

**EFFECTIVE MARCH 5, 2012 THROUGH JULY 10, 2013**

**UNIVERSITY POLICY 406**

**THE CODE OF STUDENT RESPONSIBILITY**

**As amended effective March 5, 2012**

**IMPORTANT NOTE: Interim Regulations on Student Sexual Misconduct Complaints, effective March 5, 2012 supersede existing policies or procedures related to student Sexual Misconduct complaints, including applicable provisions in University Policy 406, Code of Student Responsibility, and University Policy 502, Sexual Harassment Policy and Grievance Procedures. In the case of any conflict between these Regulations and University Policy 406 or University Policy 502, these Regulations shall prevail.**

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The UNC Charlotte Code of Student Responsibility exercises the duty of the Chancellor to regulate matters of student conduct in the University community. It was approved by the Chancellor on May 22, 2003, after consultation with appropriate representatives of the student government and has been amended periodically thereafter.

The UNC Charlotte [Code of Student Academic Integrity](#) (University Policy 407) governs student behavior relating to academic work. All UNC Charlotte students are expected to be familiar with both Codes and to conduct themselves in accord with these requirements.

All student inquiries concerning these documents should be directed initially to the Senior Associate Dean and Director of Student Conduct in the [Office of the Dean of Students](#).

The current version of either document, which may be revised from time to time, shall be available from the Office of the Dean of Students or online ([Code of Student Responsibility](#)) and ([Code of Student Academic Integrity](#)).

**Special Note:** Any student needing assistance because of a disability may contact the [Office of Disability Services](#) at 704-687-4355.

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## I. Purpose

The primary purposes for the imposition of discipline in the University setting are to protect the campus community and to maintain an environment conducive to learning. Consistent with those purposes, efforts also will be made to foster the personal and social development of those students who are held accountable for violations of University regulations.

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 campus or University policies, rules or regulations, or federal, state, or local law may result in a violation of the student code of conduct and imposition of student discipline.

(See The University of North Carolina Board of Governors' [Policy 700.4.2](#))

## II. Authority; Delegation; Exclusive Coverage

[The Code](#) of the University of North Carolina, [Section 502D\(3\)](#), 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. Appeals from these student conduct decisions are allowable only on the following grounds:

- a. A violation of due process; or
- b. A material deviation from [Substantive and Procedural Standards](#) adopted by the Board of Governors.

Where the sanction is suspension or expulsion, an appeal may be made to the Board of Trustees. No appeal to the President of the University of North Carolina is permitted. When the sanction is expulsion, the final campus decision is appealable to the Board of Governors ([Policy 700.4.1](#)).

## III. Jurisdiction; Interpretation of Regulations

Jurisdiction under this Code may be exercised with respect to an incident that occurs at any time between a student's application for initial enrollment and the granting of his or her degree or other termination of association with the University. Jurisdiction extends to any incident related to a student's application for admission or financial aid or otherwise related to his or her admission to the University.

The Code applies only to those instances of student conduct which are harmful to the appropriate interests of the University: (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 student misconduct may be subject to this Code whether or not they occur on the campus or on other property under University control. The Vice Chancellor for Student Affairs shall determine whether an incident off campus affects University interests and thus falls within the scope of the Code of Student Responsibility.

Student conduct regulations at the University are set forth in writing in order to give students general notice of prohibited conduct. The regulations should be read broadly and are not designed to define misconduct in exhaustive terms.

## **IV. Inherent Authority**

The University reserves the right to take necessary and appropriate action to protect the safety and well-being of the campus community. The Chancellor has delegated to the Senior Associate Dean and Director of Student Conduct and the Associate Vice Chancellor and Dean of Students the authority to administer the student discipline program. The Senior Associate Dean and Director of Student Conduct may investigate a case as well as adjudicate or advise a hearing. The investigation by the Senior Associate Dean and Director of Student Conduct may be in conjunction with University Police and Public Safety and/or local police.

## **V. Student Participation**

Students are asked to assume positions of responsibility in the University student conduct system so that they might contribute their skills and insights to the resolution of student conduct cases. Final authority in student conduct matters, however, is vested in the University administration, subject to policies or regulations of the Board of Trustees or the Board of Governors.

## **VI. Standards of Due Process**

1. Any party charged with a violation of this Code is entitled to a hearing before a hearing panel composed of either Student Court Panel members, an Administrative Hearing Panel composed of faculty and/or staff, or a combination of members of the Administrative Hearing Panel and Student Court Panel, as specified in Section XVII of this Code, except where the party and the University agree to settle the charge without a hearing, as provided in [Section XV](#).
2. The focus of inquiry in student conduct proceedings shall be to determine whether the accused is or is not responsible for violating student conduct regulations. Formal rules of evidence shall not be applicable, nor shall deviation from prescribed procedures necessarily invalidate a decision or proceeding, unless significant prejudice to an accused party or the University may result.

## **VII. Violations of Law and Student Conduct Regulations**

This student conduct Code differs from the criminal justice system in scope, purpose, procedure, and outcome, and it is not designed to replace state or federal criminal laws or procedures. Students are required to comply with all North Carolina and federal laws. Students may be accountable to both civil authorities and to the University for acts that constitute violations of law and this Code. Any student conduct action under this Code that results in a revocation of privileges of enrollment or continued attendance is intended to uphold and promote the purpose and principles of the Code, and is not a substitute for any penalties associated with criminal laws. Student conduct action at the University 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 have been dismissed or reduced.

## VIII. Definitions

When used in this Code:

- a. Unless otherwise specified, the term "**day**" means any day except Saturday, Sunday, or any day when no University classes are held.
- b. The term "**distribution**" means sale or exchange for personal profit.
- c. The term "**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 in stake or not. A "game of chance" is any game or scheme in which receiving something of value depends on chance rather than skill.
- d. The term "**group**" means a number of persons associated with each other for a common purpose and who have not complied with Student Government formal requirements for registration.
- e. The terms "**institution**" and "**University**" mean The University of North Carolina at Charlotte.
- f. A "**Minor Violation**" is a violation of this Code for which the possible sanctions are other than suspension and expulsion.
- g. The term "**organization**" means a collection of persons who have complied with Student Government formal requirements for registration.
- h. The term "**party**" or "**accused party**" means a student or a group or organization, as defined herein, charged with a violation of this Code.
- i. The term "**possession**" or "**possessing**" means knowingly or intentionally physically holding or controlling the subject item (such as alcohol, controlled substances, drug paraphernalia, weapons, stolen property, fireworks, or betting devices), or owning or controlling a room, car, or other area where the subject item is present and where the person owning or controlling the room, car or other area knew or had reason to know that the subject item was present. The presence of the subject item in a room, car or other area creates a rebuttable presumption that the person owning or controlling the room, car or other area had knowledge of the item's presence.
- j. The term "**record on appeal**" means the letter containing charges; the audio recording of the hearing; and all documents offered as evidence at the hearing; the written opinion of the Hearing Panel; and any decision of the Senior Associate Dean and Director of Student Conduct or designee.
- k. The term "**responsible**" means determined by University student conduct procedures to be responsible for violating the Code of Student Responsibility.
- l. The term "**separation** of the student from the University" means that the student may not be present on University campus or property, attend or participate in classes, manipulate any website or other material residing on the University's web server, access University's email services, enter or use any University service or facility, including residence, dining, recreation, leisure, library, or computer lab services or facilities, or participate in recognized University clubs or any University-sponsored program, activity, or related event.
- m. A "**Serious Violation**" is a violation of this Code for which the possible sanctions include suspension or expulsion.
- n. The term "**sexual act**" means sexual intercourse, cunnilingus, fellatio, or anilingus, or knowingly inserting an object or part of one's body into another's genital or anal opening.
- o. The term "**sexual assault**" means intentionally touching the sexual parts (breasts, genitals, or buttocks) of another or intentionally touching another with one's sexual parts, without that person's consent.
- p. The term "**sexual harassment**" means engaging in unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when the employment or academic advancement of another is made contingent upon submission to such conduct, or when submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual, or when such conduct has the purpose or effect of interfering with the other's work or academic performance, or of creating an intimidating, hostile, or offensive working or academic environment.
- q. The term "**sexual invasion**" means knowingly engaging in a sexual act with another person without the other's consent.
- r. The term "**sexual misconduct**" means engaging in a sexual act or exposing the private parts of one's person in any public place in the presence of other persons.
- s. The term "**student**" refers to an individual who at the time of the incident is or has been enrolled in or has applied for admission to the institution at the undergraduate or graduate level on a full- or part-time basis, has a continuing relationship with UNC Charlotte, is an auditing student, or is

- participating in an educational program at or by the University or a group or organization as defined above.
- t. The term "**University premises**" means buildings or grounds owned, leased, operated, controlled, or supervised by The University of North Carolina at Charlotte.
  - u. The term "**weapon**" means any object or substance used or attempted to be used to inflict a wound, cause injury, or incapacitate, including but not limited to, all firearms, pellet guns, switchblade knives, bowie knives, chemicals such as "Mace" or tear gas, any explosive agents, or any other "weapon" as that term is defined in NC General Statutes § 14-269.2.
  - v. The terms "**will**" or "**shall**" are used in the imperative sense.
  - w. Sexual invasion or sexual assault is committed "**without consent**" if it is inflicted through force or the threat of force or upon a person who is unconscious or otherwise without the capacity to consent.

