formal Charge(s) occurs close to the end of an academic semester or term, in the event of the reasonable need of either party for additional time to gather information for the Hearing, or upon request of the Respondent or Complainant (if applicable) due to extenuating circumstances. Any Hearing under Chapter 8 of the Code may be delayed at the discretion of the Director, after consultation with the Title IX Coordinator.

At any time up to three (3) Days before the scheduled Hearing, the Director or designee may offer or accept a Mutual Resolution.

**Section IX. Hearing Panels and Administrative Hearing Officers**

1. When a case is referred to a Hearing, the Director or designee will convene either a Student Hearing Panel, an Administrative Hearing Panel, or an Administrative Hearing Officer.
2. An Administrative Hearing Panel may be convened when:
  - a. the case arises at a time when Student Hearing Panel members are unavailable (e.g., holidays, semester breaks, or summer months);
  - b. there is clear and convincing evidence that the Respondent may not receive a fair Hearing from a Student Hearing Panel;
  - c. a backlog of cases has developed and Administrative Hearing Panels, in addition to Student Hearing Panels, are necessary to assure prompt resolution of cases; or
  - d. there is any other circumstance in which the Director deems such a Hearing Panel to be appropriate.
3. A Hearing with an Administrative Hearing Officer shall be convened when:
  - a. the case includes at least one Formal Charge of Sexual and Interpersonal Misconduct, or
  - b. the Director determines that the complexity or required expediency of the case or general backlog of cases necessitates the use of an Administrative Hearing Officer.
4. A Hearing Panel member or an Administrative Hearing Officer who has a conflict with, bias about, or interest in the case should recuse himself/herself. If a Hearing Panel member or Administrative Hearing Officer with a conflict fails to recuse himself/herself, the Director or designee shall make the decision about whether to remove that person from the Hearing Panel or to assign a different Administrative Hearing Officer. A Respondent or Complainant (if applicable) may challenge a Hearing Panel member or Administrative Hearing Officer pursuant to Chapter 7, Section II.3 or Chapter 8, Section IX.3 of the Code.
5. In the discretion of the Director, the primary documentary evidence to be presented by the University at the Hearing and a list of witnesses may be submitted to the Hearing Panel or Administrative Hearing Officer in advance of the Hearing.

## **Chapter 7. Hearing Panel or Administrative Hearing Officer Conduct Procedures**

The following Conduct Procedures shall be applicable for a Formal Charge(s) adjudicated by a Hearing Panel or Administrative Hearing Officer under the Code, except that in cases of alleged Sexual and Interpersonal Misconduct, the procedures set forth in Chapter 8 of the Code shall apply.

### **Section I. Notice of Hearing**

If, pursuant to Chapter 6 of the Code, a case is referred to a Hearing, the Director or designee shall deliver a written notice of Hearing to the Respondent. The notice of Hearing will include the following:

- a. notice of the Formal Charge(s), citing the alleged behavior prohibited by the Code;
- b. the date, time, and location for the Hearing;
- c. the names of the Hearing Panel members or the name of the Administrative Hearing Officer who will hear the case;
- d. the names of any witnesses being called to provide testimony;
- e. a statement indicating that the Respondent may seek assistance from a Student Conduct Counselor in the preparation of his/her case for the Hearing;
- f. a statement indicating that the Respondent has the right to be represented, at his/her own expense, by a Representative during the Conduct Procedures pursuant to Chapter 6, Section III of the Code;
- g. if a Serious Violation, notice that possible sanctions include Conduct Suspension or Expulsion for a Student or Registration Suspension or Registration Revocation for a Student Organization; and
- h. if a Serious Violation, notice that the Respondent's University account and official academic transcript will be placed on hold until determinations on responsibility and sanction(s) (if applicable) are made.

In a case of a **Minor Violation**, the Respondent shall have no fewer than five (5) Days' notice of the Hearing. In a case of a **Serious Violation**, the Respondent shall have no fewer than ten (10) Days' notice of the Hearing. The time limit for any notice of the Hearing may be waived by the Respondent.

Notice is sufficient if sent via email to the Respondent's University email address or mailed via first class, registered, or certified mail to the Respondent's current address as shown in the student information system on the date of mailing. All claims of failure to receive adequate notice are waived by the Respondent if the Respondent appears at the Hearing and does not formally raise the issue of adequate notice at the first opportunity.

### **Section II. Conduct of the Hearing**

#### **1. Attendance of Parties**

If the Respondent fails to appear at the Hearing after being notified pursuant to the Code, the Hearing will continue in the absence of the Respondent.

#### **2. Attendance of Student Conduct Counselors**

A Student Conduct Counselor will attend the Hearing and may provide procedural advice to the Respondent. Any witnesses called to provide testimony may seek procedural advice from a Student Conduct Counselor. Participants may decline the assistance of a Student Conduct Counselor. The Student Conduct Counselor is in addition to the Respondent's Representative and any Advisors, as described in Chapter 6 of the Code.

#### **3. Challenges of Hearing Panel Members or Administrative Hearing Officer**

The Respondent may challenge a Hearing Panel Member or the Administrative Hearing Officer on grounds of bias or a personal relationship that might affect impartial consideration of the case. The Respondent must submit the challenge in writing to the Director at least two (2) Days prior to

the scheduled Hearing. The Director must decide the challenge prior to the Hearing. If the Director determines possible bias, he/she will excuse the Hearing Panel member or Administrative Hearing Officer and appoint a replacement. The Hearing may be rescheduled at the discretion of the Director in order to appoint an available replacement.

#### **4. Multiple Respondents**

Pursuant to FERPA, a Formal Charge(s) against multiple Respondents involved in the same incident may be heard in a single Hearing only if each Respondent consents in writing in advance of the Hearing.

#### **5. Special Accommodations**

Upon timely request to the Director or designee by the Respondent or any witness, the University may be able to provide special accommodations for testimony by alternate methods (e.g., room divider or video conference). Such accommodations are at the discretion of the Director or designee.

#### **6. Administration of the Hearing**

- a. Formal rules of evidence do not apply. The Chair of the Hearing Panel or the Administrative Hearing Officer, in consultation with the Staff Advisor, will determine the admissibility of any information. The Respondent's prior conduct record is not to be considered in the Hearing unless and until the Respondent is found responsible for a violation(s) of the Code.
- b. The Chair of the Hearing Panel or the Administrative Hearing Officer will exercise control over the proceedings in order to maintain a fair, impartial, and efficient Hearing. The Chair of the Hearing Panel or the Administrative Hearing Officer may exclude or remove any person who unreasonably delays, disrupts, or otherwise interferes with the Hearing, including the Respondent or his/her Advisor or Representative.
- c. A Staff Advisor designated by the Director will attend the Hearing, may comment on questions of procedure and admissibility of evidence, and will otherwise assist in conducting the Hearing. The Staff Advisor will be present during deliberations of the Hearing Panel but may not actively participate in the deliberations or vote.
- d. Each Hearing shall be audio recorded and/or transcribed by the University and not by any other person, and the recording and/or written transcript becomes a part of the case file in the Office of Student Conduct. All documents or recordings included in the case file are the property of the University.

