

# WESTERN CAROLINA UNIVERSITY CODE OF STUDENT CONDUCT



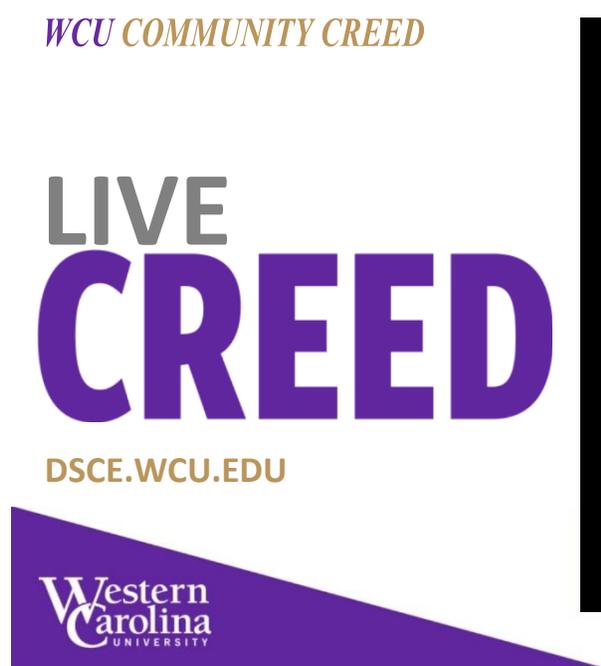
# TABLE OF CONTENTS

ARTICLE I PHILOSOPHY AND PURPOSE .....	4
ARTICLE II RIGHTS AND RESPONSIBILITIES OF STUDENTS.....	5
2.01 I Rights of Students .....	5
2.02 I Responsibilities of Students.....	6
ARTICLE III AUTHORITY AND JURISDICTION.....	7
3.01 I Authority of the University .....	7
3.02 I Jurisdiction of the Code .....	7
University Breaks.....	7
Laws and Policies.....	7
3.03 I Freedom of Expression .....	8
ARTICLE IV DEFINITIONS.....	8
ARTICLE V PROHIBITED CONDUCT.....	11
5.01 I Acts of Endangerment .....	12
5.02 I Aiding and Abetting.....	12
5.03 I Alcohol Violation .....	12
5.04 I Alcohol/Drug Paraphernalia.....	12
5.05 I Disorderly Conduct .....	12
5.06 I Drug Violation.....	13
5.07 I Failure to Comply .....	13
5.08 I False Information .....	13
5.09 I Fire Safety.....	14
5.10 I General Violation .....	14
5.11 I Harassment, Threats, Bullying, or Intimidation .....	14
5.12 I Hazing .....	15
5.13 I Illegal Gambling.....	15
5.14 I Impairment.....	15
5.15 I Information Technology Violations .....	15
5.16 I Interpersonal Abuse.....	15
5.17 I Material and Substantial Disruption .....	15
5.18 I Possession of Stolen Property .....	16
5.19 I Sexual Harassment.....	16
5.20 I Sexual Misconduct .....	16
a. Sexual Assault .....	16
b. Sexual Contact (Nonconsensual) .....	16
c. Sexual Exploitation .....	16
d. Stalking .....	16
5.21 I Theft.....	17
5.22 I Trespassing (Unauthorized Entry) .....	17
5.23 I University Process Abuse.....	17
5.24 I Violation by Guest(s).....	17

5.25 I Violation of Law.....	17
5.26 I Weapons.....	17
ARTICLE VI PROCESS OF ADDRESSING PROHIBITED CONDUCT .....	17
6.01 I Reporting Allegations.....	17
6.02 I Warning .....	18
6.03 I Mediation .....	18
6.04 I Interim Actions.....	18
Process.....	18
Interim Action .....	18
Other Interim Actions .....	19
Appeal .....	19
6.05 I Due Process.....	19
6.06 I Notification and Official Communication.....	21
6.07 I Presence of Advocates.....	21
Requirements for Participation of a Licensed Attorney or Other Non-Attorney Advocate .....	21
6.08 I Standard of Proof.....	21
6.09 I Determinations of Responsibility and Sanctioning.....	21
6.10 I Mutual Resolution .....	22
6.11 I Conduct Meeting .....	22
6.12 I Hearing .....	23
Notice of Hearing .....	23
Hearing Procedures .....	23
ARTICLE VII TITLE IX GRIEVANCE PROCESS .....	24
ARTICLE VIII ADDITIONAL CONDUCT PROCEDURES FOR STUDENT GROUPS AND RECOGNIZED STUDENT ORGANIZATIONS .....	25
ARTICLE IX ADDITIONAL CONDUCT PROCEDURES FOR ACADEMIC INTEGRITY CASES.....	26
ARTICLE X SANCTIONS.....	26
10.01 I Sanctions Associated with Minor Violations .....	27
10.02 I Sanctions Associated with Serious Violations .....	27
10.03 I Incomplete Sanction Assessment .....	27
ARTICLE XI APPEALS .....	28
11.01 I Filing an Appeal.....	28
11.02 I Grounds for Appeal.....	28
11.03 I Procedures for Resolving an Appeal .....	28
ARTICLE XII CASE FILES AND CONDUCT RECORDS .....	29
12.01 I Records Maintenance .....	29
12.02 I Access and Confidentiality.....	29
Family Educational Rights and Privacy Act (FERPA) .....	29
ARTICLE XIII REVIEW, REVISION, AND REVISION HISTORY .....	30
13.01 I Annual Review .....	30
13.02 I Changes Beyond the Annual Review.....	30
13.03 I Revision History.....	30
ARTICLE XIV DIRECTORY OF CONTACTS.....	31

## ARTICLE I PHILOSOPHY AND PURPOSE

Western Carolina University (WCU) is a public, regional institution of higher education whose mission is to create learning opportunities that incorporate teaching, research, service, and engagement through on-campus, off-campus, online and international experiences. As an institution of higher education, WCU is committed to the safety, welfare, and education of the members of our community and strives to foster an environment consistent with the institution's educational mission and purpose. To cultivate such environment, WCU has a set of aspirational values for the members of the University community to live up to known as the WCU Community Creed. The Community Creed reads as follows:



I will **LIVE** by high standards of academic and personal **INTEGRITY**.

I will **EMBRACE** my **RESPONSIBILITIES** as a member of this community.

I will **RESPECT** the rights and well-being of **OTHERS**.

I will **VALUE DIVERSITY**, inclusive excellence, and individual differences.

I will **ENGAGE MYSELF** in the artistic, cultural and academic life of my University.

I will **CELEBRATE** and express pride in **WESTERN CAROLINA UNIVERSITY**.

When students are admitted and voluntarily enter WCU, they assume the standards of behavior relevant to the University's mission, functions, and purpose. Expectations of students at WCU are higher than those of other citizens. WCU acknowledges that students have rights and responsibilities as members of the WCU community, and WCU has expectations regarding the behaviors of the members of the WCU community. Through the WCU Code of Student Conduct, the University strives to prevent and reduce behaviors that are inconsistent with laws, policies, or the WCU Community Creed.

WCU aims to provide an educational student conduct process that takes into consideration both the rights of students and the needs of the University in accomplishing its educational mission and purpose. Per University Policy 10 - Policy Statement on Non-Discrimination and Equal Opportunity, Western Carolina University is committed to providing an inclusive and welcoming environment and does not discriminate, or treat people differently on the basis of race; color; religion; sex; sexual orientation; gender identity or expression; national origin; age; disability; genetic information; political affiliation; and National Guard or veteran status. This includes a prohibition on sexual violence and sexual exploitation, which by definition involve conduct of a sexual nature and are prohibited forms of sexual harassment. The University also

prohibits stalking and interpersonal violence, which need not be based on an individual's protected status. Western Carolina University provides aids and services to people with disabilities as required by law and policy.

If you believe that Western Carolina University has discriminated against you or a third party on the basis of race; color; religion; sex; sexual orientation; gender identity or expression; national origin; age; disability; genetic information; political affiliation or veteran status, or has failed to provide aids or services to persons with disabilities as required by law and policy, you may file a grievance pursuant to University Policy 53 - Unlawful Discrimination, Sexual Misconduct, and Retaliation.

