

WESTERN CAROLINA UNIVERSITY

CODE OF STUDENT CONDUCT

As amended August 17, 2009

This Western Carolina University (University) Code of Student Conduct exercises the duty of the Chancellor to regulate matters of student conduct in the University community. All WCU students are expected to be familiar with the Code and to conduct themselves in accord with these requirements.

All student inquiries concerning the Code should be directed initially to the Director of the Department of Student Community Ethics.

The current version of this document, which may be revised from time to time, shall be available from the Division of Student Affairs online at <http://wcucode.wcu.edu/>.

Table of Contents

<u>Article</u>		<u>Page</u>
I.	Western Carolina University Community Creed	2
II.	Authority of the Code of Student Conduct	2
III.	Scope and Interpretation of Code	2
IV.	Standards of Due Process	3
V.	Violations of Law and Student Conduct Regulations	3
VI.	Definitions	3
VII.	Conduct Rules and Regulations	6
VIII.	Individual Sanctions	8
IX.	Student Groups and Organizations	9
X.	Student Group and Organization Sanctions	9
XI.	Interim Action	10
XII.	Information Referrals	11
XIII.	Mutual Resolution and Waiver of Hearing	11
XIV.	Notification of Hearing	11
XV.	Hearing Body	12
XVI.	Hearing Procedures	12
XVII.	Appeals	14
XVIII.	Deferral of Sanctions	16
XIX.	Student Conduct Files and Records	16
XX.	Revision and Communication	16

I. Western Carolina University Community Creed

- I will practice personal and academic INTEGRITY
- I will RESPECT the dignity and rights of all persons
- I will demonstrate concern for others and live up to my community RESPONSIBILITIES
- I will ENGAGE myself in the arts, culture, and intellectual life of the University
- I will celebrate and take PRIDE in Western Carolina University

The Code of Student Conduct (Code) is a practical document that embodies the core values identified in the Western Carolina University Community Creed. The fundamental mission of the University is to foster a community of scholarship in which students, faculty members, administrators, and staff members may learn and apply knowledge. To ensure access to all of the University programs, facilities and opportunities, all members of the University community share the responsibility to comply with University policies, and applicable federal, state, and local laws and regulations, and students also have a special obligation to uphold this Code.

II. Authority of the Code of Student Conduct

This Code of Student Conduct is established under the Chancellor's authority per Section 502 D(3) of The Code of the University of North Carolina which states:

Subject to any policies or regulations of the UNC Board of Governors or of the University 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.

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 the responsibility for developing, implementing, and enforcing student conduct policies to the Vice Chancellor for Student Affairs. The Vice Chancellor for Student Affairs delegated the responsibility for administering the student discipline program to the Assistant Vice Chancellor for Student Affairs, who supervises the Director of DSCE.

III. Scope and Interpretation of Code

Generally, the scope of this Code is limited to conduct that occurs on the University's main campus or any building or property used by the University in connection with its educational and other programs, or conduct that otherwise adversely affects the University community and/or the pursuit of its mission and objectives. Students of the University may be disciplined for certain conduct committed off-campus,

including but not limited to the following circumstances: (i) conduct is likely to interfere with the educational process or the orderly operation of the University; (ii) the continued presence of the student on campus may endanger the health, safety or welfare of the University community; or (iii) conduct that clearly conflicts with the University's mission and objectives.

The Director of the Department of Student Community Ethics (DSCE) and/or the Assistant Vice Chancellor for Student Affairs shall determine whether an incident off campus affects University interests and falls within the scope of the Code.

The Vice Chancellor for Student Affairs has the responsibility and authority to interpret the Code. The Code may be reviewed and revised at any time at the discretion and under the direction of the Vice Chancellor for Student Affairs.

IV. Standards of Due Process

Any student charged with a violation of this Code is entitled to a hearing before a hearing body appointed by the Director of DSCE, as specified in Section XV of this Code, except where the party and the University agree to settle the charge without a hearing, as provided in Section XIII.

The focus of inquiry in student conduct proceedings shall be to determine whether the accused is or is not responsible for violating the code of student conduct. 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 student or the University may result.

V. Violations of Law and the Code of Student Conduct

This 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 may be accountable to both civil authorities and to the University for acts that constitute violations of law and this Code. When student conduct violates this Code as well as federal, state or local laws or administrative regulations, University disciplinary proceedings may be initiated and proceed without regard to the pendency of civil, criminal or administrative actions. Student disciplinary proceedings based on violations of this Code will not be subject to challenge on the ground that criminal charges involving the same incident have been dismissed or reduced.