#### **7. Closed Hearing**

A Hearing before a Hearing Panel is an open meeting pursuant to North Carolina law; however, the Hearing shall be closed to the public once a proper motion to go into closed session is made and adopted by the Hearing Panel. Once the Hearing is closed, admission of any person to the Hearing shall be at the discretion of the Chair of the Hearing Panel, in consultation with the Staff Advisor pursuant to Chapter 7, Section II.6.b of the Code.

A Hearing before an Administrative Hearing Officer is never an open meeting and is therefore closed to the public. Admission of any person to the Hearing shall be at the discretion of the Administrative Hearing Officer, in consultation with the Staff Advisor pursuant to Chapter 7, Section II.6.b of the Code.

## 8. Witnesses and Evidence

- a. The Director or designee shall present the case on behalf of the University, including witnesses and/or documentary evidence to establish the Formal Charge(s).
- b. The Director or designee may submit as documentary evidence any notes from the Mutual Resolution process described in Chapter 6, Section VI of the Code.
- c. The Investigator (if applicable) will present the Investigation Report to the Hearing Panel or the Administrative Hearing Officer.
- d. The Respondent is expected to give truthful testimony. Furnishing untruthful testimony may subject the Respondent to additional Conduct Procedures.
- e. The Respondent shall be given the opportunity to present any witnesses or documentary evidence that he/she wishes to offer, provided that, at the discretion of the Chair of the Hearing Panel or the Administrative Hearing Officer, the evidence is relevant to the Formal Charge(s) or other evidence presented and does not otherwise infringe upon the rights of other Students. If the Respondent has a question for a witness during the Hearing, he/she must present the question to the Chair of the Hearing Panel or the Administrative Hearing Officer, who may then ask the question or a rephrased question in his/her discretion on behalf of the Respondent. The Respondent will be afforded the opportunity to examine any documents offered as evidence. Documentary evidence does not include written witness statements. Written witness statements are admissible only in accordance with Chapter 7, Section II.8.g of the Code.
- f. All witnesses are required to give truthful testimony. Furnishing untruthful testimony may subject a University student or employee to appropriate disciplinary action.
- g. All witnesses are expected to attend the Hearing. University students or employees called as witnesses must attend the Hearing unless compliance would result in significant and unavoidable personal hardships or substantial interference with normal University activities. A desire to avoid questioning may not be used to demonstrate "personal hardships." Failing to appear after an appropriate request may subject a University student or employee to appropriate disciplinary action. Subject to other provisions in the Code related to the admissibility of evidence, written witness statements in lieu of appearance and testimony at the Hearing may be admitted into evidence only if the witness's attendance would result in significant and unavoidable personal hardships or substantial interference with normal University activities. To be eligible for admission into evidence, such written statements must be signed by the individual writing the statement and verified by a person designated by the Director.

## 9. Impact Statements and Character Documents

If the Hearing Panel or Administrative Hearing Officer determines that the Respondent is responsible for a violation(s) of the Code, the Respondent may present an impact statement as part of the sanctioning phase of the Hearing. The Respondent may also present any documents or letters regarding his/her character as part of the sanctioning phase of the Hearing.

If the Hearing Panel or Administrative Hearing Officer determines that the Respondent is responsible for a violation(s) of the Code related to a crime of violence (as defined in Section II.B.10 of University Policy 402, Student Education Records (FERPA)), any victim of the crime of violence may present an impact statement as part of the sanctioning phase of the Hearing.

The Hearing Panel or Administrative Hearing Officer may consider, but is not bound by, any impact statements or character documents in determining a recommendation on sanction(s).

**Chapter 8. Additional Conduct Procedures Applicable to Reports of Sexual and Interpersonal Misconduct**

**Section I. Overview and Purpose**

Chapter 8 of the Code provides additional Conduct Procedures applicable to alleged Sexual and Interpersonal Misconduct by Students or Student Organizations (Sexual and Interpersonal Misconduct Procedures). Sexual and Interpersonal Misconduct, as defined in the Code, includes a broad range of behavior that is not tolerated in the University community.

The University is committed to fostering an environment that encourages prompt reporting of all types of Sexual and Interpersonal Misconduct; a timely response to reports; and a fair, impartial, and equitable investigation and resolution process. Pursuant to the Code, the University will provide a prompt, fair, and impartial investigation and resolution of Sexual and Interpersonal Misconduct reports. Absent extenuating circumstances, the University strives to investigate and resolve cases of alleged Sexual and Interpersonal Misconduct within sixty (60) Days of the initial report, excluding any appeal(s). In the University's experience, however, extenuating circumstances including, but not limited to, parallel criminal investigations, multiple witnesses, and difficulties with availability and scheduling, almost always exist; therefore, many cases may take up to one hundred twenty (120) Days to be resolved. Both the Respondent and the Complainant will be notified in writing if the investigation and resolution will take more than one hundred twenty (120) Days and of the reason(s) for the delay.

Sexual and Interpersonal Misconduct violates University policy and federal civil rights laws and may also be subject to criminal prosecution separate from the Conduct Procedures, as described in Chapter 4, Section III of the Code.

The Sexual and Interpersonal Misconduct Procedures are designed to provide a fair and impartial process for both the Complainant and the Respondent. As a public institution, the University provides due process to Respondents accused of Sexual and Interpersonal Misconduct. Consistent with due process, a Respondent is presumed not responsible until determined otherwise through the Conduct Procedures.

All persons involved in addressing reports of Sexual and Interpersonal Misconduct under the Code receive annual training on issues related to Sexual and Interpersonal Misconduct and how to conduct a fair and impartial investigation and resolution process that protects the safety of Complainants, protects the due process rights of Respondents, and promotes accountability.

In responding to reports of Sexual and Interpersonal Misconduct, the University complies with Title IX of the Higher Education Amendments of 1972 ("Title IX") and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, as amended by the Campus Sexual Violence Elimination Act ("Clery Act"). The Code and any referenced documents constitute the policy and procedure required by both Title IX and the Clery Act.

**Section II. Violations**

The Sexual and Interpersonal Misconduct Procedures shall apply when the following violation(s) of the Code are alleged:

1. Prohibited conduct under Chapter 5, Paragraphs a.5, a.6, and a.9:
  - a.5.i. Acts of Harm: Relationship Violence, Dating Violence
  - a.5.ii. Acts of Harm: Relationship Violence, Domestic Violence
  - a.6. Acts of Harm: Stalking
  - a.9. Acts of Harm: Gender-Based Harassment

2. Prohibited conduct under Chapter 5, Paragraph p:

- p.1. Sexual Misconduct: Sexual Act without Consent
- p.2. Sexual Misconduct: Sexual Contact without Consent
- p.3. Sexual Misconduct: Sexual Exhibitionism without Consent
- p.4. Sexual Misconduct: Sexual Exploitation without Consent
- p.5. Sexual Misconduct: Sexual Harassment
- p.6. Sexual Misconduct: Incest

3. Prohibited conduct under Chapter 5, Paragraph z:

- z. Retaliation (when related to any person making a report of Sexual and Interpersonal Misconduct or any person cooperating in the investigation of any allegation of Sexual and Interpersonal Misconduct, including providing a statement or testimony as a witness)

**Section III. Timing; Preservation of Evidence; Other Violations; Retaliation**

**1. Timing of Reports and Availability of Procedures**

There is no time limit to invoking the Sexual and Interpersonal Misconduct Procedures. Nevertheless, individuals are encouraged to submit a report immediately after the alleged violation(s) occur in order to maximize the University's ability to obtain information and conduct a thorough, impartial, and reliable investigation. Failure to promptly report alleged Sexual and Interpersonal Misconduct may result in the loss of relevant information and witness testimony and may impair the University's ability to implement the Sexual and Interpersonal Misconduct Procedures.

