

Appalachian  
State University

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*Code of Student Conduct*

Issued by the Office of the Chancellor  
Adopted July 1991  
Revised July 2022

The University reserves the right to change policies and procedures at any time during a student's term of enrollment. Each student is responsible for maintaining current knowledge of disciplinary rules and regulations.

The most current Code of Student Conduct can be accessed at [studentconduct.appstate.edu](http://studentconduct.appstate.edu).

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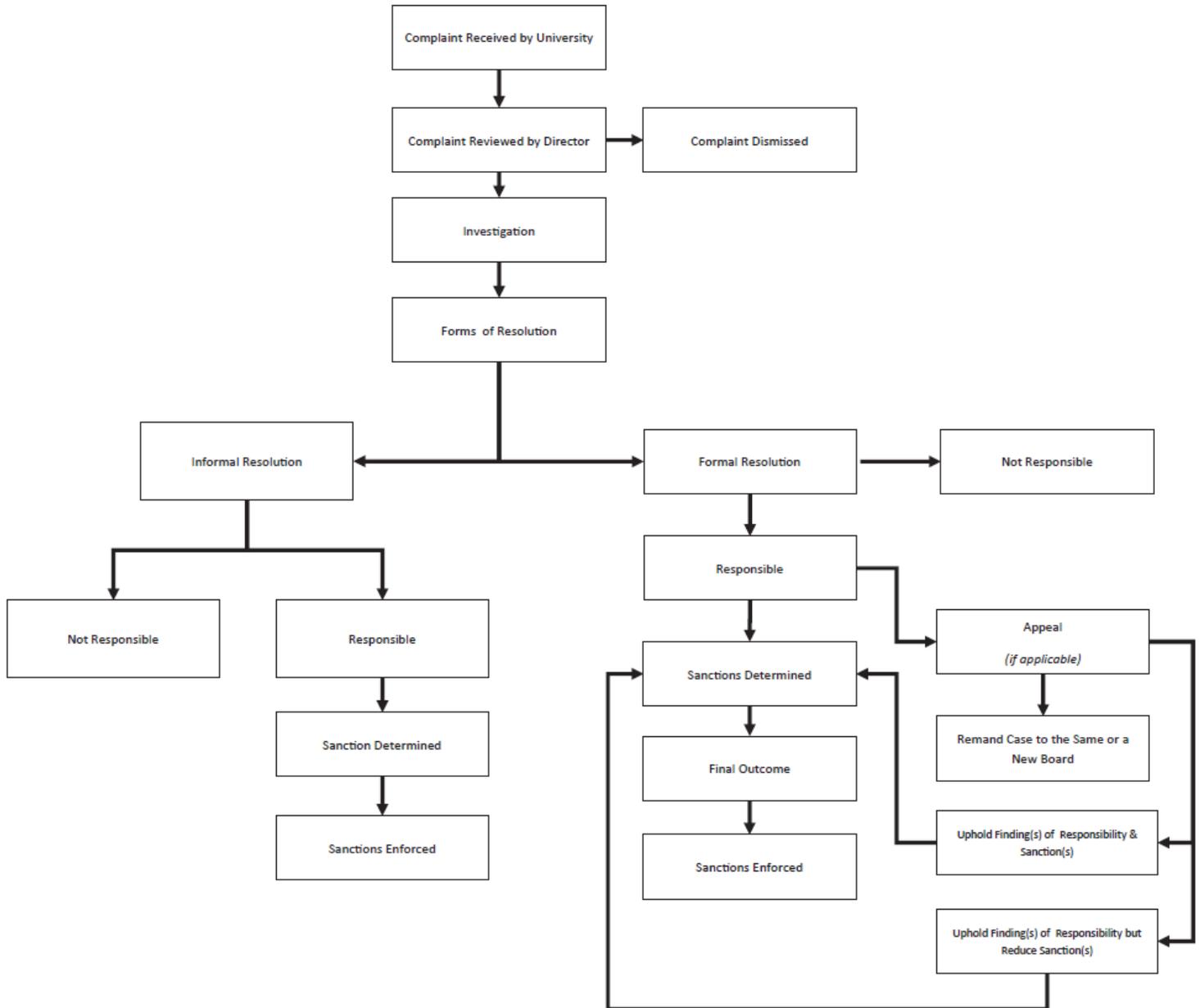
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# Process for Addressing Prohibited Conduct



# **Appalachian State University Code of Student Conduct**

## **PURPOSE AND GOALS**

Appalachian State University is an academic community dedicated to teaching, scholarship, research, service, inclusion, and the holistic development of students. As an academic community, the University has an interest in the safety, welfare, and education of the members of this community and in fostering an environment consistent with the educational mission, purpose, and processes of the University. When students voluntarily enter the University, they assume obligations of performance and behavior relevant to the University’s mission, processes, and functions. Expectations of students in an academic community are higher than those of other citizens.

The University acknowledges that students have rights and responsibilities as members of the Appalachian State University community, and the University has expectations regarding the behavior of its members which extend beyond the classroom into all aspects of life. The mission of the Office of Student Conduct is to educate students about community standards and prohibited conduct, promote student learning and accountability, and facilitate the development of thoughtful, responsible, and engaged members of the community. Through the Code of Student Conduct, the Office of Student Conduct strives to reduce and prevent behavior that undermines academic success and that negatively detracts from the educational mission of the University; to ensure the health and safety of students and the community; to provide timely support and resources for students; and to prevent violence in and around the University community.

The process by which Appalachian State University educates Respondents who violate the community standards of the Code of Student Conduct is through disciplinary review and imposition of sanctions, including possible separation from the University. Decisions made using the Code of Student Conduct take into consideration both the rights of the student(s) and the needs of the University in accomplishing its educational goals and mission. In exercising its disciplinary authority, the University is committed to the principle of fundamental fairness. The Code of Student Conduct is administered without regard to race, color, national origin, religion, sex, gender identity and expression, political affiliation, age, disability, veteran status, genetic information, or sexual orientation.

The goals of the proceedings under the Code of Student Conduct are as follows:

- a. to facilitate an understanding of the University’s community standards;
- b. to help the Respondent determine level of responsibility for their behavior;
- c. to determine with the Respondent reasons for their misconduct;
- d. to help bring the Respondent’s behavior into compliance with the community standards;
- e. to aid the Respondent in clarifying their values and how the values relate to the behavior in question;
- f. to assist the Respondent in making future choices that will enable them to be successful;
- g. to help the Respondent consider in advance the consequences of their behavior; and
- h. to protect the safety and welfare of the University community.

## **ARTICLE I – DEFINITIONS**

For purposes of this policy, the following terms have the definitions provided below. Please note that some of these terms may have different meanings in other contexts.

- 1.01 “Advisor” is an individual attorney or non-attorney who may represent a Respondent, or, a Complainant, at any point in the disciplinary proceedings except for a Formal Resolution involving the Student Conduct

Board. The Advisor may fully participate only to the extent and in the same manner afforded to the Respondent or Complainant(s) they represent, provided that the Advisor may not provide testimony. The Advisor may not, in the sole discretion of the individual facilitating the meeting, delay, disrupt, or otherwise interfere with the proceeding. The Advisor may not participate should the Recognized Student Organizations select to seek a Formal Resolution using the Organization Conduct Board.

- 1.02 “Appeal Board or Administrator” is the University Board or Official with the authority to review and make decisions on appeals. The Appeal Board, comprised of three members from a pool of trained University Officials, may review appeals of Administrative Hearing decisions. In Cases of Interim Action, the Appeal Administrator shall be the Director. In cases involving Expulsion, the Appeal Administrator shall be the Provost. In any other cases, the Vice Chancellor for Student Affairs shall serve as the Appeal Administrator.
- 1.03 “Board Advisor” is an individual designated by the Director to advise the Chair and/or members of a Board during a hearing or appeal process to ensure that policies and procedures are appropriately followed and that the process is prompt, fair, and impartial. The Board Advisor in any particular case shall not be the same individual who makes any determination on responsibility, recommendation on sanction(s), or determination on sanction(s) in that case.
- 1.04 “Chancellor” is the Chancellor of Appalachian State University. The Chancellor may delegate the authority to perform any of the duties assigned to that official in this Code. All references to the Chancellor include any such designee.
- 1.05 “Clery Act” is the [Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act](#) (20 U.S.C. § 1092(f)) and its implementing regulations (34 CFR Part 668), as amended.
- 1.06 “Club Council” is a recognized governing body composed of representatives from all Recognized Student Organizations and is responsible for providing governance of and advocacy for its member organizations.
- 1.07 “Clubs Sports Council” is a recognized governing body composed of representatives from all Club Sports recognized by University Recreation (UREC) and is responsible for providing governance of and advocacy for its member organizations.
- 1.08 “Code” is the Appalachian State University Code of Student Conduct, unless the context specifically indicates otherwise.
- 1.09 “Complainant” is any individual or entity that submits a report regarding an alleged violation(s) of this Code.
- 1.10 “Complaint” is an allegation of misconduct prohibited by this Code.
- 1.11 “Conduct Resolution Administrator” is a University Official appointed by the Director who has the authority to facilitate an Informal Resolution or refer a case to Formal Resolution.
- 1.12 “Consent” is clear, knowing, voluntary permission, through words or actions, for another individual to do something that affects the individual giving consent. Consent is based on choice and must be informed, freely and actively given, and mutually understandable, indicating a willingness to participate in mutually agreed upon activity.

- 1.13 “Crime of Violence” is any act(s) that would constitute any of the following offenses or attempts to commit the following offenses: arson, assault, burglary, criminal homicide – manslaughter by negligence, criminal homicide – murder and non-negligent manslaughter, destruction/damage/vandalism of property, kidnapping/abduction, robbery, and forcible sex offenses, as defined by FERPA, and/or the Clery act.
- 1.14 “Day” is a business day (Monday through Friday) during which the University is fully open for business. For purposes of this Code, “Day” does not include federal, state, and campus holidays and observances; or days on which the University’s operations are officially curtailed (fully or in part) due to situations including, but not limited to, winter break closure, adverse weather conditions, and emergency events.
- 1.15 “Dean of Students” is the Dean of Students of Appalachian State University. The Dean of Students may delegate the authority to perform any of the duties assigned to that official in this Code. All references to the Dean of Students include any such designee.
- 1.16 “Director” is the Assistant Dean of Students and Director of Student Conduct at Appalachian State University. The Director may delegate the authority to perform any of the duties assigned to that official in this Code. All references to the Director include any such designee. The Director is subject to the authority of the Vice Chancellor for Student Affairs and the Chancellor. The Director shall administer the provisions of this Code, oversee the day-to-day operations of the Office of Student Conduct, advise the Vice Chancellor for Student Affairs on changes in this Code that should be considered by the Committee on Student Conduct, and advise and train members of conduct boards and individuals designated as Conduct Resolution Administrators.
- 1.17 “Disciplinary Action” is the imposition of a sanction authorized by this Code.
- 1.18 “Disciplinary Record” is a student conduct case with a finding of Responsible that has incomplete sanctions or is being maintained by the University. The University follows a Records Maintenance schedule as described in Article IX of this Code.
- 1.19 “FERPA” is the [Family Educational Rights and Privacy Act of 1974](#) (20 U.S.C. § 1232g) and its implementing regulations (34 CFR Part 99), as amended.
- 1.20 “Force” is the use of physical violence or physically imposing on someone. Force also includes threats, intimidation (e.g., implied threats), and coercion.
- 1.21 “Formal Charge” is the point at which (a) the Respondent acknowledges responsibility for Code violation(s) and resolves the matter by accepting an Informal Resolution as set forth in Section 7.07 of this Code or (b) the written notice of a hearing is provided to the Respondent as set forth in Section 7.08 of this Code.
- 1.22 “Formal Resolution” requires the use of the Student Conduct Board, Organization Conduct Board, University Conduct Board, or an Administrative Hearing. Additional information about Administrative Hearings and Board composition can be found in Section 7.08 of this Code.
- 1.23 “Fraternity” is a local or national organization sharing common personal or professional interests. The organization may use the designation of “fraternity” in its name or title. The term fraternity includes both single-sex and coed organizations.
- 1.24 "Good Disciplinary Standing" is a student or organization’s status when there are no pending Complaints or active sanctions with the Office of Student Conduct.