VI. Definitions

When used in the WCU Code of Student Conduct:

1. The term "bullying" means any pattern of gestures or written, electronic or verbal communications, or any physical act or any threatening communication that takes place on University premises or at any University sponsored function that (i) places a person in actual and reasonable fear of harm to his/her person or damage to his/her property, or (ii) creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities or benefits, or a University employee's ability to perform the essential functions of his/her job.
2. With respect to sexual behavior, "consent" is an understandable exchange of affirmative words or actions, which indicate a willingness to participate in mutually agreed upon sexual activity. Consent must be informed and freely and actively given. The lack of a negative response is not consent. An individual who is intoxicated or incapacitated by alcohol and/or drug both voluntarily or involuntarily consumed may not give consent. Past consent for sexual activity does not imply ongoing future consent.

3. A “controlled substance” is a drug, chemical or other material whose possession and use are controlled by law. [University Policy #38 - Illegal Drugs and Drug-Free Workplace](#) states that it is a crime to possess, sell, deliver, or manufacture those drugs designated collectively as "controlled substances" by North Carolina law. Inappropriate use of prescription medications may also violate University policies.
4. Unless otherwise specified, the term “day” refers to calendar days.
5. “Discrimination” is unequal and unlawful treatment based on race, color, creed, religion, gender, age, national origin, disability, military veteran status, or sexual orientation. [University Policy #53 - Sexual Harassment and Other Forms of Discriminatory Personal Conduct](#) provides additional information.
6. The term “DSCE” is an abbreviation for the “Department of Student Community Ethics”.
7. “Drug Paraphernalia” is any legitimate equipment, product, or material that is modified for making, using, or concealing illegal drugs and/or other controlled substances.
8. 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.
9. A “guest” is defined as any non-student present on University premises at the invitation and/or hosting of a student.
10. “Hazing” is an act which endangers the health or safety of a student, or which destroys, damages or removes public or private property for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a student group or student organization.
11. The term “hearing body” means any person or persons authorized by the Director of DSCE to determine whether a student has violated the Code and make decisions about sanctions.
12. The terms “institution” and “University” specify Western Carolina University.
13. The term “member of the University community” means any person who is a student, employee or volunteer at the University.
14. A “Minor Violation” is a violation of this Code for which the possible sanctions are other than suspension and expulsion.
15. “Nonconsensual Sexual Contact” (either direct or indirect) is engaging in any other physical contact not described in the definition of sexual assault which is performed in a sexual context and without a person’s consent.
16. The term “party” or “accused party” means a student or a group or organization, charged with a violation of this Code.
17. The phrase “record of the hearing” includes the letter containing charges, the audio recording of the hearing, and all documents offered as information at the hearing; the written opinion of the hearing body; and any decision of the Assistant Vice Chancellor for Student Affairs or designee.
18. 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 web site 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.