An individual who allegedly experienced Sexual and Interpersonal Misconduct has the right to file a criminal complaint with Police and Public Safety or other appropriate law enforcement. The individual is not required to file a criminal complaint and may choose to pursue only the University student conduct process as described in the Code. The processing of a report pursuant to the Code is independent of any criminal investigation. The Conduct Procedures in the Code differ from the criminal justice system in scope, purpose, procedure, and outcome, and they are not designed to replace state or federal criminal laws or procedures. The University will not wait until the conclusion of a criminal investigation or criminal proceeding to investigate a report of Sexual and Interpersonal Misconduct and, if needed, will take interim action to protect the individual within the educational setting. The Title IX Office may be given access to any investigation notes and findings of Police and Public Safety needed to investigate the report, as long as the criminal investigation is not compromised.

**2. Preservation of Evidence**

Individuals are encouraged to preserve any evidence that may be important to an investigation of a report of Sexual and Interpersonal Misconduct, including, but not limited to, handwritten or electronic communications such as text messages, telephone messages, emails, and videos and/or photographs related to the incident. The University encourages an individual who allegedly experienced Sexual and Interpersonal Misconduct to seek medical help within seventy-two (72) hours of an incident so that any physical evidence can be preserved for use at a later date should that be necessary.

**3. Other Violations**

A priority of the University is Student safety, and the use of alcohol or drugs never makes a Complainant at fault for incidents of Sexual and Interpersonal Misconduct. A person should not be deterred from reporting an alleged incident(s) of Sexual and Interpersonal Misconduct simply because the Complainant or any witness may have violated the Code. Therefore, any alcohol, drug, or other alleged violation(s) of the Code will be addressed separately. The Director may, in

his/her discretion and on a case-by-case basis, determine not to pursue a Formal Charge(s) for any related alleged violation(s) of the Code.

#### **4. Retaliation**

Retaliation against any person making a report of Sexual and Interpersonal Misconduct or against any person cooperating in the investigation of or Conduct Procedures for any allegation of Sexual and Interpersonal Misconduct, as described in Chapter 8, Section II.3 of the Code, is prohibited by Title IX and the Code. Any such retaliation should be reported promptly to the Title IX Office, and in the case of imminent threat of serious bodily injury, to Police and Public Safety. Retaliation will be addressed separately from the underlying allegation(s) of Sexual and Interpersonal Misconduct.

### **Section IV. Reporting and Response Protocols**

The Title IX Coordinator is authorized to enact procedures that include specific instructions for reporting and responding to incidents of Sexual and Interpersonal Misconduct. Any person may report an alleged incident online at incidentreport.uncc.edu or to the Title IX Office.

### **Section V. Advisors and Representatives**

#### **1. Advisors**

The accused Student, Complainant, and any witnesses may be accompanied in any Sexual and Interpersonal Misconduct Procedures by an Advisor of their choice as described in Chapter 6, Section II of the Code.

#### **2. Representatives**

If the Director pursues a Formal Charge(s) against a Respondent, the Respondent and the Complainant each have the right to be represented, at his/her own expense, by a Representative as described in Chapter 6, Section III of the Code.

### **Section VI. Initial Response**

#### **1. Initial Meeting with Complainant**

Upon receipt of a report of any allegation of Sexual and Interpersonal Misconduct, the Title IX Coordinator or designee will promptly request a meeting with the Complainant to:

- a. provide the Complainant with a general understanding of the Code, specifically the Sexual and Interpersonal Misconduct Procedures and the investigation process;
- b. provide the Complainant with a written explanation of the Complainant's rights and options pursuant to the Code, including the right to an Advisor as described in Chapter 6, Section II of the Code and to have a Representative participate as described in Chapter 6, Section III of the Code;
- c. discuss and provide written information regarding forms of support or immediate interventions available to the Complainant, such as on and off-campus resources, interim measures, etc.;
- d. discuss and provide written information regarding any accommodations that may be appropriate concerning the Complainant's academic, University housing, transportation, and/or University employment arrangements;
- e. seek to determine if the Complainant wishes to notify law enforcement authorities, wishes to be assisted in notifying law enforcement authorities, or does not wish to notify law enforcement authorities of the allegation(s); and
- f. inform the Complainant about how the University will protect the Complainant's confidentiality, including the omission of the Complainant's identifying information in publicly available records, to the extent permissible by law.

## **2. Complainant Does Not Wish to Proceed or Requests Confidentiality**

If the Complainant does not wish to proceed with an investigation or the University student conduct process, and/or requests the report remain confidential, Title IX still requires the University to investigate and take reasonable action in response to the Complainant's information or any other information learned while reviewing the report. The Title IX Coordinator or designee will inform the Complainant that the University's ability to respond may be limited without the Complainant's participation.

The Title IX Coordinator will weigh the Complainant's request(s) for confidentiality and/or wish not to proceed with an investigation or the University student conduct process against the University's obligation to provide a safe, non-discriminatory environment for all Students. Specifically, the Title IX Coordinator may consider the following factors:

- a. the seriousness of the alleged Sexual and Interpersonal Misconduct;
- b. whether there have been other known reports of Sexual and Interpersonal Misconduct against the same accused Student at the University or any other school or known prior criminal charges against the accused Student;
- c. whether the accused Student threatened further Sexual and Interpersonal Misconduct, Retaliation, or violence against the Complainant or others;
- d. whether the Sexual and Interpersonal Misconduct was committed by multiple individuals;
- e. whether the Sexual and Interpersonal Misconduct involved use of a weapon;
- f. the age of the Complainant;
- g. whether the University possesses other means to obtain relevant evidence of the Sexual and Interpersonal Misconduct;
- h. whether the report reveals a pattern of conduct at a particular location or by a particular Student and/or Student Organization; and
- i. the accused Student's right to receive information about the allegation(s) if the information is maintained by the University as an "education record" under FERPA.

The Title IX Coordinator or designee will inform the Complainant if the University cannot ensure confidentiality. In an instance where the University must disclose a Complainant's identity to a Respondent after the Complainant has requested confidentiality, the Title IX Coordinator or designee will inform the Complainant prior to making the disclosure.

Even if the Complainant does not wish to proceed with an investigation or the University student conduct process because the Complainant insists on confidentiality or requests that the report not be resolved, the University reserves the authority to undertake an appropriate action, including the interim measures described in Chapter 8, Section VI.4 of the Code. The Title IX Coordinator or designee will inform the Complainant that the University will follow the Conduct Procedures in resolving the report.

## **3. Complainant Wishes to Proceed with the University Student Conduct Process**

A Complainant may elect to proceed with the University student conduct process, which may involve a Hearing before an Administrative Hearing Officer pursuant to the Sexual and Interpersonal Misconduct Procedures.