- 1.25 “Hostile Environment” is unwelcome conduct based on protected status that is so severe, persistent, or pervasive that it alters the conditions of education, employment, or participation in a University program or activity, thereby creating an environment that a reasonable person in similar circumstances and with similar identities would find hostile, intimidating, or abusive and objectively offensive. An isolated incident, unless sufficiently severe, does not constitute a hostile environment.
- 1.26 “Impact Statement” is an oral or written statement describing how an incident affected the individual’s life, the desired outcomes the individual would like to see, and the overall effect on the individual.
- 1.27 “Intellectual Disability” or “Intellectual Developmental Disorder” is a disability when an individual has both intellectual and adaptive functioning deficits in conceptual, social, and practical domains. Deficits may include, but are not limited to: reasoning, judgment, communicating, self-care, and social skills. The diagnostic criteria for “Intellectual Disability” shall be as defined in the most current version of the Diagnostic and Statistical Manual of Mental Disorders.
- 1.28 “Interfraternity Council (IFC)” is a governing body composed of representatives from the University’s fraternities and is responsible for providing governance of and advocacy for its member organizations.
- 1.29 “May” is used in the permissive sense.
- 1.30 “Member of the University Community” is any individual who is a student, faculty member, staff member, or other individual employed by or volunteering for the University.
- 1.31 “Multicultural Greek Council (MGC)” is a governing body composed of representatives from the University’s fraternities and sororities affiliated with the Multicultural Greek Conference and is responsible for providing governance of and advocacy for its member organizations.
- 1.32 “National Pan-Hellenic Council (NPHC)” is a governing body composed of representatives from the University’s fraternities and sororities affiliated with the National Pan-Hellenic Conference and is responsible for providing governance of and advocacy for its member organizations.
- 1.33 “Organization” is any group of students that have complied with University requirements for registration or recognition, including, but not limited to student organizations that are no longer recognized by the University and/or (inter)national organization.
- 1.34 “Panhellenic Council (PHC/NPC)” is a university-funded organization comprised of sororities and responsible for providing governance of and advocacy for its member organizations.
- 1.35 “Possession” or “Possessing” is physically holding or controlling the subject item or owning or controlling a room, vehicle, or other area where the subject item is present. The presence of the subject item in a room, vehicle, or other area creates a presumption that the person owning or controlling the room, vehicle, or other area possessed the subject item.
- 1.36 “Provost” is the Provost and Executive Vice Chancellor of Appalachian State University. The Provost may delegate the authority to perform any of the duties assigned to that official in this Code. All references to the Provost include any such designee.

- 1.37 “Psychoactive Agent” is a substance which may cause alterations in perception, mood, consciousness, cognition or behavior
- 1.38 “Reasonable Individual” is a reasonable individual under similar circumstances and with similar identities to the individual who is the subject of the behavior in question.
- 1.39 “Recognition” as it relates to Recognized Student Organizations is the process whereby Appalachian State University formally acknowledges a student group and affords it specific privileges associated with that recognition, including but not limited to the use of the University name, access to facilities for activities consistent with the Recognized Student Organization’s purpose, inclusion in university-sponsored activities, eligibility to apply for funding, and participation in related programs or activities.
- 1.40 “Recognized Student Organization” is any group of students that has received approval through established University recognition processes which may include, but is not limited to, approval by the Office of Campus Activities or University Recreation.“
- 1.41 “Respondent” is any Student, Organization, or Recognized Student Organization who is alleged to have violated this Code.
- 1.42 “Responsible” is when, based on the preponderance of the evidence (see Section 7.03), a student is found to have committed a violation of this Code identified in Article IV.
- 1.43 “Shall” or “Will” is used in the imperative sense.
- 1.44 “Student” is any individual who, at the time of the incident, has accepted an offer of admission to the University; is taking courses at the University, either full-time or part-time, pursuing undergraduate, graduate, or professional studies; is auditing a class; or has any other continuing relationship with the University. This includes, but is not limited to, new students at Orientation, individuals not currently enrolled but who are still seeking a degree from Appalachian State University, non-degree seeking students, individuals who have completed coursework but are awaiting conferral of a degree, and any other individual enrolled in a course offered by Appalachian State University. For the purposes of this Code, an individual who allegedly provided false information or omitted information on an application and has participated in courses at the University shall be considered a student.
- 1.45 “Student Conduct Advisor” is a University official designated by the Director to (a) assist the Respondent and any witnesses in regard to a Formal Resolution or (b) assist the Complainant and any witnesses in regard to a Formal Resolution.
- 1.46 “They” and any of its inflected forms (e.g., them, their, themselves) is used in a generic sense, referring to either a singular or plural entity.
- 1.47 “University” is Appalachian State University, a constituent institution of The University of North Carolina, with its main campus located in Boone, North Carolina. This includes any officially designated location.
- 1.48 “University Official” is a University employee acting in the performance of their assigned duties, capacity, or authority. This includes any individual who is a student employee, faculty member, staff member, or other individual employed by or volunteering for the University.
- 1.49 “University Premises” are buildings or grounds owned, leased, operated, controlled, or supervised by the University.

- 1.50 “University-Sponsored Activity” is any activity on- or off-campus which is initiated, funded, authorized, or supervised by the University.
- 1.51 “Vice Chancellor for Student Affairs” is the Vice Chancellor for Student Affairs of Appalachian State University. The Vice Chancellor for Student Affairs may delegate the authority to perform any of the duties assigned to that official in this Code. All references to the Vice Chancellor for Student Affairs include any such designee.
- 1.52 “Weapon” is any gun, rifle, pistol, dynamite cartridge, bomb, grenade, mine, or powerful explosive, BB gun, stun gun, air rifle, air pistol, bowie knife, dirk, dagger, slingshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving), firework, or any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction, and maintenance, or identified as a weapon by North Carolina [General Statute § 14-269.2](#).
- 1.53 “Witness” is an individual who has direct experience with, or knowledge of, events, issues, or circumstances related to the incident. Witnesses may be identified by a University Official, Complainant, or Respondent. A Witness may not serve in any other role throughout the student conduct process, such as support individual or Advisor.
- 1.54 Terms not specifically defined in this Code shall be defined by the Merriam-Webster’s Dictionary, located at [www.merriam-webster.com/dictionary](http://www.merriam-webster.com/dictionary). Terms not defined in the Merriam-Webster’s Dictionary shall be defined according to their plain and ordinary usage.

## **ARTICLE II – AUTHORITY AND JURISDICTION**

- 2.01 Authority of the University  
Per [The Code of the Board of Governors of the University of North Carolina Section 502 D\(3\) – Chancellors of Constituent Institutions](#), the Chancellor has full authority in the regulation of student conduct and discipline. The Chancellor may delegate such authority to University administrators or other officials as set forth in this Code or in other appropriate policies, regulations, or rules. The Chancellor has delegated this authority through the Vice Chancellor for Student Affairs to the Office of Student Conduct.

- 2.02 Authority of the Code  
This Code is the University’s primary policy governing student behavior. The provisions of this Code are not contractual covenants between the University and the student. The University reserves the right to change this Code at any time during a student’s term of enrollment. Such changes will be communicated to members of the University community through various publications. Each student is responsible for maintaining current knowledge of this Code.

An operating unit of the University (e.g., academic colleges or departments, University Housing, Athletics, International Education and Development) may also establish conduct standards for the student/departmental relationship, so long as those standards are consistent with the provisions of this Code or establish higher standards of conduct set forth in this Code. Disciplinary action pursuant to this Code does not preclude additional action by the operating unit. Sanctions applied under this Code cannot be waived or modified by the operating unit. Sanctions may be imposed by the operating unit in lieu of sanctions applied in proceedings under this Code only when done in consultation with the Director.

2.03 Admissions Decisions

The University reserves the right to administratively rescind and void a student's admission offer prior to their first day of class if the student provided false information or omitted information on their application.

2.04 Jurisdiction of the Code

Violations of University policies, rules, or regulations; or violations of federal or state laws, local ordinances, or laws of other national jurisdictions may constitute a violation of this Code and result in disciplinary action. The University has authority over all conduct which occurs on University premises and reserves the right to consider off-campus behavior when it is determined that the off-campus behavior is detrimental to the University and its educational mission. Behavior that occurs at any college or university may be processed under this Code in the same manner as on-campus behavior.

a. *Violation of Law and University Disciplinary Proceedings*

The procedures provided in this Code are not intended to be equivalent to the process of federal, state, or local laws and do not determine whether criminal conduct has occurred. Criminal procedures do not address the educational mission of the University. The University may initiate disciplinary proceedings when a student is charged with a violation of law that may also constitute a violation of this Code. The University reserves the right to proceed under this Code prior to, concurrent with, or subsequent to civil litigation, criminal arrest, or criminal prosecution. The University fully cooperates with law enforcement agencies to the extent permitted by law. The outcome of a criminal or civil legal process is not determinative of the outcome of a University disciplinary process.

b. *Off-Campus Violations and University Disciplinary Proceedings*

The primary types of off-campus violations addressed by the Office of Student Conduct include, but are not limited to, the following:

1. felony charges;
2. acts of harm charges, including, but not limited to, assault, harassment, or threats;
3. driving while impaired (DWI) charges or charges of driving by individuals less than twenty-one (21) years old after consuming alcohol or drugs;
4. repeated or high-risk alcohol misdemeanor charges;
5. repeated or high-risk drug misdemeanor charges;
6. hazing;
7. behavior that occurs at any college or university may be processed under this Code in the same manner as on-campus behavior; and
8. activities of a student or group of students that conflict with the University's interests and mission, including, but not limited to, patterns of behavior that put the health and safety of others at risk or show disregard for the policies of the University.

c. *Student Organizations and University Disciplinary Proceedings*

University disciplinary proceedings may be initiated against an Organization or Recognized Student Organization. Activities of an Organization or Recognized Student Organization, or two or more members of an Organization or a Recognized Student Organization that clearly conflict with the University's interests and mission, including, but not limited to, patterns of behavior that put the health and safety of others at risk or show disregard for the policies of the University.

The following criteria will be utilized when determining whether conduct might reasonably be associated with an organization. Specifically, the conduct (which may be an act of commission or an

act of omission) must involve two (2) or more members of an organization. Members may be general members, officers, or new/associate members. Additionally, the conduct must meet one (1) or more of the following criteria:

1. The conduct is sanctioned by the organization and/or any of its officers ("sanctioned by" may include, but is not limited to, the following: active or passive consent or encouragement; having prior knowledge that the conduct was likely to occur; or helping to plan, advertise, or promote the conduct); or
2. The conduct is committed during the course of an activity financed by the organization, or financed as a result of one (1) or more members of the organization contributing personal funds in support of the activity or conduct in question; or
3. The conduct occurred on property owned, controlled, rented, leased, or used by the organization or any of its members; or
4. The purpose of the activity was related to initiation, admission into, affiliation with, or as a condition for continued membership in the organization; or
5. Non-members of the organization learned of the activity through members, advertisements, or communications associated with the organization, or otherwise formed a reasonable belief that the conduct or activity was affiliated with or sanctioned by the organization; or
6. Members of the organization attempted to conceal the activity or protect other members who were involved; or
7. One (1) or more officer(s) of the organization had prior knowledge or reasonably should have known that the incident would take place.

At the discretion of the Director, organization violation(s) may be processed by the appropriate self-governing bodies provided they have received adequate training from the Office of Student Conduct. Any such bodies will follow the same procedures and guidelines outlined in this Code and will convene with a Chairperson appointed by the Director.

2.05 Freedom of Expression

The University embraces and strives to uphold the freedoms of expression and speech guaranteed by the First Amendment of the United States 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. In administering this Code, due care will be exercised in order to preserve freedoms of speech and expression, as articulated in current legal standards. This will be done in accordance with [UNC Policy 1300.8](#) regarding Free Speech and Free Expression.

2.06 University as Complainant

As necessary, the University reserves the right to initiate a Complaint, to serve as Complainant, to appoint a proxy Complainant, and/or to initiate conduct proceedings without a formal Complaint. If there appears to be reliable information indicating that a violation may have occurred, the student conduct process will be initiated. Reports may also be addressed through other non-conduct procedures.

2.07 Placement of Holds

A hold may be applied to prevent registration, transcript attainment, and/or graduation when: the student has failed to complete sanctions by assigned deadlines; the student is suspended or expelled from the University; the student is not currently enrolled and has a pending case; or the student has a pending case that must be resolved prior to graduation.