The educational philosophy behind the student conduct process aims to meet the following goals:

- to facilitate an understanding of the University's community standards;
- to assist the student in determining the level of responsibility for their behavior;
- to assist in determining reasons why the student misconduct occurred;
- to bring the student's behavior into compliance with the University's community standards;
- to help the student identify how the WCU Community Creed relates to the behavior(s) in question;
- to assist the student in making better future decisions by considering in advance the consequences of their behavior; and
- to protect the safety, welfare, and education of the University community.

## **ARTICLE II RIGHTS AND RESPONSIBILITIES OF STUDENTS**

Rights and responsibilities are listed in no specific order of importance.

### ***2.01 | Rights of Students***

WCU Students have the right to:

- a. live and learn within an environment that values freedom of access and does not discriminate against individuals on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, political affiliation, or veteran status.
- b. engage in a learning environment that promotes and values freedom of expression and evaluates students on their academic performance, not on their opinions or conduct unrelated to academic standards.
- c. privacy, confidentiality, and/or appropriate management of their educational records as prescribed by the Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA), and other University, state, and/or federal guidelines.
- d. live and learn within an environment that values freedom of association, and that has a clear process for establishing, joining, and organizing associations to promote their common interests.
- e. academic evaluations, disciplinary proceedings, and/or University procedural matters. As a part of their granted due process rights, students have the right to a clear understanding of all options for appeal and the associated procedures.
- f. engage in academic and non-academic opportunities which value excellence, scholarship, teaching, and learning.
- g. collaborate in an environment of respect for self and others.
- h. live and learn within an environment that values the free and open interchange of ideas.
- i. express complaints and concerns through established procedures with the expectation they will be investigated to the fullest extent possible and without fear of repercussions and/or acts of retaliation.
- j. live and learn within an environment that values cultural diversity, inclusion, and equal opportunity

## **2.02 | Responsibilities of Students**

WCU Students have the responsibility to:

- a. adhere to University regulations, policies, and procedures as well as obey local, state, and federal laws.
- b. understand and adhere to the Code and strive to live by the WCU Community Creed.
- c. conduct 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. (UNC Policy Manual 700.4.2)
- d. take the role of being a Student seriously.
- e. engage in behavior that does not deny others the rights provided to them by the United States Constitution, laws of the state of North Carolina, and/or University policies/procedures.
- f. actively participate in a conduct process which holds students accountable in an educational manner while adhering to the principles of due process.
- g. interact with others in a manner that does not discriminate against them on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, political affiliation, or veteran status.
- h. understand the Catamount email system is the official form of University communication (University Policy 52 - Responsible Use of Information Technology Resources). As a result, students must adhere to the expectation of checking their WCU email on a regular basis (we recommend multiple times a day). This responsibility applies to all students even between breaks and semesters.
- i. adhere to the expectation that 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 University policy, while on University premises or at University-sponsored activities based upon the person's race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, political affiliation, or veteran status. (UNC Policy Manual 7004.2)
- j. adhere to the expectation that 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: (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 unreasonable that it 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. (UNC Policy Manual 700.4.2)
- k. understand that 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. (UNC Policy Manual 700.4.2)
- l. understand that University Officials shall seek advice from campus attorneys, as appropriate. (UNC Policy Manual 700.4.2)
- m. report violations of the Code and/or law to an appropriate University Official (i.e. Dean of Students, the DSCE, Student Affairs Office, WCU Police Department, etc.) immediately upon learning about the actual/alleged occurrence
- n. know the definitions of terms and violations used in the Code.

## ARTICLE III AUTHORITY AND JURISDICTION

### **3.01 | Authority of the University**

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

Subject to any policies or regulations of the University of North Carolina 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.

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 has delegated the responsibility for administering the student discipline program to the Dean of Students, who supervises the Department of Student Community Ethics (DSCE).

### **3.02 | Jurisdiction of the Code**

The Code applies to the behavior of enrolled WCU Students that occurs on or off-campus.

#### *Enrollment*

The Code applies to the behavior of a student after the student has been accepted by WCU and prior to the student's first semester and continues until graduation or the student is no longer eligible to enroll without reapplying (Policy 121).

#### *University Breaks*

The Code applies to the behavior of students during breaks, including Winter Break (when the student was registered for classes in the prior Fall semester and/or the following Spring semester) and Summer Break (when the student was registered for classes in the prior Spring semester and/or the following Fall semester).

Withdrawal from University enrollment or a specific course due to an alleged violation of the Code once WCU becomes aware of an allegation and before final resolution of a case will not halt the applicable Code proceedings. In addition, students are not entitled to refunds (i.e., tuition, housing, meal plan, etc.) if they are separated from the University as a result of conduct proceedings.

#### *Laws and Policies*

Matters involving the WCU Police Department will automatically be referred to Student Affairs and/or the DSCE and may result in allegations of Code violations. Matters involving other law enforcement agencies may be referred to Student Affairs and/or the DSCE and may also result in allegations of Code violations. Violations of University or UNC-System policies, rules or regulations, or federal, state, or local law may result in a violation of the Code and imposition of student conduct actions (UNC Policy Manual 7004.2). The Code differs from the criminal or civil justice systems in scope, purpose, procedure, and outcome.

The Code 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 a student's conduct violates this Code, as well as federal, state, or local laws, or administrative regulations, university student conduct proceedings may be initiated and proceed without regard to the pendency of civil, criminal, or administrative actions. Student conduct 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 amended, dismissed, reduced, or not yet fully adjudicated.

Reporting parties of crimes/violations are encouraged to notify and seek assistance from the Western Carolina University Police Department and/or the Dean of Students or designee. There are significant differences between pursuing a matter criminally and addressing it through the University code of conduct proceedings. Reporting parties are not required by the University to pursue action through either entity.

#### *Housing Contract Decisions*

Decisions by Residential Living to terminate Housing Contracts for violations of the terms shall be separate and apart from this Code. Termination of Housing Contracts by Residential Living is not subject to any of the provisions of this Code. However, a violation of this Code may result in a sanction of removal from on-campus housing.

#### *Title IX Sexual Harassment*

University Policy 129, policy and procedures shall take precedent over this Code for matters of Title IX Sexual Harassment. This does not prohibit a student from facing charges under this Code for conduct that does not fall under Title IX or when alleged policy violations of this Code are referred for adjudication (i.e. Alcohol violations).

#### **3.03 | Freedom of Expression**

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. (UNC Policy Manual 7004.2)

## **ARTICLE IV DEFINITIONS**

**4.01 | Advocate**- an attorney or non-attorney advocate who assists individuals or groups throughout the conduct process. Examples include, but are not limited to, investigation conversations, meetings to discuss allegations and/or formal alleged violations against a student, student group, or recognized student organization, etc. This term is used interchangeably with the term Advisor with regard to the student Code of Conduct process.

**4.02 | Alcohol** - any beverage containing at least one-half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor, and mixed beverages. (University Policy 38 - Illegal Drugs and Illegal Use or Abuse of Alcohol)

**4.03 | Alleged Violation** - term utilized when a designated University Official receives a complaint regarding a student, student group, or Recognized Student Organization (RSO) which could result in an investigation and/or referral to a conduct proceeding.

**4.04 | Complainant** - an individual who is reported to be the victim of conduct that could constitute

sexual harassment or a violation of the Code.

**4.05 | Complaint** - term utilized to refer to information a designated University official receives that could result in an investigation and/or conduct proceeding.

**4.06 | Conduct Proceeding** - any procedure used for handling a conduct matter including, but not limited to, a conduct meeting, hearing, investigation, etc.

**4.07 | Consent** - approval and permission to engage in mutually agreed upon sexual activity demonstrated by clear actions, words, or writings.

- Consent cannot be granted when:
  - The other party is under the age of legal consent:
  - The other party is asleep or unconscious:
  - The other party was coerced; intimidated; or threatened with mental or physical force.
- Consent is not to be inferred from:
  - Silence, passivity, or lack of resistance; and/or
  - An existing or previous dating or sexual relationships.

Consent may be withdrawn at any time and requires an outward demonstration that clearly conveys through understandable words or actions that a party is no longer willing to engage in sexual activity. Once consent is withdrawn, the sexual activity must immediately cease.

**4.08 | Day** - when the Code refers to a time period or deadlines, the number of "days" shall reference the number of days the University is officially open for business as presented on the official university calendar.