## **4. Interim Measures**

In all reports of alleged Sexual and Interpersonal Misconduct, the University may take prompt action to prevent continuing or future acts of Sexual and Interpersonal Misconduct in any form against any person who participates in the investigation and Conduct Procedures. Such action may include an interim suspension as outlined in Chapter 6, Section IV of the Code. The University may also take immediate steps to accommodate reasonable requests for academic, University housing, transportation, University employment, and other accommodations as appropriate.

## 5. Initial Meeting with Accused Student

Upon determining the most appropriate next steps, the Title IX Coordinator or designee will promptly request a meeting with the accused Student to:

- a. provide the accused Student with a general understanding of the Code, specifically the Sexual and Interpersonal Misconduct Procedures and the investigation process;
- b. provide the accused Student with a written explanation of the accused Student's rights and options pursuant to the Code, including the right to an Advisor as described in Chapter 6, Section II of the Code and to have a Representative participate as described in Chapter 6, Section III of the Code;
- c. discuss and provide written information regarding forms of support or immediate interventions available to the accused Student, such as on and off-campus resources, interim measures, etc.;
- d. discuss and provide written information regarding any accommodations that may be appropriate concerning the accused Student's academic, University housing, transportation, and/or University employment arrangements; and
- e. inform the accused Student about how the University will protect the accused Student's confidentiality, including the omission of the accused Student's identifying information in publicly available records, to the extent permissible by law.

## Section VII. Investigation Proceedings

Independent of the Director's determination whether to pursue a Formal Charge(s) under the Code, the Title IX Coordinator will determine whether to conduct an investigation. If the Director determines that a Formal Charge(s) will be pursued and delivers the written notice of referral as set forth in Chapter 6, Section I of the Code, the accused Student becomes a Respondent. The Director will appoint the Title IX Coordinator, who may then appoint one or more designees, to conduct the investigation.

The Investigator will provide a written notice of investigation to both the Respondent and Complainant. This notice will include a reference to the Formal Charge(s); a description of the investigation process; a reminder regarding the preservation of evidence as described in Chapter 8, Section III.2 of the Code; a reminder regarding the Respondent's and Complainant's right to be represented, at their own expense, by a Representative; a reaffirmation of available resources throughout the Conduct Procedures; and a reminder that retaliation is prohibited under the Code.

The Investigator will conduct interviews with the Complainant, the Respondent, and any relevant third party witnesses, and will collect and review any other information relevant to the report. When applicable, the Investigator will coordinate with Police and Public Safety and other law enforcement officials. If during the investigation proceedings, the Respondent reports alleged Sexual and Interpersonal Misconduct by the Complainant and the Director makes the determination to pursue a Formal Charge(s) under the Code, the Title IX Coordinator or designee may conduct the investigations simultaneously.

All interviews conducted by the Investigator will be audio recorded by the Investigator. The Complainant, Respondent(s), and any third party witness may also record their own interviews utilizing their own recording devices. Notice will be provided to each interviewee that the interview is being recorded.

Once the formal investigation is completed, the Investigator will prepare an Investigation Report. After the Title IX Coordinator or designee reviews the Investigation Report, the Investigator will distribute a draft of the Investigation Report to the Complainant and the Respondent and will provide the Complainant and the Respondent an opportunity to offer additions or clarifications to the Investigation Report. The Investigator will offer to meet independently with the Complainant and the Respondent to discuss the Investigation Report, answer any questions, and discuss next steps. Once the Investigation Report is finalized, the Investigator will distribute the documents to the Director.

The Director will then make a determination as to whether to continue pursuing the Formal Charge(s). If the Director determines that the Formal Charge(s) will be pursued, the case may be resolved through a Mutual Resolution or through an In Absentia Resolution, or may be referred to a Hearing, as provided in Chapter 6 of the Code. If the Director determines that the Formal Charge(s) will not be pursued, the Complainant may request an independent review of the Director's determination by submitting a written request to the Dean of Students within five (5) Days of receiving notice of the determination. Both the Respondent and Complainant shall be notified within a reasonable time in writing of the Dean of Student's decision. The decision of the Dean of Students is final and conclusive.

### **Section VIII. Notice of Hearing**

If, pursuant to Chapter 6 of the Code, the case is referred to a Hearing, the Director shall deliver a written notice of Hearing to the Respondent and the Complainant. The notice of Hearing will include the following:

- a. notice of the Formal Charge(s), citing the alleged behavior prohibited by the Code;
- b. the date, time, and location for the Hearing;
- c. the name of the Administrative Hearing Officer who will hear the case;
- d. the names of any witnesses being called to provide testimony;
- e. a statement indicating that the Respondent and the Complainant may seek assistance from a Student Conduct Counselor in the preparation of his/her case for the Hearing;
- f. a statement indicating that the Respondent and the Complainant have the right to be represented, at their own expense, by a Representative during the Conduct Procedures pursuant to Chapter 6, Section III of the Code;
- g. if a Serious Violation, notice that possible sanctions include Conduct Suspension or Expulsion for a Student or Registration Suspension or Registration Revocation for a Student Organization; and
- h. if a Serious Violation, notice that the Respondent's University account and official academic transcript will be placed on hold until determinations on responsibility and sanction(s) (if applicable) are made.

In a case of a **Minor Violation**, the Respondent and the Complainant shall have no fewer than five (5) Days' notice of the Hearing. In a case of a **Serious Violation**, the Respondent and the Complainant shall have no fewer than ten (10) Days' notice of the Hearing. The time limit for any notice of the Hearing may be waived by both the Respondent and the Complainant.

Notice is sufficient if sent via email to the Respondent's and the Complainant's University email addresses or mailed via first class, registered, or certified mail to the Respondent's and the Complainant's current addresses as shown in the student information system on the date of mailing. All claims of failure to receive adequate notice are waived by the Respondent and the Complainant if the Respondent and the Complainant appear at the Hearing and do not formally raise the issue of adequate notice at the first opportunity.

### **Section IX. Conduct of the Hearing**

#### **1. Attendance of Parties**

The Respondent and the Complainant may remain present throughout the Hearing, with the exception of the Administrative Hearing Officer deliberations. If either the Respondent or the Complainant fails to appear at the Hearing after being notified pursuant to the Code, the Hearing will continue in his/her absence.

#### **2. Attendance of Student Conduct Counselors**

A Student Conduct Counselor will attend the Hearing and may provide procedural advice to the Respondent. An additional Student Conduct Counselor will attend the Hearing and may provide

procedural advice to the Complainant. Any witnesses called to provide testimony may seek procedural advice from a Student Conduct Counselor. Participants may decline the assistance of a Student Conduct Counselor. The Student Conduct Counselor is in addition to the Respondent's and the Complainant's respective Representatives and any Advisors, as described in Chapter 6 of the Code.

**3. Challenges of Administrative Hearing Officer**

The Respondent or the Complainant may challenge the Administrative Hearing Officer on grounds of bias or a personal relationship that might affect impartial consideration of the case. The Respondent or the Complainant must submit the challenge in writing to the Director at least two (2) Days prior to the scheduled Hearing. The Director must decide the challenge prior to the Hearing. If the Director determines possible bias, he/she will excuse the Administrative Hearing Officer and appoint a replacement. The Hearing may be rescheduled at the discretion of the Director in order to appoint an available replacement.