## IX. Conduct Rules and Regulations

The following conduct, or an attempt to engage in the following conduct, is subject to student conduct action[*Note: Letters j, p, and u have been intentionally omitted for continuity in record-keeping.*]:

**a.**

1. Inflicting physical injury upon a person;
2. Placing a person in fear of or at risk of imminent physical injury or danger or engaging in retaliatory threats against a person;
3. Committing sexual invasion, sexual assault, or sexual misconduct, as those terms are defined herein;
4. Committing sexual harassment as defined herein;
5. Inflicting severe mental or emotional distress upon a person through a course of conduct involving repeated harassment, intimidation, abuse, or disparagement;
6. Engaging in "fighting words" harassment, as that term is defined in [University Policy #504](#). The full text of University Policy #95 is available online or in the Office of the [Dean of Students](#).

**With regard to IX(a)(4), (5), and (6) above, the following additional regulations apply:**

1. No student shall threaten, coerce, harass or intimidate another person or identifiable group of persons, in a manner that is unlawful or in violation of a constitutionally valid University policy, while on University premises or at University-sponsored activities based upon the person's race, color, religion, national origin, gender, sexual orientation, gender-identity, creed, disability, or veteran status.
2. No student shall engage in unlawful harassment leading to a hostile environment. Unlawful harassment includes conduct that creates a hostile environment by meeting the following criteria: It is:
  - a. Directed toward a particular person or persons;
  - b. Based upon the person's race, color, religion, national origin, gender, sexual orientation, gender-identity, creed, disability, or veteran status;
  - c. Unwelcome;
  - d. Severe or pervasive;
  - e. Objectively offensive; and
  - f. So unreasonably interferes with the target person's employment, academic pursuits, or participation in University-sponsored activities as to effectively deny equal access to the University's resources and opportunities.
3. In determining whether student conduct violates these provisions, 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 campus attorneys, as appropriate.

(See The University of North Carolina Board of Governors' [Policy 700.4.2](#))

- b.** Using, possessing, or storing any weapon, dangerous chemical, or explosive without authorization.
- c.** Initiating or causing to be initiated any false report, warning or threat of fire, explosion, or other emergency.
- d.** Interfering with normal University activities including, but not limited to, teaching, studying, research, the expression of ideas, University administration, speeches and other public or private events, and fire, police or other emergency services. Acts prohibited by this rule include, but are not limited to, those acts prohibited in University Policy 601.13, "[Interference with University Operations](#)," which prohibits 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. Full texts of both policies are available online or in the Office of the [Dean of Students](#).
- e.** Knowingly violating the terms of any student conduct sanction imposed in accordance with this Code.
- f.** Possessing, consuming, or using any controlled substance; possessing or using drug paraphernalia; manufacturing, selling or delivering any controlled substance; possessing with intent to manufacture, sell or deliver, any controlled substance; huffing or sniffing any substance not intended for such use; or manufacturing, distributing, or possessing synthetic cannabinoids or other substances temporarily or permanently designated as Schedule I substances by the United States Drug Enforcement Administration (DEA) in its authority under the Controlled Substances Act (CSA) or designated as Schedule I controlled substances under the North Carolina Controlled Substances Act (NCGS Chapter 90, Article 5). Minimum penalties and certain other requirements apply where controlled substance offenses are at issue, pursuant to University Policy 711, "[Program to Prevent Use of Illegal Drugs and Alcohol Abuse](#)." That Policy is available online or in the Office of the [Dean of Students](#).
- g.** Setting fires, or misusing or damaging fire safety equipment or elevators.
- h.** Furnishing false information to the University; failing to report to the Office of the Dean of Students any criminal felony convictions that are entered against one (a) during the time between application for admission to the University and enrollment at the University, (b) during enrollment at the University or (c) during any periods between enrollments at the University (such as the summer or during a withdrawal period) prior to returning to the University; misrepresenting or concealing one's organizational affiliation(s) or sponsorship(s) for the purpose of enticing another person into joining or participating in a group or organization; misrepresenting to a third party one's affiliation or enrollment status with the University.
- i.** Forgery, unauthorized alteration, or unauthorized use or misuse of any document or instrument of identification (ID); displaying or using an ID that is not one's own or is fictitious, canceled, revoked, suspended, or altered; counterfeiting, loaning, or selling an ID to another person not entitled thereto.
- [j. intentionally omitted for continuity in record-keeping.]*
- k.** Theft or attempted theft of University or individual property or services; breaking and entering into University property or the property of individuals on campus (including, but not limited to private automobiles); the unauthorized use or access to private or confidential information in any medium; possessing stolen property; or possessing property that is not your own without owner authorization.
- l.** 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.** Failing to comply with the reasonable directions of University officials, including but not limited to campus police officers or Housing and Residence Life Staff, acting in performance of their duties.
- n.** 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 and the residence hall contract, as well as regulations relating to entry and use of University facilities, use of vehicles and amplifying equipment, campus demonstrations, and misuse of identification cards.

o. Possessing, consuming, or distributing alcoholic beverages without University authorization, including but not limited to:

1. operating a motor vehicle under the influence alcohol or while impaired by the consumption of alcohol;
2. or consuming alcoholic beverages by students less than twenty-one years of age;
3. or consumption of alcoholic beverages in campus residences by students less than twenty-one years of age;
4. or selling any alcoholic beverages to any person less than twenty-one years of age;
5. intoxication;
6. to abide by the provisions of an "Acknowledgment of Responsibility for Service of Alcoholic Beverages" form; or
7. any sale of any alcoholic beverage on the University campus.

(The full text of University Policy 706, "[Alcoholic Beverages](#)," is available online or in the Office of the Dean of Students.)

*[p. intentionally omitted for continuity in record-keeping]*

q. Being present in or using, or aiding and abetting another in being present in or using, University premises, facilities, or property without University authorization.

r. Using or possessing fireworks on University premises or at University activities without University authorization.

s.

1. Engaging in conduct, such as loud, aggressive, or combative behavior, that disrupts or interferes with the normal functions of a class, including failure to conform to the instructor's announced expectations for classroom decorum. Disruptive conduct also includes use of cell phones or other electronic devices for voice or text communication in class, unless permitted by the instructor. (A student who persists in disruptive conduct as described above is subject to interim suspension set forth in Section XIII below.)
2. Engaging in disorderly conduct, such as fighting, threatening behavior, public disturbance, or drunk and disorderly conduct. Disorderly conduct also includes any unauthorized use of electronic or other devices to make an audio or video record of any person while on University premises without his/her prior knowledge, or without his/her effective consent when such a recording is likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom.

t. Violation of University Policy 405, "[Hazing](#)." That Policy is available online or in the Office of the [Dean of Students](#).