19. A "Serious Violation" is a violation of this Code for which the possible sanctions include suspension or expulsion.
20. "Sexual Assault" is defined as engaging in vaginal, oral, or anal intercourse with, or inflicting other sexual invasion upon any person without that person's consent. "Other sexual invasion" includes but is not limited to the intentional touching of an unwilling person's genitalia, groin, breast, buttocks, or clothing covering them, or forcing an unwilling person to touch another's intimate parts as listed above.
21. "Sexual Exploitation" is taking nonconsensual, unjust, or abusive sexual advantage of another for one's own advantage or benefit; or to benefit or advantage anyone other than the one being exploited; and that behavior does not otherwise constitute sexual assault or sexual harassment. Examples of sexual exploitation include, but are not limited to: prostituting another student, nonconsensual video or audio taping of sexual activity, going beyond the boundaries of consent (such as letting friends surreptitiously watch you having consensual sex, or unauthorized distribution of photos or other materials of a sexual nature), engaging in voyeurism, and inducing incapacitation with the intent to rape or sexually assault another person or with the intent to create opportunity for a third party to rape or sexually assault another person.
22. "Sexual Harassment" is defined as unwelcome conduct of a sexual nature that is so severe, persistent, or pervasive that it negatively affects the victim's activities or creates an intimidating, threatening or abusive educational or employment environment. [University Policy #53 - Sexual Harassment and Other Forms of Discriminatory Personal Conduct](#) provides additional information.
23. "Stalking" involves severe intrusions on the victim's personal privacy and autonomy. It includes but is not limited to, a pattern of following, observing, or monitoring the victim, or committing violent or intimidating acts against the victim, regardless of the means.
24. The term "student" means (i) a person who has applied for admission, been accepted, and is enrolled in a schedule of undergraduate or graduate courses at the University, (ii) a person attending classes at or through the University, or (iii) a person participating in orientation programs on the University premises. The term "student" includes a person who is enrolled in courses on a full-time or part-time basis, either at the University's main campus or any remote location. The term also includes a person enrolled in distance education programs through the Division of Educational Outreach and a person participating in Study Abroad programs.
25. The term "student 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.
26. The term "student organization" means a collection of persons who have complied with the requirements for formal University recognition.
27. The term "University officials" means any person employed by the University and authorized to perform administrative or professional duties.
28. "University Policies" are listed on the University's website.
29. The term "University premises" means all buildings, facilities or grounds owned, leased, operated, controlled or supervised by Western Carolina University, including adjacent streets and sidewalks.
30. The term "unlawful harassment" means unwelcome or unsolicited speech or conduct based upon race, color, creed, religion, gender, age, national origin, disability, military veteran status, political affiliation or sexual orientation that creates a hostile environment for students, or denies or limits a student's ability to participate in or to receive benefits, services, or opportunities in the University's programs, or interferes with an employee's work performance. [University Policy #53 - Sexual Harassment and Other Forms of Discriminatory Personal Conduct](#) provides additional information.

VII. Conduct Rules and Regulations

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

1. Acts of dishonesty, including but not limited to, the following:
 - (a) cheating, plagiarism, or other forms of academic dishonesty (Note: Resolution of academic dishonesty complaints will normally be handled within the appropriate college consistent with the *Academic Integrity Policy* and records of academic dishonesty cases will be maintained in the DSCE.);
 - (b) furnishing false information to any university official, faculty member, or office;
 - (c) forgery, alteration, or misuse of any university document, record, or instrument of identification;
 - (d) tampering with the election of any university-recognized student organization; or
 - (e) intentionally withholding information.
2. Disruption or obstruction of teaching, research, administration, disciplinary proceedings, or other University activities (including its public-service functions), whether the conduct occurs on the University's main campus or some other location.
3. Physical abuse or attack of any member of the University community, or any other conduct that physically threatens the safety and welfare of any member of the University community, including one's self.
4. Bullying or stalking.
5. Damage to or misuse of the University's name, image or property, or property of a member of the University community, including but not limited to (a) attempted or actual vandalism, (b) attempted or actual theft, or (c) attempted or actual littering.
6. Discrimination or unlawful harassment.
7. Hazing. Apathy and acquiescence in the presence of hazing are not neutral acts; they are violations of this regulation. The express or implied consent of the victim will not be a defense.
8. Failure to comply with directions of University officials or law enforcement officers acting in the performance of their duties, and/or the failure to identify oneself to these persons when requested to do so.
9. Unauthorized possession, duplication, loan, or use of keys or CatCards to access any University premises, or the unauthorized entry to or use of University premises.
10. Violation of any rule, regulation, policy, procedure or standard duly adopted and published by the University. Including without limitation, all regulations and policies adopted by the Department of Residential Living, [University Policy #45 - Smoking in Campus Facilities](#), and any other academic or administrative department of the University. University and departmental policies are available on the University website.
11. Possessing, consuming, or distributing alcohol and/or controlled substances in violation of University policies, ([University Policy #38 - Illegal Drugs and Drug-Free Workplace](#) and [University Policy #81 - General Campus Policy For Alcoholic Beverages](#)), including but not limited to;
 - (a) Possession or consumption of alcohol in a manner that is not authorized by University policies;
 - (b) Displaying or consumption of alcohol in campus residences by students less than 21 years of age;
 - (c) Furnishing or selling alcohol to any person less than twenty-one years of age;
 - (d) Presence of kegs, party balls, or other common source containers;

- (e) Behaviors/games/devices which are consistent with rapid consumption, including but not limited to: beer funnels/bongs, keg stands, shotgunning/chugging, Flip Cup, Circle of Death, Beer Pong, Quarters, etc.;
- (f) Operating a motor vehicle under the influence or while impaired by the consumption of alcohol or other controlled substances;
- (g) Public intoxication by alcohol or other controlled substances;
- (h) Possession or consumption of drugs and/or controlled substances in violation of University policies;
- (i) Possession or use of drug paraphernalia;
- (j) Possession with intent to manufacture, distribute, and/or sell narcotics or other controlled substances.