**4.09 | Formal Resolution** - the formal determination of a hearing board regarding responsibility, as determined by the preponderance of the evidence standard, and the sanctions imposed if there was a finding of responsibility.

**4.10 | Hate Crime** - a crime reported to local police agencies or to a Campus Security Authority that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim. For the purposes of this section, the categories of bias include the victim's actual or perceived race, religion, gender, gender identity, sexual orientation, ethnicity, national origin, and disability.

**4.11 | Hearing Board** - multiple Hearing Officers that are trained and come together to carry out hearing procedures.

**4.12 | Hearing Officer** - any person(s) designated and/or appointed by designated University Officials to determine whether a student, student group, or RSO has violated the Code and make decisions about sanctions. A Hearing Officer can be a student, faculty member, or staff member.

**4.13 | Hostile Environment** - occurs when one experiences unlawful distinction, preference, or harm as compared to others based on that individual's Protected Status and that it is sufficiently severe, persistent or pervasive enough to unreasonably interfere with, deny, or limit:

- an employee's or applicant for employment's access to employment or conditions and benefits of employment (e.g., hiring, advancement, assignment);
- a student's or admission applicant's ability to participate in, access, or benefit from educational programs, services, or activities (e.g., admission, academic standing, grades, assignment, campus housing);
- an authorized agent's ability to participate in an agent activity.

A Hostile Environment is one that a reasonable person (objective standard) would find hostile or abusive and one that a complainant under this policy perceives to be hostile or abusive (subjective standard). Hostile environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, the extent to which the conduct was intended to harm, harass or exploit the complainant, and whether the conduct actually and substantially interferes with an employee's work performance or a student's ability to participate in or to receive benefits, services, or opportunities in the University's education programs and activities. (University Policy 53 - Unlawful Discrimination, Sexual Misconduct, and Retaliation).

**4.14 | Incapacitation** - when a person lacks the mental and/or physical ability to make an informed, rational judgment about whether or not to consent to engage in an activity due to unconsciousness; intermittent consciousness; or lack of awareness. Incapacitation is a state beyond intoxication from alcohol and/or other legal substances. Incapacitation is determined by specific facts associated with the person's decision making ability, awareness of consequences, and ability to make informed decisions regarding their health, safety, wants and needs. A person who is incapacitated is unable to grant Consent. (University Policy 53 - Unlawful Discrimination, Sexual Misconduct, and Retaliation)

**4.15 | Illegal Drugs** - means (1) any drug or substance whose use, possession, and manufacture are regulated by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services pursuant to Article 5 of Chapter 90 of the North Carolina General Statutes (the "Controlled Substances Act"); or (2) a drug whose use is strictly controlled by a physician's prescription or other order. (University Policy 38 - Illegal Drugs and Illegal Use or Abuse of Alcohol)

**4.16 | Interim Action** - A temporary action the Vice Chancellor for Student Affairs or designee may impose to stabilize a situation where there is a reasonably articulated violation of this Code.

**4.17 | Intoxication** - a condition resulting from the use of alcohol, drugs, or other impairing substance(s) where a person exhibits behaviors such as, but not limited to: slurred speech, slowed reflexes, loss of balance, inability to concentrate or track conversations, vomiting, memory loss, disorientation, loss of one's control of normal physical or mental faculties, etc. Signs of intoxication may also include unusual behavior, when specific concerns are expressed by others about the individual, a student stating/acknowledging that the student was intoxicated, and/or loss of one's control of normal physical or mental faculties.

**4.18 | Member of the University Community**- any individual who is a student, faculty member, staff member, individual employed by or volunteering for the University, or visiting the University. This phrase may be used interchangeably with "University Community."

**4.19 | Minor Violation** - a Code violation for which the possible sanctions do not include suspension or expulsion.

**4.20 | Preponderance of the Evidence** - the evidentiary standard used in Code proceedings where the burden of proof is whether it is more likely than not that a Respondent violated the Code.

**4.21 | Protected Status** - characteristics for which an individual is not permitted to suffer undue distinction and/or unlawful mistreatment. Those traits include race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, political affiliation and National Guard or veteran status. (University Policy 10 - Policy Statement on Non-Discrimination and Equal Opportunity and University Policy 53 - Unlawful Discrimination, Sexual Misconduct, and Retaliation)

**4.22 | Receipt of Written Notice** - information is considered "received" by a student when a document is sent via University systems and email (creating a date and time stamp). A student does not need to open a document for it to be considered received. If a document is provided to a student in-person (as opposed to electronically), it will be considered "received" and appropriately noted by designated University officials. Per University Policy 52 - Responsible Use of Information Technology Resources, students are expected to check their WCU email.

**4.23 | Recognized Student Organization (RSO)** - a collection of persons who have complied with the requirements for formal University recognition as a group.

**4.24 | Record of the Hearing** - includes the letter containing formal alleged violations, audio recording of the hearing, written transcript of the hearing (when applicable), all documents offered as information at the hearing, and the written opinion of the Hearing Board. Record of the hearing also includes documentation related to any appeal.

**4.25 | Reporting Party** - a person, group or organization who reports information.

**4.26 | Respondent** - an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or a violation of the Code.

**4.27 | Responsible** - is when, based on the preponderance of the evidence, a student is found to have committed a violation of the Code by a hearing officer or hearing board.

**4.28 | Restriction** - an activity or privilege that is altered or eliminated for a student as the direct result of an action/behavior. Examples include, but are not limited to: ban from campus or specific buildings, inability to participate in University-sponsored activities, inability to serve in an on-campus employment opportunity, etc.

**4.29 | Retaliation** - mistreatment or any act of reprisal, interference, restraint, coercion, penalty, discrimination, harassment - overtly or covertly- against any applicant for employment, student, employee, volunteer, or agent within the University's control when the person engages in a protected activity. (University Policy 53 - Unlawful Discrimination, Sexual Misconduct, and Retaliation).

**4.30 | Serious Violation**- a violation of this Code for which the possible sanctions include suspension or expulsion.

**4.31 | Student Group** - a collection of students associated with each other for a common purpose and who are not classified as a RSO by the University.

**4.32 | University Facilities** - all buildings, facilities, or grounds owned, leased, operated, controlled, or supervised by Western Carolina University, including adjacent streets and sidewalks.

**4.33 | University Official** - any person employed by the University and authorized to perform administrative or professional duties, including but not limited to: faculty members, staff members, student employees, or University officer(s).

## **ARTICLE V PROHIBITED CONDUCT**

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. Violations of University or UNC-System policies, rules or regulations, or federal, state, or local law may result in a violation of the Code and imposition of student discipline. (UNC Policy Manual

700.4.2) The following conduct may be subject to student conduct action and/or conduct proceedings and appropriate outcomes.

**5.01 | Acts of Endangerment**

Any actual or perceived act, behavior, or action of physical violence or reckless behavior against another individual, group, or property which causes reasonable apprehension of harm or actual harm.

**5.02 | Aiding and Abetting**

Allowing a violation to occur, whether by enabling the violation or failing to report it when there is a health or safety concern; or advising, instigating, encouraging, or assisting with a violation of the Code. A student may not be found responsible for Aiding and Abetting and the underlying charge.

**5.03 | Alcohol Violation**

- a. Possessing and/or consuming alcoholic beverages by a person under the age of 21;
- b. Aiding and abetting the possession and/or consumption of alcoholic beverages by a person who is under the age of 21;
- c. Consuming any alcoholic beverages where it is not legally permissible to do so, regardless of age;
- d. Possessing common source containers (Ex: kegs/mixed alcohol from a common source outside of its original packaging) or engaging in behaviors consistent with rapid consumption of alcohol.
- e. Any other violation of University Policy 38 - Illegal Drugs or Illegal Use or Abuse of Alcohol or University Policy 81 - Alcoholic Beverages.

**5.04 | Alcohol/Drug Paraphernalia**

- a. Possession of containers designed for alcoholic beverages and empty containers of alcohol.
- b. Possession of consumption devices associated with rapid consumption of alcohol (Ex: Bong) or a common source of empty alcohol containers (Ex: Kegs that are empty).
- c. Possession of paraphernalia commonly used to consume drugs (includes, but is not limited to, pipes, bongs, hookahs, homemade smoking devices, vape materials with suspected illegal substances or items that have markings of use for drug-related behavior, such as burned spoons).

