

2024-2025 WESTERN CAROLINA UNIVERSITY
CODE OF STUDENT CONDUCT



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Article I. PHILOSOPHY AND PURPOSE

Western Carolina University (WCU) is a public, regional institution of higher education whose mission is to create learning opportunities that incorporate teaching, research, service, and engagement through on campus, off-campus, online and international experiences. As an institution of higher education, WCU is dedicated to ensuring the safety, welfare, and education of everyone in its community, and it works to create a supportive environment that aligns with its educational goals.

When students decide to attend WCU, they agree to follow certain behavior standards that match the University's mission and goals. WCU expects its students to uphold higher standards than those of the general public. Students have both rights and responsibilities within the WCU community, and the University has clear expectations for student behavior. The WCU Code of Student Conduct aims to prevent and reduce actions that violate the law or University policies.

WCU's student conduct process is designed to balance student rights with the University's educational objectives. In alignment with our values, WCU is dedicated to creating an inclusive and welcoming environment. Per Policy 10, the University does not discriminate or treat people differently on the basis of race; color; religion; sex; sexual orientation; gender identity or expression; national origin; age; disability; genetic information; political affiliation; and National Guard or veteran status.

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

The student conduct process at WCU aims to achieve the following goals:

- Help students understand the community standards;
- Assist students in taking responsibility for their actions;
- Understand why the misconduct happened;
- Ensure students follow the community standards;
- Encourage students to make better future decisions by considering the consequences;
and
- Protect the safety, welfare, and education of the University community.

Article II. RIGHTS AND RESPONSIBILITIES OF STUDENTS

2.01 | Rights of Students

Western Carolina University (WCU) students have the following rights:

- a. **Non-Discrimination:** Students have the right to live and learn in an environment that does not discriminate based on race, ethnicity, color, religion, sex, pregnancy, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, political affiliation, or National Guard or veteran status.
- b. **Freedom of Expression:** Students can express their opinions freely and are evaluated based on their academic performance, not their opinions or behavior unrelated to academic standards. WCU encourages respectful dialogue and understanding, acknowledging the importance of free speech while ensuring a supportive environment for all students, in accordance with UNC Policy 1300.8 and WCU Policy 133.
- c. **Privacy and Confidentiality:** Students' educational records are managed with privacy and confidentiality according to FERPA, HIPAA, and other relevant guidelines. The university is committed to protecting students' personal information, ensuring their right to privacy and a secure, confidential space.
- d. **Freedom of Association:** Students can join or create groups to promote common interests, following clear university processes. WCU supports students in building connections and fostering a sense of belonging, respecting their freedom to associate and form groups aligned with their interests.
- e. **Fair Academic and Disciplinary Processes:** Students have the right to understand and appeal academic evaluations, disciplinary actions, and other university procedures, with due process rights clearly explained.
- f. **Opportunities for Excellence:** Students can participate in academic and non-academic activities that value excellence, scholarship, teaching, and learning. WCU promotes participation in a way that supports students' overall well-being, encouraging personal and academic growth.
- g. **Respectful Collaboration:** Students have the right to collaborate in an environment that respects all individuals. The university fosters a culture of mutual respect and understanding, recognizing the different backgrounds and experiences of its students.
- h. **Open Exchange of Ideas:** Students can engage in the free and open interchange of ideas. WCU supports a respectful and inclusive environment where students may share their thoughts and perspectives, upholding the principles of free speech and academic freedom.
- i. **Complaint Procedures:** Students can express complaints and concerns through established procedures, with the expectation that they will be fully investigated without fear of retaliation. The university is committed to handling complaints fairly and with respect, ensuring that students feel heard and supported throughout the process.
- j. **Individual Support:** Students have the right to access supports that support academic success and provide reasonable access to education.

