

# Appalachian State University

## Code of Student Conduct

Issued by the Office of the Chancellor  
Adopted July 1991  
Revised July 2023

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](https://studentconduct.appstate.edu)

### Table of Contents

Relevant Policies .....	2
Purpose and Goals .....	3
Article I: Definitions .....	4
Article II: Authority & Jurisdiction .....	8
Article III: Rights of Involved Parties .....	11
Article IV: Prohibited Conduct .....	12
Article V: Process for Addressing Prohibited Conduct .....	17
Article VI: Appeals .....	23
Article VII: Outcomes for Individuals .....	24
Article VIII: Disciplinary Records .....	27
Article IX: Review and Revision .....	28
 Appendix A: Amnesty Policy .....	 29
Appendix B: Interim Action .....	30
Appendix C: Organizational Misconduct .....	32

## RELEVANT POLICIES

Violations of University policies, rules, or regulations, or federal, state, or local law may result in initiation of the process for addressing prohibited conduct.

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, Harassment, Retaliation and Sex-Based Misconduct
- [Policy 301.5](#) – Bicycle Helmets
- [Policy 303.24](#) – Animals on Campus
- [Policy 303.25](#) – Tobacco and Related Product Restrictions on University Property
- [Policy 304.2](#) – Use of Skateboards and Similar Devices
- [Policy 901](#) – Information Technology Governance Policy
- [Policy 906](#) - Acceptable Use of Computing and Electronic Resources Policy
- [Policy 908](#) – E-Mail as Official Means of Communication

University Housing

- [Housing Policies](#)

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](#)

## 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 outcomes, which may include 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 the level of responsibility for their behavior;
- c. to help the Respondent determine the 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 help 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 “Administrative Hearing Officer” is a trained University staff or faculty member, or a trained third party, appointed by the Director or designee, who addresses a charge(s) against a Respondent.
- 1.02 “Advisor” is an individual attorney or non-attorney who may represent a Respondent, or, a Complainant, at any point in the disciplinary proceedings. 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. An Advisor may not serve in any other role throughout the student conduct process, including, but not limited to, as a support individual or Witness.
- 1.03 “Appeal Board or Appeal Administrator” is the University Board or Official with the authority to review and make decisions on appeals. The Appeal Board, composed 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 or their designee. 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.
- 1.04 “Board Advisor” is an individual designated by the Director to advise the Administrative Hearing Officer 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 case shall not be the same individual who makes any determination on responsibility, recommendation on outcome(s), or determination on outcome(s) in that case.
- 1.05 “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.
- 1.06 “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.
- 1.07 “Code” is the Appalachian State University Code of Student Conduct unless the context specifically indicates otherwise.
- 1.08 “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 “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.
- 1.12 “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.

- 1.13 “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.
- 1.14 “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.
- 1.15 “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.
- 1.16 “Disciplinary Action” is the imposition of an outcome authorized by this Code.
- 1.17 “Disciplinary Record” is a student conduct case with a finding of Responsible that has incomplete outcomes or is being maintained by the University. The University follows a Records Maintenance schedule as described in Article IX of this Code.
- 1.18 “FERPA” is [the Family Educational Rights and Privacy Act of 1974](#) and its implementing regulations, as amended.
- 1.19 “Force” is the use of physical violence or physically imposing on someone. Force also includes threats, intimidation (e.g., implied threats), and coercion.
- 1.20 “Formal Charge” occurs when the Director or designee initiates conduct procedures to address an alleged violation(s) of the Code by a Student or Student Organization.
- 1.21 “Formal Resolution” requires the use of a Board, or an Administrative Hearing. Additional information about Administrative Hearings and Board composition can be found in Section 7.08 of this Code.
- 1.22 “Good Disciplinary Standing” is a student’s status when there are no pending Complaints or active outcomes with the Office of Student Conduct.
- 1.23 “Hostile Environment” is unwelcome conduct directed toward a particular person or persons, based in whole or in part upon protected status, that is unwelcome, severe or pervasive, objectively offensive, and so unreasonably interferes with the target person’s employment, academic pursuits, or participation in University-sponsored activities as to effectively deny equal access to the University’s resources and opportunities. A hostile environment is one 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.
- 1.24 “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.

- 1.25 “May” is used in the permissive sense.
- 1.26 “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.
- 1.27 “Outcome” (synonymous with the term “sanction” in The University of North Carolina Board of Governors Policy 700.4.1) may be imposed if a student is found responsible for a violation of the Code. Outcomes are intended to educate Students on the effects of their behavior and encourage change in future decision making.
- 1.28 “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.
- 1.29 “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.
- 1.30 “Psychoactive Agent” is a substance which may cause alterations in perception, mood, consciousness, cognition, or behavior.
- 1.31 “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.
- 1.32 “Respondent” is any Student who is alleged to have violated this Code.
- 1.33 “Responsible” is when, based on the preponderance of the evidence (see Section 5.04), a student is found to have committed a violation of this Code identified in Article IV.
- 1.34 “Serious Violation” is one for which the possible outcomes include suspension or expulsion.
- 1.35 “Shall” or “Will” is used in the imperative sense.
- 1.36 “Student” is any individual who, at the time of the incident, has accepted an offer of admission to the University; is currently enrolled in coursework or has registered for coursework at the University; has a continuing relationship with the University; is an auditing Student; or is participating in an educational program sponsored by or affiliated with the University.
- 1.37 “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.
- 1.38 “Support Individual” may be present to provide emotional support to the Respondent(s) during any proceedings. The support individual 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. A support individual may not serve in any other role throughout the student conduct process, such as Advisor or Witness.
- 1.39 “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.
- 1.40 “University” is Appalachian State University, a constituent institution of The University of North Carolina, with campus locations in Boone, North Carolina and Hickory, North Carolina. This includes any officially designated location.