12. Illegal or unauthorized possession or use of harmful or dangerous items, including without limitation, firearms, air soft guns, BB guns, paintball guns, sling shots, knives, martial arts equipment, fireworks, explosives, dangerous chemicals such as mace and pepper spray, or any action in violation of [University Policy #91 - Weapons on Campus](#).

13. Participation in a campus demonstration which disrupts the normal operations of the University or infringes on the rights of other members of the University community, or leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area, or intentional obstruction which unreasonably interferes with freedom of either pedestrian or vehicular movement on campus.

14. Obstruction of the free flow of pedestrian or vehicular traffic on University premises or at University sponsored activities.

15. Disorderly, lewd or indecent conduct, breach of peace, or aiding, abetting, or procuring another person to breach the peace on University premises, or at University sponsored activities, or at activities in which members of the University community participate.

16. Violation of fire safety regulations including without limitation:

- (a) Failure to properly evacuate during a fire alarm;
- (b) Intentional sounding of a false alarm;
- (c) Improper use of fire prevention equipment on University premises; or
- (d) Unauthorized setting of fires on University premises.

17. Engaging in the abuse of the University's computing and information technology resources, including without limitation, any violation of:

- (a) [University Policy #52 - Use of Computers and Data Communications](#) (Section IV.E. prohibits copyright infringement and/or file sharing)
- (b) [University Policy #67 - Computer Hardware, Software, and Services Standards](#)
- (c) [University Policy #86 - Web Accessibility Policy](#)
- (d) [University Policy #93 - Electronic Mail Policy](#)
- (e) [University Policy #95 - Data Network Security and Management](#)
- (f) [WCU Division of Information Technology Policies and Standards](#)

18. Abuse of the Code, including without limitation:

- (a) Failure to obey the summons of a hearing body or University official;
- (b) Falsification, distortion, or misrepresentation of information before a hearing body;
- (c) Disruption or interference with the orderly conduct of a hearing;
- (d) Making false, frivolous or misleading charges of Code violations;
- (e) Attempting to discourage a person's participation in hearing proceedings outlined in this Code;
- (f) Attempting to influence the impartiality of a member of a hearing body prior to, and/or during the course of, a hearing;
- (g) Harassment, intimidation and/or retaliation towards a member of a hearing body, complainant, respondent or witness at any time;
- (h) Failure to comply with the sanction(s) imposed under this Code; or
- (i) Influencing or attempting to influence another person to commit an abuse of the Code.

19. Gambling.
20. Aiding, abetting, or facilitating any conduct prohibited by this Code.
21. Sexual misconduct, including without limitation:
 - (a) Sexual assault;
 - (b) Nonconsensual sexual contact;
 - (c) Sexual exploitation;
 - (d) Sexual harassment
22. Any violation of the Code by one's guest.
23. Conviction, or a plea of guilty, or no contest to, a violation of any federal, state or local law when the violation may have an adverse impact on the University community.

VIII. Individual Sanctions

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.

One or more of the following sanctions may be imposed upon a student for violation of the code. No student is permitted to withdraw from enrollment after being charged with a Serious Violation of the Code but before imposition of sanction(s) or a finding of non-responsibility.

1. Minor Violation Sanctions.
 - (a) **WARNING:** A notice in writing to the student that the student is violating or has violated institutional regulations.
 - (b) **PROBATION:** A written reprimand for violation of specified regulations and a restriction by which a student is permitted to remain in the University under prescribed conditions. Probation is for a designated period of time and includes the possibility of the imposition of more severe disciplinary sanctions if the student is found to be violating any institutional regulations during the probationary period.
 - (c) **LOSS OF PRIVILEGES:** Denial of specified privileges for a designated period of time.
 - (d) **FINANCIAL SANCTIONS:**
 - i. **Administrative Cost** – Related to the working cost associated with resolving or addressing the alleged violation (such as the relocation of lobby furniture to its proper location or the time for staff to remove people from a building during a fire alarm).
 - ii. **Restitution** – Serves as compensation for loss, damage or injury. Restitution may take the form of appropriate service and/or monetary or material replacement
 - iii. **Educational Outreach Assessment** – A sanction that, although financial in nature, is not considered punitive; rather, it provides a tangible learning opportunity for students. Through this sanction the student becomes an active contributor to the education of not just him/herself but also his or her peers.
 - (e) **DISCRETIONARY SANCTIONS:** Work assignments, service to the University, or related discretionary assignments.
 - (f) **EDUCATIONAL SANCTIONS:** Provide a specific service, participate in a specific program, receive specific instruction or complete a research assignment. The student is responsible for related expenses.
 - (g) **RESIDENCE HALL SUSPENSION:** Separation of the student from the residence halls for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
 - (h) **RESIDENCE HALL EXPULSION** Permanent separation of the student from the residence halls.