**4. Multiple Respondents**

Pursuant to FERPA, a Formal Charge(s) against multiple Respondents involved in the same incident may be heard in a single Hearing only if each Respondent consents in writing in advance of the Hearing.

**5. Special Accommodations**

Upon timely request to the Director or designee by the Respondent, the Complainant, or any witnesses, the University may be able to provide special accommodations for testimony by alternate methods (e.g., room divider or video conference). Such accommodations are at the discretion of the Director or designee, in consultation with the Title IX Coordinator. When possible, the Respondent and the Complainant will be notified in writing in advance of the Hearing of any special accommodations granted.

**6. Administration of the Hearing**

- a. Formal rules of evidence do not apply. The Administrative Hearing Officer, in consultation with the Staff Advisor, will determine the admissibility of any information. The Respondent's prior conduct record is not to be considered in the Hearing unless and until the Respondent is found responsible for a violation(s) of the Code.
- b. The Administrative Hearing Officer will exercise control over the proceedings in order to maintain a fair, impartial, and efficient Hearing. The Administrative Hearing Officer may exclude or remove any person who unreasonably delays, disrupts, or otherwise interferes with the Hearing, including the Respondent, the Complainant, or either of their Representatives or Advisors.
- c. A Staff Advisor designated by the Director will attend the Hearing to assist the Administrative Hearing Officer, may comment on questions of procedure and admissibility of evidence, and will otherwise assist in conducting the Hearing. The Staff Advisor will be present while the Administrative Hearing Officer makes any determinations, but may not actively participate in the determinations.
- d. Each Hearing shall be audio recorded and/or transcribed by the University and not by any other person, and the recording and/or written transcript becomes a part of the case file in the Office of Student Conduct. All documents or recordings included in the case file are the property of the University.

## 7. Closed Hearing

The Hearing is closed to the public. Admission of any person to the Hearing shall be at the discretion of the Administrative Hearing Officer, in consultation with the Staff Advisor pursuant to Chapter 8, Section IX.6.b of the Code. The Respondent and the Complainant shall have the same opportunities to have others present.

## 8. Witnesses and Evidence

- a. The Title IX Coordinator or Investigator will present the Investigation Report to the Administrative Hearing Officer.
- b. The Respondent and Complainant are expected to give truthful testimony. Furnishing untruthful testimony may subject the Respondent or the Complainant to additional Conduct Procedures.
- c. All witnesses with any relevant information and all relevant evidence must be brought to the attention of the Investigator during the investigation. Absent extraordinary circumstances and except in the case of character documents as described in Chapter 8, Section IX.9 of the Code, no witnesses who were not brought to the attention of the Investigator may participate in the Hearing, and no evidence that was not brought to the attention of the Investigator may be presented.
- d. The Respondent and the Complainant will not be allowed to directly cross-examine or question each other or any witnesses under any circumstances. If the Respondent or the Complainant has a question for each other or a witness during the Hearing, he/she must present the question to the Administrative Hearing Officer, who may then ask the question or a rephrased question in his/her discretion on behalf of either the Respondent or the Complainant. The Respondent and the Complainant will be afforded an opportunity to examine any documents offered as evidence.
- e. All witnesses are required to give truthful testimony. Furnishing untruthful testimony may subject a University student or employee to appropriate disciplinary action.
- f. All witnesses are expected to attend the Hearing. University students or employees called as witnesses must attend the Hearing unless compliance would result in significant and unavoidable personal hardships or substantial interference with normal University activities. A desire to avoid questioning may not be used to demonstrate "personal hardships." Failing to appear after an appropriate request may subject a University student or employee to appropriate disciplinary action. Subject to other provisions in the Code related to the admissibility of evidence, written witness statements in lieu of appearance and testimony at the Hearing may be admitted into evidence only if (a) the witness was not interviewed by the Investigator during the investigation proceedings and (b) the witness's attendance would result in significant and unavoidable personal hardships or substantial interference with normal University activities. To be eligible for admission into evidence, such written statements must be signed by the individual writing the statement and verified by a person designated by the Director.
- g. The Respondent's or Complainant's prior sexual history is generally not relevant and will not be considered as evidence except in the following circumstances: (a) the Respondent's prior sexual history or other behavior may be relevant when that history or behavior is sufficiently similar to the alleged violation(s) to demonstrate a pattern of conduct; (b) the Complainant's prior sexual history with the Respondent may be relevant to assess the manner and nature of communications between them with respect to Consent; or (c) the Complainant's or Respondent's prior sexual history with any other person may be relevant under very limited circumstances to prove intent, motive, absence of mistake, or to explain an injury or physical finding. In rare circumstances, the

Administrative Hearing Officer, in consultation with the Staff Advisor, may determine that evidence related to prior sexual history is relevant even if not covered by one of the exceptions above.

**9. Impact Statements and Character Documents**

If the Administrative Hearing Officer determines that the Respondent is responsible for a violation(s) of the Code, the Respondent may present an impact statement as part of the sanctioning phase of the Hearing. The Respondent may also present any documents or letters regarding his/her character as part of the sanctioning phase of the Hearing.

If the Administrative Hearing Officer determines that the Respondent is responsible for a violation(s) of the Code related to Sexual and Interpersonal Misconduct, the Complainant may present an impact statement as part of the sanctioning phase of the Hearing.

If the Administrative Hearing Officer determines that the Respondent is responsible for a violation(s) of the Code related to a crime of violence (as defined in Section II.B.10 of University Policy 402, Student Education Records (FERPA)), any victim of the crime of violence may present an impact statement as part of the sanctioning phase of the Hearing.

The Administrative Hearing Officer may consider, but is not bound by, any impact statements or character documents in determining a recommendation on sanction(s).

**Section X. Simultaneous Notification**

The Notice of Outcome as set forth in Chapter 9, Section III of the Code shall be sent to the Respondent and the Complainant simultaneously. The Respondent and Complainant will also be simultaneously notified if any portion of the determinations changes on appeal and when the determinations become final.

**Chapter 9. Recommendations and Determinations on Responsibility and Sanction(s)**

**Section I. Determination on Responsibility**

The determination by the Hearing Panel or Administrative Hearing Officer on responsibility for any Formal Charge(s) shall be made in private, based solely on the evidence presented at the Hearing. In the case of a Hearing Panel, the determination shall be by majority vote. The determination on responsibility must be announced at the Hearing prior to making a recommendation on sanction(s). The determination on responsibility must contain a brief rationale upon which the determination is based.

**Section II. Recommendation on Sanction(s)**

A determination by the Hearing Panel or Administrative Hearing Officer that a Respondent is responsible for any Formal Charge(s) shall be followed by a recommendation of an appropriate sanction(s). The prior conduct record of the Respondent shall be considered in determining a recommendation of an appropriate sanction(s). After private deliberation on the appropriate sanction(s), the Hearing Panel or Administrative Hearing Officer will announce the recommended sanction(s) at the Hearing and shall specify appeal rights, including the time in which to appeal and the permitted grounds for the appeal. The recommendation on sanction(s) must contain a brief rationale upon which the recommendation is based.