- 1.41 “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.
- 1.42 “University Premises” are buildings or grounds owned, leased, operated, controlled, or supervised by the University.
- 1.43 “University-Sponsored Activity” is any activity on- or off-campus which is initiated, funded, authorized, or supervised by the University.
- 1.44 “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.
- 1.45 “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](#).
- 1.46 “Witness” is an individual who has direct experience with, or knowledge of, events, issues, or circumstances related to the incident. A University Official, Complainant, or Respondent may identify witnesses. A Witness may not serve in any other role throughout the student conduct process, including, but not limited to, as support individual or Advisor.
- 1.47 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 and any amendments or updates that may be implemented.

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. Outcomes applied under this Code cannot be waived or modified by the operating unit. The operating unit may impose outcomes in lieu of outcomes 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 Behavior(s)*

Types of off-campus behavior(s) that may be 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. hazing;
4. behavior that occurs at any college or university may be processed under this Code in the same manner as on-campus behavior; and
5. activities of a student or group of students that conflict with the University's interests and mission, including, but not limited to, any other behavior(s) that put the health and safety of others at risk or show disregard for the policies of the University.

#### 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 outcomes 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. For more information, please see [the Family Educational Rights and Privacy Act of 1974](#).

2.10 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 act 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 outcome 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 are responsible for conducting themselves in a manner that creates 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. 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. Unless specifically noted in the policy definition, intent is not a required element to establish a policy violation. Additionally, attempting to engage in behavior(s) that may be in violation of this Code may also be pursued as an alleged violation. Prohibited conduct includes the following:

### 4.01 Accessory

- a. Being an accessory to the commission of, or knowingly being in the presence of prohibited conduct.

### 4.02 Acts of Harm

- a. *Physical Violence* – Engaging in any behavior against another person that inflicts, attempts to inflict, or assists in inflicting physical injury upon another; including but not limited to pushing, shoving, kicking, hitting, or other physical actions.
- 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.
- c. *Reckless Behavior* – Intentionally or recklessly causing any act that creates a substantial risk of physical harm to another.
- 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.
- e. *Threats Towards a University-Sponsored Activity* – Directing threats of violence which disrupt a University-sponsored activity and/or operations.
- 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.
- 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.

### 4.03 Alcohol

- a. *Underage Possession/Use* – Possessing or using alcohol while under the age of twenty-one (21).
- 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](#).
- c. *Driving Under the Influence* – Operating a motor vehicle under the influence of alcohol or while impaired by the consumption of alcohol.
- d. *Providing to Minors* – Providing alcohol to any individual under the age of twenty-one (21).
- e. *Public Intoxication* – Being intoxicated in public attributable in part or in whole to the use of alcohol.
- f. *Violation of Alcohol Policies* – Violating Policy 106 – Drugs and Alcohol including, but not limited to, (c) having common source containers within any University housing, any University outdoor area, or event sponsored by a Student Organization; or (d) possessing an open container on University Premises, unless specifically permitted under Policy 106 – Drugs and Alcohol. (e) violating the Housing Alcohol Policy (f) possessing or using any item(s) that facilitates the excessive or rapid consumption of alcohol such as drinking games or drinking related devices

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](#).

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](#).
- b. *Disruption of Student Environment* – Engaging in behavior that is likely to disrupt, obstruct, or interfere with a student's living or learning environment.
- c. *Obscene Conduct* – Lewd, indecent, or obscene conduct.
- d. *Rioting/Raiding* – Rioting, inciting to riot, assembling to riot, raiding, inciting to raid, or assembling to raid University operating units or property.
- 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.
- 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.
- 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.

4.06 Drugs

- a. *Manufacturing/Selling/Delivering* – Manufacturing (including growing marijuana), 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](#)).
- 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](#)).
- c. *Misuse* – Misusing over-the-counter drugs, medically prescribed drugs, psychoactive agents, or huffing/sniffing any substance not intended for such use.
- d. *Paraphernalia* – Possessing drug paraphernalia, including, but not limited to, pipes, scales, bongs, blow tubes, and roach holders.
- e. *Driving Under the Influence* – Driving while impaired attributable in part or in whole to the use of drugs.
- f. *Public Intoxication* – Being intoxicated in public attributable in part or in whole to the use of drugs.

4.07 Noncompliance

- a. *Failure to Comply* – 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 failing to comply with posted policies of ticketed events.
- b. *Outcomes* – Failing to comply with outcomes imposed under this Code or the [Academic Integrity Code](#).
- c. *Unauthorized Disclosure* – Disclosing without authorization confidential records, tapes, information, or documents provided ancillary to any proceedings under this Code.

- d. *Unapproved Events* – Failing to comply with the rules and regulations of holding sanctioned and approved events.