*[u. intentionally omitted for continuity in record-keeping.]*

v. Engaging in **computer abuse**, including but not limited to violation of:

1. University Policy #302, "[World Wide Web](#),"
2. University Policy #303, "[Network Security](#),"
3. University Policy #304, "[Electronic Communication Systems](#),"
4. University Policy #307, "[Responsible Use of University Computing and Electronic Communication Resources](#),"
5. University Policy #601.14, "[Proprietary Software](#),"
6. University Policy #311, "[Data and Information Security](#),"
7. University Policy #311.4, "[Peer-to-Peer File Sharing Regulation](#),"
8. University Policy #311.6, "[Regulation on Security of Electronic Individually Identifiable Health Care Information under HIPAA](#)"
9. University Policy #311.7, "[Regulations on Information Systems Security](#)," or



10. University Policy #311.8, [Regulations on the Use of Social Security Numbers](#).

w. Gambling for money or other things of value, except as allowed by law. Prohibited gambling includes, but is not limited to, betting on, wagering on, or selling pools on any athletic 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 any conduct prohibited by the Code of Student Responsibility that condones, supports, or encourages such prohibited conduct. Students who are present during a violation of the Code of Student Responsibility are expected to remove themselves from the situation and are encouraged to report the violation to the Office of the Dean of Students.

y. Commission of an act, or an attempt to commit an act, that: (i) is classified as a felony under North Carolina law; (ii) would be in violation of the General Statutes of the State of North Carolina; or (iii) would be in violation of any federal law. The University reserves the right to proceed with a hearing and the possible imposition of a sanction under the Code of Student Responsibility prior to, concurrent with, or subsequent to, civil litigation, criminal arrest, and/or criminal prosecution.

## X. Student Groups and Organizations

1. Student groups and organizations may be charged with violations of this Code without regard to whether members of such groups or organizations are individually charged with violations arising from the same occurrences.
2. A student group or organization and its officers, leaders, or any identifiable spokespersons may be held collectively or individually responsible when violations of this Code by those associated with the group or organization have received the tacit or overt consent or encouragement of the group or organization or of the group's or organization's leaders, officers, or spokespersons.
3. The officers or leaders or any identifiable spokespersons for a student group or organization may be directed by the Vice Chancellor for Student Affairs or a designee to take appropriate action designed to prevent or end violations of this Code by the group or organization or by any persons associated with the group or organization who can reasonably be said to be acting in the group's or organization's behalf. Failure to make reasonable efforts to comply with the Vice Chancellor's (or designee's) directive shall be considered a violation of [Section IX\(m\)](#) of this Code both by the officers, leaders, or spokespersons for the group or organization and by the group or organization itself.
4. Groups and organizations may be held accountable collectively if any of these situations apply: An alleged violation was committed by one or more members of a group or organization; an alleged violation was committed by one or more members of a group or organization and funds were used to finance the function; an alleged violation occurred as a result of a group or organization sponsored function.

## XI. Individual Sanctions

1. One or more of the following sanctions may be imposed upon a student for violation of conduct regulations. All sanctions require review by and approval of the Senior Associate Dean and Director of Student Conduct or the Associate Vice Chancellor and Dean of Students, and may be altered, deferred, or suspended. No student is permitted to withdraw from enrollment after being charged with a Serious Violation of the Code of Student Responsibility but before imposition of sanction(s) or a finding of non-responsibility.

a. **CONDUCT REPRIMAND:** Formal notice from the Senior Associate Dean and Director of Student Conduct or a designee indicating that further misconduct may result in a more severe student conduct action. A copy of the reprimand becomes a part of the student's conduct file.

b. **DEFINITECONDUCT PROBATION:** A status in which a student is deemed not to be in good conduct standing with the University for a definite period of duration not less than the remainder of the semester. In the event a student on conduct probation is found responsible for a violation of any University rule or regulation, suspension or expulsion from the University could result. Conditions



restricting a student's participation in campus activities may be imposed. The probationary status becomes part of the student's conduct file.

c. **INDEFINITE CONDUCT PROBATION:** A status in which a student is deemed not to be in good conduct standing with the University for an indefinite period of duration. In the event a student on conduct probation is found responsible for a violation of any University rule or regulation, suspension or expulsion from the University could result. Conditions restricting a student's participation in campus activities may be imposed. Indefinite probation remains in effect until the student successfully petitions the Senior Associate Dean and Director of Student Conduct for reinstatement to good standing. The probationary status becomes part of the student's conduct file.

d. **REMOVAL FROM UNIVERSITY HOUSING:** Loss of the privilege of living in campus housing. Removal may be for a fixed period of time (but not less than the remainder of the semester), or for an indefinite period. If the removal is for an indefinite period, the student may petition the Senior Associate Dean and Director of Student Conduct or a designee for restoration of the right not sooner than one calendar year after the Senior Associate Dean and Director of Student Conduct has approved the removal. Any sanction including removal from University housing includes a trespass order from student housing for the duration of the sanction.

e. **DEFINITE SUSPENSION:** Separation of the student from the University for a fixed period of not less than the remainder of the semester in which the suspension is imposed. A sanction of definite suspension automatically includes a trespass order from University property, including student housing, for the duration of the suspension. Violation of the terms of a definite suspension may subject the student to additional sanctions pursuant to [Sections IX\(e\) and \(g\)](#) above. Suspension for violation of [Section IX\(v\)](#) above may include suspension of access to University computing and electronic communication resources. Notification of the suspension will appear on the student's academic transcript and will remain until the end of the suspension period. In order to re-enroll at the University at the conclusion of the suspension term, the student must reapply for admission to the University, but no student may be readmitted to the University until after the suspension period has ended.

f. **INDEFINITE SUSPENSION:** Separation of the student from the University for a minimum of one calendar year after the Senior Associate Dean and Director of Student Conduct has approved the suspension and thereafter until the student successfully petitions the Senior Associate Dean and Director of Student Conduct in writing for reinstatement to good standing. A sanction of indefinite suspension automatically includes a trespass order from University property, including student housing, for the duration of the suspension. Violation of the terms of an indefinite suspension may subject the student to additional sanctions pursuant to [Sections IX \(e\) and \(g\)](#) above. Notification of the conduct suspension will appear on the student's academic transcript until the date the student is reinstated to good standing. If the Senior Associate Dean and Director of Student Conduct grants reinstatement, the student may reapply for admission to the University, but no student may be readmitted to the University until after the Senior Associate Dean and Director of Student Conduct has granted reinstatement.

g. **EXPULSION:** Expulsion is a permanent separation of the student from the University. Expulsion for violation of [Section IX \(v\)](#) above includes removal of access to University computing and electronic communication resources. Violation of the terms of expulsion may subject the student to arrest. The student may petition the Chancellor in writing for the expulsion to be rescinded, but not earlier than two years after the date on which the expulsion takes effect. A student 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 sanction of expulsion has been rescinded by the institution that imposed the sanction. Notification will appear on the student's academic transcript. The student will be given a notice of trespass with respect to University premises.

h. **POST-ENROLLMENT AND POST-GRADUATION SANCTIONS:** A student who commits a violation of the Code or is found responsible for violating the Code, but who graduates from UNC Charlotte before imposition of a sanction, is subject to (1) revocation of any degree awarded, (2) temporary or permanent withholding of the transcript for any degree earned, regardless of whether the degree has been awarded, and/or (3) having sanction(s) imposed as a condition of re-enrollment at the University.

i. **ADDITIONAL SANCTIONS:** The following sanctions may be imposed in addition to those listed in Sections XI(a) through (g) above.

1. Restitution for loss incurred by an individual or the University as a result of the student's student conduct violation.
2. Exclusion for a definite or indefinite period from all or a portion of any University premises, property, building(s) or residence area(s), as specified in a sanction.
3. Loss of automobile privileges on University property.
4. A fine not to exceed \$100.
5. Community service and/or participation in educational programs.
6. 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).
7. Any other appropriate sanction as determined by the Hearing Panel or by the Senior Associate Dean and Director of Student Conduct.

2. Violation of any section of this Code may result in expulsion or suspension from the University. Factors that may affect the severity of the sanction(s) may include the present demeanor and past conduct record of the student, 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 on actual or perceived race, gender, religion, age, sexual orientation, ethnicity, or disability.

3. Attempts to commit acts prohibited by this Code shall be punished to the same extent as completed violations.

## **XII. Group or Organization Sanctions**

One or more of the following sanctions may be imposed on a group or organization responsible for violation of conduct regulations. All sanctions require review and approval of the Senior Associate Dean and Director of Student Conduct or a designee and may be altered, deferred, or suspended.

1. **REPRIMAND** is an official written notice of misconduct. Repetition of violations that result in reprimand of the group or organization within a period of two years shall automatically carry Registration Probation as a minimum sanction.

2. **REGISTRATION PROBATION** is given for a specific period of time. Further violations of the Code during the probationary period may result in registration suspension or revocation. During the period of registration probation, the organization is not considered in good conduct standing with the University. The organization may seek and add members during this probationary period and may host other activities unless otherwise specified.