2.02 | Responsibilities of Students

Western Carolina University (WCU) students have the following responsibilities:

- a. **Adhere to Laws and Regulations:** Students must follow University regulations, policies, and procedures, as well as local, state, and federal laws.
- b. **Understand and Follow the Code:** Students should read, understand, and adhere to the Code of Student Conduct and strive to live by the WCU Community Creed. This promotes a respectful and supportive learning environment.
- c. **Respectful Conduct:** Students should conduct themselves in a way that enhances a learning environment where the rights, dignity, worth, and freedom of each community member are respected, recognizing the impact of their behavior on others.
- d. **Take Student Role Seriously:** Students should take their role seriously, contributing positively to the WCU community and dedicating time to their studies.
- e. **Respect Others' Rights:** Students should engage in behavior that respects the rights provided to others by the U.S. Constitution, North Carolina laws, and University policies. This includes respecting these freedoms and not denying others these same rights.
- f. **Participate in Conduct Processes:** Students should actively participate in a fair conduct process that holds them accountable in an educational manner, adhering to due process principles. This ensures fairness and respect for all involved.
- g. **Non-Discriminatory Interactions:** Students should interact with others in a manner that does not discriminate based on race, ethnicity, color, religion, sex, pregnancy, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, political affiliation, or National Guard or veteran status.
- h. **Check University Communication:** Students must regularly check their WCU email, as it is the official form of university communication (see Policy 52). This ensures students are informed and up to date with university matters, even during breaks.
- i. **Access to Information:** In determining whether student conduct violates these provisions, all relevant facts and circumstances shall be considered. Care must be taken to preserve freedoms of speech and expression, in line with current legal standards (see UNC Policy Manual 1300.8 and WCU Policy 133).
- j. **Understand University Processes:** University officials will follow the policies and procedures outlined in this Code, and be consistent with all laws, statutes, and governing policies. This includes seeking advice from campus attorneys, as appropriate. (see UNC Policy Manual 700.4.2)
- k. **Report Violations:** Students should report any violations of the Code or law to an appropriate University official (e.g. the Dean of Students, Office of Student Conduct, Student Affairs Office, or WCU Police Department) immediately upon learning about them.
- l. **Know Definitions of Violations:** Students should be familiar with the definitions of terms and violations used in the Code. This promotes understanding and compliance.
- m. **Present Identification:** Students must present their identification cards when requested by University faculty or staff, ensuring a secure and accountable campus environment.
- n. **Be responsible for Visitors:** Students are responsible for the behavior of their visitors and may be held accountable for Code violations committed by their guests, whether or not the student is present during the prohibited conduct.

Article III. AUTHORITY & JURISDICTION

3.01 | Authority of the University

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

“Subject to any policies or regulations of the University of North Carolina Board of Governors or of the University Board of Trustees, it shall be the duty of the Chancellor to exercise full authority in the regulation of student affairs and student conduct and discipline. In the discharge of this duty, delegation of such authority may be made by the Chancellor to faculty committees and to administrative or other officers of the Institution or to agencies of Student government, in such manner and to such extent as may by the Chancellor be deemed necessary and expedient. In the discharge of the Chancellor's duty with respect to matters of Student discipline, it shall be the duty of the Chancellor to secure to every student the right to due process.”

The Chancellor has delegated the responsibility for developing, implementing, and enforcing student conduct policies to the Vice Chancellor for Student Affairs. The Vice Chancellor for Student Affairs has delegated the responsibility for administering the student discipline program to the Dean of Students, who supervises the Office of Student Conduct (OSC)

3.02 | Jurisdiction of the Code

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

- (a) Enrollment: Consistent with WCU policies, The Code applies to the behavior of a student after that individual has been admitted to WCU and begun any required orientation or on-boarding process which registers the student for classes prior to the student's first semester and continues until graduation or the student is no longer eligible to enroll without reapplying for admission.
- (b) University Breaks: The Code applies to the behavior of students during breaks, including Winter Break (when the student was registered for classes in the prior Fall semester and/or the following Spring semester) and Summer Break (when the student was registered for classes in the prior Spring semester and/or the following Fall semester).
 - i. Withdrawal from University enrollment or a specific course due to an alleged violation of the Code once WCU becomes aware of an allegation and before final resolution of a case will not halt the applicable Code proceedings. In addition, students are not entitled to refunds (e.g., tuition, housing, meal plan, etc.) if they are separated from the University as the result of conduct proceedings
- (c) Laws and Policies: Matters involving the WCU Police Department will be referred to Student Affairs and/or the OSC and may result in allegations of Code violations. Matters involving other law enforcement agencies may be referred to Student Affairs and/or the OSC and may also result in allegations of Code violations. Violations of University or UNC-System policies, rules or regulations, or federal, state, or local law may result in a violation of the Code and imposition of student conduct actions (UNC Policy Manual 700.4.2).