#### 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.
- 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.
- 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.
- d. *Misuse of University Documents* – Forging, altering, or misusing University documents or records.
- e. *Fake Identification* – Possessing or using a fake, forged, or altered instrument of identification including, but not limited to, any kind of identification card.
- f. *False Report of Emergency* – Falsely reporting a fire or other emergency or falsely setting off a fire alarm.

#### 4.09 Fires and Emergencies

- a. *Unauthorized Setting* – Setting a fire without authorization.
- 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.

#### 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.

#### 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](#).

#### 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.

#### 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. This may include snowballs, toy foam darts, etc.

4.14 Retaliation

- a. Treating an individual adversely because that individual 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.

4.15 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](#).

4.16 Solicitation and Fundraising

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

4.17 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.

4.18 Theft or Unauthorized Possession

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

4.19 Unauthorized Entry or Access

- a. *Elevators* – Entering into an elevator shaft or riding on top of an elevator car without authorization.
- b. *University Premises* – Entering, accessing, or attempting to access University premises without authorization.
- c. *Property of Another* – Entering, accessing, or attempting to access the property of another without permission.

4.20 Vandalism

- a. Engaging in an act that intentionally or recklessly damages, destroys, or defaces property owned by another.

4.21 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.

4.22 Violation of University Policies, Regulations, or Rules

- a. Violating any written policies, regulations, or rules of the University as may be amended from time to time.

4.23 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.
- b. *Firearms/Weapons* – Possessing any firearm or Weapon on University premises without authorization, except as otherwise explicitly allowed by law.

- 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.



## ARTICLE V– PROCESS FOR ADDRESSING PROHIBITED CONDUCT

### 5.01 Notification and Written Communication

Pursuant to 41T Policy 915 – E-Mail as Official Means of Communication<sup>41T</sup>, 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.

### 5.02 Reporting Allegations

- a. Complaints of alleged misconduct 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 concerns of discrimination, harassment or retaliation based on protected status, workplace bullying, and sex-based misconduct (Title IX and Non-Title IX) should be reported through the Equal Opportunity (EO) unit within Access & Equity.
- 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 outcomes 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.

### 5.03 Review of Information

The University may receive and, in its discretion, review information regarding incidents of alleged misconduct. The information review process may include, but is not limited to, collecting accounts from involved parties and/or witnesses, written statements, audio recordings, pictures, social media information, text messages, police reports, medical records, and other relevant information.

#### 5.04 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.

#### 5.05 Presence of Support Individuals and Advisors

The Respondent has the right to be accompanied by one (1) support individual. This individual is present to provide emotional support to the Respondent(s). The support individual 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, including, but not limited to, as Advisor or Witness.

- a. 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.
- b. In the sole discretion of the individual facilitating the meeting, the Respondent may confer with their Advisor so long as it does not delay, disrupt, or otherwise interfere with the proceeding.
- c. 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.

#### 5.06 Interim Action (See Appendix B for additional information)

In appropriate circumstances the Director or their designee 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 or their designee, 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.

## 5.07 Pre-Resolution Meetings

- 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 resolve with an Informal Resolution during their pre-resolution meeting.
- b. During a pre-resolution meeting, 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 outcome(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 outcome(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 outcomes.
- 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.

5.08 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 or their designee 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. Hearing Administrator— an Administrative Hearing generally will be conducted by a one-person hearing officer. The Hearing Administrator is assigned from a pool of trained University officials.
  2. University Conduct Board – The University Conduct Board shall be composed of individuals selected by the Director from a pool consisting of members of the University faculty; staff and students. Student members are students in Good Disciplinary Standing and enrolled full-time, all Faculty members, and 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.
- c. A 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.

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 outcome is less than Suspension, and at least ten (10) days prior to the hearing date in cases in which the minimum outcome is Suspension or Expulsion. The notice will include the formal charge(s), a brief narrative of the incident, and for serious violation cases, the minimum outcome(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.
- d. The Director may postpone the hearing, provided that written notice of the new hearing date is given to the Respondent.
- e. 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.
- f. 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.
- g. 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.
- h. 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.
- i. 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.
- j. 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.
- k. 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.
- l. 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.
- m. 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.
- n. 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.

- o. Information regarding any prior disciplinary history may not be introduced or considered in deliberations regarding findings of Responsibility.
- p. 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 an outcome. 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.
- q. 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.
- r. 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.

#### 5.09 Failure to Engage with Processes to Address Alleged Violations

- a. If the Respondent has been notified pursuant to this Code and fails to respond within five (5) days of the initial notice, a hold may be applied to prevent registration, transcript attainment, and/or graduation.
- c. If the Respondent fails to attend their scheduled hearing for a Serious Violation, the Board or Hearing Administrator shall adjudicate the case in their absence.
- d. The Conduct Resolution Administrator will, in their professional judgment, determine findings for any alleged violation(s) and may specify any outcome(s) described in this Code.
- e. 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.
- f. If the Board or Hearing 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 VI – APPEALS

### 6.01 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.

### 6.02 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, the Director may grant an extension of time. 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.

### 6.03 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 outcome(s);
  2. uphold the finding(s) of responsibility and reduce, but not eliminate, the outcome(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.