**5.05 | Disorderly Conduct**

- a. Engaging in objectively disruptive behavior such as behavior that a reasonable person would consider to be especially offensive or obscene in nature including, but not limited to indecent exposure, vomiting in public or urinating in public.
- b. Disturbing the peace, disrupting, obstructing (or assisting or encouraging another person to do so) any University activity, including but not limited to, teaching, research, administration, athletic, and recreation events, cultural events, guest speakers and other presentations.
- c. Actual or attempted damage to, or vandalism of University property, property of a member of the University community, or non-University property.
- d. Any behavior that has a substantial negative effect on a University living and/or learning environments and/or interferes with the rights of another Member of the University Community.



#### **5.06 | Drug Violation**

- a. Illegal possession or use of controlled substances as defined by the North Carolina General Statutes§ 90-86 through§ 90 -113.8.
- b. Manufacturing, selling, or delivering any controlled substance or possession with intent to manufacture, sell or deliver any controlled substance.
- c. Misuse of any legal pharmaceutical drugs.
- d. Knowingly breathe or inhale any substance for the unlawful purpose of inducing a condition of intoxication.
- e. Any other violation of University Policy 38 - Illegal Drugs or Illegal Use or Abuse of Alcohol or UNC Policy 1300.1 - Policy on Illegal Drugs.

#### **5.07 | Failure to Comply**

- a. Not following the directions, requests, or orders of any university representative or body acting in an official capacity or impeding with the carrying out of such directives.
- b. Not following the instructions of law enforcement officials acting in an official capacity.
- c. Attempting to influence the impartiality or participation of any individual involved in a conduct proceeding.

#### **5.08 | False Information**

- a. Knowingly, or, recklessly, providing false/misleading information to, about, or filing false alleged violations against, another person, student group, or RSO. Examples include, but are not limited to, written or oral communication given to Student Government Association (SGA), Resident Student

Association (RSA), Hearing Bodies, University Officials, faculty members, law enforcement officers, improper use of recordings, etc.

- b. Forgery, alteration, or misuse of any University document, record, instrument of identification or keys, or tampering with any University election.

### **5.09 I Fire Safety**

The following behaviors are not permitted:

- a. Setting any unapproved fire, committing arson or knowingly or negligently contributing materials or fuel to a fire.
- b. Igniting any material inside of a facility (including candles and incense).
- c. Falsely activating a fire alarm or alarms.
- d. Tampering with fire equipment.
- e. Failing to report a fire or someone involved in setting a fire.
- f. Failing to vacate a University building during a fire alarm or scheduled fire drill or failing to vacate the general vicinity of a fire.
- g. Vaping in any facility on campus.
- h. Any behavior that places a facility or community at risk for fire is not permitted. Such behaviors include, but are not limited to, failing to properly tend to cooking, the use of outdoor tiki torches in the campus area, use/possession of appliances with heating elements that are not approved in residence halls, burning candles/incense, burning materials in an open/outdoor space in the campus area or unsuccessful extinguishing of tobacco products.

### **5.10 I General Violation**

Violating a University policy, regulation, procedure, guideline, standard, or university contractual agreement that is not otherwise a violation of the Code.

### **5.11 I Harassment, Threats, Bullying, or Intimidation**

- a. Directing action toward a particular individual or group in a manner which is unwelcome, and under the totality of the circumstances, is so severe or pervasive, and objectively offensive that it undermines and/or detracts from the target individual's academic pursuits, participation in University-sponsored activities, or employment, effectively denying equal access to University resources and opportunities.
- b. WCU will also enforce the University of North Carolina System Policy 700.4.2, which states:
  - a. 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 in whole or in part upon any of the protected statuses included in Section 103 of *The Code*.
  - b. 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:
    - i. Directed toward a particular person or persons;
    - ii. Based in whole or in part upon any of the protected statuses included in Section 103 of *The Code*;
    - iii. Unwelcome;
    - iv. Severe or pervasive;
    - v. Objectively offensive; and
    - vi. 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.

- c. 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.

### **5.12 | Hazing**

A student, student group, or RSO, who aids, abets, incites, organizes, approves, or otherwise participates in any behavior that would constitute a violation of this hazing policy as described further:

- Any activity or event related to membership in a student group or RSO, that intentionally or unintentionally endangers the mental, physical, or emotional health of a person. Consent is not a defense or excuse to participation in the activity.
- Any activity or event that would constitute violations of local, state or federal law or any other University policy regardless of the consent of the participants.
- Any actions that demean, disgrace or embarrass a person may also be considered hazing.

Hazing can occur either on or off-campus. While hazing is typically associated with membership selection and initiation into a group or organization, it is possible for hazing to occur before, during, after or separate from membership selection and initiation, and regardless of a person's status or position in the student group or RSO.

### **5.13 | Illegal Gambling**

Gambling for money or other things of value, except as permitted by law.

### **5.14 | Impairment**

- a. Being impaired by either alcohol or any other impairing substance in a public place and engaging in disruptive conduct.
- b. Operating a motor vehicle while under the influence of an impairing substance; or after having consumed sufficient alcohol that the operator has, at any relevant time after the driving, an alcohol concentration of 0.08 or more. The results of a chemical analysis shall be deemed sufficient evidence to prove a person's alcohol concentration. Operating a motor vehicle means having the actual physical control of the vehicle, including sitting in a parked vehicle with the engine running.

### **5.15 | Information Technology Violations**

Engaging in behaviors in violation of University Information Technology policies, procedures, standards or that abuse the University's computing and information technology resources.

### **5.16 | Interpersonal Abuse**

Any behavior when the Respondent and Complainant are in a current or former dating relationship, in a current or former romantic or intimate relationship, or in a familial relationship and engage in physical, sexual, emotional, economic, or psychological actions or threats of actions that a reasonable person in similar circumstances would find abusive, intimidating, or threatening; or Violates any section of this Code.

### **5.17 | Material and Substantial Disruption**

The material and substantial disruption of an individual or group's lawful exercise of speech or expressive conduct protected by the First Amendment, including the following:

- a. Any action that qualifies as disorderly conduct under North Carolina General Statute § 14-2884
- b. Any action that qualifies as a disruption of official meetings under North Carolina General Statute § 143-31,
- c. Any action in violation of a chancellor's designation of a curfew period pursuant to North Carolina General Statute § 116-212.

- d. Any action that results in the individual receiving a lawful trespass notice from law enforcement.

Actions that may give rise to Material and Substantial Disruption include protests and demonstrations that materially infringe upon the rights of others to engage in and listen to expressive activity when the expressive activity (1) has been scheduled pursuant to the Code or other relevant institutional policy, and (2) is located in a nonpublic forum. In determining whether an action is a Material and Substantial Disruption, WCU will consider the degree to which the disruptive activity impedes access to or from any scheduled institution events or the degree to which the activity impedes an audience's ability to see and hear the expressive activity. Other activities that may materially and substantially interfere with the institution's missions including disrupting the classroom environment, student living environment, laboratory or research environments, patient care environments, or blocking the flow of pedestrian traffic.

#### **5.18I Possession of Stolen Property**

Receiving, retaining, storing, or disposing of movable property which the student knows, or should know, has been stolen from another person, entity, and/or the University.

#### **5.19I Sexual Harassment**

Any unwelcome conduct of a sexual nature that is sufficiently severe, persistent or pervasive that it unreasonably denies, limits or interferes with an individual's ability to participate in an educational program or activity (Policy 53 - Unlawful Discrimination, Sexual Misconduct and Retaliation).

Unwelcome conduct of a sexual nature includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.

#### **5.20I Sexual Misconduct**

Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

- a. *Sexual Assault* – engaging in vaginal, oral, or anal penetration or intercourse without a person's Consent.
- b. *Sexual Contact (Nonconsensual)* – directly or indirectly engaging in any other physical contact not described in the definition of Sexual Assault which is performed without a person's Consent. Examples include, but are 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.
- c. *Sexual Exploitation* – 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 person; nonconsensual video or audio recording of sexual activity; going beyond the boundaries of Consent (such as letting friends surreptitiously watch consensual sex acts, or unauthorized distribution of photos or other materials of a sexual nature); possessing, producing, and/or distributing child pornography; engaging in voyeurism, and inducing Incapacitation with the intent to commit sexual misconduct against another person or with the intent to create opportunity for a third party to commit sexual misconduct against another person.
- d. *Stalking* - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. "Course of conduct," is defined as a pattern of two or more acts over a period of time, however short, that evidence a continuity of purpose, and may include acts that are direct, indirect, or through third parties, by any action, method, device or means. Unwelcome conduct of a sexual nature includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal,

nonverbal, or physical conduct of a sexual nature.