3. **REGISTRATION SUSPENSION** is the temporary removal of University recognition for a definite period of time. During the period of registration suspension, the organization is not considered in good conduct standing with the University. While under suspension, the organization may continue to occupy or hold property but may not seek or add members, hold or sponsor events in the University community, or sponsor or attend any events that are social in nature.

4. **REGISTRATION REVOCATION** is the permanent removal of University recognition for a group or organization. Registration revocation means that the organization may not function at the University, participate in University programs, or utilize University facilities or services. Registration revocation may be recommended by the Hearing Panel but can be imposed only by the Chancellor, following the review and approval of the Senior Associate Dean and Director of Student Conduct.

5. **ADDITIONAL GROUP OR ORGANIZATION SANCTIONS.** In addition to the above, any one or more of the following may be imposed:

- a. Exclusion from intramural competition;
- b. Restitution of loss to University or person;
- c. Denial of use of University facilities for meetings or activities;

- d. Suspension for rushing, recruiting, or intake process;
- e. Loss of social privileges for no less than one month. The group or organization may not sponsor any activity, party, or function that is social in nature during the time parameters established;
- 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); or
- g. Any other appropriate group or organization sanction as determined by the Hearing Panel or by the Senior Associate Dean and Director of Student Conduct.

## **XIII. Interim Suspension**

### **1. Students**

a. When the University determines that the continued presence of a student on the University campus or in University housing poses a substantial threat to himself or herself, to others, or to the stability and continuance of normal University functions, the Vice Chancellor for Student Affairs or a designee may suspend the student for an interim period.

A student who persists in disrupting a particular class in violation of [Section IX \(s\)](#) above after a warning by the instructor may, in the discretion of the Vice Chancellor or designee, and provided other normal University functions are not at risk, be suspended from the class only, for an interim period. An interim suspension becomes effective immediately without prior notice. The Vice Chancellor or designee may terminate the suspension at any time prior to the outcome of student conduct proceedings.

b. A student suspended on an interim basis shall be given an opportunity to appear personally before the Vice Chancellor for Student Affairs or a designee within five (5) days (as defined in [Section VIII](#) above) from the effective date of the interim suspension, except as provided below. A hearing shall then be held on the following issues only:

1. The reliability of the information concerning the student's conduct, including the matter of his or her identity; and
2. Whether the conduct in the surrounding circumstances reasonably indicates that the continued presence of the student on the University campus, in the residence halls, or in the classroom poses a substantial threat to himself or herself, or to others, or to the stability and continuance of normal University functions, or to the normal conduct of the class.

Under certain circumstances, as a condition for termination of interim suspension and prior to scheduling student conduct proceedings, the Vice Chancellor for Student Affairs 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 the University's receipt of such report, the student shall be given an opportunity to appear personally before the Vice Chancellor for Student Affairs or designee. A hearing shall then be held based on the issues set forth above.

### **2. Student Groups or Organizations**

When the University receives a report of an alleged violation of this Code by a student group or organization, the Vice Chancellor for Student Affairs or a designee may suspend the activities of the group or organization pending the outcome of an investigation of the alleged Code violation. Such interim suspension may require the group or organization to cease its activities both on campus and off campus until the investigation has been completed and a hearing has been conducted.

## **XIV. Case Referrals**

Any student, faculty member, University employee, or University administrator may refer a student or a student group or organization suspected of violating this Code to the [Office of the Dean of Students](#). The

referral must be in writing and must include factual information supporting the allegation. A person making such a referral will normally be expected to appear before the Hearing Panel as a witness. Referrals should be made as soon as possible after the alleged incident. Anonymous referrals are not permitted.

Based on such a referral, the Senior Associate Dean and Director of Student Conduct will determine whether a charge shall be pursued and whether that charge is for a "Minor Violation" or a "Serious Violation," based on the party's prior record or facts and circumstances related to the case. This determination should be made within thirty (30) days after the initiation of the referral; however, a reasonable extension of this time limit is permissible. If the Senior Associate Dean and Director of Student Conduct determines that a charge should be pursued, he or she shall schedule a hearing as set forth in [Section XV](#) below.

## **XV. Mutual Resolution and Waiver of Hearing**

At any time up to two (2) days before the hearing, the Senior Associate Dean and Director of Student Conduct or a designee may offer or accept mutual resolutions and a waiver of hearing for any violation(s) under this Code. Students agreeing to a mutual resolution and waiver of a hearing must accept responsibility for the violation(s) and the sanction imposed by the Senior Associate Dean and Director of Student Conduct or designee. The Senior Associate Dean and Director of Student Conduct or a designee must determine that the acceptance of a mutual resolution and waiver of a hearing is voluntary and that the charge and sanction have factual support. The waiver and acceptance must be in writing and signed by the party and the Senior Associate Dean and Director of Student Conduct or designee. A mutual resolution and waiver of hearing may not be appealed.

## **XVI. Notification of Hearing**

Cases not settled shall proceed promptly to a hearing. The scheduling of hearings may be delayed at the discretion of the Senior Associate Dean and Director of Student Conduct during times of heavy case loads, if the charge occurs close to the end of an academic semester or term, or in the event of the reasonable need of either party for additional time to gather information for the hearing.

### **1. Minor Violations.**

For Minor Violations, as defined in [Section VIII\(6\)](#), all charges shall be presented to the accused party in a written notice that will include the date of the hearing. The date of the hearing will not be fewer than five (5) days after receipt of written notice, unless the accused party waives the five-day preparation period in writing.

### **2. Serious Violations.**

For Serious Violations, as defined in [Section VIII\(13\)](#), the notice of hearing shall specify the offense charged, the possible sanctions, and a brief recitation of the factual allegations supporting the charge. For all charged offenses that could result in expulsion, the notice must include the possibility of expulsion and must specify that expulsion precludes matriculation at any UNC constituent institution. The date of the hearing will not be fewer than ten (10) days after receipt of written notice, unless the accused party waives the ten-day preparation period in writing.

## **XVII. Hearing Panels**

1. Hearing Panels for cases of student or group or organization misconduct under these regulations will be composed of three panel members from the Student Court, except as noted in [Section XVII\(2\)](#) below. Hearing Panel members shall hold office in accord with applicable University policy.

A Hearing Panel member who has a conflict with, bias about, or interest in the case should recuse himself or herself. If the Hearing Panel member refuses to recuse himself or herself, the Senior Associate Dean and Director of Student Conduct shall make the decision about whether to remove that person from the panel.

2. In lieu of a panel of students from the Student Court, an Administrative Hearing Panel consisting of three University administrators or faculty members, or consisting of one or more University administrators or faculty members and one or more Student Court Panel members, will be convened by the Senior Associate Dean and Director of Student Conduct to hear cases of alleged misconduct when:

- a. the Senior Associate Dean and Director of Student Conduct concludes that the case arises at a time when student panel members are unavailable (for example, during holidays, semester breaks, or the summer months), or
- b. there is clear and convincing evidence that an accused party may not receive a fair hearing from the Student Court, or
- c. a backlog of cases has developed, and Administrative Hearing panels in addition to Student Court panels are necessary to assure prompt resolution of cases, or
- d. an accused party or a witness to the incident requests an Administrative Hearing Panel from the Senior Associate Dean and Director of Student Conduct, or
- e. there is any other circumstance in which the Dean of Students or the Senior Associate Dean and Director of Student Conduct deems such a panel to be appropriate.

## **XVIII. Hearing Procedures**

The following procedural guidelines shall be applicable in student conduct hearings conducted by the Student Court or an Administrative Hearing Panel.

### **1. Notice of Hearing.**

The Senior Associate Dean and Director of Student Conduct or a designee shall prepare a letter of notice to the accused party. The letter shall include a statement of the specific charges against the party; a brief description of the evidence upon which the charges are based; the date, time, and place for the hearing on the charges; the names of the panelists who will hear the case; notice of the right of reasonable access to the case file in the Student Counsel Office or the Dean of Students Office; and a statement indicating that the accused party may seek assistance from the Student Counsel Office in the preparation of his or her case for the hearing. Notice shall be sufficient if by mail, email, or hand delivery, or by telephone followed up by a letter confirming the telephone notice. All claims of failure to receive adequate notice are waived by the accused party if the accused party appears at the hearing and does not formally raise the issue of adequate notice at the first opportunity.

#### **a. Minor Violations.**

The accused party shall have no fewer than five (5) days' notice of the hearing. Notice is sufficient if the letter is mailed via first class, registered, or certified mail to the student's current address as shown in the Banner System on the date of mailing, not later than the sixth day before the date scheduled for the hearing, or via email to the student's UNC Charlotte email address.