### 6.04 Deferral of Outcomes

At the discretion of the Director, the imposition of an outcome(s) will normally be deferred during the resolution of an appeal. The outcome(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 VII – OUTCOMES FOR INDIVIDUALS

Respondents who are found to have violated the Code will receive outcomes 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 outcomes issued may vary depending on the situation in question. Outcomes are intended to educate Respondents on the effects of their behavior and invoke change in future decision-making. Outcomes may be issued individually, or a combination of outcomes may be assigned. A Conduct Resolution Administrator or Board may implement any of the outcomes listed in this Article, pursuant to the guidelines set forth in this Code or when a finding of responsibility for a violation of policy by the Office of Access and Equity has been determined. Unless otherwise noted, all outcomes become effective upon the conclusion of any appeal process, or if no appeal request is submitted, on the deadline for submitting an appeal request.

- 7.01 Status Outcomes – outcomes are those issued that impact a Respondent's Disciplinary status and 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. 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. Disciplinary 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.
  - 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.

7.02 Educational Outcomes – outcomes that may be given in addition to Sections 5.01b.-5.01e. of this Code include, but are not limited to, the following:

- a. restitution for loss, damage, or actual expenses incurred as a result of the Respondent's behavior;
- b. participation in educational programming, which may include online programs, counseling, evaluation and compliance with any recommendations, reflection pieces, or other activities;
- c. program service fee for on-campus alcohol and other drug education;
- d. change in current University Housing assignment;
- e. loss of University Housing privileges;
- f. random drug testing at the Respondent's expense;
- g. 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)
- h. ban for a definite or indefinite period of time from all or a portion of any University premises or University-sponsored activity;
- i. restriction of contact with, or proximity to, other specified members of the University community; and
- j. any other outcome determined appropriate by a Conduct Resolution Administrator or Board.

7.03 Post-Enrollment and Post-Graduation Outcomes

A Respondent who has violated this Code, but who graduates before imposition of an outcome, 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 outcome(s) imposed as a condition of re-enrollment at the University.

7.04 Compelling Factors

Mitigating or aggravating factors or circumstances affecting outcomes will be considered prior to imposing an outcome. Factors to be considered may include, but are not limited to a Respondent's demonstration of insight about their behavior,

- a. present demeanor and attitude,
- b. prior disciplinary history,
- c. the nature of the behavior, as well as the degree of any damage, injury, or harm resulting from it,
- d. information provided in an Impact Statement
- e. the professional judgment of a Conduct Resolution Administrator, Board, or Hearing Administrator, and
- f. guidance from applicable governing policies and regulations of the UNC Board of Governors.

## ARTICLE VIII – 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.

### 8.01 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 outcome 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. Disciplinary Records where the outcome is Suspension, Expulsion, or Revocation of University Recognition are maintained indefinitely.
- d. The University has the right to maintain any Disciplinary Records in excess of the minimum period.

### 8.02 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 some drug- or alcohol-related violation(s) 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 IX – REVIEW AND REVISION

### 9.01 Annual Review

- a. Subject to the authority of the Vice Chancellor for Student Affairs and the Chancellor, the Committee on Student Conduct shall annually review this Code 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), one (1) member of a Recognized Student Organization, 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.

### 9.02 Changes Beyond the Annual Review

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

## APPENDIX A – AMNESTY POLICY

Amnesty strives to promote a culture in which students actively seek help for themselves or others if/when needed. It is most often applied to situations in which substances were used and impacted someone's health, safety, and/or wellbeing, but can also be applied to situations in which someone experienced relationship violence, sex-based misconduct, sex/gender-based harassment/discrimination, or was the victim of a crime while under the influence of any substance(s).

Amnesty offers a level of protection from status outcomes for some behavior(s) that violate the Code of Student Conduct. The process instead focuses on the development and completion of an educational action plan to address the underlying behavior(s). The action plan is developed from a harm reduction model, focused on understanding what happened, why it happened and preventing recurrence. The action plan offers pathways for reflection, connection to campus/community resources and an opportunity to demonstrate learning/growth. Amnesty can be offered for any relevant situation(s) and is not limited to a one-time use/application.

The Amnesty Policy may apply to the following:

- a. students who seek assistance from a University Official or emergency personnel on their own behalf;
- b. individuals who seek assistance from a University Official or emergency personnel on the behalf of a student and who remain on the scene to provide support (the policy may also apply to the student who received assistance); or students who report alleged Code of Student Conduct, Sex-Based Misconduct Policy, and/or law violations.

The Amnesty Policy may not apply to the following:

- a. other violations of the Code of Student Conduct that may be unrelated to the underlying reason help was sought (Amnesty may not extend to the sale or distribution, or manufacturing of drugs or alcohol);
- b. students who do not seek assistance from a University Official or emergency personnel;
- c. circumstances where medical attention is requested by Appalachian State University faculty or staff while performing their job duties; or
- d. students who do not engage with the process with the Office of Student Conduct.

To receive amnesty, a student must agree to the development and completion of an educational action plan, which may include participation in educational programming. Failure to complete the action plan may result in a hold to prevent registration, transcript attainment, and/or graduation.

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 B – 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 Director or designee shall conduct the review. 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, the Director may grant an extension of time. 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.

## APPENDIX C – ORGANIZATIONAL MISCONDUCT

### Jurisdiction & Overview

The student conduct process applies to the conduct of Recognized Student Organizations (RSO's)/University Affiliated Organizations (UAO's). The Office of Student Conduct makes decisions for all allegations of organizational misconduct unless an allegation involves concerns of discrimination or harassment based on protected status, retaliation, workplace bullying, and sex-based misconduct (Title IX and Non-Title IX). Cases involving allegations of that nature will be referred to the Equal Opportunity (EO) unit within Access & Equity.