**Section III. Determination on Sanction(s)**

The Hearing Panel's or Administrative Hearing Officer's determination on responsibility and recommendation on sanction(s) (if applicable) shall be transmitted to the Director in the form of a brief written summary noting the rationales upon which the determination and recommendation are based.

**1. Determination by the Director**

The Director has the authority to Affirm or adjust the sanction(s) other than Expulsion or Registration Revocation recommended by the Hearing Panel or Administrative Hearing Officer. The Director shall deliver his/her determination in a written Notice of Outcome to the Respondent and the Complainant (if applicable) no later than ten (10) Days after the recommendation is made.

**2. Determination by the Vice Chancellor**

The Vice Chancellor has the authority to Affirm or adjust the sanction of Expulsion or Registration Revocation recommended by the Hearing Panel or Administrative Hearing Officer. When the Hearing Panel or Administrative Hearing Officer recommends a sanction of Expulsion or Registration Revocation, the Director shall deliver that recommendation to the Vice Chancellor, who shall make a final determination on the sanction of Expulsion or Registration Revocation. The Vice Chancellor shall deliver his/her determination in a written Notice of Outcome to the Respondent and the Complainant (if applicable) no later than ten (10) Days after the recommendation is made.

## Chapter 10. Sanctions

All recommended sanctions require review in accordance with Chapter 9, Section III of the Code and may be altered or deferred. Compelling factors that affect the severity of the sanction(s) may include, but are not limited to, the present demeanor and past conduct record of the Respondent; the nature of the incident; the severity of any damage, injury, or harm resulting from the incident; and whether the incident was motivated by bias based upon a person's actual or perceived race, color, religion, age, national origin, ethnicity, gender, gender identity or expression, sexual orientation, disability, or veteran status.

### Section I. Individual Student Sanctions

One or more of the following sanctions may be imposed on a Student found responsible for a violation(s) of the Code.

1. **Conduct Reprimand** – Formal written reprimand indicating that the Respondent's behavior was unacceptable and that if the Respondent is subsequently found responsible for a violation(s) of the Code, more severe sanctions could result.
2. **Conduct Probation** – A status in which the Respondent is deemed not to be in good conduct standing with the University for a definite period of time not less than the remainder of the semester in which the Conduct Probation is imposed or for an indefinite period of time. Conduct Probation does not affect the Respondent's academic standing, is not shared with faculty members, and is not notated on the Respondent's academic transcript. In the event the Respondent is subsequently found responsible for a violation(s) of the Code while on Conduct Probation, more severe sanctions, including Conduct Suspension or Expulsion, could result. Conditions restricting the Respondent's participation in University activities may also be imposed. If the Conduct Probation is for an indefinite period, the Respondent may petition the Director in writing for reinstatement to good standing, but not earlier than two (2) calendar years from the effective date of the Conduct Probation.
3. **Deferred Conduct Suspension** – A status in which the Respondent is deemed not to be in good conduct standing with the University for a definite period of time not less than the remainder of the semester in which the Deferred Conduct Suspension is imposed or for an indefinite period of time. Deferred Conduct Suspension does not affect the Respondent's academic standing, is not shared with faculty members, and is not notated on the Respondent's academic transcript. In the event the Respondent is subsequently found responsible for a violation(s) of the Code while on Deferred Conduct Suspension, more severe sanctions, including Conduct Suspension or Expulsion, could result, with Conduct Suspension being considered as a most likely possibility. Conditions restricting the Respondent's participation in University activities may also be imposed. If the Deferred Conduct Suspension is for an indefinite period, the Respondent may petition the Director in writing for reinstatement to good standing, but not earlier than two (2) calendar years from the effective date of the Deferred Conduct Suspension.
4. **Conduct Suspension** – Separation of the Respondent from the University for a definite period of time not less than the remainder of the semester in which the Conduct Suspension is imposed or for an indefinite period of time. During the Conduct Suspension period, the Respondent is trespassed from the University and may not be present on University Premises; attend or participate in classes; access various University electronic systems, including, but not limited to, email services; or participate in Student Organizations or any University-sponsored program, activity, or related event. Violation of the terms of Conduct Suspension may subject the Respondent to additional sanctions pursuant to Chapter 5, Paragraph e and Chapter 5, Paragraph q of the Code and/or to arrest. The Respondent will be automatically withdrawn from registered courses based upon the effective date of the Conduct Suspension. The Respondent will be responsible for any financial obligations to the University but may be eligible for a reduction of tuitions and fees based upon the effective date of the Conduct Suspension and the University's Reduction of Tuition and Fees

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Schedule. Notification of the Conduct Suspension will appear on the Respondent's academic transcript and will remain until the end of the Conduct Suspension period. The Respondent's name will be added to the UNC System Suspension/Expulsion Database, where it will remain indefinitely. In order to re-enroll at the University at the conclusion of the Conduct Suspension period, the Respondent must reapply for admission to the University, but no Respondent may re-enroll at the University until after the Conduct Suspension period has ended. If the Conduct Suspension is for an indefinite period, the Respondent may petition the Director in writing for reinstatement to good standing, but not earlier than two (2) calendar years from the effective date of the Conduct Suspension. If the Director grants reinstatement, the Respondent may reapply for admission to the University, but no Respondent may re-enroll at the University until after the Director has granted reinstatement.

5. **Expulsion** – Permanent separation of the Respondent from the University. The Respondent is trespasses from the University and may not be present on University Premises; attend or participate in classes; access various University electronic systems, including, but not limited to, email services; or participate in Student Organizations or any University-sponsored program, activity, or related event. Violation of the terms of Expulsion may subject the Respondent to arrest. The Respondent will be automatically withdrawn from registered courses based upon the effective date of the Expulsion. The Respondent will be responsible for any financial obligations to the University but may be eligible for a reduction of tuitions and fees based upon the effective date of the Expulsion and the University's Reduction of Tuition and Fees Schedule. A Respondent who has been expelled from one constituent institution of The University of North Carolina system may not be admitted to another UNC System institution until the Expulsion has been rescinded by the institution that imposed the sanction. Notification of the Expulsion will appear on the Respondent's academic transcript until the date the Expulsion is rescinded, if it is rescinded. The Respondent's name will be added to the UNC System Suspension/Expulsion Database, where it will remain indefinitely. The Respondent may petition the Chancellor in writing for the Expulsion to be rescinded, but not earlier than two (2) calendar years from the effective date of the Expulsion.
6. **Removal from University Housing** – Loss of the privilege of living in University housing. Removal may be for a definite period of time not less than the remainder of the semester in which the Removal is imposed or for an indefinite period of time. If the Removal is for an indefinite period, the Respondent may petition the Director in writing for restoration of University housing privileges, but not earlier than one (1) calendar year from the effective date of the Removal. Any cancellation fee, pro-rata refund, or return of deposit shall be assessed as set forth in the housing contract between the University and the Respondent.
7. **Post-Enrollment and Post-Graduation Sanctions** – A Respondent who is found responsible for a violation(s) of the Code, but who graduates from the University before imposition of a sanction, is subject to (a) revocation of any degree awarded; (b) temporary or permanent withholding of the transcript for any degree earned, regardless of whether the degree has been awarded; and/or (c) having sanction(s) imposed as a condition of re-enrollment at the University.
8. **Additional Sanctions** – The following sanctions may be imposed in addition to those listed in **Chapter 10, Section I.1-7** of the Code:
  - a. restitution for loss incurred by an individual or the University as a result of the Respondent's violation(s);
  - b. exclusion and/or trespass from all or a portion of any University Premises or any University-sponsored program, activity, or related event, as specified in the sanction, for a definite or indefinite period of time;
  - c. loss of driving and/or parking privileges on University Premises;
  - d. a student conduct fee not to exceed \$100;
  - e. community service and/or participation in educational programs;