#### **b. Serious Violations.**

The accused party shall have no fewer than ten (10) days' notice of the hearing. Notice is sufficient if the letter is mailed via first class, registered, or certified mail to the student's current address as shown in the Banner System on the date of mailing, or via email to the student's UNC Charlotte email address, not later than the eleventh day before the date scheduled for the hearing on a Serious Violation.

### **2. Group or Organization Representation.**

In a hearing in which a group or organization is the accused party, the president or equivalent officer of the group or organization shall represent the group or organization unless he or she petitions the panel to substitute another student representative to represent the group or organization at the hearing.

### **3. Witnesses and Evidence.**

- a. The Senior Associate Dean and Director of Student Conduct or a designee who notifies the accused party of the charges against the student may serve as a witness for the University in a hearing on those charges.
- b. The accused student is expected to give truthful testimony. Furnishing untruthful testimony or failing to appear after notice may subject the accused student to additional action under the Code of Student Responsibility.
- c. The accused student shall be given the opportunity to present any witness or documentary evidence that he or she wishes to offer, provided that, in the discretion of the Chair of the Hearing Panel, the evidence is relevant to the charge or other evidence presented and does not otherwise infringe the rights of other students. The accused student shall also be accorded an opportunity to question those witnesses who testify at the proceedings and to examine any documents offered as evidence. Documentary evidence does not include written witness statements. Written witness statements are admissible only in accordance with paragraph 3(e) below.
- d. Prior to a hearing on a Serious Violation, the accused student, upon request to the Senior Associate Dean and Director of Student Conduct or designee, must be given the opportunity to review any written evidence that will be used at the hearing and to obtain a list of witnesses.
- e. The accused student and witness(es) to the incident may seek the assistance of the Student Counsel Office and the Student Attorney General Office in obtaining attendance of University students or employees at 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. All witnesses are required to give truthful testimony. Furnishing untruthful testimony or failing to appear after an appropriate request may subject an employee or student witness to appropriate disciplinary action.

Written statements of evidence by a witness in lieu of appearance and testimony at the hearing may be admitted into evidence as follows: Subject to other provisions in this Code relating to the admissibility of evidence, such written statements may be admitted into evidence only if the witness is unavailable. For a witness to be considered unavailable, it must be clearly demonstrated that the witness's attendance would result in significant and unavoidable personal hardship or substantial interference with normal University activities. A witness's desire to avoid cross examination may not be used to demonstrate "personal hardship." To be eligible for admission into evidence, such written statements must be signed by the individual writing the statement and witnessed by a person designated by the Senior Associate Dean and Director of Student Conduct.

#### **4. Compliance with Federal Law.**

- a. Pursuant to the Campus Security Act, in cases of alleged sexual assault, the accuser and the accused are entitled to have the same opportunities to have others present during a student conduct proceeding.
- b. Pursuant to FERPA, under specific circumstances the University may disclose the final results of any conduct proceeding against a student who is an alleged perpetrator of any crime of violence or non-forcible sex offense, **but only as specifically set forth in Section II.B.10 of [University Policy 402, Student Records](#).**
- c. Pursuant to FERPA, charges against multiple parties involved in the same incident may be heard in a single case only if each party consents to such a proceeding either in writing or by not formally objecting at the hearing.

#### **5. Challenges of Hearing Panel Members.**

The accused party or the witness(es) may challenge any person selected for the Hearing Panel on grounds of bias or a personal relationship that might affect impartial consideration of the case. The party must bring the challenge in writing to the Senior Associate Dean and Director of Student Conduct or designee at least 48 hours prior to the scheduled hearing. The Senior Associate Dean and Director of Student Conduct or designee shall make a decision on the challenge within five days of the request. If the Senior Associate Dean and Director of Student Conduct determines possible bias, he or she shall excuse the panel member and appoint a replacement.

#### **6. Appearance of Accused Party.**

If the accused party fails to appear after proper notice, the Hearing Panel will make a determination in the absence of that party.

## **7. Closed Hearing.**

The hearing is closed to the public unless the witness(es) to the incident and accused party mutually agree to an open hearing. In a closed hearing, admission of any person to the hearing shall be at the discretion of the Advisor; however, in cases of alleged sexual violations, the accuser and the accused party shall have the same opportunities to have others present.

To go into a closed session, a Hearing Panel member must properly make a motion specifically identifying the "Family Educational Rights and Privacy Act" or "FERPA" as the legal basis for meeting in closed session, and the motion must be seconded and adopted by the Hearing Panel. The motion must be made and adopted prior to any record being created that includes personally identifiable information about a student. A "fill-in-the-blank" [written form for the motion](#) is available from the Office of Student Affairs and on the General Counsel's [website](#).

At the conclusion of the closed session, a Hearing Panel member shall make a motion to go back into open session prior to adjourning the meeting, and that motion must be seconded and adopted by the Hearing Panel. A motion to adjourn is invalid if it is made in closed session.

## **8. Attendance of Advisors.**

a. The accused party and witness(es) to the incident may be accompanied by one person selected from the Student Attorney General or Student Counsel staff. That person's role is limited to conferring with and advising the accused party or witness. The person is not permitted to argue, make statements, or question witnesses, but may respond to questions if asked by Hearing Panel members to do so.

b. When the accused party has also been charged with a violation of law based on the facts giving rise to the charge under the Code, the accused party may bring an attorney to the hearing to serve solely as advisor. The accused party is responsible for presenting his or her own case; the attorney may confer with the accused party during the hearing but may not address the Hearing Panel, other parties, or witnesses and may not delay or disrupt the proceeding.

c. A hearing panel advisor designated by the Senior Associate Dean and Director of Student Conduct shall attend the proceeding, may comment on questions of procedure and admissibility of evidence, and will otherwise assist in conducting the hearing. Hearing Panel advisors shall have the privileges of Hearing Panel members but shall not vote. Hearing Panel advisors shall be present during deliberations of the Hearing Panel but shall not actively participate in the decision or vote.

## **9. Conduct of the Hearing.**

a. Formal rules of evidence shall not apply. The Chair of the Hearing Panel shall determine the admissibility of all matters of evidence. The party's conduct record shall not be considered in the hearing until responsibility has been established.

b. The Chair of the Hearing Panel shall exercise control over the proceedings to avoid needless consumption of time and to achieve orderly completion of the hearing. The Chair of the Hearing Panel may exclude any person who disrupts a hearing, including the accused party.

c. Each hearing shall be audio recorded by the University and not by any other party, and the recording shall become a part of the case file in the Office of the Dean of Students. All documents included in the hearing records shall remain the property of the University.

## **10. Burden of Proof.**



The burden of proof shall be on the University, which must establish that the accused party is responsible for the violation by a preponderance of the evidence: that it is more likely than not that the accused party violated the Code of Student Responsibility as charged. This determination must be based solely on the evidence presented at the hearing.

#### **11. Hearing Panel Decisions.**

a. A decision by the Hearing Panel on responsibility or non-responsibility for the violation(s) charged shall be made in private and shall be by majority vote, based solely on the evidence presented at the hearing. The decision must be made prior to submitting a recommendation on sanctions. The decision must contain a brief summary of the evidence upon which the decision is based and shall specify appeal rights, including the time in which to appeal and the permitted grounds for the appeal.

b. A determination of responsibility on any charge shall be followed by a recommendation of an appropriate sanction(s). The past conduct record of the accused party shall be considered in determining a recommendation of the appropriate sanction(s).

c. After private deliberation on the appropriate sanction(s), the Hearing Panel will announce the recommended sanction(s).

d. The Hearing Panel's recommendation shall be transmitted to the Senior Associate Dean and Director of Student Conduct, or designee, in the form of a brief written opinion, summarizing the facts upon which the conclusion of responsibility for the violation is based and the basis for the sanction recommended. This written opinion shall become part of the party's case file in the Office of the Dean of Students.

#### **e. Decisions on Sanctions.**

##### **1. Minor Violations.**

In cases of Minor Violations, the Senior Associate Dean and Director of Student Conduct, or designee, shall consider the Hearing Panel's recommendation, shall determine the sanction to be imposed by the University no later than forty-five (45) calendar days after the hearing is completed, and shall notify the party promptly in writing, but in any case no later than ten (10) calendar days after the Hearing Panel's recommendation. The written notification must contain a brief summary of the evidence upon which the decision is based and shall specify appeal rights, including the time in which to appeal and the permitted grounds for the appeal.