2.08 Notification of Outcomes

The resolution of a process in the Office of Student Conduct is generally considered part of an education record and protected from unauthorized disclosure under the Family Educational Rights and Privacy Act (FERPA). However, the University may release the final results of any Informal or Formal Resolution, without a Respondent's prior consent, in the following circumstances where permitted, or required, by law:

- a. The University will release the results of any disciplinary proceeding to an alleged victim of any Crime of Violence or non-forcible sex-offense.
- b. University Officials will be notified of any final resolution that requires their action.
- c. The University is required to release, as public records, Disciplinary Records of Respondents who have violated the University's sexual misconduct policies. These records are subject to mandatory disclosure under North Carolina's Public Records Act.

2.09 Parental Notification

The Office of Student Conduct may notify parent(s) or guardian(s) of students under the age of twenty-one (21) of certain alcohol or drug violations. This notification generally will take place upon the determination of a violation by a Student Conduct Administrator in the student conduct process. Unless there are extenuating circumstances, the Office of Student Conduct will generally not notify the parent(s) or legal guardian(s) of students under the age of twenty-one (21) of first-time alcohol violations.

2.10 Disputing Allegation(s)

Lack of familiarity with University policy, intoxication or impairment from alcohol, drugs, or other substances, or an individual's disability is not an excuse or defense to a violation of the Code.

Defending actions is admitting to a policy violation. "Yes, we fought, but they started it." This still means there was a fight, and that violates University standards of behavior. Unless specifically noted in the policy definition, intent is not a required element to establish a policy violation. While a defense will not excuse violations of the Code, the legitimacy of a defense will be taken into consideration in assigning sanctions.

2.11 Online Misconduct

The Code includes behavior conducted online, via e-mail, or through other electronic mediums. Appalachian State University does not regularly search for this information but may take action if such information is brought to the attention of University Officials.

### **ARTICLE III – RIGHTS OF INVOLVED PARTIES**

3.01 Rights of the Respondent

The Respondent has the following rights:

- a. to be provided a fundamentally fair process;
- b. to be presumed not responsible for a violation of this Code until determined otherwise;
- c. to be given written notice of any allegation(s) or formal charge(s) of prohibited conduct;
- d. to review the information that will be presented in any resolution, provided that the information may be given to the Respondent in a redacted format;
- e. to present relevant information on their behalf;
- f. to obtain support, advice, or assistance from support individuals, a Student Conduct Advisor, or an Advisor, pursuant to relevant sections in Article VII of this Code;

- g. to request reasonable accommodations under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act through the Appalachian State University Office of Disability Resources;
- h. to know the identity of individuals speaking or providing written information for consideration at any hearing; to confront, in some manner, the allegations and information presented relevant to the formal charge(s) against them, which in all cases will be brought forward by the University;
- i. to request that a member of a Board be excluded from the hearing on the basis of a conflict of interest or bias;
- j. to not speak or answer any question(s), if such testimony or answers would tend to establish against them a violation of this Code. When a Respondent refuses to speak, therefore avoiding questioning, they relinquish the right to make a written or verbal statement at the end of the findings stage of the hearing; however, a summation of the relevant facts of the matter under adjudication may be made by the Respondent's Student Conduct Advisor or Advisor, provided that the summation is not a substitute for the statement the Respondent declined to provide;
- k. to pose reasonable questions to any Witness appearing at a hearing in a manner determined by the Chair;
- l. to have prior disciplinary history excluded except during the sanctioning phase of a Formal Resolution;
- m. to provide an Impact Statement during the resolution process as stated in Article VII, Sections 7.07 or 7.08;
- n. to be informed of the final decision and results of a disciplinary proceeding;
- o. to appeal any Formal Resolution, pursuant to Article VIII of this Code;
- p. to have supervised access to a recording of the hearing proceedings; and
- q. to have any Disciplinary Records kept confidential, unless an exception is allowed or required by law or regulation.

3.02 Rights of the Complainant

The Complainant has the following rights:

- a. to be provided a fundamentally fair process;
- b. to file a Complaint within one hundred eighty (180) calendar days following the date on which an alleged violation of this Code occurred;
- c. to file criminal charges or pursue civil action in addition to any action taken under this Code;
- d. to request reasonable accommodations under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act through the Appalachian State University Office of Disability Resources;
- e. in cases involving an alleged Crime(s) of Violence, to be informed of the final decision and results of a disciplinary proceeding in accordance with FERPA, and the Clery Act; and all other rights provided to the Respondent in Article III, Section 3.01.

## **ARTICLE IV – PROHIBITED CONDUCT**

All Students and Recognized Student Organizations 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. Students are responsible for abiding by this Code, agree to the expectations set forth by the University, and can be held responsible for their behavior. Recognized Student Organizations act through their members and officers and any misconduct on the part of these individuals may be attributed to the Recognized Student Organization. Prohibited conduct includes the following:

4.01 Alcohol

- a. *Underage Possession/Use* – Possessing or using alcohol while under the age of twenty-one (21).  
*Minimum Sanction: See Appendix A*
- b. *Improper Possession/Use* – Possessing or using alcohol where it is not permissible to do so, regardless of age. Additional information regarding the possession or use of alcohol on University premises can be found in [Policy 106 – Drugs and Alcohol](#).  
*Minimum Sanction: See Appendix A*
- c. *Driving Under the Influence* – Driving while impaired attributable in part or in whole to the use of alcohol or driving after consuming while under the age of twenty-one (21).  
*Minimum Sanction: See Appendix A*
- d. *Providing to Minors* – Providing alcohol to any individual under the age of twenty-one (21).  
*Minimum Sanction: Disciplinary Warning*
- e. *Public Intoxication* – Being intoxicated in public attributable in part or in whole to the use of alcohol.  
*Minimum Sanction: See Appendix A*
- f. *Energy Drinks* – Possessing or using energy drinks containing alcohol on University premises.  
*Minimum Sanction: See Appendix A*
- g. *Paraphernalia* – Possessing alcohol paraphernalia on University premises, including but not limited to, beer bong and funnels, alcohol without liquid devices, kegs, beer balls, party balls, and similar alcohol containers.  
*Minimum Sanction: Letter of Concern*

4.02 Accessory

- a. Attempting to commit, being an accessory to the commission of, or knowingly being in the presence of prohibited conduct.  
*Minimum Sanction: Letter of Concern*

4.03 Acts of Harm

- a. *Physical Violence* – Engaging in any form of violence against another person including but not limited to pushing, shoving, kicking, hitting, or other physical actions.  
*Minimum Sanction: Disciplinary Probation*
- b. *Threats* – Threatening another individual or group, whether communicated to one (1) or more individuals, physically, verbally, or by any other means such that the individual or group reasonably believes that the threat is likely to be carried out. Examples include, but are not limited to, intimidation and coercion.  
*Minimum Sanction: Disciplinary Probation*
- c. *Reckless Behavior* – Intentionally or recklessly causing any act that creates a substantial risk of physical violence to another.  
*Minimum Sanction: Disciplinary Warning*
- d. *Acts Against University Official or Emergency Personnel* – Placing a University Official or Emergency Personnel (e.g., Police Officers, Firefighters, EMT, etc.) in fear or at risk of physical harm or danger or engaging in physical violence against a University Official or Emergency Personnel.  
*Minimum Sanction: Suspension*
- e. *Threats Towards a University-Sponsored Activity* – Directing threats of violence in order to disrupt a University-sponsored activity.  
*Minimum Sanction: Suspension*
- f. *Bullying/Cyberbullying* – Engaging in repeated or aggressive behaviors that intimidate, intentionally harm, control, or seek to control another individual physically, mentally, or emotionally that it alters

the conditions of education, employment, or participation in a university program or activity. An isolated incident, unless sufficiently severe, does not constitute a violation.

*Minimum Sanction: Disciplinary Probation*

- g. *Endangerment* – Acting in a manner that could or did endanger, place the health or safety of another at serious risk, or injure a person or the Appalachian State University community. Examples of endangerment include, but are not limited to, operating a vehicle while under the influence of alcohol or drugs, failure to isolate and/or quarantine when knowingly infected with a contagious virus, hosting a gathering that exceeds the current executive order, and distributing drugs (on- or off-campus) to members of the University community.

*Minimum Sanction: Disciplinary Probation*

#### 4.04 Computer Misuse

- a. Misusing or abusing computers, computer systems, computer networks or any other electronic communication technologies. Additional information can be found in [Policy 901 – Use of Computers and Data Communications](#).

*Minimum Sanction: Disciplinary Probation*

#### 4.05 Disorderly Conduct

- a. *Disruption of University Functions or University-Sponsored Activities* – Materially and substantially disrupting the functioning of the University. See UNC System Policy 1300.8 and ([Facility Use Policy-Section 4.1.10](#)).

*Minimum Sanction: Disciplinary Probation*

- b. *Disruption of Student Environment* – Intentionally disrupting, obstructing, or interfering with a student’s living or learning environment.

*Minimum Sanction: Disciplinary Probation*

- c. *Obscene Conduct* – Lewd, indecent, or obscene conduct.

*Minimum Sanction: Disciplinary Warning*

- d. *Rioting/Raiding* – Rioting, inciting to riot, assembling to riot, raiding, inciting to raid, or assembling to raid University operating units or property.

*Minimum Sanction: Disciplinary Probation*

- e. *Public Disturbance* – Creating a public disturbance, including, but not limited to, fighting or other violent behavior/conduct; creating the threat of imminent fighting or other violence; committing a nuisance or generally engaging in disruptive behavior; using language that is likely to provoke a reasonable individual to violent retaliation; and disrupting, disturbing, or interfering with the academic atmosphere of a living or learning environment.

*Minimum Sanction: Disciplinary Probation*

- f. *Excessive/Disruptive Noise* – Engaging in excessive or disruptive noise, including, but not limited to, the public use of unapproved amplified sound and the amplification of sound in a manner that disrupts or disturbs the normal functioning of the University.

*Minimum Sanction: Disciplinary Warning*

- g. *Non-Consensual Electronic Recording* – Creating, using, or sharing a photograph, video, or audio recording without consent or authorization that places or is likely to place an individual at risk of physical, mental, or emotional harm.

*Minimum Sanction: Disciplinary Warning*

4.06 Drugs

- a. *Manufacturing/Selling/Delivering* – Manufacturing, selling, delivering, or possessing with the intent to manufacture, sell, or deliver any substance identified as a controlled substance by North Carolina General Statutes, Chapter 90, Article 5 ([North Carolina Controlled Substances Act](#)).  
*Minimum Sanction: See Appendix B*
- b. *Possession/Use* – Possessing or using any unauthorized substance identified as a controlled substance by North Carolina General Statutes, Chapter 90, Article 5 ([North Carolina Controlled Substances Act](#)).  
*Minimum Sanction: See Appendix B*
- c. *Prescription Medication* – Misusing medically prescribed drugs.  
*Minimum Sanction: See Appendix B*
- d. *Over-the-Counter Drugs* – Misusing over-the-counter drugs.  
*Minimum Sanction: See Appendix B*
- e. *Huffing/Sniffing* – Huffing or sniffing any substance not intended for such use.  
*Minimum Sanction: See Appendix B*
- f. *Paraphernalia* – Possessing drug paraphernalia, including, but not limited to, pipes, scales, bongs, blow tubes, and roach holders.  
*Minimum Sanction: Disciplinary Warning*
- g. *Driving Under the Influence* – Driving while impaired attributable in part or in whole to the use of drugs.  
*Minimum Sanction: See Appendix B*
- h. *Public Intoxication* – Being intoxicated in public attributable in part or in whole to the use of drugs.  
*Minimum Sanction: See Appendix B*
- i. *Psychoactive Agents* – Possessing or using any substance with mind altering properties  
*Minimum Sanction: See Appendix B*

4.07 Failure to Comply

- a. *Obstruction of Personnel* – Intentionally delaying, obstructing, resisting, or failing to comply with the reasonable request of an individual who, in the performance of their duties, identifies themselves as a University Official or emergency personnel. Examples include but are not limited to, failure to comply with a no contact directive issued by the Office of the Dean of Students or not responding to an investigation request.  
*Minimum Sanction: Disciplinary Warning*
- b. *Sanctions* – Failing to comply with sanctions imposed under this Code.  
*Minimum Sanction: Disciplinary Warning*
- c. *Unauthorized Disclosure* – Disclosing without authorization confidential records, tapes, information, or documents provided ancillary to any proceedings under this Code.  
*Minimum Sanction: Disciplinary Warning*
- d. *Unapproved Events* – Failing to comply with the rules and regulations of holding sanctioned and approved events as outlined by Campus Activities and UREC.  
*Minimum Sanction: Letter of Concern*
- e. *Failing to Adhere* – Failing to adhere to or comply with any policies, procedures, actions of a governing or advocacy body to which the Recognized Student Organization is a member and/or subject to the policies or decisions. This includes, but is not limited to Appalachian State University, nationally affiliated organizations, IFC, PHC, NPHC, Club Council, and Club Sports Council.  
*Minimum Sanction: Letter of Concern*