#### **5.21 | Theft**

Taking (or attempting to take) property belonging to the University, members of the WCU community, visitors, guests, or another person, group of people, or organization.

#### **5.22 | Trespassing (Unauthorized Entry)**

Entering a building or area that is clearly marked as restricted access, or where the individual has been informed by University Officials and/or law enforcement officers that the student has been restricted from that facility or location. Being in a University-owned or controlled facility after designated hours of operation without written permission from designated officials. Entering the residence hall room of another Student without permission from the resident(s).

#### **5.23 | University Process Abuse**

- a. Engaging in behavior that disrupts normal University operations, consume an inordinate amount of University personnel time or University resources or interfering with the educational process or orderly operation of the University.
- b. Retaliating against individuals who exercise rights or participate in investigations or proceedings.
- c. Incomplete or noncompliance with sanctions.

#### **5.24 | Violation by Guest(s)**

Students and groups are responsible for notifying their guest(s) of University policies, rules, regulations and prohibited conduct per the Code and may be held accountable for the conduct of their guests. Guests can be University students or non-students. Guests on campus who do not abide by university policies are subject to being trespassed.

Students are responsible for the behavior of visitors and may be found responsible for Code violations committed by their guest(s) whether or not the student is present during the prohibited conduct.

#### **5.25 | Violation of Law**

Committing an act, attempting to commit an act, or assisting another in committing an act that violates state or federal law or local ordinances that is not otherwise a violation of the Code. Violations of this provision are not dependent on the presence or outcome of criminal proceedings.

#### **5.26 | Weapons**

Illegal or unauthorized possession or use of harmful or dangerous items or any action in violation of University Policy 91- Weapons on Campus. Items considered by the University to be weapons include those described in University Policy 91 – Weapons on Campus as well as any restriction imposed by another or different university division.

## **ARTICLE VI PROCESS OF ADDRESSING PROHIBITED CONDUCT**

The following sections outline the process of addressing prohibited conduct.

#### **6.01 | Reporting Allegations**

Anyone including, but not limited to students, University employees, University volunteers, members of the University community, or local members of the community, may report a student, student group, or RSO suspected of violating this Code. The report must be made in writing, online through the student conduct incident report form, or in person to the DSCE or the Dean of Students, and must include factual information supporting the allegation. A person making such a report may be asked to appear before a Hearing Officer as a witness. Reports should be made as soon as possible after the

alleged incident. Anonymous referrals may limit the ability of University Officials to investigate or otherwise pursue the allegation.

### **6.02 | Warning**

Upon receiving information that a possible violation of the Code may have taken place, a Hearing Officer may issue a warning. A warning is not a sanction and can be issued without an alleged violation. A warning may be issued instead of referring the information through the student conduct process.

### **6.03 | Mediation**

Under appropriate circumstances, designated University Officials may reach out to involved parties to discuss their willingness to participate in mediation. Mediation can serve as an opportunity to identify and take steps to repair harm, while involving those most directly involved and affected by the harm.

### **6.04 | Interim Actions**

In response to a report and/or as a component of the investigation or review of any potential student conduct matter, the Vice Chancellor for Student Affairs, Dean of Students, or designee will determine if it is reasonable to be concerned about the general safety and/or welfare of individuals or the University community. If reasonable concern exists, the Vice Chancellor for Student Affairs, Dean of Students, or designee may impose an interim action against a student, student group, and/or RSO. These interim actions may be imposed effective immediately, without prior notice, when, in the University Official's judgment, there is a need to implement an individualized response based on the status of the student, the seriousness of the alleged violation(s) of the Code and/or the potential for an ongoing threat or disruption to the University community. The University may take interim actions as follows:

#### *Process*

If an interim action is deemed appropriate/necessary by a designated University Official, the student, student group, and/or RSO will receive written notification. At a minimum, the document will include:

- a. A statement explaining why the interim action was implemented.
- b. The terms of the interim action (including date of expiration, continuance, deadlines, etc.).

When an interim action is implemented, the Dean of Students or designee, will communicate with the academic advisors, faculty, coaches, and other appropriate members of the University community in a "need-to-know" capacity. The communication will be sent via email and will contain a generic message regarding the status of a specific student. As an example, a message will be sent to faculty stating that the student will not be in classes.

#### *Interim Action*

Interim suspension is a diversion from the regular disciplinary process but may be necessary to ensure the safety and welfare of the University community. Students subjected to an interim suspension will be afforded due process, including an immediate appeal in addition to the prescribed procedures outlined in 6.05 Due Process.

A student may be suspended on an interim basis, if the student:

- Poses an ongoing threat of disruption of, or interference with, the normal operations of the University;
- Poses a threat of causing physical harm to oneself;
- Poses a threat of causing physical harm to others or of placing others in fear of imminent danger;
- Poses a threat of causing significant property damage;
- Threatens the safety or welfare of the University community;
- Has been alleged to have a drug violation; or

- Has been alleged to have violated University Policy 53- Unlawful Discrimination, Sexual Misconduct and Retaliation , and there is a need to separate the Respondent from campus.

#### *Other Interim Actions*

The university may take interim actions other than suspension to ensure the safety and welfare of the University community including, but not limited to, the following:

- No contact orders
- Relocation in university residential facilities
- Registration holds
- Campus no trespass order
- Academic accommodations that are made with agreement of the appropriate faculty who will not be informed of the specific reason for the request (for example rescheduling exams and assignments, providing alternative course completion options, changes in class schedule)
- Changes in work schedule or job assignment

Any interim actions taken may not be used as evidence to support alleged violations under the Code.

#### *Appeal*

If a student, student group, or RSO elects to appeal an interim action, the student must do so within five (5) days of receiving notification of the interim action. Appeals must be written, clearly explain the rationale for requesting a decision change, and submitted to the Dean of Students or designee. Within three (3) days of receiving the appeal, a designated University Official will review the matter and send a written decision to the student. The decision of the person reviewing the appeal is final. All interim actions will remain in effect until a decision has been made with regard to the appeal.

#### **6.05 I Due Process**

The focus of inquiry in conduct proceedings shall be to determine whether the Respondent is or is not responsible for violating the Code.

- Respondents are presumed to be not responsible for alleged violations until a finding is determined using University conduct meeting and/or hearing procedures.
- Any student formally alleged to have violated the Code is entitled to a conduct meeting before an appointed Hearing Officer as specified in this Code.
- Using established University guidelines and protocol, the Respondent and the University may agree to mutually resolve the alleged violation(s) without a hearing.
- During conduct meeting and hearing phases of a proceeding, formal rules of evidence shall not be applicable. Similarly, deviation from prescribed procedures does not inherently invalidate a decision or proceeding, unless significant prejudice may result.

Prior to the filing of formal alleged violations or dismissal of allegations against a student, student group, or RSO, designated University Officials will investigate the matter, including interviewing appropriate individuals. Once it is deemed there may have been a violation of the Code, student conduct alleged violations are filed against the respondent. Further investigation may occur once formal alleged violations are filed. A student, student group, or RSO involved in an alleged incident are expected to participate and engage with University Officials in a timely manner.

# STUDENT CONDUCT PROCESS

## LEVEL 1

### **NOTIFICATION**

Student receives notification via email, the official form of communication for the University, of their potential involvement in an alleged violation of the Code.



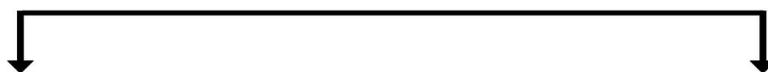
## LEVEL 2

### **CONDUCT MEETING**

A conduct meeting occurs between the student and hearing officer wherein student rights and responsibilities are reviewed, the report is reviewed, the student shares additional information, and the hearing officer makes a decision regarding responsibility.



## LEVEL 3



### **MUTUAL RESOLUTION**

The student and hearing officer agree on the decision regarding responsibility and any associated sanctions.