The Code differs from the criminal or civil justice systems in scope, purpose, procedure, and outcome.

- i. The Code is not designed to replace state or federal criminal laws or procedures. Students may be accountable to both civil authorities and to the University for acts that constitute violations of law and this Code. When a student's conduct violates this Code, as well as federal, state, or local laws, or administrative regulations, university student conduct proceedings may be initiated and proceed without regard to the pendency of civil, criminal, or administrative actions. Student conduct proceedings based on violations of this Code will not be subject to challenge on the ground that criminal charges involving the same incident have been amended, dismissed, reduced, or not yet fully adjudicated.
 - ii. Reporting parties of crimes/violations are encouraged to notify and seek assistance from the Western Carolina University Police Department and/or the Dean of Students or designee. There are significant differences between pursuing a matter criminally and addressing it through the University code of conduct proceedings. Reporting parties are not required by the University to pursue action through either entity.
- (d) Housing Contract Decisions: Decisions by Residential Living to terminate Housing Contracts for violations of the terms are separate and apart from this Code. Termination of Housing Contracts by Residential Living is not subject to any of the provisions of this Code. However, a violation of this Code may result in a sanction of removal from on-campus housing.
- (e) Title IX Sexual Harassment: Policy 129 governs Title IX Sexual Harassment. This does not prohibit a student from facing charges under this Code for conduct that does not fall under Title IX or when alleged policy violations of this Code are referred for adjudication (e.g., Alcohol violations).

3.03 | Freedom of Expression

The University embraces and strives to uphold the freedoms of expression and speech guaranteed by the First Amendment of the U.S. Constitution and the North Carolina Constitution. The University has the right under appropriate circumstances to regulate the time, place, and manner of exercising these and other constitutionally protected rights. (UNC Policy Manual 700.4.2)

Article IV. DEFINITIONS

4.01 | Advisor/Advocate

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

4.02 | Alcohol

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

4.03 | Alleged Violation

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

4.04 | Assigned Administrator

The term used for a WCU Administrator who is assigned to assist a student through a conduct process, as outlined in section VII of the Code.

4.05 | Clery Act

The Clery Act requires all Title IV-funded Institutions of Higher Education to report specific data on crimes/incidents occurring on and around their campuses – and other buildings/properties they own or control – and to provide other safety and crime information to the campus community (University Policy 116).

4.06 | Complainant

An individual who is reported to be the victim of conduct that could constitute a violation of the code.

- As necessary, the University reserves the right to initiate a Complaint without the participation of the complainant. If there appears to be reliable information indicating that a violation may have occurred, the student conduct process will be initiated. In these instances, the University does not become the complainant. Reports may also be addressed through other non-conduct procedures.

4.07 | Complaint

Term utilized to refer to information a designated University official receives that could result in an investigation and/or conduct proceeding.

4.08 | Conduct Proceeding

Any procedure used for handling a conduct matter including, but not limited to, a conduct meeting, hearing, investigation, etc.

4.09 | Consent

Approval and permission to engage in mutually agreed upon sexual activity demonstrated by clear actions, words, or writings.

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

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

4.10 | Day

A day the University is officially open for business

4.11 | Formal Resolution

The formal determination of a hearing board regarding responsibility, as determined by the preponderance of the evidence standard, and the sanctions imposed if there was a finding of responsibility.

4.12 | Hate Crime

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

4.13 | Hearing Board

Multiple Hearing Officers that are trained and come together to carry out hearing procedures.

4.14 | Hearing Officer

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

4.15 | Hostile Environment

A Hostile Environment is one that a reasonable person (objective standard) would find hostile or abusive and one that a complainant under this policy perceives to be hostile or abusive (subjective standard). Hostile environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, the extent to which the conduct was intended to harm, harass or exploit the complainant, and whether the conduct actually and substantially interferes with an employee's work performance or a student's ability to

participate in or to receive benefits, services, or opportunities in the University's education programs and activities (Policy 53 - Unlawful Discrimination).