4.08 False Information

- a. *Bomb Threat* – Falsely reporting the presence of an unlawful explosive or incendiary device with the intent to mislead, deceive, or disrupt the operation of the University or a University-sponsored activity.  
*Minimum Sanction: Suspension*
- b. *Misleading* – Furnishing false information to the University or emergency personnel with the intent to deceive or mislead, including, but not limited to, filing a false Complaint alleging misconduct by another individual. Providing information in good faith, which later is determined to be without merit, shall not be considered a violation of this Code.  
*Minimum Sanction: Disciplinary Warning*
- c. *False Statements* – Knowingly making in public a false oral statement or knowingly publishing/distributing a false written or printed statement with the intent to deceive or mislead.  
*Minimum Sanction: Disciplinary Warning*
- d. *Misuse of University Documents* – Forging, altering, or misusing University documents or records.  
*Minimum Sanction: Disciplinary Probation*
- e. *Fake Identification* – Possessing or using a fake, forged, or altered identification card of any kind.  
*Minimum Sanction: Disciplinary Warning*
- f. *False Report of Emergency* – Falsely reporting a fire or other emergency or falsely setting off a fire alarm.  
*Minimum Sanction: Suspension*

4.09 Fires and Emergencies

- a. *Unauthorized Setting* – Setting a fire without authorization.  
*Minimum Sanction: Disciplinary Warning*
- b. *Inappropriate Use of Emergency Equipment* – Tampering with or removing from its proper location any fire extinguisher, hose, or other fire or emergency equipment, except when done with a reasonable belief of real need for such equipment.  
*Minimum Sanction: Disciplinary Warning*

4.10 Gambling

- a. Operating, playing, or betting on any game of chance at which any money, property, or other thing of value is bet, except as permitted by law. Examples of gambling include, but are not limited to, betting on, wagering on, or selling pools on any University athletic event; possessing any card, book, or other device for registering bets; offering, soliciting, or accepting a bribe to influence the outcome of any athletic event; and card games that result in individual profit or loss.  
*Minimum Sanction: Disciplinary Warning*

4.11 Harassment

- a. Engaging in verbal, physical, electronic, or other conduct based upon an individual's protected status (as defined in Policy [110 Discrimination and Harassment](#)) that creates a hostile environment or involves a quid pro quo exchange. Harassment occurs when this type of conduct unreasonably interferes with an individual's: educational environment (e.g., admission, academic standing, grades, assignment, etc.); work environment (e.g., hiring, advancement, assignment, etc.); participation in a University program or activity (e.g., campus housing, extra-curricular activities, etc.); or receipt of legitimately requested services (e.g., disability or religious accommodations, etc.). Additional information can be found in [Policy 110 Discrimination and Harassment](#).  
*Minimum Sanction: Disciplinary Probation*

4.12 Hazing

- a. Causing or permitting an individual, as part of an initiation or as a criterion or perceived criterion of membership in a society, club, athletic team, or similar group or organization, to participate in any activity that subjects or is likely to subject that individual or others to physical, mental, or emotional harm, or destroys or removes property, whether or not that individual has consented to participation in the activity. Silent participation or being in the presence of hazing is not a neutral act; they are considered a violation of this provision.

*Minimum Sanction: Disciplinary Probation*

4.13 Projectiles

- a. Throwing or launching any object or substance which has potential for damaging or defacing property or causing physical harm or disruption.

*Minimum Sanction: Letter of Concern*

4.14 Retaliation

- a. Treating an individual or Recognized Student Organization adversely because that individual or Recognized Student Organization filed a Complaint or concern, provided information relative to a Complaint or concern, or otherwise was involved in such a Complaint or concern in any way.

*Minimum Sanction: Disciplinary Probation*

4.15 Sex-Based Misconduct

Please see the Sex-Based Misconduct Policy at <https://titleix.appstate.edu/>.

4.16 Skateboards and Similar Devices

- a. *Improper Use* – Use of skateboards, in-line skates, or similar devices in an unsafe manner including but not limited to, failing to yield the right of way to pedestrians, riding skating devices down steep grades or hills, operating skating devices inside parking garages or parking lots, performing tricks on any structures or facilities, using skating devices in buildings, operating a skating device while attached to any moving vehicle, and any other use not permitted under [Policy 304.2 Use of Skateboards and Similar Devices](#).

*Minimum Sanction: Disciplinary Warning*

4.17 Solicitation and Fundraising

- a. Soliciting or fundraising on University premises without authorization.

*Minimum Sanction: Disciplinary Warning*

4.18 Stalking

- a. Engaging in any actions on more than one (1) occasion directed at a specific individual that places or is likely to place a reasonable individual in fear or at risk of physical, mental, or emotional harm for themselves or others. Such actions may occur directly, indirectly, or through a third party, and may include, but are not limited to, unwelcome communication of any type (e.g., face-to-face, telephone calls, voice messages, electronic mail, written letters or notes); unwanted gifts; pursuing/following; observing/surveillance; or interference with property.

*Minimum Sanction: Disciplinary Probation*

4.19 Theft or Unauthorized Possession

- a. Taking or possessing the property of another without permission.

*Minimum Sanction: Disciplinary Probation*

4.20 Unauthorized Entry or Access

- a. *Elevators* – Entering into an elevator shaft or riding on top of an elevator car without authorization.  
*Minimum Sanction: Suspension*
- b. *University Premises* – Entering or accessing University premises without authorization.  
*Minimum Sanction: Disciplinary Probation*
- c. *Property of Another* – Entering or accessing the property of another without permission.  
*Minimum Sanction: Disciplinary Probation*

4.21 Vandalism

- a. Engaging in an act that intentionally or recklessly damages, destroys, or defaces property owned by another.  
*Minimum Sanction: Disciplinary Probation*

4.22 Violation of Law

- a. Committing or attempting to commit an act that would be in violation of any federal, state, or local law, and that is not covered under any other provision of this Code.  
*Minimum Sanction: Disciplinary Warning*

4.23 Violation of University Policies, Regulations, or Rules

- a. Violating any written policies, regulations, or rules of the University as adopted by the University and as may be amended from time to time, including, but not limited to, rules and regulations established by University Housing or the Residence Hall License and Contract Agreement, [Policy 301.5 – Bicycle Helmets](#), [Policy 303.24 – Animals on Campus](#), and [Policy 303.25 – Smoking on University Property](#).  
*Minimum Sanction: Letter of Concern*

4.24 Weapons – (See definition in 1.51)

- a. *Explosives* – Possessing a dynamite cartridge, bomb (homemade or otherwise), grenade, mine, powerful explosive, or any other similar device.  
*Minimum Sanction: Suspension*
- b. *Firearms/Weapons* – Possessing any firearm or Weapon on University premises without authorization, except as otherwise explicitly allowed by law.  
*Minimum Sanction: Suspension (firearms); Disciplinary Probation (weapons)*
- c. *Displaying/Brandishing* – Displaying or brandishing a firearm or Weapon of any kind, or any item that may be used or perceived as a firearm or Weapon, in a manner that would reasonably create a fear of harm to others.  
*Minimum Sanction: Suspension*

## **ARTICLE V – EDUCATIONAL SANCTIONS FOR INDIVIDUALS**

Respondents who are found to have violated the Code will receive sanctions appropriate to the current violation(s) and in consideration of any prior conduct history and/or Compelling Factors identified in 5.03. The number of sanctions issued may vary depending on the situation in question. Sanctions are intended to educate Respondents on the effects of their behavior and invoke change in future decision-making. Sanctions may be issued individually, or a combination of sanctions may be assigned. A Conduct Resolution Administrator or Board may implement any of the sanctions listed in this Article, pursuant to the guidelines set forth in this Code. Unless otherwise noted, all sanctions become effective upon the conclusion of any appeal process, or if no appeal request is submitted, on the deadline for submitting an appeal request.

### 5.01 Sanctioning Options

Sanctions that may be issued include the following:

- a. *Letter of Concern* – notification that the University is concerned about the Respondent’s behavior.
- b. *Disciplinary Warning* – official disciplinary action conveying to the Respondent that their behavior was unacceptable and that any future violation of this Code may result in more severe disciplinary action, including Disciplinary Probation, Suspension, or Expulsion.
- c. *Disciplinary Probation* – period in which the Respondent’s behavior is under University review, conveying that the behavior was unacceptable and that any future violation of this Code may result in more severe disciplinary action, including Suspension or Expulsion.
  1. Disciplinary Probation shall be imposed for a period no less than the remainder of the current semester up to the remainder of the Respondent’s academic career.
  2. A Respondent who has violated this Code while currently on Disciplinary Probation shall be suspended as a minimum sanction.
  3. A Respondent who has violated this Code and has previously been on Disciplinary Probation, but is not currently on Disciplinary Probation, shall be placed on Disciplinary Probation as a minimum sanction.
  4. If the Disciplinary Probation is for an indefinite period, the Respondent may petition the Director in writing for reinstatement to good standing, but not earlier than two (2) calendar years from the effective date of the Disciplinary Probation.
- d. *Suspension* – separation from the University for a period no less than the remainder of the current semester.
  1. A Suspension may be deferred until the end of the current semester when Compelling Factors as defined in Section 5.03 are present.
  2. During the period of Suspension, the Respondent shall be banned from all University premises and University-sponsored activities, and is subject to arrest for trespassing if found on any University premises or at a University-sponsored activity.
  3. A notation of Suspension shall be recorded on the Respondent’s official University transcript maintained by the Registrar’s Office. A notation will also be added to the University of North Carolina Suspension/Expulsion database.
  4. A date at which time the Respondent may request to be cleared by the Office of Student Conduct and returned to Good Disciplinary Standing can be established contingent upon fulfillment of all requirements set forth by a Conduct Resolution Administrator or Board.
  5. The notation of Suspension shall be removed from the Respondent’s transcript after they have been returned to Good Disciplinary Standing. In the case of Suspension for an indefinite period of time, the notation of Suspension shall be removed upon approval of the Director.
  6. A Respondent who has violated this Code and has previously been suspended shall be suspended as a minimum sanction.
- e. *Expulsion* – permanent separation from the University.
  1. Pending the decision of the Vice Chancellor regarding the recommendation from the Formal Resolution, a Respondent shall be banned from all University premises and University-sponsored activities and is subject to arrest for trespassing if found on any University premises or at a University-sponsored activity.
  2. Expulsion precludes enrollment and matriculation at any University of North Carolina constituent institution.
  3. The former student shall be banned from all University premises and University-sponsored activities, and is subject to arrest for trespassing if found on any University premises or at a University-sponsored activity.

4. A notation of Expulsion shall be recorded on the former student's official University transcript maintained by the Registrar's Office. A notation will also be added to the University of North Carolina Suspension/Expulsion database.
5. The former student may petition the Chancellor, through the Office of Student Conduct, to rescind the Expulsion no earlier than two (2) years after the effective date of the Expulsion. The Chancellor's conclusion shall be based on the former student's petition and relevant documentation supporting or opposing the rescindment. If the Expulsion is rescinded, the Expulsion notation shall be removed from the former student's transcript, and they are no longer precluded from enrollment and matriculation at any University of North Carolina constituent institution on the basis of the Expulsion.
- f. *Additional Sanctions* – sanctions that may be given in addition to Sections 5.01b.-5.01e. of this Code include, but are not limited to, the following:
  1. restitution for loss, damage, or actual expenses incurred as a result of the Respondent's behavior;
  2. participation in educational programming, which may include online programs, counseling, evaluation and compliance with any recommendations, reflection pieces, or other activities;
  3. program service fee for on-campus alcohol and other drug education;
  4. change in current University Housing assignment;
  5. loss of University Housing privileges;
  6. random drug testing at the Respondent's expense;
  7. restriction from representing the University in any official function or leadership position (e.g., varsity athletics, student leadership position, cheerleader, elected office in any Recognized Student Organization)
  8. ban for a definite or indefinite period of time from all or a portion of any University premises or University-sponsored activity;
  9. restriction of contact with, or proximity to, other specified members of the University community; and
  10. any other sanction determined appropriate by a Conduct Resolution Administrator or Board.