### **HEARING**

The case goes before a Hearing Board, which makes a decision regarding responsibility and any associated sanctions. The case is then resolved or goes to an appeal.



## LEVEL 4

### **APPEAL**

Students can request an appeal of the hearing outcome on the basis of procedural or substantive deviations to the Dean of Students.

### **6.06 | Notification and Official Communication**

Pursuant to University Policy 52 - Responsible Use of Information Technology Resources, an email message regarding University matters sent from an administrative office, faculty, or staff member is considered to be an official notice. All forms of written communication shall be delivered via the student's official University e-mail. Special circumstances may require that written communication be through personal delivery or mail. Written communication shall be considered received on the date e-mailed, hand-delivered, or three days after the communication is mailed.

### **6.07 | Presence of Advocates**

A student, student group, or RSO facing formal alleged violations of the Code may choose to have an attorney or non-attorney represent the student during any subsequent disciplinary procedure except when the violation involves an allegation of academic integrity, as defined in the Code. An advocate may fully participate in such procedures to the extent and in the same manner afforded to the student or RSO they represent.

#### *Requirements for Participation of a Licensed Attorney or Other Non-Attorney Advocate*

In order for a licensed attorney or other non-attorney advocate to participate in a conduct meeting or hearing, the student, student group, or RSO must provide the following documents to the DSCE at least three days prior to the scheduled conduct proceeding.

- Notice of Participation by an Attorney or Other Advocate
- FERPA Release of Information Form
- Certification by Licensed Attorney or Other Non-Attorney Advocate
- When scheduling conduct proceedings, WCU will make reasonable efforts to accommodate an Advocate; however, the availability of students or student organization members; witnesses; hearing board members, University personnel and other necessary participants as well as the expectation to promptly complete the conduct proceeding may take priority when determining the date and time for a conduct proceeding. Additionally, and Advocate may not delay, disrupt, or otherwise interfere with a conduct proceeding.

### **6.08 | Standard of Proof**

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

### **6.09 | Determinations of Responsibility and Sanctioning**

Determinations of responsibility are based solely on the information presented, which may include, but is not limited to, reports (e.g., complaints, police reports, investigation reports), exhibits (e.g., photographs, social media information, audio/video information), written statements, or oral statements.

If a determination of responsibility is made, a student then receives a sanction. Factors that affect the severity of the sanction may include, but are not limited to, past conduct record of the student, the nature of the incident, the severity of any damage, injury, or harm resulting from the incident, ongoing risk to health and safety of an individual and/or the campus community, and whether the incident was motivated by bias based on actual or perceived race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, political affiliation, or veteran status. For more information on sanctioning, see Article X: Sanctions.

### **6.10 | Mutual Resolution**

At any point in conduct proceedings, a Respondent may sign a mutual resolution, whereby the Respondent waives the option to go to a hearing by accepting responsibility for the alleged violations and any recommended sanctions. In choosing this option, the Respondent must participate in a conduct meeting designed to assess the validity of the allegations and any factors which may affect sanctioning. Participation may include in-person, virtual, or written statements given to address the alleged violations and must include a signed agreement of the resolution. The agreement must be made voluntarily and be signed by both the Respondent and the Hearing Officer resolving the incident. A mutual resolution may not be appealed and waives the Respondent's right to participate in a hearing.

### **6.11 | Conduct Meeting**

If formal alleged violations are filed, a student, student group, or RSO will receive a university email with an initial meeting letter outlining how the student may contact the University Official to schedule a conduct meeting. Should suspension or expulsion from the University be a potential outcome of this meeting, it will be indicated in the initial meeting letter. Expectations and procedures associated with participation in a conduct meeting are as follows:

- a. The involved student, student group, or RSO has 5 days to set up a conduct meeting with the University Official.
- b. A student, student group, or RSO shall only schedule meetings during times that do not conflict with their academic schedule or obligations.
- c. If a student, student group, or RSO fails to schedule a conduct meeting by the specified deadline, the case will be resolved in-absentia.
- d. If a student, student group, or RSO schedules a conduct meeting within 5 days but fails to appear for the meeting, the case will be resolved in-absentia the day after the scheduled meeting OR the day after the deadline to schedule a meeting, whichever is later.
- e. If a student, student group, or RSO needs to reschedule a conduct meeting they set up, the meeting needs to be rescheduled during the original 5 days allowed to set up the initial conduct meeting.
- f. Cases heard in-absentia will consider all available information and may only be appealed for a substantive error of Due Process as outlined in this code.
- g. When deemed appropriate and/or necessary, University Officials will invite witnesses and/or other identified parties to schedule meetings to discuss any information they can contribute to the process.
- h. If several identified parties could provide equivalent information, University Officials reserve the right to limit the number of parties interviewed in the interest of timeliness. Parties who fail to respond to a meeting request in a reasonable time period may not be interviewed in the interest of timeliness.
- i. Failure to complete sanctions as a result of adjudication of a case through the Hearing Officer may result in monetary charges, additional alleged violations of this Code, and/or sanctions up to and including separation from the University.

When a responding student has two or more outstanding incidents, those incidents may be heard as a single case at the discretion of the Hearing Officer.

## **6.12 I Hearing**

### *Notice of Hearing*

If formal alleged violations are filed and there is no mutual resolution, the Director of Student Community Ethics or a designee shall email a hearing notice to the Respondent. The date of the hearing will not be fewer than ten (10) days after receipt of written notice, unless the Respondent waives, in writing, the ten-day preparation period.

A hearing notice shall include the following.

For Minor Violations:

- Statement of the specific alleged violation(s) against the Respondent;
- Brief description of factual allegations supporting the alleged violation(s);
- Date, time, and location for the hearing;
- Notice of the right of reasonable access to the allegation information;
- Statement indicating the Respondent may seek assistance from the DSCE staff in preparation for the hearing;
- Date of when the Respondent needs to submit any additional evidence to be considered to the DSCE staff.

For Serious Violations:

- All of the requirements for a minor violation; AND
- If applicable, notification of possible suspension or expulsion if found responsible;
- For all alleged violations 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 Respondent waives all claims of failure to receive adequate notice if the Respondent fails to check or open email correspondence and/or appears at the hearing and does not formally raise the issue of adequate notice at the first opportunity. It is the student's responsibility to notify the DSCE of any change requests related to the scheduling of a hearing. The Director of Student Community Ethics or designee will determine the validity of the request and determine if a scheduling change will occur.

The scheduling of hearings may be delayed at the discretion of the Director of Student Community Ethics or designee during times of heavy caseloads, if the alleged violation occurs close to the end of an academic semester or term, or in the event of the reasonable need for additional time by either party.

### ***Hearing Procedures***

- a. The Hearing Board shall exercise control over the proceedings. To avoid needless consumption of time, or to address a disruption, and to achieve orderly completion of the hearing. The Board may exclude any person, including Respondent, Complainant, Victim, Witness and/or Advocate.
- b. Formal rules of evidence shall not apply. The Hearing Board shall determine the admissibility of all matters of information.
- c. Admission of any person to the hearing shall be at the discretion of the Hearing Board.
- d. Each hearing, at the general discretion of the Hearing Board, shall proceed as follows:
  - Presentation of formal alleged violation(s).
  - Opening statements by the Complainant and Respondent.
  - Complainant's presentation of documents, information, and witnesses, followed by questions by the Respondent and/or Hearing Bodies.

- Respondent's presentation of documents, information, and witnesses, followed by questions by the Complainant and/or Hearing Bodies.
  - Closing statements by the Complainant and Respondent.
- e. After the hearing, the Hearing Board will enter confidential deliberations. All involved parties and witnesses are required to remain in close proximity, unless a party is excused, in the event the Hearing Board needs to recall any person.
- f. A formal administrative decision by the Hearing Board will proceed as follows:
- A decision by the Hearing Board of responsible or not responsible for alleged violation(s) shall be made in private, based solely on the information presented at the hearing, using the preponderance of the evidence standard. A determination of responsibility must be made prior to a decision on sanctions. The conduct record of the Respondent shall not be considered in the hearing until responsibility has been established.
  - A finding of responsibility on any alleged violation(s) shall be followed by the determination of appropriate sanction(s). The conduct record of the Respondent, Complainant impact statements, and/or character witness statements may be considered in determining the appropriate sanction(s).
  - After private deliberation, the Hearing Board will announce the sanctioning decision to the Respondent.
- g. Review of Hearing Board Determinations
- The Hearing Board has authority to impose sanctions up to and including suspension from the university. If the Hearing Board determines that expulsion is the appropriate sanction, the Hearing Board will forward a recommendation of the Respondent's expulsion to the Dean of Students or designee, who will then issue a decision on the sanction of expulsion (UNC System Policy 700.4.1).
- h. Hearings are closed to the public.
- i. Only the University may record (audio, transcription, and/or video) a hearing.