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

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

4.16 | Incapacitation

When a person lacks the mental and/or physical ability to make an informed, rational judgment about whether or not to consent to engage in an activity due to unconsciousness; intermittent consciousness; or lack of awareness. Incapacitation is determined by specific facts associated with the person's decision-making ability, awareness of consequences, and ability to make informed decisions regarding their health, safety, wants and needs. A person who is incapacitated is unable to grant Consent.

4.17 | Illegal Drugs

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

4.18 | Interim Action

A temporary action the Vice Chancellor for Student Affairs or designee may impose to stabilize a situation where there is a reasonable concern about the general safety or welfare of individuals within the University community.

4.19 | Intoxication

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

4.20 |

A slang term for marijuana and cannabis consumption.

4.21 | Member of the University Community

Any individual who is a student, faculty member, staff member, individual employed by or volunteering for the University, or visiting the University. This phrase may be used interchangeably with "University Community."

4.22 | Minor Violation

A Code violation for which the possible sanctions do not include suspension or expulsion.

4.23 | Possession

"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.

4.24 | Preponderance of the Evidence

The evidentiary standard used in Code proceedings where the burden of proof is whether it is more likely than not that a Respondent violated the Code.

4.25 | Protected Status

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

4.26 | Receipt of Written Notice

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

4.27 | Recognized Student Organization

A collection of persons who have complied with the requirements for formal University recognition as a group.

4.28 | Record of Hearing

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

4.29 | Reporting Party

A person, group or organization who reports information.

4.30 | Request for Appeal

A written request, submitted to the Dean of Students, or designee, that outlines a request for review of recently finalized case, consistent with the appeal process, as outlined in the Code.

4.31 | Respondent

An individual who has been reported to be the perpetrator of conduct that could be a violation of the Code.

4.32 | Responsible

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

4.33 | Restriction

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

4.34 | Retaliation

Engaging in threats, intimidation, coercion, harassment, or mistreatment against an individual who has engaged in protected activity, including, but not limited to, reporting an alleged violation, providing a statement or testimony as a witness, or participating in an investigation or any other process outlined in The Code.

4.35 | Sanction

An educational outcome assigned based upon a responsible finding of a policy violation.

4.36 | Serious Violation

A violation of this Code for which the possible sanctions include suspension or expulsion.

4.37 | Student Group

A collection of students associated with each other for a common purpose and who are not classified as a RSO by the University.

4.38 | Trespassed

A person has been "trespassed" when a no trespassing notice is posted on property, or when an Authorized University Official has provided oral or written notice to a person that the person should not be on certain property. A trespass warning may include notice that the person is not to be within a certain distance of one or more other persons, as well as notice to not be present on University Property.

4.39 | University Facilities

All buildings, facilities, or grounds owned, leased, operated, controlled, or supervised by Western Carolina University, including adjacent streets and sidewalks.

4.40 | University Official

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

Article V. PROHIBITED CONDUCT

All students are responsible for conducting themselves in a manner that helps enhance an environment of learning in which the rights, dignity, worth, and freedom of each member of the academic community are respected. Violations of University or UNC-System policies, rules or regulations, or federal, state, or local law may result in a violation of the Code and imposition of student discipline. (UNC Policy Manual 700.4.2) The following conduct may be subject to student conduct action and/or conduct proceedings and appropriate outcomes.

Section VII of the Code outlines prohibited conduct that is considered “sex-based” and will be evaluated and processed under Section VII of the Code.

5.01 | Acts of Endangerment

Any actual or perceived act, behavior, or action of physical violence or reckless behavior against another individual, group, or property which causes a reasonable individual to perceive the possibility of harm or actual harm to themselves or others

5.02 | Aiding and Abetting

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

5.03 | Alcohol Violation

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

5.04 | Alcohol/Drug Paraphernalia

- (a) Possession of containers designed for alcoholic beverages and empty alcohol containers.
- (b) Possession of consumption devices associated with rapid consumption of alcohol (Ex: Bong) or a common source of empty alcohol containers (Ex: Kegs that are empty).
- (c) Possession of paraphernalia commonly used to consume drugs.