2. Serious Violation Sanction.

In addition to suspension or expulsion, serious violations may also result in the imposition of minor violation sanctions listed above.

- (a) UNIVERSITY SUSPENSION: Separation of the student from the University for a definite period of time, after which the student is eligible to apply for readmission. Conditions for readmission may be specified. The sanction of University Suspension is recorded in the University of North Carolina Suspension and Expulsion database.
- (b) UNIVERSITY EXPULSION: Permanent separation of the student from the University and any University of North Carolina System constituent institution. The sanction of University Expulsion is recorded in the University of North Carolina Suspension and Expulsion database.

3. Minimum Sanctions have been established for certain violations, especially those involving alcohol and/or illegal drug policies. A list of these sanctions is available from the DSCE or online at <http://dsce.wcu.edu/>.

IX. 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 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 the organization's funds were used to finance the activity; an alleged violation occurred as a result of a group or organization sponsored function.

X. Student Group and 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 Assistant Vice Chancellor for Student Affairs 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. **ADDITIONAL GROUP OR ORGANIZATION SANCTIONS** may also be imposed, including:

- (a) Suspension of activities of the organization, including but not limited to:
 - i. Exclusion from intramural competition;
 - ii. Denial of use of University facilities for meetings or activities;
 - iii. Suspension for rushing, recruiting, or intake process;
 - iv. 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;
- (b) 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
- (c) Restitution of loss to University or person or organization/group;
- (d) Any other appropriate group or organization sanction as recommended by the hearing body or determined by the Assistant Vice Chancellor for Student Affairs.

5. **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 must be imposed by the Assistant Vice Chancellor for Student Affairs following review of the record of the hearing.

XI. Interim Action

1. Students

In certain circumstances, the Vice Chancellor for Student Affairs or his/her designee may impose a University or residence hall interim suspension at any time prior to the final resolution of either student disciplinary proceedings under this Code or any criminal, civil or administrative proceeding. Interim suspensions may be imposed only –

- (a) To ensure the safety and well-being of members of the University community or the preservation of University property;
- (b) To ensure the student's own physical, mental or emotional safety and well-being; or
- (c) If the student poses a significant threat of disruption of or interference with the normal operations, programs, and/or activities of the University.

During the interim suspension, students shall be denied access to the University premises, including classrooms and residence halls, as well as any and all University programs and activities.

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.

XII. Information Referrals

Anyone, including but not limited to students, University employees, University volunteers or local members of the community may refer a student or a student group or organization suspected of violating this Code to DSCE. 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 a hearing body 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 Director of DSCE will determine whether a charge shall be pursued and whether that charge is for a "Minor Violation" or a "Serious Violation" based on the facts and circumstances related to the case. This determination should be made and communicated within thirty (30) days after the initiation of the referral; however, a reasonable extension of this time limit is permissible.

XIII. Mutual Resolution and Waiver of Hearing

At any time up to two (2) days before the hearing, the Director of DSCE 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 Director of DSCE or designee. The Director of DSCE 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 Director of DSCE or designee. A mutual resolution and waiver of hearing may not be appealed.

XIV. Notification of Hearing

Cases not concluded by mutual resolution shall proceed promptly to a hearing. The scheduling of hearings may be delayed at the discretion of the Director of the DSCE 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.

The Director of DSCE or a designee shall prepare a hearing notice letter to the accused party. The letter shall include a statement of the specific charges against the party; a brief description of the information upon which the charges are based; the date, time, and place for the hearing on the charges; notice of the right of reasonable access to the allegation information; and a statement indicating that the accused party may seek assistance from DSCE staff in the preparation of his or her hearing. Notice shall be sufficient if by mail, email, or hand delivery, or by telephone followed up by a letter confirming the telephone notice. The accused party waives all claims of failure to receive adequate notice if the accused party appears at the hearing and does not formally raise the issue of adequate notice at the first opportunity.