A decision letter outlining the formal resolution of the hearing must be transmitted to the Respondent in writing within ten (10) days of the conclusion of the hearing. The document will contain a brief summary of the information upon which the decision is based, a summary of the Hearing Board's findings, and all sanctions imposed. The document must also contain any appeal rights, including appeal deadlines and the permitted grounds for the appeal. Under most circumstances the University may not disclose hearing outcomes. However, under specific circumstances, the University may disclose the formal resolution of a proceeding and/or sanctions against a Respondent found responsible for sexual misconduct to the Complainant.

All documents created, generated, produced, or developed prior to and throughout the course of the hearing, including the appeal process, shall be and remain the property of the University to the maximum extent possible by law and in accordance with UNC general records retention and disposition schedules. Examples include, but are not limited to, all hearing transcripts, audio or video recordings, and/or hearing notes.

## **ARTICLE VII TITLE IX GRIEVANCE PROCESS**

University Officials understand allegations related to Title IX can be sensitive in nature, and also require following a specific set of regulations. As a result, alleged violations of Title IX will follow Title IX procedures as outlined on the University's Title IX web page. Sexual harassment that does not meet the limited jurisdictional or definitional requirements of Title IX will be processed through the Code.

## ARTICLE VIII ADDITIONAL CONDUCT PROCEDURES FOR STUDENT GROUPS AND RECOGNIZED STUDENT ORGANIZATIONS

When accused of possible violations of the Code, the Director of Student Community Ethics or designee will notify the President or designee of the student group or RSO. A designee for a student group or RSO is the student the Dean of Students or designee deems most appropriate to communicate with regarding the alleged Code violation. It is the responsibility of the President or designee to communicate the notice to the student group's or RSO's members and advisers. It is recommended the President or designee forward the original notice to the members and advisers, or that he/she print it for distribution so all members are aware of the issue. This form of group communication is permitted to student groups and RSOs that are on a Cease and Desist Order.

In addition to individual students, student groups and/or RSOs are accountable for adhering to the Code. All sections in Article VI of the Code apply to student groups and RSOs. Additionally, the following information applies to student groups and RSOs:

- a. Student groups and RSOs may be face formal alleged violations of the Code without regard to whether members of such groups or organizations are individually alleged with violations arising from the same occurrences.
- b. A student group or RSO and its officers, leaders, or any identifiable spokespersons may be held collectively or individually responsible when violations of the Code, by those associated with the student group or RSO, have received the tacit or overt consent or encouragement of the student group or RSO or of the student group's or RSO's leaders, officers, or spokespersons.
- c. The officers, leaders, or any identifiable spokespersons for a student group or RSO may be directed by the Dean of Students or designee to take appropriate action designed to prevent or end violations of the Code by the student group or RSO or by any persons associated with the student group or RSO who can reasonably be said to be acting in the student group's or RSO's behalf. Failure to make reasonable efforts to comply with the directive shall be considered a violation of this Code both by the officers, leaders, and/or spokespersons for the student group or RSO and by the student group or RSO itself.
- d. Student groups and RSOs may be held accountable collectively if any of these situations apply:
  - a. An alleged violation was committed by one or more members of a student group or RSO
  - b. A student group's or RSO's funds were used to finance the activity
  - c. An alleged violation occurred as a result of a student group's or RSO's sponsored function
- e. It is the responsibility of the President or designee of the student group or RSO to determine whether to enter into a mutual resolution or go to a hearing on behalf of the student group or RSO. The President or designee of the student group or RSO would be the Respondent if the determination was made for the student group or RSO to participate in a hearing.

Sanctions that may be imposed on a student group or RSO responsible for Code violations include, but are not limited to, the sanctions listed below. All sanctions require review and approval of the Dean of Students or a designee and may be altered, deferred, or eliminated.

- a. *Recognition Probation* - is given for a specific period of time. Further violations of the Code during the probationary period may result in recognition suspension or revocation. During the period of recognition probation, the student group or RSO is not considered in good conduct standing with the University. The student group or RSO may seek and add members during this probationary period and may host other activities unless otherwise specified.
- b. *Recognition Suspension* - is the removal of University recognition for a specific period of time. During the Recognition suspension, the student group or RSO is not considered in good conduct standing with the University. While under suspension, the student group or RSO 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.
- c. *Recognition Revocation* - is the permanent removal of University recognition for a student group or RSO. Recognition revocation means the student group or RSO may not function at the University, participate in University programs, or utilize University facilities or services. Recognition revocation may be recommended by the Hearing Officer but must be imposed by the Dean of Students or designee following review of the record of the hearing.
  - d. *Restrictions* - denial of specified privileges for a designated period of time including, but not limited to, attendance at events, access to facilities, participation in non-academic activities, and interpersonal contact restrictions.
  - e. *Suspension of activities* of the student group or RSO, including but not limited to:
    - Exclusion from intramural competition;
    - Denial of use of University facilities for meetings or activities;
    - Suspension for new member education, recruitment, and/or intake process; or
    - Loss of social privileges for no less than one month. The student group or RSO 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).
  - g. *Restitution for losses to University or person/organization/group.*
  - h. *Group educational opportunity/assignment.*
  - i. *Individually-based educational opportunity/assignment.*
  - j. *Group leadership educational opportunity/assignment.*
  - k. *Any other appropriate student group or RSO sanction as recommended by the Hearing Officer or determined by the Dean of Students or designee.*

## ARTICLE IX ADDITIONAL CONDUCT PROCEDURES FOR ACADEMIC INTEGRITY CASES

Students, faculty, staff, and administrators of WCU strive to achieve the highest standards of scholarship and integrity. Any violation of the academic integrity policy is a serious offense because it threatens the quality of scholarship and undermines the integrity of the community. The academic integrity policy can be found as a link off the Dean of Students web page, [dos.wcu.edu](http://dos.wcu.edu).

## ARTICLE X SANCTIONS

Factors that affect the severity of the sanction may include the present demeanor of the student, 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, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, political affiliation, or veteran status.

At the discretion of the Vice Chancellor for Student Affairs, Dean of Students, or designee, the imposition of any sanction may be deferred during the duration of an appeal. Students requesting a deferment of a sanction must submit a written request which clearly outlines the rationale for the request to the Dean of Students or designee. However, at the discretion of the Dean of Students or designees, a sanction may be imposed upon written notice at any time after a formal resolution if the Respondent has been found responsible for a violation of the Code.

One or more of the following sanctions may be imposed upon a student for violation of the Code.

### **10.01 | Sanctions Associated with Minor Violations**

Sanctions associated with minor violations include, but are not limited to:

- a. *Community Restitution* - an EOA imposed to provide a work-related experience for Students to help others in a positive fashion. Respondents who do not meet their community restitution deadlines will be assessed a financial EOA that will be determined by multiplying the hours assigned by the current North Carolina minimum wage.
- b. *Educational Outreach Assessment (EOA)* - a sanction that provides a tangible learning opportunity for Respondents. Through this sanction, the Respondent becomes an active contributor to the education of self and peers. An EOA may be financial, non-financial, or become financial if a Respondent does not complete a non-financial sanction.
- c. *Educational Sanctions* - participating in a specific activity, course, event, or program, receiving specific instruction, completing a research/reflective assignment, etc. The Respondent is responsible for related expenses.
- d. *Parental Notification* - when students are found responsible for violations of the Code related to alcohol and/or controlled substances, as outlined in University Policy 72 - Family Educational Rights and Privacy.
- e. *Probation* - written notice of a violation of specified regulations and a restriction by which a Respondent 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 Code regulations during the probationary period.
- f. *Restitution* - compensation for personnel resources, loss, damage, and/or injury. Restitution may take the form of appropriate monetary or material replacement and may be imposed by the Dean of Students, Director of Student Community Ethics, or designee.
- g. *Restrictions* - denial of specified privileges for a designated period of time including, but not limited to, attendance at events, access to facilities, participation in non- academic activities, and interpersonal contact restrictions.
- h. *Residence Hall Suspension* - separation of the Respondent from the residence halls for a definite period of time after which the Respondent is eligible to return. Conditions for readmission may be specified.
- i. *Residence Hall Expulsion* - permanent separation of the Respondent from the residence halls.