5.05 I Disorderly Conduct

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

5.06 I Drug Violation

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

5.07 I Failure to Comply

- (a) Not following the directions, requests, or orders of any university representative or body acting in an official capacity or impeding with the carrying out of such directives.
- (b) Not following the instructions of law enforcement officials acting in an official capacity.
- (c) Noncompliance with sanctions.

5.08 I False Information

- (a) Knowingly, or, recklessly, providing false/misleading information to, about, or filing false alleged violations against, another person, student group, or RSO.
- (b) Forgery, alteration, or misuse of any University document, record, instrument of identification or keys, or tampering with any University election.
- (c) Using someone else's CatCard to obtain access to University services such as access to the Campus Recreation Center or dining services.

5.09 I Fire Safety

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

5.10 I General Violation

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

5.11 Harassment, Threats, Bullying, or Intimidation

- (a) No student shall engage in unlawful harassment leading to a hostile environment. Unlawful harassment includes conduct that creates a hostile environment by meeting the following criteria:
 - i. Directed toward a particular person or persons;
 - ii. Based in whole or in part upon any of the protected statuses included in Section 103 of The Code;
 - iii. Unwelcome;
 - iv. Severe or pervasive;
 - v. Objectively offensive; and
 - vi. So unreasonably interferes with the target person's employment, academic pursuits, or participation in University-sponsored activities as to effectively deny equal access to the University's resources and opportunities.
- (b) WCU will also enforce the University of North Carolina System Policy 700.4.2, which states:

“No student shall threaten, coerce, harass or intimidate another person or identifiable group of persons, in a manner that is unlawful or in violation of a constitutionally valid University policy, while on University premises or at University-sponsored activities based in whole or in part upon any of the protected statuses included in Section 103 of The Code.”

In determining whether student conduct violates these provisions, all relevant facts and circumstances shall be considered. Care must be exercised in order to preserve freedoms of speech and expression, as articulated in current legal standards.

5.12 | Hazing

Any intentional, knowing, or reckless act committed by a person (whether individually or in concert with other persons) against another person or persons regardless of the willingness of such other person or persons to participate, that—

- (a) is committed in the course of an initiation into, an affiliation with, or the maintenance of membership in, a student organization; and
- (b) causes or creates a risk, above the reasonable risk encountered in the course of participation in the institution of higher education or the organization (such as the physical preparation necessary for participation in an athletic team), of physical or psychological injury including—
 - i. whipping, beating, striking, electronic shocking, placing of a harmful substance on someone's body, or similar activity;
 - ii. causing, coercing, or otherwise inducing sleep deprivation, exposure to the elements, confinement in a small space, extreme calisthenics, or other similar activity;
 - iii. causing, coercing, or otherwise inducing another person to consume food, liquid, alcohol, drugs, or other substances;
 - iv. causing, coercing, or otherwise inducing another person to perform sexual acts;
 - v. any activity that places another person in reasonable fear of bodily harm through the use of threatening words or conduct;
 - vi. any activity against another person that includes a criminal violation of local, State, Tribal, or Federal law; and
 - vii. any activity that induces, causes, or requires another person to perform State, Tribal, or Federal law.'.

5.13 | Impairment

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

5.14 | Information Technology Violations

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

5.15 I Material and Substantial Disruption

- (a) The material and substantial disruption of an individual or group's lawful exercise of speech or expressive conduct protected by the First Amendment, including the following:
- (b) Any action that qualifies as disorderly conduct under North Carolina General Statute 14-288.4;
- (c) Any action that qualifies as a disruption of official meetings under North Carolina General Statute 143-318.17;
- (d) Any action in violation of a chancellor's designation of a curfew period pursuant to North Carolina General Statute 116-212;
- (e) Any action that results in the individual receiving a lawful trespass notice from law enforcement; or
- (f) Any action that violates UNC Policy Manual 1300.8 or any related WCU policy or procedure.

5.16 I Possession of Stolen Property

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

5.17 I Theft

Taking (or attempting to take), without permission, property belonging to the University, members of the WCU community, visitors, guests, or another person, group of people, or organization.

5.18 I Trespassing (Unauthorized Entry)

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

5.19 I University Process Abuse

- (a) Engaging in behavior that disrupts normal University operations, consumes an inordinate amount of University personnel time or University resources or interferes with the educational process or orderly operation of the University.
 - i. Retaliating against individuals who exercise rights or participate in University investigations or proceedings.
 - ii. Attempting to influence the impartiality or participation of any individual involved in a conduct proceeding.