RSO's/UAO's that have lost University recognition/affiliation may still be subject to provisions in this code. Individual students who are members of an RSO/UAO are still subject as individuals to the *Code of Student Conduct* and may be held individually accountable for behaviors also attributed to the RSO/UAO. Individuals who are members of an RSO/UAO may, through their actions, subject the RSO/UAO to disciplinary action, whether or not those individuals are also adjudicated under the *Code of Student Conduct*.

Though anonymous complaints are permitted, doing so may limit the University's ability to investigate and respond to a complaint. Those who are aware of misconduct are encouraged to report it as quickly as possible to the Office of Student Conduct.

An RSO/UAO facing an alleged violation of the *Code of Student Conduct* is permitted to dissolve/surrender recognition/affiliation during the adjudication process. However, the University may continue the adjudication process even after the RSO/UAO has been dissolved.

RSO/UAO representatives are responsible for all communication delivered to their University email address. In addition, the University reserves the right to notify and/or communicate with the RSO/UAO Advisor and/or any inter/national organizational governing body associated with the RSO/UAO about any relevant allegations, investigations, and outcomes, provided such communications follow FERPA.

Witness Anonymity in RSO/UAO Cases. The university reserves the right to withhold the identity of certain witnesses from the RSO/UAO to protect these individuals from retaliation. In such cases, information about the status, role, etc. of the witness will be shared with the RSO/UAO to the extent that doing so will not identify them. If the case is referred to a Formal Resolution for adjudication, the identity of these witnesses will also not be shared with the hearing administrator/panel members.

### Records Maintenance/Access and Privacy

- a. Cases in which there was a status outcome will be maintained indefinitely.
- b. Cases without a status outcome will be maintained for eight years from the reported incident date.
- c. Any portions of records related to a Student Organization that do not contain identifiable Student information are generally not protected from disclosure.

### Definitions

- C.01 "Inter/National Organizational Governing Body" is any known or designated association or body affiliated with any RSO/UAO. Examples may include national headquarters of Greek-letter organizations, national governing bodies of sports organizations, national honor societies, etc.
- C.02 "Recognized Student Organization (RSO)/University Affiliated Organization (UAO)" is any group that has been recognized by the University as a student organization or has applied for such recognition or is affiliated with the University. This would include, but is not limited to, unchartered provisional chapters/interest groups.



- C.03 “RSO/UAO Advisor” is any individual designated by the RSO/UAO as their advisor. If there is no RSO/UAO Advisor designated by the RSO/UAO, the institution may choose a designee.
- C.04 “RSO/UAO Representative” is the student on file with the University as the elected/appointed leader of the RSO/UAO (i.e., president or team captain). However, the RSO/UAO may choose an alternate student member to serve as the official representative of the RSO/UAO at any time. If the individual designated is no longer eligible to serve in that role (e.g., the student withdraws from the University or is no longer a member of the RSO/UAO) or if the RSO/UAO dissolves prior to or during the investigation/adjudication process, the University may designate an RSO/UAO representative of their choosing.

#### Organizational Criteria

The following criteria will be utilized when determining whether conduct might reasonably be associated with an RSO/UAO, and therefore considered a sponsored/hosted event (whether on or off-campus, or online):

- a. Any event that the RSO/UAO registers with the University or otherwise notifies the University that it is sponsoring/hosting;
- b. Any event that meets the criteria of an event that should be registered with the University or that the RSO/UAO should have otherwise notified the University of;
- c. Any event that the University determines may qualify as a sponsored event based on, but not limited to, the following factors: the nature of the event, the number of RSO/UAO members in attendance, advertising, promotion or publication conducted by members/on controlled mediums of the RSO/UAO, details surrounding how the event was financed, or being reasonably associated with the organization through the action(s)/behavior(s) of its members, etc.

#### Student Organization Amnesty Policy

Amnesty strives to promote a culture in which members of an RSO/UAO actively seek help for themselves or others if/when needed and/or self-report any violations committed by members of the RSO/UAO. It is most often applied to situations in which substances were used and impacted someone’s health, safety, and/or wellbeing, but can also be applied to situations in which someone experienced relationship violence, sex-based misconduct, sex/gender-based harassment/discrimination, or was the victim of a crime while under the influence of any substance(s).

Amnesty offers a level of protection from status outcomes for some behavior(s) that violate the Code of Student Conduct. The process instead focuses on the development and completion of an educational action plan to address the underlying behavior(s). The action plan is developed from a harm reduction model, focused on understanding what happened, why it happened and preventing recurrence. The action plan offers pathways for reflection, connection to campus/community resources and an opportunity to demonstrate learning/growth. Amnesty can be offered for any relevant situation(s) and is not limited to a one-time use/application. Prior behaviors of a similar nature in the past calendar year may be taken into consideration in determining whether amnesty will be granted to an RSO/UAO.

Amnesty offers RSO’s/UAO’s an opportunity to engage in an educational process that will best meet the organization’s and its members’ needs in partnership with the University and its own self-governing processes.

An RSO/UAO may request amnesty for incidents involving alcohol, drugs, and for some hazing behaviors, including but not limited to:

- a. Possession, consumption, or distribution of alcohol at an RSO/UAO event, where medical attention is needed. The medical attention may be related or unrelated to alcohol use.