#### 5.02 Post-Enrollment and Post-Graduation Sanctions

A Respondent who has violated this Code, but who graduates before imposition of a sanction, is subject to

- a. revocation of any degree awarded, or
- b. temporary or permanent withholding of the diploma or transcript for any degree, regardless of whether the degree has been awarded, or
- c. having sanction(s) imposed as a condition of re-enrollment at the University.

#### 5.03 Compelling Factors

To maintain fairness and consistency, absent any compelling factors, the minimum sanction will be imposed. Compelling Factors which may warrant a sanction less than or greater than the minimum may include, but are not limited to:

- a. a Respondent's demonstration of insight about their behavior,
- b. present demeanor and attitude,
- c. prior disciplinary history,
- d. the nature of the behavior, as well as the degree of any damage, injury, or harm resulting from it,
- e. information provided in an Impact Statement, and
- f. the professional judgment of a Conduct Resolution Administrator, Board, or Hearing Administrator.

Where a sanction less than the minimum is being considered, the responsibility shifts to the Respondent to offer reasons for a lesser sanction to be imposed.

## **ARTICLE VI – EDUCATIONAL SANCTIONS FOR ORGANIZATIONS**

Recognized Student Organizations that are found to have violated the Code will receive sanctions appropriate to the current violation(s) and in consideration of any prior conduct history and/or Compelling Factors identified in 6.03. For Recognized Student Organizations, “prior conduct history” includes incidents occurring within the preceding seven (7) years. The number of sanctions issued may vary depending on the situation in question. Sanctions are intended to educate organizations on the effects of their behavior and invoke change in future decision-making. If a sanction issued by a national or other governing body exceeds that of the University, the University may concur with that sanction. A Conduct Resolution Administrator or Board may implement any of the sanctions listed in this Article, pursuant to the guidelines set forth in this Code. Unless otherwise noted, all sanctions become effective upon the conclusion of any appeal process, or if no appeal request is submitted, on the deadline for submitting an appeal request. Notification will be sent to any national or regional organization with whom the group is affiliated for all sanctions except a Letter of Concern.

### **6.01 Sanctioning Options**

Sanctions that may be issued include the following:

- a. *Letter of Concern* – notification that the University is concerned about the organization’s behavior.
- b. *Disciplinary Warning* – official disciplinary action conveying to the organization that their behavior was unacceptable and that any future violation of this Code may result in more severe disciplinary action, including Disciplinary Probation, Suspension, or Revocation of University Recognition. Notification will also be sent to any national or regional organization with whom the group is affiliated.
- c. *Disciplinary Probation* – period in which the organization’s behavior is under University review, conveying that the behavior was unacceptable and that any future violation of this Code may result in more severe disciplinary action, including Suspension or Revocation of University Recognition. Notification will also be sent to any national or regional organization with whom the group is affiliated.
  1. Disciplinary Probation shall be imposed for a period no less than the remainder of the current semester up to seven (7) years.
  2. An organization that has violated this Code while currently on Disciplinary Probation within a four (4) year time period shall be suspended as a minimum sanction.
  3. An organization that has violated this Code and has previously been on Disciplinary Probation, but is not currently on Disciplinary Probation, shall be placed on Disciplinary Probation as a minimum sanction.
  4. If the Disciplinary Probation is for a period of more than two (2) years, the organization may petition the Director in writing for reinstatement to good standing, but not earlier than two (2) calendar years from the effective date of the Disciplinary Probation.
- d. *Suspension* – separation from the University for a period no less than two (2) years. The purpose of organization Suspension is to create separation between the Recognized Student Organization and the University and to provide the organization with an opportunity to address any issues. Notification will also be sent to any national or regional organization with whom the group is affiliated.
  1. A Suspension may be deferred until the end of the current semester when Compelling Factors as defined in Section 6.03 are present.
  2. During the period of Suspension, the Recognized Student Organization will have all benefits of University recognition suspended. A suspended Recognized Student Organization may not participate in University Sponsored Activities, participate in events and activities as an organization

- on- or off-campus, use or schedule University facilities, and cannot use Appalachian State University's name or marks in any manner for any purpose.
3. A date at which time the organization may request to be cleared by the Office of Student Conduct and returned to Good Disciplinary Standing can be established contingent upon fulfillment of all requirements set forth by a Conduct Resolution Administrator or Board. These may include clearance from other campus entities, such as Campus Activities or UREC, as outlined in section 6.02 of this Code.
  4. The notation of Suspension shall be removed from the organization's file after they have been returned to Good Disciplinary Standing. In the case of Suspension for an indefinite period of time, the notation of Suspension shall be removed upon approval of the Director.
  5. An organization that has violated this Code and has been suspended within the previous four (4) years shall be suspended as a minimum sanction.
- e. *Revocation of University Recognition* – permanent Revocation of University Recognition is subject to the right to petition for reinstatement as described in this section. Revocation of University Recognition will be for a period of no less than four (4) years. Notification will also be sent to any national or regional organization with whom the group is affiliated.
1. Shall be effective immediately.
  2. Revocation of University Recognition will include any on- and off-campus behavior and activities conducted by the organization that violates this code.
  3. All benefits given to a Recognized Student Organization shall be permanently removed.
  4. A notation of removal and all associated documentation shall be maintained in the former student organization's official University record maintained by the Office of Student Conduct.
  5. The former Recognized Student Organization may petition the Director to rescind the removal no earlier than four (4) years after the effective date of the removal. The Director's determination regarding reinstatement shall be based on the former Recognized Student Organization petition and relevant documentation supporting or opposing the rescindment as outlined in section 6.02 of this Code.
  6. If the Revocation of University Recognition is rescinded, the organization will be required to follow the New Club Chartering Process as outlined in the Student Organization Policy Manual. If the organization is a social fraternity or sorority, it must follow the process as outlined in the Fraternity and Sorority Life Organizational Growth Policy.
- f. *Additional Sanctions* – sanctions that may be given in addition to Sections 6.01b.-6.01e. of this Code include, but are not limited to, the following:
1. exclusion from intramural competition;
  2. loss of all privileges granted as a part of recognition for Recognized Student Organization;
  3. restitution for loss, damage, or actual expenses incurred as a result of the Recognized Student Organization behavior;
  4. suspension of recruitment or intake processes;
  5. loss of social privileges where the Recognized Student Organization may not sponsor any activity, party, or function that is social in nature during the established period of time;
  6. requirements for additional training or advisement from Appalachian State University staff, advisory boards, or other appropriate parties;
  7. participation of Recognized Student Organization (its officers, other members or full membership) in educational programming, which may include online programs, evaluation and compliance with alcohol and other drugs, counseling, or reflection activities;
  8. program service fee for on-campus alcohol and other drug education;

9. ban for a definite or indefinite period of time from all or a portion of any University premises or University-sponsored activities;
10. restriction from representing the University in any official function or leadership position (e.g., student leadership position, elected office in any recognized student organization or governing body)
11. any other sanction determined appropriate by a Conduct Resolution Administrator or Board.

#### 6.02 Petition to return after Suspension or Revocation

At the conclusion of the Suspension or Revocation period, the organization may petition to return to campus. In order to petition, the organization must clearly meet all requirements as outlined in the outcome letter. The organization must effectively disband for the duration of the suspension or Revocation period including, but not limited to:

- a. Ceasing all operations, activities, and functioning on- and off-campus as a Recognized Student Organization.
- b. If the organization is associated with an inter/national or regional organization, the local organization must close and desist any and all internal and external operations. Failure to do so will impact ability to re-establish as a Recognized Student Organization.
- c. Organization name, letters, and/or images should not be used in any advertising or promotional materials. This includes, but is not limited to, using the organization's names or letters on social media platforms, flyers, websites, listservs, etc.
- d. The return of the organization is not automatic. Failure to meet these requirements could result in the denial of the organization's petition to return. If the petition is accepted, the organization must follow the New Club Chartering Process as outlined in the Student Organization Policy Manual. If the organization is a social fraternity or sorority, it must follow the process as outlined in the Fraternity and Sorority Life Organizational Growth Policy.

#### 6.03 Compelling Factors

To maintain fairness and consistency, absent any Compelling Factors, the minimum sanction will be imposed. Compelling Factors which may warrant a sanction less than or greater than the minimum may include, but are not limited to:

- a. prior disciplinary history,
- b. the nature of the behavior, as well as the degree of any damage, injury, or harm resulting from it,
- c. composition of organization's current membership – this includes, but is not limited to, the class standing of current members (e.g. first year students through graduating seniors), number of members, etc.
- d. assistance and support from the organization's inter/national and regional office, if applicable;
- e. information provided in an Impact Statement, and
- f. the professional judgment of a Conduct Resolution Administrator, Board, or Hearing Administrator.

Where a sanction less than the minimum is being considered, the responsibility shifts to the organization to offer reasons for a lesser sanction to be imposed.

## **ARTICLE VII– PROCESS FOR ADDRESSING PROHIBITED CONDUCT**

#### 7.01 Notification and Written Communication

Pursuant to [Policy 915 – E-Mail as Official Means of Communication](#), all forms of written communication shall be delivered via the Respondent's official University e-mail. Special circumstances may require that written communication be delivered in person or via postal mail. Written communication shall be

considered delivered on the date e-mailed, hand-delivered, or three (3) days after the communication is mailed.

#### 7.02 Reporting Allegations

- a. Complaints of alleged relationship violence, sex-based misconduct, or sex/gender-based harassment will be referred to the Office of Title IX Compliance. If appropriate, reports to the Office of Title IX Compliance will be referred to the Office of Student Conduct. All other Complaints of misconduct about a Respondent may be filed with the Office of Student Conduct. The Complaint should be submitted as promptly as feasible after the occurrence. A delay in reporting may be reasonable under some circumstances, as determined on a case-by-case basis. An unreasonable delay in reporting, however, is an appropriate consideration in evaluating the merits of a Complaint. In any event, a Complaint must be made within one hundred eighty (180) calendar days following the date on which an alleged violation of this Code occurred. In extenuating circumstances, the timeline for filing a Complaint may be extended. (*Note: Any Complaint regarding inappropriate behavior by staff or faculty should be reported through the Office of Human Resources.*)
- b. To be considered, a Complaint must include factual information supporting the allegation(s). Anonymous Complaints may be submitted; however, cannot be the sole basis of a referral under this Code. Information provided through public electronic sources or public records (e.g., criminal citations, etc.) may be used as a Complaint of misconduct.
- c. In their professional judgment, on the basis of the provided information or in consultation with appropriate University officials (e.g., Title IX Coordinator, University Housing), the Director will determine:
  1. if a Complaint shall be pursued or dismissed,
  2. what the possible minimum sanctions may be, based on the nature of the Complaint or the Respondent's prior disciplinary history, and
  3. the most appropriate means for addressing the Complaint (e.g., investigation, Informal Resolution, Formal Resolution).

This determination should be made within ten (10) days after the Complaint is submitted; however, a reasonable extension of this time limit is permissible
- d. For purposes of addressing alleged violations of this Code:
  1. For substantive purposes of determining responsibility for a Code violation, the definitions set forth in the Code in effect at the time of the alleged incident shall apply.
  2. For procedural purposes, the process set forth in the Code at the time the Director determines to pursue a Complaint shall apply.
- e. Allegations of misconduct will be presented to the Respondent in writing and will include the alleged violation(s) and details about next steps relevant to this Code.

#### 7.03 Standard of Information

The University must establish that the Respondent is Responsible for the alleged violation(s) by a preponderance of the evidence (e.g., that it is more likely than not that the Respondent violated this Code). This determination must be based solely on the information presented, which may include, but is not limited to, pertinent records (e.g., Complaints, police reports, investigation reports), exhibits (e.g., photographs, audio/video information, social media information), and written/oral statements. Formal rules of evidence and procedure do not apply.

#### 7.04 Presence of Support Individuals and Advisors

- a. The Respondent has the right to be accompanied by up to two (2) support individuals. These

individuals are present to provide emotional support to the Respondent(s). The support individuals may not participate in the proceedings, address any participants, or, in the sole discretion of the individual facilitating the meeting (e.g., Conduct Resolution Administrator, Chair), delay, disrupt, or otherwise interfere with the proceeding. The Advisor may fully participate only to the extent and in the same manner afforded to the Respondent(s) they represent, provided that the Advisor may not provide testimony. A support individual may not serve in any other role throughout the student conduct process, such as Advisor or Witness.