1. Minor Violations.

For Minor Violations, 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 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.

XV. Hearing Body

Hearing bodies for cases of student or group or organization misconduct under these regulations will be appointed by the Director of DSCE or designee. Membership may include students, faculty members, and staff. A hearing body member who has a conflict with, bias about, or interest in the case should recuse him or herself. If the hearing body member refuses to recuse him or herself, the Director of DSCE shall make the decision about whether to remove that person from the panel.

XVI. Hearing Procedures

The following procedural guidelines shall be applicable in student conduct hearings conducted by a hearing body.

1. 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 Director of DSCE to substitute another student representative to represent the group or organization at the hearing.

2. Witnesses and Information

- (a) The Director of DSCE 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) All parties involved in the hearing process are expected to give truthful testimony. Furnishing untruthful testimony or failing to appear after notice may subject student participants to action under the Code.
- (c) The accused student shall be given the opportunity to present any witness or documentary information that he or she wishes to offer, provided that, in the discretion of the Chair of the hearing body, the information is relevant to the charge or other information 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 information.
- (d) Prior to a hearing the accused student, must be given the opportunity to review any written information that will be used at the hearing and to obtain a list of witnesses.

3. 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 an advisor present during a student conduct proceeding.
- (b) Under specific circumstances the University may disclose to the victim the final results of a Code proceeding against a student who pursuant to FERPA is an alleged perpetrator of any crime of violence or non-forcible sex offense.
- (c) Pursuant to FERPA, with the Director of DSCE's approval 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 in writing.

4. Challenges of Hearing Body Members.

The accused party may challenge any person selected for the hearing body 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 Director of DSCE or designee prior to the scheduled hearing. The Director of DSCE must make a decision on the challenge within five (5) calendar days and if he/she determines possible bias, the hearing body member shall be excused and a replacement may be appointed.

5. Appearance of Accused Party at the Hearing.

If the accused party fails to appear after proper notice, the hearing body will proceed with the hearing despite the absence of the accused party and make its determination with the available information.

6. Closed Hearing.

The hearing is closed to the public. Admission of any person to the hearing shall be at the discretion of the hearing body and the Director of DSCE.

7. Attendance of Advisors.

The accused party and the complainant have the right to be assisted, at their expense, by an advisor of their choosing. If the accused party has also been charged with a violation of criminal 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 as his/her advisor. The advisor's role is limited to conferring with and advising the accused party or complainant. The advisor is not permitted to argue, make statements, or question witnesses. The accused party is responsible for presenting his or her own case; the advisor 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. The advisor may not serve as a witness during the hearing.

8. Conduct of the Hearing.

- (a) Formal rules of evidence shall not apply. The chair of the hearing body 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 body 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 body 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 remain the property of the University. All documents included in the hearing records shall remain the property of the University.
- (d) The following order of presentation is recommended, although the chair may change the order in his/her discretion:
 1. Presentation of formal charges
 2. Opening statements first by the complainant and then by the accused
 3. Complainant's presentation of documents, information, and witnesses, and questions by the accused
 4. Accused's presentation of documents, information, and witnesses, and questions by the complainant
 5. Closing statements by the complainant and accused
 6. Confidential deliberations of the hearing board. All parties and witnesses are required to remain in close proximity (unless a party is excused by the chair) in the event the hearing body needs to recall any person.
 7. Hearing board decisions

9. 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 information: that it is more likely than not that the accused party violated the Code. This determination must be based solely on the information presented at the hearing.

10. Hearing Body Decisions.

- (a) A decision by the hearing body 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 information presented at the hearing. The decision must be made prior to a decision on sanctions.
- (b) A finding of responsibility on any charge shall be followed by the determination of appropriate sanction(s). The conduct record of the accused party, victim-impact statements, and/or character witness statements may be considered in determining the appropriate sanction(s).

- (c) After private deliberation, the hearing body will announce their decisions to the accused party. If the hearing body determines that expulsion is an appropriate sanction, a recommendation to that effect will be forwarded to the Vice Chancellor for Student Affairs for a final administrative decision.
- (d) The final outcome(s) of the hearing must be transmitted to the accused student in writing within ten (10) calendar days of the hearing. This decision letter must contain a brief summary of the information upon which the decision is based, a summary of the hearing board's findings, all sanctions imposed, and it shall specify appeal rights, including the time in which to appeal and the permitted grounds for the appeal.