- b. Possession or consumption of drugs at an organization event, where medical attention is needed. The medical attention may be related or unrelated to drug use.
- c. Facilitation of hazing behaviors by the organization or its members

RSO's/UAO's may be eligible for amnesty when swift action has been taken by the organization to stop the appropriate behavior(s), to provide an immediate/timely remedy, and to propose or put measures in place to prevent such behaviors from occurring again.

For amnesty to be considered/applied, the RSO/UAO (and/or individual representing the organization) must:

- a. Request the review and consideration of Amnesty for the reported allegation(s)
- b. Complete a meeting with appropriate staff to provide a full account of the alleged incident(s) (be prepared to discuss what was done to stop/remedy/prevent recurrence)
- c. Draft an educational action plan (focused on things that address any underlying alleged behavior(s))
- d. Engage in continued meetings with appropriate staff to discuss the educational action plan and ensure its implementation/completion
- e. Complete the educational action plan

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.

RSO/UAO members who self-report or participate in an investigation may not be charged with other minor University policy violations that are brought to light in the course of the investigation that arose out of, or were committed as a direct result of, the incident(s) under investigation (i.e. students forced to consume alcohol as part of a hazing incident will not be charged with violations of the University's alcohol policy) as long as those behaviors do not represent a threat to the health, safety or well-being of others. The University reserves the right to follow up with students related to those issues as appropriate in a non-disciplinary setting.

#### Interim Action

In cases where it is determined that certain continued operations of an RSO/UAO constitute a reasonable threat of harm to individuals or the University community, damage of University premises, or disruption to the educational mission of the University, the Director or their designee may issue interim action(s), up to and including an interim suspension of all RSO/UAO activities, pending final resolution of the matter. Upon issuance of any interim action(s), the Director or their designee will notify the RSO/UAO representative and other appropriate parties in writing.

If an RSO/UAO wishes to seek a review of any interim action(s), the RSO/UAO representative must submit a written request for an administrative review to the Director or their designee. This administrative review should happen within five (5) business days of the University receipt of the request. This administrative review is not a hearing on the merits of the underlying allegations, but is merely a review to determine what, if any, interim action(s) are appropriate. The review may lead to a continuance, removal, and/or modification of the interim action(s), including modifications that may be more restrictive than the initial action(s). The University will notify the RSO/UAO representative of the outcome of the review in writing within three (3) business days of the review meeting. This notification will include the University decision and the rationale for that decision.

If the University investigation lasts beyond 60 days, the RSO/UAO may request another review of the interim action(s), which will be handled similarly to the initial request for review as outlined above.

**Prohibited Behavior(s)**

In addition to the prohibited conduct outlined in Article IV, the behaviors listed below are specifically applied to the behaviors of RSO's/UAO's.

- a. *Abuse of Process* – Directly or indirectly abusing or interfering with the University investigation/adjudication process by engaging in one or more of the following: falsifying, distorting, or misrepresenting information or colluding to do the same in the investigation/adjudication process; destroying or concealing information; attempting to discourage an individual's proper participation in the investigation/adjudication process; harassing or intimidating (verbally or physically) any person involved in the University processes before, during, and/or following proceedings (including up to, throughout, and after any outcome(s)); unauthorized disclosure of a reporting party's identifying information; distributing or otherwise publicizing materials created or produced during an investigation except as required by law or as expressly permitted by University; or influencing or attempting to influence another person to commit abuse of process.
- b. *Endangerment* – The RSO/UAO aids, abets, incites, organizes, approves or otherwise participates in any activity that would constitute physical abuse or would endanger the safety, health or well-being of other individuals or groups or would cause reasonable apprehension of such harm. For the purposes of this policy, Endangerment would include observation of activities that might endanger the safety, health, or well-being of individuals by RSO/UAO members in a position to intervene but who fail to intervene.
- c. *Failure to Comply* – The RSO/UAO or its representative(s) fail to comply with the reasonable directive(s) of University officials or designees or law enforcement officers during the performance of their duties. This would include failure to comply with rules, regulations and expectations outlined by the University (such as Campus Activities, UREC, Athletics, etc.) or Inter/National Organization Governing Body, failure to appropriately register an event, comply with any interim action(s) or failure to comply with any outcomes assigned to an RSO/UAO at the completion of the conduct process.
- d. *Hazing* – Any activity related to membership in a group or team, including a Student Organization, that may demean, disgrace, or embarrass a person or that risks endangering the mental, physical, or emotional health of a person, regardless of whether such person has agreed to participate in the activity. Hazing includes violation of North Carolina law as established in [NCGS §14-35](#).
- e. *Retaliation* – Any adverse action(s) towards any person for reporting an alleged violation or for cooperating with or otherwise participating in any University investigation. Retaliation includes, but is not limited to, verbal or implied threats, physical or psychological abuse, intimidation, harassment (verbal or written), or any other action intended to create a Hostile Environment for the intended target of the retaliation. In addition, isolation may constitute retaliation under this policy if the target of the isolation is deprived of an educational opportunity or benefit as a result of that isolation.
- f. *Trademark/Copyright Violations* – The RSO/UAO engages in unauthorized use (including misuse) of University or organizational names and images.