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- f. restitution for expenses incurred by individuals or the University as a result of providing educational programs or other educational experiences related to the violation(s);
- g. parental/guardian notification, pursuant to Section II.B.11 of University Policy 402, Student Education Records (FERPA); or
- h. any other appropriate sanction as determined by the Director or designee.

**Section II. Student Organization Sanctions**

One or more of the following sanctions may be imposed on a Student Organization found responsible for a violation(s) of the Code.

1. **Conduct Reprimand** – Formal written reprimand indicating that the Respondent's behavior was unacceptable and that if the Respondent is subsequently found responsible for a violation(s) of the Code, more severe sanctions could result.
2. **Registration Probation** – A status in which the Respondent is deemed not to be in good conduct standing with the University for a definite period of time not less than the remainder of the semester in which the Registration Probation is imposed. In the event the Respondent is subsequently found responsible for a violation(s) of the Code while on Registration Probation, more severe sanctions, including Registration Suspension or Registration Revocation, could result. The Respondent may seek and add members during this probationary period and may host other activities unless otherwise specified.
3. **Registration Suspension** – Removal of University recognition of the Respondent for a definite period of time. During the period of Registration Suspension, the Respondent is deemed not to be in good conduct standing with the University. While under Registration Suspension, the Respondent may continue to occupy or hold property, but may not function at the University; utilize University facilities or services; or participate in any University-sponsored program, activity, or related event..
4. **Registration Revocation** – Permanent removal of University recognition of the Respondent. The Respondent may not function at the University; utilize University facilities or services; or participate in any University-sponsored program, activity, or related event. The Respondent may petition the Vice Chancellor in writing for the Registration Revocation to be rescinded, but not earlier than two (2) calendar years from the effective date of the Registration Revocation.
5. **Additional Sanctions** – The following sanctions may be imposed in addition to those listed in Chapter 10, Section II.1-4 of the Code:
  - a. exclusion from intramural competition;
  - b. restitution for loss incurred by an individual or the University as a result of the Respondent's violation(s).
  - c. denial of use of University Premises for meetings or activities;
  - d. exclusion and/or trespass from all or a portion of any University Premises or any University-sponsored program, activity, or related event, as specified in the sanction, for a definite or indefinite period of time;
  - e. suspension of rushing, recruiting, or intake processes;
  - f. loss of social privileges where the Respondent may not sponsor any activity, party, or function that is social in nature during the established period of time;
  - g. community service and/or participation in educational programs;
  - h. restitution for expenses incurred by individuals or the University as a result of providing educational programs or other educational experiences related to the violation(s); or
  - i. any other appropriate sanction as determined by the Director or designee.

**Section III. Deferral of Sanctions**

At the discretion of the Director, the imposition of a sanction normally will be deferred until after a decision on a first-level appeal as described in Chapter 11 of the Code, but may be imposed immediately after the Hearing if:

1. the Respondent has been found responsible for an act which resulted or foreseeably could have resulted in personal injury to another;
2. the Respondent has been found to be in possession of a Weapon;
3. the Respondent has been found responsible for the forgery or falsification of a University document; or
4. the Respondent has committed an additional violation of the Code or has violated the terms of a previous sanction(s).

## Chapter 11. Appeals

### Section I. Process

Within five (5) Days after delivery of the Notice of Outcome, as set forth in Chapter 9, Section III of the Code, the Respondent or Complainant (if applicable) (hereinafter collectively, Appellant) may submit written rationale for appeal of the determination on responsibility and/or the determination on sanction(s) to the Director.

Appeals will be considered only if they are based on the following grounds:

1. a violation of due process; or
2. a material deviation from Substantive and Procedural Standards adopted by the Board of Governors, set forth in The University of North Carolina Board of Governors Policy 700.4.1.

In cases in which there is both a Respondent and a Complainant, each party will be notified that the other party has submitted an appeal, if any.

### Section II. Appeals of Determinations with Sanctions Less Than Conduct Suspension or Registration Suspension

For appeals of determinations with sanctions less than Conduct Suspension or Registration Suspension, the Director or designee will promptly forward appeals meeting the requirements set forth in Chapter 11, Section I of the Code, along with the Record on Appeal, to the Vice Chancellor. Appeals not meeting the requirements set forth in Chapter 11, Section I of the Code, will not be considered.

The Vice Chancellor shall decide appeals based upon the Appellant's written appeal and the Record on Appeal. The decision may:

1. Affirm the determinations on responsibility and the sanction(s) (if applicable);
2. Affirm the determination on responsibility and reduce but not eliminate the sanction(s); or
3. remand the case to the same or a new Hearing Panel or Administrative Hearing Officer.

The Respondent and the Complainant (if applicable) shall be notified within a reasonable time in writing of the decision on appeal. The decision of the Vice Chancellor Affirming the determination on responsibility shall be final and conclusive, and the sanction(s) will be imposed as directed. If the case is remanded to a Hearing Panel or Administrative Hearing Officer, the appropriate Conduct Procedures set forth in the Code shall apply.

### Section III. Appeals of Determinations with Sanctions Including Conduct Suspension or Registration Suspension

#### 1. First-Level Appeals to the Vice Chancellor

For appeals of determinations with sanctions including Conduct Suspension or Registration Suspension, the Director or designee will promptly forward appeals meeting the requirements set forth in Chapter 11, Section I of the Code, along with the Record on Appeal, to the Vice Chancellor. Appeals not meeting the requirements set forth in Chapter 11, Section I of the Code will not be considered.

The Vice Chancellor shall decide first-level appeals based upon the Appellant's written appeal and the Record on Appeal. The decision may:

- a. Affirm the determinations on responsibility and the sanction(s) (if applicable);
- b. Affirm the determination on responsibility and reduce but not eliminate the sanction(s); or
- c. remand the case to the same or a new Hearing Panel or Administrative Hearing Officer.

The Respondent and the Complainant (if applicable) shall be notified within a reasonable time in writing of the decision on appeal. The decision of the Vice Chancellor Affirming the determination on responsibility shall be final and conclusive, and the sanction(s) will be imposed as directed, except that the Respondent or Complainant (if applicable) may appeal the decision to the Board of Trustees under the limited circumstances set forth in Chapter 11, Section III.2 of the Code. If the case is remanded to a Hearing Panel or Administrative Hearing Officer, the appropriate Conduct Procedures set forth in the Code shall apply.