##### **2. Serious Violations.**

In cases of Serious Violations, the Senior Associate Dean and Director of Student Conduct, or designee, shall consider the Hearing Panel's recommendation and shall make a recommendation including suspension to the Associate Vice Chancellor and Dean of Students, or a recommendation including expulsion to the Vice Chancellor for Student Affairs.

The Associate Vice Chancellor and Dean of Students shall make final decisions for sanctions including suspension, and the Vice Chancellor for Student Affairs shall make final decisions for sanctions including expulsion. Such decisions must be made no later than forty-five (45) calendar days after the hearing is completed. The Associate Vice Chancellor and Dean of Students or the Vice Chancellor for Student Affairs shall notify the party of the sanction decision promptly in writing, but in any case no later than ten (10) calendar days after the final administrative decision is made. The written notification must contain a brief summary of the evidence upon which the decision is based and shall specify appeal rights, including the time in which to appeal and the permitted grounds for the appeal.

#### **XIX. Appeals**

1. Within five (5) days after the party's receipt of the Hearing Panel's written decision on responsibility as set forth in [Section XVIII\(11\)\(a\)](#) above, or within five (5) days after the party's receipt of the written decision on

sanctions as set forth in [Section XVIII\(11\)\(c\)](#) above, the party may submit his or her written rationale for appeal of the decision on responsibility and/or the decision on sanctions to the Senior Associate Dean and Director of Student Conduct.

2. Appeals must be limited to the following grounds:

- a. a violation of due process; or
- b. a material deviation from Substantive and Procedural Standards adopted by the Board of Governors, set forth in Board of Governors' [Policy 700.4.1](#).

**3. Minor Violations.**

a. For appeals of decisions on Minor Violations, the Senior Associate Dean and Director of Student Conduct, or designee, will immediately forward appeals meeting the requirements set forth in [Section XIX\(2\)](#) above, along with the record of the hearing on appeal, to the Vice Chancellor for Student Affairs.

b. The Vice Chancellor for Student Affairs shall decide appeals based upon the record of the hearing and the party's written appeal. The Vice Chancellor for Student Affairs may call for the submission of additional oral or written evidence as necessary to reach a fully informed decision. The party making appeal shall be provided fair opportunity to respond to such additional evidence before the appeal is decided, and the evidence shall be added to the record on appeal.

c. The Vice Chancellor for Student Affairs shall notify the party within a reasonable time in writing of the decision on appeal. The decision may:

1. Affirm the finding of responsibility and the sanction(s).
2. Affirm the finding of responsibility and reduce but not eliminate the sanction(s).
3. Remand the case to the Hearing Panel, but only if specified procedural errors were so substantial as effectively to deny the party a fair hearing or if new and significant evidence became available which could not have been discovered by a properly diligent party before or during the original hearing. The decisions of the Hearing Panel and Senior Associate Dean and Director of Student Conduct, or designee, on remand shall be final and conclusive, except that the party may appeal the decision on remand to the Chancellor.

d. The Vice Chancellor for Student Affairs shall send copies of the decision on the appeal to the party and to the Senior Associate Dean and Director of Student Conduct.

e. The decision of the Vice Chancellor for Student Affairs shall be final and conclusive, and the sanctions will be imposed as directed; provided, however, that a party who believes that the rights set forth in [Section 502D\(3\)](#) of [The Code of the University of North Carolina](#) have been violated may file a notice of appeal to the Chancellor. The decision of the Chancellor is a final decision. 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 Chancellor within three (3) days after the party receives the decision of the Vice Chancellor for Student Affairs. The Chancellor shall notify the party in writing within a reasonable time of the decision on the appeal. The Chancellor shall send copies of the decision to the party and to the Senior Associate Dean and Director of Student Conduct.

**4. Serious Violations.**

a. For appeals of decisions on Serious Violations, the Senior Associate Dean and Director of Student Conduct will immediately forward appeals meeting the requirements set forth in [Section XIX\(2\)](#) above, along with the record of the hearing on appeal, to the Vice Chancellor for Student Affairs for sanctions including suspension and to the Chancellor for sanctions including expulsion.

b. The Vice Chancellor for Student Affairs (for sanctions including suspension) or the Chancellor (for sanctions including expulsion) shall decide appeals based upon the record of the hearing and the

party's written appeal. The Vice Chancellor for Student Affairs or the Chancellor may call for the submission of additional oral or written evidence as necessary to reach a fully informed decision. The party making appeal shall be provided fair opportunity to respond to such additional evidence before the appeal is decided, and the evidence shall be added to the record on appeal.

c. The Vice Chancellor for Student Affairs or Chancellor shall notify the party within a reasonable time in writing of the decision on appeal. The decision may:

1. Affirm the finding of responsibility and the sanction(s).
2. Affirm the finding of responsibility and reduce but not eliminate the sanction(s).
3. Remand the case to the Hearing Panel, but only if specified procedural errors were so substantial as effectively to deny the party a fair hearing or if new and significant evidence became available which could not have been discovered by a properly diligent party before or during the original hearing. The decisions of the Hearing Panel and Senior Associate Dean and Director of Student Conduct, or designee, on remand shall be final and conclusive, except that the party may appeal the decision on remand to the Chancellor.

d. The Vice Chancellor for Student Affairs or Chancellor shall send copies of the decision on the appeal to the party and to the Senior Associate Dean and Director of Student Conduct.

e. The decision of the Vice Chancellor for Student Affairs or Chancellor shall be final and conclusive, and the sanctions will be imposed as directed; provided, however, that a party who believes that the rights set forth in [Section 502D\(3\)](#) of [The Code of the University of North Carolina](#) have been violated may file a notice of appeal from a decision imposing a sanction of suspension or expulsion 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 three (3) days after the party receives the decision of the Vice Chancellor for Student Affairs or Chancellor. The Board of Trustees shall notify the party in writing within a reasonable time of the decision on the appeal. The Board of Trustees shall send copies of the decision to the party and to the Senior Associate Dean and Director of Student Conduct.

f. No appeal to the President of the University of North Carolina is permitted. When the sanction is expulsion, the party may appeal a decision of the Board of Trustees to the Board of Governors.

## **XX. Deferral of Sanctions**

At the discretion of the Senior Associate Dean and Director of Student Conduct, the imposition of a sanction normally will be deferred during the duration of an appeal to the Vice Chancellor for Student Affairs but may be imposed immediately after the hearing if:

1. the party has been found responsible for an act which resulted or foreseeably could have resulted in personal injury to another, or
2. the party has been found to be in possession of a weapon, or
3. the party has been found responsible for the forgery or falsification of a University document, or
4. the party has committed a second violation or has violated the terms of a previous student conduct sanction, or
5. the party has admitted responsibility for a substantive violation but has filed an appeal based upon an alleged procedural irregularity.

## **XXI. Student Conduct Files and Records**

1. Academic transcripts shall reflect student conduct sanctions as provided in [Section XI](#) of this Code.
2. Case referrals may result in the development by the Office of the Dean of Students of a conduct file in the name of the party, which shall be destroyed after one year if the party is found not responsible for the violation(s) or if the case is dismissed.
3. The conduct files, including audio recordings or transcripts of hearings, of parties found responsible for any of the violations charged against them will be retained as conduct records for eight years from the date of the letter providing notice of final conduct action. Conduct records may be retained for longer periods of time or permanently, as specified in the sanction. Conduct records including

- the sanction of expulsion shall be retained permanently. Conduct records designated as "permanent" shall not be voided except under very rare circumstances with unusual and compelling justification.
4. Students may make copies of their conduct files in accordance with [University Policy #402, Student Records](#).
  5. The Senior Associate Dean and Director of Student Conduct may void conduct records before the expiration of the eight-year retention period only under very rare circumstances, upon written petition of the party showing unusual and compelling justification. Factors to be considered in review of such petition include, but are not limited to:
    - a. the present demeanor of the party;
    - b. the conduct of the party subsequent to the violation; and
    - c. the nature of the violation and the severity of any damage, injury, or harm resulting from it.
  6. Denials of petitions to void conduct records shall be appealable to the Vice Chancellor for Student Affairs, who will override the decision of the Senior Associate Dean and Director of Student Conduct only if the denial of the petition is found to be without logical basis. The time limits and form for appeals as set forth in [Section XIX](#) shall be applicable.
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## XXII. Directory of Related Student Affairs Numbers