**Procedure(s)****Review of Information/Preliminary Inquiry & Partnered Resolutions**

The University may receive and, in its discretion, review information regarding incidents of alleged organizational misconduct. The information review process may include, but is not limited to, collecting accounts from involved parties and/or witnesses, written statements, audio recordings, pictures, social media information, text messages, police reports, medical records, and other relevant information.

Upon receipt of information that suggests an RSO/UAO may have engaged in misconduct, the Director, or their designee will evaluate that report to determine whether the allegations, if substantiated, would constitute a violation. If not, the Director, or their designee will administratively close the case but may share the content(s) of the report with others as appropriate. If the report does describe a possible violation, the Director, or their designee will then evaluate the content, detail, and general credibility of the report to determine appropriate pathway(s) for additional review and/or resolution. This will include whether a single administrator process is appropriate, or if the University needs to utilize a team of trained interviewers/investigators (internal or external to the University). Review of information can occur at any point throughout the adjudication process (for example, witness interviews may occur prior to an organization receiving notice of any alleged violation(s)).

### Partnered Resolutions

The University promotes a culture of self-governance, and encourages organizations to hold members/groups accountable for behavior outlined within their constitution(s), bylaws etc. Organizations are encouraged to utilize internal processes and standards boards to hold members accountable to their organization's purposes, policies, and expectations. When the behavior includes a violation of the *Code of Student Conduct*, the organization is expected to contact the Office of Student Conduct and report the alleged violation(s).

For low-level, straightforward violation(s), or when it is determined that an organization could be given the opportunity to conduct its own internal investigation and suggest outcomes related to addressing the alleged behavior(s), the organization may be offered an opportunity to engage in a Partnered Resolution Process.

If the Director, or their designee believes the reported behavior is more likely than not to have occurred, and it is considered a low-level, straightforward violation, they may send an RSO/UAO Representative a proposed outcome in writing. Upon receipt, the RSO/UAO Representative can either accept the proposed outcome or request a Pre-Resolution Meeting.

If the Director, or their designee believes the organization could be given an opportunity to conduct its own internal investigation and suggest outcomes related to addressing the alleged behavior(s), the RSO/UAO Representative would be notified that a report of an alleged violation has been received, and an initial meeting between the RSO/UAO Representative and Director, or their designee would be scheduled. The organization would then be given the opportunity to conduct its own internal investigation and suggest outcome(s). If the University is satisfied with the internal investigation and suggested outcome(s), they can move forward into finalizing the outcomes and resolving the case through that Partnered Resolution process. If the University is not satisfied with the internal investigation and/or suggested outcome(s), the case will be referred for a Pre-Resolution Meeting.

### Standard of Information

The University must establish that the RSO/UAO is Responsible for the alleged violation(s) by a preponderance of the evidence, or a 'more likely than not' standard.

### Notice & Pre-Resolution Meeting(s)

The Director, or their designee will provide notice of the alleged violation(s) to the RSO/UAO Representative, as well as information about how to schedule a Pre-Resolution Meeting. The Pre-Resolution Meeting provides an opportunity to discuss the nature of the allegations, the rights and responsibilities of the RSO/UAO, and resolution options. The RSO/UAO Representative is encouraged to bring other members with relevant information to the scheduled Pre-Resolution Meeting. Please provide advance notice if bringing more than 3 people so adequate space can be secured.

During this meeting, the RSO/UAO Representative will decide if they would like to engage in a Mutual Resolution process, or a Formal Resolution Process. If an organization does not participate in a Pre-Resolution Meeting, the case will be referred to the Formal Resolution Process.

## Mutual Resolution

The Mutual Resolution process offers an opportunity for the Director, or their designee and the RSO/UAO Representative to discuss the allegation(s), review and discuss all relevant information, and engage in dialogue about outcomes. At the conclusion of the Mutual Resolution process, the Director, or their designee will send the RSO/UAO Representative a proposed outcome in writing. The RSO/UAO Representative may be given up to two (2) days to review the proposed outcome. The RSO/UAO Representative can either accept the proposed outcome or request a Formal Resolution. If the RSO/UAO Representative accepts the proposed Mutual Resolution, they waive their right to a Formal Resolution and the outcomes are finalized and sent in an official outcome letter. A Mutual Resolution may not be appealed. If the RSO/UAO Representative declines the proposed Mutual Resolution or does not respond to the proposed Mutual Resolution in the outlined response timeline, the case is referred to a Formal Resolution.

## Formal Resolution

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:

- *Hearing Administrator* – a single hearing administrator will be appointed from a pool of trained University officials.
- *University Conduct Board* – The University Conduct Board shall be composed of individuals selected by the Director from a trained pool consisting of members of the University faculty, staff, and students.

During a Formal Resolution, the RSO/UAO Representative will be permitted to bring up to 3 additional spokespersons to participate in the hearing in a non-witness capacity. Whether other participants such as RSO/UAO Advisors or individuals from any Inter/National Organizational Governing Body will be permitted to participate in a Formal Resolution in any capacity will be determined on a case-by-case basis by the Director, or their designee.

In some instances, the University may invite Organization Category Experts (OCEs) to participate in a Formal Resolution. These individuals will have a higher level of knowledge and/or expertise of a specific RSO/UAO category and are intended to provide clarity and advocacy during the Formal Resolution Process. OCEs may be staff members from specialized units related to the category of the organization or their designees.