## **2. Appeals to the Board of Trustees**

If the decision of the Vice Chancellor imposes a sanction of Conduct Suspension or Registration Suspension, a Respondent or Complainant (if applicable) who believes that the rights set forth in Section 502 D(3) of The Code of the University of North Carolina (violation of due process or material deviation from Substantive and Procedural Standards adopted by the Board of Governors) have been violated may file a notice of appeal from the decision of the Vice Chancellor to the Board of Trustees.

The notice of appeal must be in writing and must specify the rights alleged to have been violated and the reasons for such allegation. No such notice is effective unless received by the Board of Trustees within five (5) Days after delivery of the decision of the Vice Chancellor. Appeals not meeting the requirements set forth in Chapter 11, Section I of the Code will not be considered.

The Board of Trustees shall decide appeals based upon the Appellant's written appeal and the Record on Appeal. The decision may:

- a. Affirm the determinations on responsibility and the sanction(s) (if applicable);
- b. Affirm the determination on responsibility and reduce but not eliminate the sanction(s); or
- c. remand the case to the same or a new Hearing Panel or Administrative Hearing Officer.

The Respondent and the Complainant (if applicable) shall be notified within a reasonable time in writing of the decision on appeal. If the case is remanded to a Hearing Panel or Administrative Hearing Officer, the appropriate Conduct Procedures set forth in the Code shall apply.

## **Section IV. Appeals of Determinations with Sanctions Including Expulsion or Registration Revocation**

### **1. First-Level Appeals to the Provost**

For appeals of determinations with sanctions including Expulsion or Registration Revocation, the Director or designee will promptly forward appeals meeting the requirements set forth in Chapter 11, Section I of the Code, along with the record of the Record on Appeal, to the Provost. Appeals not meeting the requirements set forth in Chapter 11, Section I of the Code will not be considered.

The Provost shall decide first-level appeals based upon the Appellant's written appeal and the Record on Appeal. The decision may:

- a. Affirm the determinations on responsibility and the sanction(s) (if applicable);
- b. Affirm the determination on responsibility and reduce but not eliminate the sanction(s); or
- c. remand the case to the same or a new Hearing Panel or Administrative Hearing Officer.

The Respondent and the Complainant (if applicable) shall be notified within a reasonable time in writing of the decision on appeal. The decision of the Provost Affirming the determination on responsibility shall be final and conclusive, and the sanction(s) will be imposed as directed, except that the Respondent or Complainant (if applicable) may appeal the decision to the Board of Trustees under the limited circumstances set forth in Chapter 11, Section IV.2 of the Code. If

the case is remanded to a Hearing Panel or Administrative Hearing Officer, the appropriate Conduct Procedures set forth in the Code shall apply.

## **2. Appeals to the Board of Trustees**

If the decision of the Provost imposes a sanction of Expulsion or Conduct Suspension for a Student or Registration Revocation or Registration Suspension for a Student Organization, a Respondent or Complainant (if applicable) who believes that the rights set forth in Section 502 D(3) of The Code of the University of North Carolina (violation of due process or material deviation from Substantive and Procedural Standards adopted by the Board of Governors) have been violated may file a notice of appeal from the decision of the Provost to the Board of Trustees.

The notice of appeal must be in writing and must specify the rights alleged to have been violated and the reasons for such allegation. No such notice is effective unless received by the Board of Trustees within five (5) Days after delivery of the decision of the Provost. Appeals not meeting the requirements set forth in Chapter 11, Section I of the Code will not be considered.

The Board of Trustees shall decide appeals based upon the Appellant's written appeal and the Record on Appeal. The decision may:

- a. Affirm the determinations on responsibility and the sanction(s) (if applicable);
- b. Affirm the determination on responsibility and reduce but not eliminate the sanction(s); or
- c. remand the case to the same or a new Hearing Panel or Administrative Hearing Officer.

The Respondent and the Complainant (if applicable) shall be notified within a reasonable time in writing of the decision on appeal. If the case is remanded to a Hearing Panel or Administrative Hearing Officer, the appropriate Conduct Procedures set forth in the Code shall apply.

## **3. Appeals to the Board of Governors**

If the decision of the Board of Trustees imposes a sanction of Expulsion, the Respondent and Complainant (if applicable) may appeal the Board of Trustees' decision to the Board of Governors in accordance with Section 502 D(3) of The Code of the University of North Carolina. No appeal to the President of the University of North Carolina is permitted.

**Chapter 12. Case Files and Conduct Records**

1. Academic transcripts shall reflect sanctions as provided in Chapter 10 of the Code.
2. The case file, including audio recordings and/or transcripts of the Hearing, will be retained as part of the Respondent's conduct record for eight (8) years from the date of resolution. Conduct records may be retained for longer periods of time or permanently, as specified in the sanction(s). Conduct records including the sanction of Expulsion or Registration Revocation shall be retained permanently. Conduct records designated as "permanent" shall not be voided except under very rare circumstances with unusual and compelling justification.
3. Conduct records related to an individual student are confidential and shall be maintained pursuant to University Policy 402, Student Education Records (FERPA), including limited exceptions that permit disclosure without a student's consent. Any portions of conduct records related to a Student Organization that do not contain identifiable student information are generally not protected from disclosure.
4. Students may make copies of their conduct records in accordance with University Policy 402, Student Education Records (FERPA).

### Chapter 13. Directory of Contacts

Office of Student Conduct, King 217, 704-687-0336

Dean of Students Office, King 217, 704-687-0345

Title IX Office, Cone 349, 704-687-6130

Vice Chancellor for Student Affairs, King 219, 704-687-0350

Student Government Association Judicial Branch, Student Union 212 (SGOC Complex)

#### Revision History:

- Revised August 27, 1999
- March 1, 2001
- July 1, 2003
- April 10, 2006
- August 24, 2008
- October 7, 2008
- Updated August 27, 2009
- Revised November 29, 2010
- Revised January 20, 2011
- Revised February 18, 2014, corrected March 31, 2014, corrected May 13, 2014, effective May 19, 2014
- Revised August 14, 2014, effective August 18, 2014
- Revised effective August 26, 2015
- Updated November 5, 2015
- Revised November 20, 2015
- Revised August 18, 2016
- Revised August 15, 2017
- Revised January 10, 2018

**Authority:** Chancellor

**Responsible Office:** Student Affairs

#### Related Resources:

- Office of Student Conduct
- Dean of Students Office
- Title IX Office
- Office of Disability Services
- Section 502 D(3) of The Code of the University of North Carolina
- UNC Board of Governors Policy 700.4.1
- UNC Board of Governors Regulation 700.4.1.1[R]
- UNC Board of Governors Policy 700.4.2
- University Policy 402, Student Education Records (FERPA)
- University Policy 407, The Code of Student Academic Integrity
- University Policy 503, Fighting Words Harassment
- University Policy 601.13, Interference with University Operations
- University Policy 706, Alcoholic Beverages
- University Policy 711, Program to Prevent Use of Illegal Drugs and Alcohol Abuse
- University Policy 802, Conduct at Speech Events
- Disposition of Appeal: Instructions to General Counsel
- Notice of Attorney or Non-Attorney Advocate Representation
- Help Seeking Protocol