- [Vice Chancellor for Student Affairs](#), King 219 Building, 704-687-0350
  - [Associate Vice Chancellor and Dean of Students](#), King 217 Building, 704-687-0345
  - [Senior Associate Dean and Director of Student Conduct](#), King 217 Building, 704-687-0345
  - [Assistant Director for Student Conduct](#), King 217 Building, 704-687-0345
  - **SGA Judicial Board Offices:**
  - [Chief Justice](#)- Student Government and Organizations Complex - Student Union, 704-687-7169
  - [Student Counsel](#)- Student Government and Organizations Complex - Student Union, 704-687-7175
  - [Attorney General](#)- Student Government and Organizations Complex - Student Union, 704-687-7174
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## 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

**Authority:** Chancellor

**Responsible Office:** Office of Student Affairs

**Related Resources:**

- [Office of the Dean of Students](#)
- [Office of Disability Services](#)
- [The Code of The University of North Carolina, Section 502 D\(3\)](#)
- [The University of North Carolina Board of Governors' Policy 700.4.1](#)
- [The University of North Carolina Board of Governors' Policy 700.4.2](#)
- [University Policy 706, Alcoholic Beverages](#)
- [University Policy 601.13, Interference with University Operations](#)
- [University Policy 402, Student Records](#)
- [University Policy 711, Program to Prevent Use of Illegal Drugs and Alcohol Abuse](#)
- [University Policy 504, Fighting Words Harassment](#)
- [University Policy 802, Conduct at Speech Events](#)
- [University Policy 407, The Code of Student Academic Integrity](#)

**UNIVERSITY OF NORTH CAROLINA AT CHARLOTTE  
INTERIM REGULATIONS ON STUDENT SEXUAL MISCONDUCT  
COMPLAINTS**

***Supplemental to University Policy 406, Code of Student Responsibility***  
**These Interim Regulations, effective March 5, 2012 supersede existing policies or procedures related to student Sexual Misconduct complaints, including applicable provisions in**  
**University Policy 406, Code of Student Responsibility, and**  
**University Policy 502, Sexual Harassment Policy and Grievance Procedures.**  
**In the case of any conflict between these Regulations and University Policies 406 or 502, these Regulations shall prevail.**

**I. INTRODUCTION**

**A. Overview and Purpose.**

These Regulations cover complaints of alleged sexual misconduct by University students against other University students. Sexual Misconduct, as defined by these Regulations, comprises a broad range of behavior that will not be tolerated in the University community.

The University is committed to fostering an environment that promotes prompt reporting of all types of Sexual Misconduct, a timely response to complaints, and an equitable conduct process. Most cases of alleged Sexual Misconduct will be resolved within sixty (60) days. Sexual Misconduct violates University policy and federal civil rights law and may also be subject to criminal prosecution.

As a recipient of federal funds, the University complies with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* ("Title IX"),<sup>1</sup> which prohibits discrimination on the basis of sex in education programs or activities. Sexual Misconduct, as defined in these Regulations, is a form of sex discrimination prohibited by Title IX. The University of North Carolina at Charlotte is committed to providing programs, activities, and an educational environment free from sex discrimination.

As a public institution, the University must also provide due process to students accused of Sexual Misconduct. These Regulations are designed to provide a fair process for both the Complainant and the Accused Student. Consistent with due process, an Accused Student is presumed not responsible until proven otherwise under the [Code of Student Responsibility](#).

All persons involved in addressing complaints of Sexual Misconduct have training or experience in handling such matters, including applicable federal regulations and confidentiality requirements.

**B. Definitions.**

“Accused Student” means the student against whom an allegation of Sexual Misconduct has been reported.

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<sup>1</sup> Title IX requires that the University have a statement of policy and procedure for handling complaints of Sexual Misconduct. 20 U.S.C. 1092(1)(7) and 1681(a). These Regulations constitute that statement.

"Code of Student Responsibility" means the University's [University Policy 406, Code of Student Responsibility](#).

"Complainant" means a student who files a Sexual Misconduct complaint against another student with University officials.

"Consent" means clear, knowing, and voluntary approval given by words or demonstrated actions to engage in sexual activity (e.g., Sexual Act or Sexual Contact, Sexual Exhibitionism, or Sexual Exploitation). This decision must be made freely and actively by all participants. Silence or lack of resistance does not imply consent. A previous relationship or prior participation in a sexual activity between the parties does not indicate current Consent. Consent to one form of sexual activity does not imply Consent to other forms of sexual activities. Consent has not been obtained in situations where someone:

1. is forced, threatened, pressured, intimidated, manipulated, 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;
2. is unable to give Consent or is prevented from resisting due to sleep, involuntary physical restraint, unconsciousness, or the influence of drugs or alcohol; or
3. has a mental or physical disability that inhibits his or her ability to give Consent.

"Dean of Students" means the Dean of Students or designee, who acts as a Deputy Title IX Coordinator for purposes of these Regulations.

"Director" means the Director of Student Conduct and Outreach.

"FERPA" means the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g; 34 C.F.R. Part 99.

"Hearing Panel" means a body of three persons appointed by the Director or designee, consisting of a combination of University administrators, faculty, and Judicial Board members.

"Intake Officer" means a staff member in the Dean of Students Office, or designee, who holds the initial meetings with the Complainant and Accused after alleged Sexual Misconduct is reported

"Investigators" mean the individuals designated to conduct an investigation of alleged Sexual Misconduct and who act as the initial University witness(es) in the event of a formal hearing.



“Sexual Act” means sexual intercourse, cunnilingus, fellatio, or anilingus, or knowingly inserting an object or part of one's body into another's genital or anal opening.

"Sexual Contact" means the deliberate touching of a person's intimate parts (including genitalia, groin, breast or buttocks, or clothing covering any of those areas), touching another with one's intimate parts, or causing a person to touch their own or another person's intimate parts.

“Sexual Exhibitionism” means engaging in a sexual activity or exposing one's intimate parts (including genitalia, groin, breast or buttocks) in the presence of others without their Consent.

"Sexual Exploitation" occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other Sexual Misconduct offenses, and includes, but is not limited to:

1. impairing or attempting to impair another person's ability to provide Consent in order to gain a sexual advantage;
2. prostituting another person;
3. recording, photographing or transmitting identifiable images of private sexual activity and/or the intimate parts (including genitalia, groin, breasts or buttocks) of another person; or
4. allowing third parties to observe private sexual acts, and/or engaging in voyeurism.

"Sexual Harassment" means unwelcome conduct, based on sex or on 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 *and* creates a working, learning, program or activity environment that a reasonable person would find intimidating, hostile or offensive.

"Sexual Misconduct" is a broad term including, but not limited to, committing a Sexual Act without Consent, Sexual Contact without Consent, Sexual Exhibitionism, Sexual Exploitation, or Sexual Harassment. Sexual Misconduct can occur between strangers or acquaintances, including people involved in an intimate or on-going sexual relationship. Sexual Misconduct can be committed by men or women, and it can occur between people of the same or different sex. Sexual Misconduct may be considered a Serious Violation as defined under the Code of Student Responsibility.

“Standard of Proof” means the standard by which it is determined whether or not a violation of the Code of Student Responsibility or these Regulations has

occurred. For the purposes of the University conduct process, the standard of proof required is a preponderance of evidence (the evidence demonstrates that it is more likely than not that a violation has occurred).

“Student” means an individual who, at the time of the alleged Sexual Misconduct, has been accepted for admission to the University or has registered for coursework; is an auditing student; or is participating in an educational program sponsored by or affiliated with the University.

“University” means The University of North Carolina at Charlotte.

“Retaliation” includes intimidation, harassment, and other adverse action threatened or taken against a Complainant, witness to Sexual Misconduct, or an interested third party.

“Vice Chancellor” means the Vice Chancellor for Student Affairs or designee.

## **II. VIOLATIONS**

The following behavior, or an attempt to engage in the following behavior, is subject to student conduct action:

1. Committing Sexual Acts without Consent;
2. Committing Sexual Contact without Consent;
3. Committing Sexual Exhibitionism;
4. Committing Sexual Exploitation; and/or
5. Committing Sexual Harassment.