- b. At any point except for a Formal Resolution involving the Student Conduct Board or Organization Conduct Board, as described in Section 7.08 of this Code, the Respondent may be represented by one (1) Advisor. Notification of the Advisor and/or support individual's planned participation, as well as other required documents related to their participation, must be submitted at least two (2) days prior to the meeting. Failure to submit the required documents may, in the discretion of the Director, result in the Advisor and/or support individuals not being permitted to participate in the meeting.
- c. The Respondent may confer with their Advisor so long as it does not, in the sole discretion of the individual facilitating the meeting, delay, disrupt, or otherwise interfere with the proceeding.
- d. Reasonable effort will be made to accommodate the availability of support individuals or an Advisor; however, the availability of involved parties (Respondent, Witnesses, the Conduct Resolution Administrator, Board members), and other necessary participants as well as the expectation to promptly complete the proceeding may, in the discretion of the Director, take priority when determining the meeting date and time.

#### 7.05 Interim Action

In appropriate circumstances the Director may impose an Interim Action on a Respondent who has allegedly violated this Code. Interim Action may be imposed effective immediately, without prior notice, when, in the Director's judgment, there is a need to implement a timely and individualized response based on the seriousness of the alleged violation(s) of the Code, there is a potential for serious disruption or serious threat to the University community and that response may require the Respondent to be separated from area(s) of campus and its property. See Appendix E for Interim Action Procedures.

##### a. *Circumstances Where Interim Action May Apply*

Interim Action shall be exercised only when the Director reasonably believes that the Respondent's alleged misconduct is of such a serious nature that their continued presence at the University is:

1. potentially threatening, harmful, or dangerous to others or the University community;
2. posing a threat of significant property damage;
3. impacting the stability and continuance of normal University functions; or
4. directly and substantially impeding the lawful activities of others. Such acts of misconduct include, but are not limited to, all acts of harm with any type of Weapon or instrument; armed robbery; manufacture, distribution, or possession of any incendiary or explosive device; illegal or abusive use of alcohol or other drugs; and other acts which might endanger individuals or property.

##### b. *Removal from University Housing*

The Director, in conjunction with appropriate University Housing administrators, may remove or effect a change in residence of a Respondent for an interim period pending disciplinary proceedings or medical evaluation. The changes shall become effective immediately without prior notice whenever there is evidence that the continued presence of the Respondent in University Housing poses a

substantial threat to individuals or property. Removal from or a change in residence pursuant to this section is not appealable.

c. *Temporary Diversion from Regular Process*

A Respondent may be diverted from the procedures otherwise applicable in this Code and suspended on an interim basis if the Director reasonably believes that the Respondent:

1. lacks the capacity to respond;
2. did not know the nature or wrongfulness of the conduct at the time of the alleged offense; or
3. poses a danger to individuals or property.

The regular process shall be resumed upon the Director's receipt of credible, independent information (e.g., certification by a licensed health professional acceptable to the University) that the Respondent:

1. has the capacity to respond,
2. understands the nature of the alleged misconduct, and
3. does not pose a danger to individuals or property.

7.06 Investigations

In appropriate circumstances an investigation may be needed to gather information before moving forward with conduct proceedings. Investigations may be conducted by either the Office of Student Conduct or the Office of Title IX Compliance depending on the nature of the student conduct being investigated.

a. *Investigations by the Office of Student Conduct*

1. If the Director determines that the most appropriate means for addressing the Complaint is through an investigation, the Director will appoint an investigator. The Director will deliver written notice of investigation to the Respondent as soon as is practicable and to the extent permitted by law. The notice will include a brief synopsis of the alleged misconduct, the alleged violation(s), and information about meeting with the investigator. For cases involving allegations of relationship violence, sex-based misconduct, or other sex/gender-based harassment/discrimination, refer to 7.06b. of this Code.
2. The role of the investigator is to gather information and impartially review the alleged incident by interviewing involved parties and witnesses in order to provide a comprehensive review of the incident. The investigation may include review of written statements, audio recordings, pictures, social media information, text messages, class schedules, police investigation reports, medical records, and other relevant information.
3. During an investigation, the Respondent will have the opportunity to present relevant information and identify relevant Witnesses.
4. If the Respondent does not schedule a meeting by the date specified or fails to appear for a scheduled meeting, the investigator may complete the investigation on the basis of other information obtained. A Respondent may decline to participate in the University's investigation and resolution of a Complaint. The University, however, may proceed with an investigation and resolution of a Complaint in the Respondent's absence based on other available evidence and testimony.
5. At the conclusion of an investigation, the investigator shall prepare a written report that includes a synopsis of all available relevant information. Prior to the report being presented to the Director for review, the investigator shall provide an opportunity for the involved parties and Witnesses to review their own statements for accuracy.
6. The Director will make a determination as to whether the Complaint will be addressed through the conduct process.

7. After the investigation report is received by the Director for review, they shall meet with the Respondent to discuss the investigation report and forms of resolution.

b. *Investigations by the Office of Title IX Compliance*

1. In cases of relationship violence, sex-based misconduct, or sex/gender-based harassment, Complaints will be referred to the Office of Title IX Compliance. Information about the investigation procedure can be found at <https://titleix.appstate.edu/>.
2. Parties involved in cases of relationship violence, sex-based misconduct, or sex/gender-based harassment/discrimination may engage in the Informal Resolution process at any time. They do not have to complete the investigation process.
3. If an investigation by the Office of Title IX Compliance includes information about alleged violations found in the Code, the Director will determine the most appropriate means for addressing the alleged violations.

7.07 Informal Resolution

- a. After being informed of the alleged violation(s) and their rights under this Code, including the right to a Formal Resolution as set forth in Section 7.08 of this Code, the Respondent may voluntarily waive the right to a Formal Resolution and request an Informal Resolution. The Conduct Resolution Administrator may decline the Respondent’s request for an Informal Resolution, at which point the case will be referred to a Formal Resolution.
- b. During an Informal Resolution, the Conduct Resolution Administrator will, in their professional judgment on the basis of the provided information or in consultation with appropriate University officials (e.g., Title IX Coordinator; University Housing; the Dean of Students), propose findings regarding any alleged violation(s) and may specify any sanction(s) described in this Code.
  1. If the Respondent accepts the Informal Resolution, they waive their right to a Formal Resolution and, if applicable, accept responsibility for the violation(s) and the sanction(s) imposed.
  2. If the Respondent declines the Informal Resolution, the case will be referred to a Formal Resolution.
  3. The Respondent may be given up to two (2) days to review the Informal Resolution and decide if they would like to accept or decline the proposed findings and sanctions.
- c. Once the Informal Resolution is signed, the outcome letter must be delivered in writing to the Respondent within five (5) days.
- d. An Informal Resolution may not be appealed.

7.08 Formal Resolution

- a. Unless an Informal Resolution is accepted, the Conduct Resolution Administrator shall refer the case to a hearing for Formal Resolution. The Director may also refer any case directly to a hearing without the option of an Informal Resolution.
- b. The Director will determine which formal resolution body will address the formal charge(s) by considering the nature of the allegation(s), scheduling, or any extenuating factors. A Formal Resolution can be obtained through one of the following:
  1. *Administrative Hearing* – an Administrative Hearing generally will be conducted by a three-person Administrative Hearing Board consisting of the Associate Director of Student Conduct or designee and two (2) members from a pool of trained University officials. A case may be referred to a Hearing Administrator.
  2. *Organization Conduct Board* – The Organization Conduct Board shall be composed of student organization members selected by a process overseen by the Office of Student Conduct.

Recruitment of students will include membership from campus governance groups such as Club Council, Club Sports Council, IFC, MGC, NPHC, and PHC. All members, shall be full-time students in Good Disciplinary Standing with a cumulative grade point average of 2.5 or above; a Chair must be classified as a junior or above with a cumulative grade point average of at least 2.75 and must have served on the Student Conduct Board for at least one semester. All members shall serve one-year terms, which may be renewed.

- i. One member of the Organization Conduct Board will be appointed Chair by the Director each time it is convened.
  - ii. If members of the Organization Conduct Board are not available to serve in a hearing, previous members of the Organization Conduct Board or current members of the Student Conduct Board may be utilized. The Director may also refer the case to another resolution body, as appropriate.
3. *Student Conduct Board* – The Student Conduct Board shall be composed of students selected by an application and interview process overseen by the Office of Student Conduct. All members, shall be full-time students in Good Disciplinary Standing with a cumulative grade point average of 2.5 or above; a Chair must be classified as a junior or above with a cumulative grade point average of at least 2.75 and must have served on the Student Conduct Board for at least one semester. All members shall serve one-year terms, which may be renewed.
- i. One member of the Student Conduct Board will be appointed Chair by the Director each time it is convened.
  - ii. All other Formal Resolutions not identified in sections 7.08b.1 (Administrative Hearing), 7.08b.2 (Organization Conduct Board), and 7.08b.4 (University Conduct Board) can be heard by the Student Conduct Board.
4. *University Conduct Board* – The University Conduct Board shall be composed of individuals selected by the Director from a pool consisting of all members of the University faculty; all student members and the Chairs of the Academic Integrity Board, Organization Conduct Board, and Student Conduct Board, as well as former members who are students in Good Disciplinary Standing and enrolled full-time; and all Directors, Associate Directors, Assistant Directors, and Coordinators, or the equivalent, in the Division of Student Affairs or in departments with a student services function.
- i. One member of the University Conduct Board will be appointed Chair by the Director each time it is convened.
  - ii. A case may be referred to the University Conduct Board when a backlog of cases from the Student Conduct Board has developed to assure prompt resolution of cases.
- c. An Organization Conduct Board, Student Conduct Board, or University Conduct Board shall consist of five (5) members and the Chair. A case may be referred to a three (3) person board or a Hearing Administrator when one or more of the following circumstances exists:
1. the case arises at a time when the Conduct Board(s) cannot be convened (e.g., during holidays, semester breaks, or summer sessions);
  2. a backlog of cases has developed;
  3. the case is complex and/or involves a large number of parties or Witnesses; or
  4. other circumstances that, in the sole discretion of the Director, warrant use of a Hearing Administrator in order to advance the prompt and equitable resolution of cases or to support the orderly administration of cases being considered under this Code.
- d. Written notice of the hearing shall be provided to the Respondent at least five (5) days prior to the hearing date in cases in which the minimum sanction is less than Suspension, and at least ten (10) days prior to the hearing date in cases in which the minimum sanction is Suspension, Expulsion, or

Revocation of University Recognition. The notice will include the formal charge(s), a brief narrative of the incident, and for serious violation cases, the minimum sanction(s). For all cases which could result in Expulsion, the notice will specify that Expulsion precludes enrollment and matriculation at any University of North Carolina constituent institution.