If the RSO/UAO Representative fails to attend their scheduled hearing, the Board or Hearing Administrator shall adjudicate the case in their absence.

## Outcomes

At the conclusion of the resolution process, the decision-maker(s) will determine whether a violation has occurred and selects one of the following options for any alleged violation:

- **Not Responsible** – This outcome can be determined at any state of the process. If a finding of not responsible is determined, the case is considered closed, and the organization has no reportable disciplinary history related to that case.
- **Charge(s) Dropped/Case Dismissed** – This outcome is applied when it is determined that there is insufficient or unobtainable information to make a determination. A dropped charge may be reinstated within one calendar year from the date it was dropped if substantial new information becomes available. If a charge is dropped/the case is dismissed, the case is considered closed, and the organization has no reportable disciplinary history related to that case.
- **Responsible** – This outcome occurs when the decision-maker(s) established to a preponderance of the evidence standard that a violation occurred.

If an RSO/UAO accepts responsibility through a Mutual Resolution or is found responsible for violation(s) through the Formal Resolution process, status and educational outcomes will be determined to effectively address the behavior of the RSO/UAO related to the violation(s) and if appropriate, provide an opportunity to create sustainable change of behaviors, culture and/or activities. This process can be collaborative in nature and include soliciting input from the RSO/UAO representative(s), advisor(s), and/or members of the inter/national organizational governing body.

The decision-maker(s) will determine an appropriate Status Outcome as well as any appropriate Educational Outcome(s)

Status Outcome(s):

- a. Letter of Concern – notification that the University is concerned about the organization’s behavior. This outcome is considered part of an organization’s disciplinary history for a period of one (1) year from the date issued.
- b. Disciplinary Warning – official disciplinary action conveying to the organization that their behavior was unacceptable, and that any future violation(s) may result in more severe disciplinary action, including Disciplinary Probation, Suspension, or Revocation of University Recognition/Affiliation. This outcome is considered part of an organization’s disciplinary history for a period of three (3) years from the date issued.
- c. Disciplinary Probation – a period in which the organization’s behavior is under University review, conveying that the behavior was unacceptable, and that any future violation(s) may result in more severe disciplinary action, including Suspension or Revocation of University Recognition/Affiliation. This outcome is considered part of an organization’s disciplinary history for a period of five (5) years from date issued.
- d. Suspension – separation from the University for a determined period of time. The purpose is to create separation between the RSO/UAO and the University for a determined period of time. During the period of Suspension, the RSO/UAO will have all benefits of University recognition/affiliation suspended. A suspended 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. This outcome is considered part of an organization’s disciplinary history for a period of eight (8) years from date issued.
- e. Revocation of University Recognition/Affiliation – the organization’s relationship with the university is terminated. During the period of Revocation, the RSO/UAO will have all benefits of University recognition/affiliation rescinded. A revoked 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. This outcome is considered part of an organization’s disciplinary history indefinitely.

Educational Outcome(s):

\*This is not an exhaustive list

- a. Mandated Service
- b. Educational Workshops/Programs/Trainings/Certifications
- c. Research/Reflective Essay(s)
- d. Presentations to the Community



- e. Restitution
- f. Restrictions
  - 1. Suspension of rushing, recruitment, or intake processes
  - 2. Representing the University in any official function, leadership position, elected position etc.
  - 3. Social Restrictions
    - i. Hosting/Co-Hosting parties and other formal or informal social events (with or without alcohol)
    - ii. Participating in University activities/events/award ceremonies etc.
  - 4. Campus/Facility Restrictions
    - i. Being on part(s) of the campus community/in specific facilities
    - ii. Reserving/using certain space(s) within the campus community/in specific facilities

When making Outcome(s) determinations, the decision-maker(s) will also consider any appropriate Compelling Factors, which may include, but are not limited to:

- a. Prior Disciplinary History
- b. The nature of the behavior(s), as well as any impact(s)
- c. The available support from any external/alumni partners, advisor(s), and/or members of the inter/national organizational governing body, if applicable
- d. Information provided in a desired outcome statement and/or Impact Statement

Unless otherwise noted, all sanctions become effective upon the conclusion of any appeal process, or if no appeal request is submitted, upon the deadline for submitting an appeal request.

#### Petition to return after Suspension or Revocation of University Recognition/Affiliation

At the conclusion of the Suspension or Revocation period, the organization may petition to return to campus. A petition request should be sent to the Office of Student Conduct as well as any appropriate campus entities (such as Campus Activities, UREC, Fraternity and Sorority Life etc.). In order to petition, the organization must clearly meet all requirements outlined in the outcome letter, must have disbanded for the duration of the Suspension or Revocation period, and have a plan for a successful return. The return of the organization is not automatic. Failure to meet outlined requirements or demonstrate a plan for a successful return could result in the denial of the organization's petition to return.

Organizations returning from Revocation must also seek clearance/reestablishment from other appropriate campus entities. This may include following the chartering of new student organizations process through Campus Activities, or, if the organization is a social fraternity or sorority, following the process outlined in the Fraternity and Sorority Life Organizational Growth Policy.

## **Appeals**

\*See Article VI within the *Code of Student Conduct*

**AppState Box 32084**

**324 Plemmons Student Union Boone, NC 28608-2084**

***studentconduct.appstate.edu* ▪ 828-262-2704**