### **10.02 | Sanctions Associated with Serious Violations**

Sanctions associated with serious violations include:

- a. *University Suspension* - separation of the Respondent from the University for a definite period of time, after which the Respondent 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 Respondent 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.

### **10.03 | Incomplete Sanction Assessment**

Sanctions are designed to educate students about future behavior that may pose a threat to oneself or negatively impact our campus community. In an event of incomplete sanctions, the Dean of Students or designee may add additional sanctions to a students' conduct case due to failing to comply with a University official (see Failure to Comply in WCU Code). Depending upon the nature of the case the following additional sanctions may apply:

- Ineligible to request Student Affairs emergency funds.
- Educational Outreach Assessment charged to your student account (the price may vary depending on your previous sanctions).

## ARTICLE XI APPEALS

An appellate review is an examination of a decision reached by a Hearing Officer for the purpose of determining whether there is cause to believe that the outcome of the hearing was reached without appropriate process. Any disciplinary decision, other than where the Respondent has waived their right to appeal, may be appealed. Only the student who has been found responsible for a Code violation may appeal, except as allowed in cases involving sexual misconduct. In cases involving sexual misconduct allegations, either party may appeal the decision consistent with serious violation appeals.

### **11.01I Filing an Appeal**

Within five (5) days of the date the student is notified of the Hearing Officer's determination, the student may submit a written rationale, via hand or electronic delivery, for appeal of the decision on responsibility and/or the decision on sanctions.

### **11.02I Grounds for Appeal**

In accordance with University of North Carolina Code Section 502 D (3), appeals may only be limited to the following grounds:

- a. Violation of due process.
- b. Material deviation from Substantive and Procedural Standards adopted by the UNC Board of Governors, as set forth in the UNC Policy Manual 700.4.1.

### **11.03I Procedures for Resolving an Appeal**

For appeals of decisions on minor violations and suspension level cases, records associated with the hearing will be forwarded to the Dean of Students or designee for appeal determination. For appeals of decisions on expulsion level cases, records associated with appeal request will be forwarded to the Vice Chancellor for Student Affairs or designee for appeal determination.

- a. Appeal decisions will be based upon the record of the hearing and the party's written appeal. The appellate decision maker may call for the submission of new and/or additional oral or written information as necessary to reach a fully informed decision. The party making the appeal shall be provided fair opportunity to respond to such additional information before the appeal is decided, and the information shall be added to the record of the hearing.
- b. Upon receipt of the appeal, the appellate decision maker shall render a decision and send notice of the appellate decision within ten days for minor violations and within a reasonable time frame for serious violations. The decision may:
  - Affirm the finding of responsibility and the sanction(s).
  - Affirm the finding of responsibility and modify the sanction(s).
  - Reassign the case to a Hearing Officer for a full or partial rehearing pursuant to this Code.
  - Dismiss the finding(s) and eliminate the sanction(s). Dismissal will occur only if there is insufficient information to support a finding of responsibility.
- c. The appellate decision maker shall send copies of the appeal decision to the appellant and the Director of Student Community Ethics or designee. The decision of the appellate decision maker shall be final and conclusive, and the sanctions will be imposed as directed.
- d. Appeals related to suspension must be addressed to the Dean of Students.

- e. Appeals related to expulsion must be addressed to the Vice Chancellor for Student Affairs.
- f. When the outcome of the case is suspension or expulsion, appeals may be made to the Board of Trustees. Appeals to the Trustees must be addressed to the Office of General Council.

## **ARTICLE XII CASE FILES AND CONDUCT RECORDS**

### **12.01 | Records Maintenance**

The conduct files, including audio recordings or transcripts of hearings, of Students found responsible for any of the violations alleged against them will be retained as conduct records for eight (8) years from the date of the letter providing notice of final conduct action, or such other period of time prescribed by the UNC General Records Retention and Disposition Schedule.

Conduct records may be retained for longer periods of time or permanently, as specified in the sanction, or at the written request of the Vice Chancellor for Student Affairs or designee. Conduct records including the sanction of suspension/expulsion shall be retained permanently. Conduct records designated as "permanent" shall not be destroyed except under very rare circumstances with unusual and compelling justification.

### **12.02 | Access and Confidentiality**

Students may inspect their conduct files in accordance with University Policy 72 - Family Educational Rights and Privacy and University Policy 74 - Records Requests.

#### *Family Educational Rights and Privacy Act (FERPA)*

The Family Educational Rights and Privacy Act (FERPA) is a federal law intended to respect and protect the ability of students to exercise a certain level of control over their educational records. Students enrolled at WCU are "eligible students" and covered under FERPA. With the exception of directory information, the University will require a written request from the student and/or PIN confirmation before releasing non- directory information. Exceptions include, but are not limited to, University officials with a legitimate need- to-know, appropriate financial aid representatives, accreditation bodies, compliance with a judicial order or lawfully issued subpoena, and appropriate University officials in cases of health and safety emergencies. In addition, designated University officials may release information related to alcohol and controlled substance violations to parents of students under the age of twenty-one (21). In the case of health and safety emergencies, the Dean of Students or designee reserves the right to contact non-University personnel (i.e. parents, emergency contacts, etc.) when it is deemed the student is experiencing matters that could result in significant harm to self-and/or others. More detailed information regarding FERPA is available in University Policy 72 - Family Educational Rights and Privacy Act. Students have the right to file a complaint with the U.S. Department of Education concerning alleged failures by Western Carolina University to comply with the requirements of FERPA. The name and address of the Office that administers FERPA is:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

The University may be required to disclose student educational records pursuant to the North Carolina open records law.

## **ARTICLE XIII REVIEW, REVISION, AND REVISION HISTORY**

### **13.01I Annual Review**

Subject to the authority of the Vice Chancellor for Student Affairs and the Chancellor, this Code shall be reviewed annually to determine revisions that are in the best interest of the University community. These revisions shall be considered recommendations to the Chancellor.

The Chancellor reserves the right to appoint specific individuals or groups of individuals, as they deem appropriate, to advise them on changes or revisions to the Code.

### **13.02I Changes Beyond the Annual Review**

The Chancellor reserves the right to review and amend this Code at any time. Revisions of the code shall be communicated to the University community through official email. The official Code is available online at [wcucode.wcu.edu](http://wcucode.wcu.edu).

### **13.03I Revision History**

Revisions to the Code during the past 8 years were published on the following dates:

- August 30, 2013
- August 26, 2014
- August 14, 2015
- June 3, 2016
- August 15, 2016
- August 18, 2017
- August 17, 2018
- July 3, 2019
- July 10, 2019
- August 12, 2020
- August 20, 2021

## **ARTICLE XIV DIRECTORY OF CONTACTS**

### **Dean of Students/Associate Vice Chancellor for Student Affairs**

HFR Administration Building  
(828) 227-7147

### **Department of Student Community Ethics**

224 Brown Hall  
(828) 227-7234

### **Title IX Coordinator/Associate General Counsel**

520 HFR Administration Building  
(828) 227-7116

### **Office of the Provost (Academic Integrity)**

550 H.F. Robinson Building  
(828) 227-2670

### **Vice Chancellor for Student Affairs**

H.F. Robinson Administration Building  
(828) 227-7147

## **UNIVERSITY RESOURCES**

### **Advising Center**

1<sup>st</sup> Floor Killian Annex  
(828) 227-7753

### **Counseling and Psychological Services (CAPS)**

225 Bird Building  
(828) 227-7469

### **Mathematics Tutoring Center**

455 Stillwell  
(828) 227-2274

### **Student Concern Response Team**

(828) 227-7147

### **University Police**

(828) 227-8911 | Emergency  
(828) 227-7301 | Non-Emergency

### **Writing and Learning Commons**

207 Belk  
(828) 227-2274