- e. The Director may postpone the hearing, provided that written notice of the new hearing date is given to the Respondent.
- f. The Respondent may request one (1) postponement of the hearing by submitting that request to the Director. Requests should be made at least two (2) days prior to the hearing and will generally only be granted in cases of serious student illness, family emergency, or when a student has a scheduled exam that directly conflicts with the scheduled time.
- g. Cases regarding multiple Respondents or multiple Complainants involved in the same incident may be resolved as a single case only if each Respondent and each Complainant consents in writing to such a proceeding.
- h. The Chair or Hearing Administrator is delegated the authority to conduct hearings in a manner designed to effectively and efficiently elicit information needed to make a decision. This includes the authority to review the admissibility of any information, to question Witnesses, to limit the length of testimony of any participant if the testimony appears to be repetitious or irrelevant, and to remove any participant who is unruly or disruptive. The Chair or Hearing Administrator is charged with the responsibility to conduct the hearing in a manner that will do the following:
  1. ensure a fundamentally fair process;
  2. protect the rights of the Respondent and Complainant; and
  3. ensure that participants are treated with respect.
- i. Prior to considering the charges, the Chair or Hearing Administrator shall address the following:
  1. the procedures that will be followed;
  2. the hearing being closed to the public;
  3. the importance of confidentiality of the proceedings;
  4. the University's commitment to the principle of fundamental fairness;
  5. the presumption that a Respondent is not responsible for a violation of this Code until determined otherwise; and
  6. whether any Board member or Hearing Administrator wishes to recuse themselves due to a conflict with, bias about, or interest in the case.
- j. Special accommodations may be provided for testimony by alternate methods (e.g., room divider, teleconference, video conference). Such accommodations are at the discretion of the Director.
- k. All hearings will be recorded, and the recordings will serve as the verbatim record. The University retains the sole right to record hearings. No other recordings may be made of the hearings.
- l. All hearings are closed to the public. The Respondent has the right to appear with a Student Conduct Advisor in addition to support individuals and an Advisor as described in Section 7.04 of this Code.
- m. The Respondent may request that a member of the Board be excluded from the hearing. This request must be made immediately after the introduction of the Board and requires justification. Additionally, a Board member may recuse themselves if they believe there is a conflict with, bias about, or interest in the case. The Chair or Hearing Administrator shall make the final decision whether to exclude any Board member; this decision cannot be appealed. In the case of an Administrative Hearing, this request must be made within two (2) days of the Respondent's receipt of notice of the Formal Resolution and the identity of the Hearing Administrator. Participation in prior disciplinary proceedings alone will not result in recusal.
- n. The Board or Hearing Administrator, and Respondent may ask reasonable questions of any Witnesses appearing at the hearing. This is not intended to preclude the introduction of written statements,

previously written memoranda, letters, or other written material. When practical, the opportunity for questioning should be afforded; however, other information may be introduced at a hearing even though the writer is not present for questioning. Members of the Board or the Hearing Administrator shall attach whatever weight or significance to these documents or statements they deem appropriate.

- o. To determine findings for any alleged violation(s), a vote by the Board will be taken in a closed executive session and will be based solely on the information presented during the hearing. The Board shall base its determination on information that it finds to be reliable, including any assessment of the credibility of information. A vote of “Responsible” by a simple majority of the members present, excluding the Chair, shall be required to find the Respondent Responsible for any violation(s). In cases resolved by a Hearing Administrator, they will determine the level of Responsibility based on the preponderance of the evidence standard and the information provided.
- p. Information regarding any prior disciplinary history may not be introduced or considered in deliberations regarding findings of Responsibility.
- q. If the Respondent is found Responsible, the Respondent may provide an Impact Statement and any information related to the Respondent’s character, including prior disciplinary history, for consideration by the Board or Hearing Administrator in determining a sanction. A Complainant involved in an alleged Crime of Violence may also provide an Impact Statement. Impact Statements and information provided by either a Complainant or Respondent are not binding, but will be given such weight as the Board or Hearing Administrator deems appropriate.
- r. Decisions made by the Board or Hearing Administrator are final, unless Expulsion is recommended. In cases involving Expulsion, the recommendation will be forwarded to the Vice Chancellor for Student Affairs, who shall make the final administrative decision. The Respondent will be banned from all University premises and University-sponsored activities, and is subject to arrest for trespassing if found on any University premises or at a University-sponsored activity during the period of time in which the recommendation of Expulsion is under review by the Vice Chancellor for Student Affairs.
- s. A final decision must be made within ten (10) days of the date of the hearing. Notice of the decision must be delivered in writing to the Respondent within five (5) days of the decision. The notice will include a brief summary of the information upon which the decision is based and shall specify any appeal rights. The final results of a disciplinary proceeding conducted with respect to an alleged Crime of Violence shall be reported to the alleged victim in accordance with FERPA and the Clery Act.

#### 7.09 Resolution in the Absence of the Respondent

- a. If the Respondent has been notified pursuant to this Code and fails to respond within five (5) days of the initial notice, the case may be resolved in their absence. If the case is resolved in absentia, the Respondent shall have waived their right to a hearing.
- b. If the Respondent fails to attend their scheduled hearing, the Board or Hearing Administrator shall adjudicate the case in their absence.
- c. The Conduct Resolution Administrator will, in their professional judgment, determine findings for any alleged violation(s) and may specify any sanction(s) described in this Code.
- d. The resolution must be delivered in writing to the Respondent within five (5) days of the decision. The Office of Student Conduct may place a hold on the Respondent’s account until such time as they confirm receipt of the written decision.
- e. If the Conduct Resolution Administrator determines that the Respondent’s failure to appear was not for the purpose of defeating the disciplinary proceedings, they may rescind the disciplinary action and move forward with either an Informal or Formal Resolution.

## **ARTICLE VIII – APPEALS**

### 8.01 Purpose and Grounds for Appeal

- a. The purpose of the appeal process is to provide the opportunity for questioning the appropriateness of actions resulting from a Formal Resolution. It is not the purpose of the appeal process to provide for a new hearing at a higher administrative level.
- b. The Respondent, may appeal a decision based on the following grounds:
  1. a violation of due process; or
  2. a material deviation from Substantive and Procedural Standards adopted by the UNC Board of Governors, as set forth in [UNC Policy Manual 700.4.1 – Policies on Minimum Substantive and Procedural Standards for Student Disciplinary Proceedings](#).

### 8.02 Filing an Appeal

- a. Appeals must be submitted to the Director within five (5) days of the notice of the decision. The appeal must be submitted via an [online form](#) available from the Office of Student Conduct. In extenuating circumstances, an extension of time may be granted by the Director. A request for an extension of time must be made in writing and approved by the Director.
- b. The appeal must clearly state the grounds on which it is based and present specific reasons or justifications to support the appeal.

### 8.03 Resolving an Appeal

- a. The Appeals Board or Administrator may rule on the appeal upon receipt, or appoint a committee to recommend action on the appeal.
- b. The Appeals Board or Administrator may issue one of the following decisions:
  1. uphold the finding(s) of responsibility and sanction(s);
  2. uphold the finding(s) of responsibility and reduce, but not eliminate, the sanction(s); or
  3. remand the case to the same or a new Board or Hearing Administrator.
- c. A decision must be made within fifteen (15) days after the appeal is received by the Appeals Board or Administrator. Notice of the decision must be delivered in writing to the Respondent within five (5) days of the decision. The final results of an appeal decision made with respect to an alleged Crime of Violence or act of relationship violence shall be reported to the alleged victim in accordance with FERPA and the Clery Act.
- d. The decision of the Appeals Board or Administrator is final and cannot be appealed further except as otherwise provided in [The Code of the Board of Governors of the University of North Carolina Section 502 D\(3\) – Chancellors of Constituent Institutions](#).

### 8.04 Deferral of Sanctions

At the discretion of the Director, the imposition of a sanction(s) will normally be deferred during the resolution of an appeal. The sanction(s) may be imposed immediately following a decision if the Respondent's behavior was of such a serious nature that it:

- a. was threatening, harmful, or dangerous to others or the University community;
- b. caused significant property damage;
- c. impacted the stability and continuance of normal University functions; or
- d. directly and substantially impeded the lawful activities of others.

## **ARTICLE IX – DISCIPLINARY RECORDS**

All Disciplinary Records are the property of the University and are maintained by the Office of Student Conduct. Disciplinary Records may include, but are not limited to, Complaints, police reports, correspondence, case summaries, written information, and audio recordings. Disciplinary Records include both electronic and paper records.

### 9.01 Records Maintenance

- a. Disciplinary Records where there is a finding of not responsible are maintained for a minimum of eight (8) years from the date of resolution. These records, however, are considered internal to the University and are not disclosed as part of a Respondent’s disciplinary history.
- b. Disciplinary Records where the sanction is a Letter of Concern are maintained for a minimum of eight (8) years from the date of resolution. These records may be disclosed as part of the proceedings under this Code but are considered internal to the University.
- c. No Disciplinary Record(s) will be destroyed until the Respondent has been in Good Disciplinary Standing for eight (8) years.
- d. Disciplinary Records where the sanction is Suspension, Expulsion, or Revocation of University Recognition are maintained indefinitely.
- e. The University has the right to maintain any Disciplinary Records in excess of the minimum period.

### 9.02 Access and Privacy

This section in its entirety refers to the Disciplinary Records of students. Organization and Registered Student Organization Disciplinary Records are not subject to the same standards of privacy and may be disclosed at any time.

- a. A student may access copies of their Disciplinary Records by contacting the Office of Student Conduct. Access to any Disciplinary Records shall be pursuant to FERPA and applicable University policies.
- b. All Disciplinary Records are private and shall not be released without the student’s consent, except as otherwise provided by law. Pursuant to FERPA and the Clery Act, the University may disclose Disciplinary Records:
  1. to University officials who have a legitimate educational interest,
  2. to parent(s) or legal guardian(s) of students under the age of twenty-one (21) who are claimed as dependents for income tax purposes, the outcome of any drug- or alcohol-related violation of this Code, or
  3. to an alleged victim, the final results of a disciplinary proceeding conducted with respect to an alleged Crime of Violence.
- c. The University may also be required to produce Disciplinary Records in accordance with a lawfully issued subpoena. Limits to redisclosure shall be governed by appropriate federal law, including FERPA and the Clery Act. Failure to maintain the privacy of any protected record shall constitute a violation of Section 4.07c. of this Code.

## **ARTICLE X – REVIEW AND REVISION**

### 10.01 Annual Review

- a. Subject to the authority of the Vice Chancellor for Student Affairs and the Chancellor, this Code shall be reviewed annually by the Committee on Student Conduct to determine appropriate revisions that are

in the best interest of the University. These revisions shall be considered recommendations to the Chancellor.

- b. The Committee on Student Conduct shall be composed of two (2) members of the Council of Deans appointed by the Provost, the Chair of the Faculty Senate (or Faculty Senate delegate) and the Chair of the Council of Chairs (or department chair delegate), two (2) members of the Division of Student Affairs appointed by the Vice Chancellor for Student Affairs, the Student Body President (or delegate), the Student Body Vice President (or delegate), the Graduate Student Body President (or delegate), the President of the Residence Hall Association (or delegate), the Chair of the Student Conduct Board, and the Director. Each member of the Committee on Student Conduct shall serve a one (1) year term and may be reappointed. The Vice Chancellor for Student Affairs shall serve as Chair of this Committee. A quorum shall consist of a simple majority of the appointed members.
- c. The Chancellor reserves the right to appoint other such committees or groups as they deem appropriate to advise them on changes or revisions to this Code.

10.02 Changes Beyond the Annual Review

The Chancellor reserves the right to review and amend this Code at any time.

## RELEVANT POLICIES

The Code of the Board of Governors of the University of North Carolina

- [Section 502 D\(3\) – Chancellors of Constituent Institutions](#)
- [UNC Policy Manual 700.4.1 – Policy on Minimum Substantive and Procedural Standards for Student Disciplinary Proceedings](#)
- [UNC Policy Manual 700.4.1.1\[R\] – Regulation Applicable to Student Disciplinary or Conduct Procedures: Right to an Attorney or Non-Attorney Advisor for Students and Student Organizations](#)
- [UNC Policy Manual 700.4.2 – Policy on Student Conduct](#)
- [UNC Policy Manual 700.4.3\[G\] – Guidelines on Student Disciplinary Proceedings: Meaning and Effect of “Expulsion”](#)
- [UNC Policy Manual 1300.8- Free Speech and Free Expression Within the University of North Carolina](#)

Appalachian State University Policy Manual

- [Policy 104 – Facility Use](#)
- [Policy 105.3 – Policy Statement on the Family Educational Rights and Privacy Act of 1974, as Amended](#)
- [Policy 106 – Drugs and Alcohol](#)
- [Policy 110- Discrimination and Harassment](#)
- [Policy 112 – Sex-Based Misconduct](#)
- [Policy 301.5 – Bicycle Helmets](#)
- [Policy 303.24 – Animals on Campus](#)
- [Policy 303.25 – Smoking on University Property](#)
- [Policy 901 – Use of Computers and Data Communications](#)
- [Policy 915 – E-Mail as Official Means of Communication](#)

Applicable Federal Laws and State General Statutes

- [U.S. Department of Education Information about the Family Educational Rights and Privacy Act of 1974](#)
- [U.S. Department of Education Information about the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act](#)
- [North Carolina Controlled Substances Act – North Carolina General Statutes, Chapter 90, Article 5](#)

*The University acknowledges with appreciation the North Carolina State University Code of Student Conduct and Student Discipline Procedures, the Code of Student Conduct at Old Dominion University, the University of North Carolina at Charlotte Code of Student Responsibility, the NCHERM Group Model Code project, the Student Code of Conduct at Wichita State University, the Louisburg College Student Handbook, Northwestern University’s Code of Student Conduct, and the University of Colorado Student Conduct Code Policies and Procedures.*