XVII. Appeals

An appellate review is not a new hearing. Rather, it is a review of a decision reached by a hearing body for the purpose of determining whether there is cause to believe that the outcome of the hearing might be flawed. A student may request only one appellate review, which must be made in writing and addressed to the Director of the DSCE for Minor Violations or to the Assistant Vice Chancellor for Student Affairs for Serious Violations.

1. Appeal Deadline.

Within five (5) days after the party's receipt of the University's final administrative decision, the party may submit a written rationale for appeal of the decision on responsibility and/or the decision on sanctions.

2. Grounds for Appeals.

In accordance with University of North Carolina Code Section 502 D(3), 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 UNC Board of Governors, as set forth in the [UNC Board of Governors' Policy 700.4.1](#).

3. Students Found Responsible for Minor Violations.

- (a) For appeals of decisions on Minor Violations, the Director of the DSCE, or designee, will immediately forward appeals meeting the requirements set forth above, along with the record of the hearing on appeal, to the Assistant Vice Chancellor for Student Affairs.
- (b) The Assistant Vice Chancellor for Student Affairs shall decide appeals based upon the record of the hearing and the party's written appeal. The Assistant Vice Chancellor for Student Affairs may call for the submission of new and/or 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 of the hearing.
- (c) The Assistant 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 body, 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.
- (d) The Assistant Vice Chancellor for Student Affairs shall send copies of the decision on the appeal to the party and to the Director of the DSCE.
- (e) The decision of the Assistant Vice Chancellor for Student Affairs shall be final and conclusive, and the sanctions will be imposed as directed.

4. Students Found Responsible for Serious Violations.

- (a) For appeals of decisions on Serious Violations, the Assistant Vice Chancellor for Student Affairs will immediately forward appeals meeting the requirements set forth above, along with the record of the

hearing on appeal, to the Vice Chancellor for Student Affairs for sanctions involving suspension and to the Chancellor for sanctions involving expulsion.

- (b) The Vice Chancellor for Student Affairs or the Chancellor, as the case may be, 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 new and/or 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 body, 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.
- (d) The Vice Chancellor for Student Affairs or Chancellor shall send copies of the decision on the appeal to the party and to the Director of the DSCE.
- (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. However, 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 University 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 Director of the DSCE.
- (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 UNC Board of Governors.

5. Student Groups or Organizations Found Responsible.

- (a) For appeals of decisions on student groups or organizations, the Director of the DSCE, or designee, will immediately forward appeals meeting the requirements set forth above, along with the record of the hearing to the Assistant Vice Chancellor for Student Affairs.
- (b) The Assistant Vice Chancellor for Student Affairs shall decide appeals based upon the record of the hearing and the party's written appeal. The Assistant Vice Chancellor for Student Affairs may call for the submission of new and/or 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 of the hearing.
- (c) The Assistant 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 body, 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.
- (d) The Assistant Vice Chancellor for Student Affairs shall send copies of the decision on the appeal to the party and to the Director of the DSCE.
- (e) The decision of the Assistant Vice Chancellor for Student Affairs shall be final and conclusive, and the sanctions will be imposed as directed.
- (f) In cases where the hearing body recommended and the Assistant Vice Chancellor for Student Affairs implemented a sanction of Registration Revocation, the first level of appeal is to the Vice Chancellor for Student Affairs and the final appeal level is to the Chancellor's designee.

XVIII. Deferral of Sanctions

At the discretion of the Assistant Vice Chancellor for Student Affairs or the Director of the DSCE, the imposition of a sanction normally will be deferred during the duration of an appeal 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.

If a determination is made to immediately impose a sanction this decision will be communicated at the conclusion of the hearing.

XIX. Student Conduct Files and Records

1. Academic transcripts shall reflect student conduct sanctions as provided by this Code.
2. 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, or such other period of time prescribed by the UNC Records Retention and Disposition Schedule. 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.
3. Students may inspect their conduct files in accordance with [University Policy #72 - Student Records](#).

XX. Revision and Communication

This Code may be reviewed and amended by the Vice Chancellor for Student Affairs. Revisions of this Code shall be communicated to the University community through official email as well as other means of mass communication. The official Code of Student Conduct will be available on the University website at <http://wcucode.wcu.edu/> .