## **III. TIMING; RETALIATION**

### **A. Timing of Complaints and Availability of Procedures.**

There is no time limit to invoking these Regulations in responding to complaints of alleged Sexual Misconduct. Nevertheless, students are encouraged to report alleged Sexual Misconduct immediately 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 Misconduct may result in the loss of relevant information and witness testimony and may impair the University's ability to enforce these Regulations.

### **B. Retaliation.**

Retaliation against any person making a complaint of Sexual Misconduct or against any person cooperating in the investigation of (including testifying as a witness to) any allegation of Sexual Misconduct should be reported promptly to the Dean of Students or designee (or in the case of imminent threat of serious bodily injury, to Police and Public Safety). Retaliation may result in disciplinary action independent of the sanction or interim measures imposed in response to the underlying allegations of Sexual Misconduct.

#### **IV. THE PROCESS: INITIAL STEPS**

A Complainant who wishes to report an allegation of Sexual Misconduct may report such concern to the Dean of Students Office and/or Police and Public Safety. A Complainant may choose to have an adviser present for guidance and support throughout the entire process outlined in these Regulations.

A. Intake Meeting with Complainant. Upon receipt of notice of any allegation of Sexual Misconduct, an Intake Officer will promptly schedule an individual meeting with the Complainant. During the meeting, the Intake Officer will:

1. provide the Complainant a general understanding of these Regulations;
2. identify forms of support or immediate interventions available to the Complainant;
3. discuss any accommodations that may be appropriate concerning the Complainant's academic, University housing, and/or University employment arrangements; and
4. seek to determine if the Complainant wishes to proceed with the University conduct process or does not wish to pursue resolution of any kind.

B. Complainant Does Not Wish to Proceed with the University Conduct Process or Requests Confidentiality.

If the Complainant does not wish to proceed with the University conduct process and/or requests the complaint remain confidential, Title IX still requires the University to investigate and take reasonable action in response to the Complainant's information. The Intake Officer will inform the Complainant that the University's ability to respond may be limited and may weigh the Complainant's request(s) against the following factors:

1. the seriousness of the alleged Sexual Misconduct;
2. whether there have been other complaints of Sexual Misconduct against the same accused student; and
3. the accused student's right to receive information about the allegations if the information is maintained by the University as an "education record" under FERPA.

The Intake Officer will inform the Complainant if the University cannot ensure confidentiality. Even if the Complainant does not wish to proceed with the University conduct process because the Complainant insists on confidentiality or that the complaint not be resolved, the University reserves the authority to undertake an appropriate action, including the interim measures described in Section IV.D below.

- C. Complainant Wishes to Proceed with the University Conduct Process.  
A Complainant can elect to pursue a formal complaint and resolution under the Code of Student Responsibility, which may involve a hearing before a Hearing Panel. The Intake Officer will:
1. schedule an individual intake meeting with the Accused Student in order to provide to the Accused Student a general understanding of these Regulations and to identify forms of support or immediate interventions available to the accused student; and
  2. prepare and forward the complaint and any summary information to the Director or designee, which will include the names of the parties involved, and the date, location and nature of the alleged Sexual Misconduct.
- D. Interim Measures.  
In all complaints of alleged Sexual Misconduct, the University may take prompt action to prevent continuing or future acts of Sexual Misconduct. Such action may include Interim Suspension of the Accused Student as outlined in Section XIII of the Code of Student Responsibility.

## V. **THE UNIVERSITY CONDUCT PROCESS**

- A. Determination of Proceedings.  
When the Director or designee receives the complaint and summary information, s/he will determine the most appropriate means for addressing the complaint. This may include formally investigating the complaint as described in Section V.B below, or determining that the facts of the complaint do not constitute a violation of these Regulations.
- B. Investigation Proceedings.  
If the Director or designee decides to formally investigate the complaint, she/he will prepare and send a Notice of Investigation to both the Accused Student and Complainant. This Notice will include a description of the alleged behavior, the alleged conduct violation(s), and a description of the investigation process including requirements of each party.  
The Director or designee will appoint a team of Investigators. These Investigators are neutral fact-finders, who, during the course of the investigation conduct interviews with the Complainant, the Accused Student, and any third party witnesses. When applicable, Investigators will coordinate with law enforcement agencies.

Once a formal investigation is completed, the Investigators will prepare an Investigative Report that includes the following:

1. an overview of the incident including involved parties and history of the case;
2. alleged violation(s) and Standard of Proof;
3. summaries of information provided by the Complainant, Accused Student and any third party witness;
4. summaries of information provided by expert witnesses, where applicable;
5. any other relevant information (e.g., photographic, electronic and/or forensic evidence);
6. a summary of established facts and information that remains in question;
7. recommendation of determination regarding alleged violations;
8. range of possible sanctions if a finding of responsibility is determined; and
9. a list of recommended witnesses to be called in the event of a formal hearing.

The Investigators will meet independently with the Complainant and the Accused Student to share the Investigative Report findings, answer any questions, and discuss next steps in the process. The Investigative Report will be distributed to the Director or designee.

C. Accused Student Accepts Responsibility.

If the Accused Student accepts responsibility for the alleged conduct violations provided in the Investigative Report, the Investigators may proceed with an informal resolution process, as described in Section XV of the Code of Student Responsibility. If the Accused Student agrees to the findings and proposed sanctions, the case is resolved with a waiver of a hearing and no further right of appeal.

The Investigators will provide the Complainant with a summary outlining the findings, sanctions, and rationale related only to Sexual Misconduct violation(s).

D. Accused Student Does Not Accept Responsibility.

If the Accused Student does not elect to accept responsibility for the alleged conduct violations and/or proposed sanctions, the matter will be referred to a Hearing Panel for formal resolution. The Investigative Report, minus the recommendation of determination, will be submitted to the Hearing Panel.

E. Notification of Hearing and Hearing Panels.

The procedures set forth in Sections XVI, XVII, and XVIII of the Code of Student Responsibility, with the exception of Section XVIII.3.c “Witnesses and Evidence” shall apply to alleged conduct violations under these Regulations. In addition, for alleged conduct violations under these Regulations, witnesses to be called to the formal hearing process will be determined by the Investigator.

F. Advisors to the Parties.

Per section XVIII.8 of the Code of Student Responsibility, each party will be appointed an adviser from the Student Attorney General or Student Counsel staff; however, a student may select and arrange for a secondary adviser, including an

- attorney. In the event of a Hearing Panel, the Chair may disallow a student's non-University appointed adviser where such adviser's presence, in the Chair's sole determination, is obstructive to the Hearing Panel process, or for other good cause. An adviser may not direct questions to the Hearing Panel or witnesses at the hearing, but may consult with the student that he or she is assisting. The Chair will not allow an adviser's presence to inhibit or effect the parties' sharing of information, or to disrupt the hearing.
- G. Attendance of Parties.  
The Accused Student and Complainant may remain present throughout the formal hearing process. If the Accused Student elects not to attend the formal hearing process, the Hearing Panel will make a determination in the absence of the Accused Student. Neither party may be present, during Hearing Panel deliberations.
- H. Special Accommodations.  
Upon timely request to the Investigator by a party or witness, the University may be able to provide special accommodations for testimony by alternate methods (such as a room divider or video conference). Such accommodations are at the discretion of the Director or designee.
- I. Impact Statement.  
If the Hearing Panel determines that the Accused Student is responsible for Sexual Misconduct, both the Complainant and Accused Student may present the Hearing Panel with an impact statement prior to the sanctioning phase. The Hearing Panel is not bound by these statements in determining a sanction.
- J. Sanctioning.  
If the Accused Student is found responsible, the Hearing Panel will sanction in accordance with Section IX of the Code of Student Responsibility.
- K. Notice of Outcome.  
Within five (5) business days of the formal hearing, both the Accused Student and Complainant will receive written notice of the findings, sanctions if applicable, rationale, and appeal procedures.
- L. Appeals.  
The Accused Student or Complainant may submit an appeal to the Director of Student Conduct in writing within five (5) calendar days of the date of the Notice of Outcome. All appeals will be governed by the procedures set forth for Serious Violations in [Section XIX of the Code of Student Responsibility](#). Both parties will be notified of the other party's appeal submission and outcome.
- M. Effective Date of Sanction.

If an appeal is submitted by either party, the imposition of sanction(s) may be deferred during the duration of the appeal process in accordance with Section XX of the Code of Student Responsibility.

## **VI. AMENDMENTS**

These Regulations may be amended, in writing, by the Chancellor or the Chancellor's designee at any time.