## APPENDIX A – GUIDE FOR ALCOHOL SANCTIONS

| Substance      | Prohibited Conduct  | Educational Sanctions  |
|----------------|---|--|
| <b>Alcohol</b> | <p><i>First Offense with Low Risk Behavior (e.g., BAC of 0.09 or less)</i></p> <ul style="list-style-type: none"> <li>▪ 4.01a. – Underage Possession/Use</li> <li>▪ 4.01b. – Improper Possession/Use</li> <li>▪ 4.01e. – Public Intoxication</li> <li>▪ 4.01f. – Energy Drinks</li> </ul>   | <ul style="list-style-type: none"> <li>▪ Disciplinary Warning</li> <li>▪ Educational Program(s)</li> <li>▪ Program Service Fee (\$25.00)</li> </ul>  |
|                | <p><i>Second Offense or First Offense High Risk Behavior (e.g., BAC greater than 0.09, 4.01c. – Driving Under the Influence)</i></p> <ul style="list-style-type: none"> <li>▪ 4.01a. – Underage Possession/Use</li> <li>▪ 4.01b. – Improper Possession/Use</li> <li>▪ 4.01e. – Public Intoxication</li> <li>▪ 4.01f. – Energy Drinks</li> </ul> | <ul style="list-style-type: none"> <li>▪ Disciplinary Probation (one calendar year)</li> <li>▪ Educational Program(s)</li> <li>▪ Program Service Fee (\$100.00)</li> <li>▪ Notification of Parents/Guardians if under the Age of 21 [Considered a Record, Not a Sanction]</li> </ul> |
|                | <p><i>Subsequent Offense</i></p> <ul style="list-style-type: none"> <li>▪ 4.01a. – Underage Possession/Use</li> <li>▪ 4.01b. – Improper Possession/Use</li> <li>▪ 4.01c. – Driving Under the Influence</li> <li>▪ 4.01e. – Public Intoxication</li> <li>▪ 4.01f. – Energy Drinks</li> </ul>   | <ul style="list-style-type: none"> <li>▪ Suspension</li> <li>▪ Notification of Parents/Guardians if under the Age of 21 [Considered a Record, Not a Sanction]</li> </ul>   |

\*See Appendix C for Amnesty Policy.

\*\*Per Article V, Section 5.03 and Article VI, Section 6.03 (Compelling Factors): Any individual or Board authorized by this Code to resolve conduct allegations may modify any educational sanction based on Compelling Factors.

## APPENDIX B – GUIDE FOR DRUG SANCTIONS

| Substance    | Prohibited Conduct   | Educational Sanctions   |
|--------------|--|---|
| <b>Drugs</b> | <i>First Offense</i>   | <ul style="list-style-type: none"> <li>▪ Disciplinary Probation (one calendar year)</li> <li>▪ Educational Program(s)</li> <li>▪ Program Service Fee (\$100.00)</li> <li>▪ Notification of Parents/Guardians if under the Age of 21 [Considered a Record, Not a Sanction]</li> </ul>  |
|              | <i>Second or First Offense High Risk Behavior (e.g. two or more illegal substances in one incident, possession of more than a personal use amount)</i> | <ul style="list-style-type: none"> <li>▪ Progressively More Severe Sanctions, including Suspension or Expulsion</li> <li>▪ Notification of Parents/Guardians if under the Age of 21 [Considered a Record, Not a Sanction]</li> </ul>  |
|              | <i>Manufacturing/Selling/Delivering</i>  | <p><i>First Offense</i></p> <ul style="list-style-type: none"> <li>▪ Suspension</li> <li>▪ Notification of Parents/Guardians if under the Age of 21 [Considered a Record, Not a Sanction]</li> </ul> <p><i>Second Offense</i></p> <ul style="list-style-type: none"> <li>▪ Expulsion</li> <li>▪ Notification of Parents/Guardians if under the Age of 21 [Considered a Record, Not a Sanction]</li> </ul> |

\*See Appendix C for Amnesty Policy.

\*\*Per Article V, Section 5.03 and Article VI, Section 6.03 (Compelling Factors): Any individual or Board authorized by this Code to resolve conduct allegations may modify any educational sanction based on Compelling Factors.

## **APPENDIX C –AMNESTY POLICY**

The Amnesty Policy provides an opportunity for Appalachian State University to reduce harm and promote responsible decision-making. The University will withhold disciplinary action when students are faced with medical emergencies, may have experienced relationship violence, sex-based misconduct, or sex/gender-based harassment/discrimination, or otherwise have been the victim of a crime while underage drinking or using substances. The Policy strives to remove barriers and encourage students to seek the help of others.

The Amnesty Policy applies to the following:

- a. students who seek assistance from a University Official or emergency personnel on their own behalf;
- b. students who seek assistance from a University Official or emergency personnel on the behalf of another student and who remain on the scene to provide support (the policy would also apply to the student who received assistance);
- c. students who report alleged Code of Student Conduct, Sex-Based Misconduct Policy, and/or law violations;  
or
- d. organizations hosting an event in which a club representative seeks assistance from a University Official or emergency personnel and remains on the scene to provide support.

This Policy will provide an opportunity for an intervention that will not result in a Disciplinary Record from the Office of Student Conduct. Information related to receiving amnesty will be maintained for a minimum of eight (8) years from the date amnesty is received. This information is considered internal to the University and will not be disclosed as part of a student's disciplinary history.

To receive amnesty, a student or organization must agree to the recommended action plan, which may include participation in educational programming. Failure to complete the action plan may result in revocation of amnesty.

The Amnesty Policy does not apply to the following:

- a. prohibited conduct other than underage drinking or substance use (including, but not limited to, driving under the influence, acts of harm, harassment, sexual misconduct, and vandalism);
- b. students who do not seek assistance from a University Official or emergency personnel; or
- c. circumstances where medical attention is requested by Appalachian State University faculty or staff while performing their job duties.

Amnesty granted does not prevent independent action from law enforcement agencies, including the Appalachian Police Department. It does not prevent an individual who has enforcement obligations under federal, state, or local law to report an alleged violation, file a charge, or take other action related to the possible criminal prosecution of any student.

## **APPENDIX D – DIGITAL MILLENNIUM COPYRIGHT ACT (DMCA)**

The Digital Millennium Copyright Act (DMCA), passed in 1998, requires a University to aid in the prevention of online copyright infringement as an internet service provider.

Copyright owners have hired companies to search file sharing programs and locate IP addresses of computers sharing or downloading files illegally. In the event the IP address is a campus address, Appalachian State University (ASU) Information Technology Services (ITS) is informed and required to “take down” the offending material. People utilizing the University network are not anonymous, and illegal file sharing activity can be tracked.

Essentially, it is illegal to copy any copyrighted material without authorization from the creator or other owner of the copyright. It is also important to note that you cannot share any copyrighted material without such authorization.

Copyright law currently allows the court to set fines between \$750 and \$150,000 per copyright infringement. While most of these cases are settled out of court, some of these settlement agreements have required payments in excess of \$10,000.

Information Technology Services (ITS) has automated the process for a DMCA take down notice. The notice goes directly to the user identified by the ASU network registration system and automatically removes the computer from the network.

If the complaint is true, you must certify that the infringing content has been removed from the computer. If you believe the complaint is false, you may contact the individual or business that originated the notice (e.g., RIAA, MPA etc.), not Appalachian State University.

In response to DMCA allegations, Appalachian State University has developed a graduated response. Only on a third incident will a complaint be sent to the Office of Student Conduct.

- a. A first DMCA complaint will result in a warning and the viewing of an educational video online.
- b. For a second DMCA complaint, the student must attend a workshop and loses internet access for ten academic days.
- c. For a third and subsequent offenses, the student will be referred to the Office of Student Conduct.

Copyright infringement constitutes a violation of the policy on Use of Computers and Data Communication at Appalachian State University. For more information, visit [Policy 901 – Use of Computers and Data Communications](#).

## APPENDIX E – INTERIM ACTION

Interim Action is meant to ensure the safety of individuals involved in an incident as well as the campus community, which includes the online presence of Appalachian State University. These actions may be put in place prior to, during, or after a resolution process.

Interim Actions are meant to be temporary and have the least amount of impact on a Respondent's academic activities weighed against the need to protect the safety of the Complainant(s), Respondent(s), and the campus community.

Interim Actions are not decisions about responsibility. The Director will issue an Interim Action when the University determines that there is an imminent or ongoing threat to the campus community.

Interim Actions may include, but are not limited to:

- a. A no contact directive placed between students,
- b. A formal request or warning that a student cease current behaviors,
- c. Removal of privileges or suspension of activity (including attendance in a specific class),
- d. Interim relocation or removal from University Housing,
- e. Interim Suspension.

### Interim Suspension

During a period of Interim Suspension, the Respondent shall be banned from all University premises and University-sponsored activities, and is subject to arrest for trespassing if found on any University premises or at a University-sponsored activity. A notation of "case pending" will be added to the University of North Carolina Suspension/Expulsion database until the disciplinary case has been resolved. The notation will, at that time, be updated to reflect the status of the case. A notice of Interim Suspension shall be provided in writing to the Respondent. The Director will make a reasonable attempt to speak with the Respondent and give the Respondent an initial opportunity to respond to the concerns before issuing the Interim Suspension.

#### *a. Interim Suspension Review*

A Respondent placed on Interim Suspension shall be afforded a review to address their Interim Suspension and request that the Interim Suspension be lifted. The review shall be conducted by the Director or designee. The following procedures will be applicable:

1. A request for a review must be submitted to the Director within two (2) days of the Respondent's receipt of the notice of Interim Action. In extenuating circumstances, an extension of time may be granted by the Director. This request must be made in writing to the Director. The request must clearly state the grounds on which it is based and present specific reasons or justifications to support the request. If no request is received by involved parties, University disciplinary proceedings will be scheduled.
2. The Respondent will be informed of the time, date, and location of the review in writing at least two (2) days in advance. This notice period may be waived in writing by the Respondent. The Respondent will remain suspended on an interim basis pending a decision following the review, but may be allowed to be on University premises to attend the hearing or for other necessary purposes, as authorized in writing by the Director. If the notice of Interim Suspension requires the Respondent to be evaluated by a licensed health professional acceptable to the University, the review will be held after the Director receives a written evaluation.
3. The Respondent may request that the Director or designee be replaced for another designee in the review. This request must be made in writing and requires justification. Additionally, a Director or designee may

recuse themselves if they believe there is a conflict with, bias about, or interest in the review. The Dean of Students shall make the final decision whether to change the Director or designee for the review; this decision cannot be appealed. Participation in prior administrative meetings or disciplinary proceedings alone will not result in recusal.

4. Information utilized during the Interim Suspension review may include the Respondent's Disciplinary Records, including written evaluations from a licensed psychiatrist or psychologist, and verbal testimonies from the Respondent and any Witnesses. The Respondent will be asked to provide consent to the disclosure of any medical or mental health information relevant to the appeal review to those present. All information that may be utilized will be available for inspection by the Respondent in the Office Student Conduct during normal business hours.
5. The Interim Suspension review shall be conversational and non-adversarial. A decision shall be made on the basis of the information presented during the review. Formal rules of evidence and procedure will not apply. Any individual who disrupts the review may be excluded.
6. In addition to support individuals and an Advisor as described in Section 7.04 of this Code, the Respondent may have a licensed health professional acceptable to the University present as support.
7. The Interim Suspension review may be conducted in the absence of the Respondent if they were provided proper notice.
8. The Interim Suspension review shall be recorded, and the recording will be kept with the pertinent disciplinary file.
9. A decision must be made within ten (10) days of the conclusion of the review. Notice of the decision must be delivered in writing to the Respondent within five (5) days of the decision. The written decision will contain a statement of reasons for any determination to continue Interim Suspension.
10. The decision of the Interim Suspension Administrator shall be final and conclusive and not subject to additional appeal.

#### Scheduling of University Disciplinary Proceedings

University disciplinary proceedings shall be scheduled as soon as practical, unless the Respondent requests a deferral until the conclusion of any criminal proceedings or medical treatments. A request for deferral must be filed with the Director within five (5) days of the Respondent's receipt of the notice of Interim Action or the decision of the Interim Suspension review. In reviewing the request, the Director shall consider the following:

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

# Office of Student Conduct



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