5.20 I Violation by Guest(s)

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

5.21 | Violation of Law

Committing an act, attempting to commit an act, or assisting another in committing an act that violates state or federal law or local ordinances that is not otherwise a violation of the Code.

5.22 | Weapons

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

Article VI. PROCESS OF ADDRESSING PROHIBITED CONDUCT

6.01 | Reporting Allegations

Anyone including, but not limited to students, University employees, University volunteers, members of the University community, or local members of the community, may report a student, student group, or RSO suspected of violating this Code or any University Policy. The report must be made in writing, online through dsa.wcu.edu/report. A person making such a report may be asked to appear as a witness. Reports should be made as soon as possible after the alleged incident. Anonymous referrals may limit the ability of University Officials to investigate or otherwise pursue the allegation.

6.02 | Warning

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

6.03 | Mediation

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

6.04 | Interim Actions

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

the alleged violation(s) of the Code and/or the potential for an ongoing threat or disruption to the University community. The University may take interim actions as follows:

Process

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

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

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

Interim Action

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

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

- Poses an ongoing threat of disruption of, or interference with, the normal operations of the University;
- Poses a threat of causing physical harm to oneself;
- Poses a threat of causing physical harm to others or of placing others in fear of imminent danger;
- Poses a threat of causing significant property damage;
- Threatens the safety or welfare of the University community;
- Has been alleged to have a drug violation; or
- Has been alleged to have violated Policy 53- Unlawful Discrimination, and there is a need to separate the Respondent from campus.

Other Interim Actions

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

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

- Changes in work schedule or job assignment

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

Appeal

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

6.05 | Due Process

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

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

Before officially charging a student, student group, or Recognized Student Organization (RSO) with a violation or dismissing the allegations, University officials will review information and investigate the matter. This may include interviewing relevant individuals to gather information. If the investigation suggests that a violation of the Code of Conduct may have occurred, the University will formally charge the student, student group, or RSO with the alleged violation(s). After the formal charges are filed, additional investigation may be conducted to gather more information. The student, student group, or RSO involved in the alleged incident is expected to participate and engage with the University officials handling the investigation in a timely manner.

6.06 | Notification and Official Communication

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

6.07 I Presence of Advocates/Advisors

A student, student group, or RSO facing formal alleged violations of the Code may choose to have up to two total attorney or non-attorney representatives during any procedure outlined in The Code.

Advisors Generally

- The Respondent, the Complainant, and any witnesses may each invite an individual to any interview, meeting, hearing, or other part of the process to serve solely as an Advisor.
- The Advisor may confer with the student participant(s) they are advising but may not address any WCU official or Administrative Hearing Officer, other parties, or witnesses, and may not unreasonably delay, disrupt, or otherwise interfere with the proceedings.
- An Advisor may not argue, make statements, or question witnesses; however, an Advisor may respond to questions if asked to do so.
- An Advisor may not be called as a witness.
- The Respondent, Complainant, and any witnesses must complete a FERPA Consent Form prior to being accompanied by an Advisor.
- When scheduling a meeting or hearing in which the Respondent or the Complainant has notified the University that an Advisor plans to participate, the University will make reasonable efforts to accommodate the Advisor's schedule. The University will, however, prioritize the availability of the Respondent, Complainant, witnesses, the designated Administrative Hearing Officer, investigator, and other necessary participants when determining the date and time for a meeting or hearing.
- An Advisor may fully participate in the process only to the extent afforded to the Respondent or Complainant they represent, and only when the Respondent or Complainant they represent is present.

Attorney Advisors

- In addition to the section above, the following apply to Attorney Advisors:
 - Respondents and Complainants may be represented, at their own expense, by an Attorney Advisor.
 - An Attorney Advisor may act on behalf of the Respondent or Complainant they represent in any instance where the action is not inherently personal to the Respondent or Complainant.
 - Inherently personal actions include, but are not limited to, personal testimony, signing documents, and completing sanctions. An attorney or other individual representing the University may participate in any process in which a Representative is participating.
 - In order for an Attorney Advisor to participate in the process, the Respondent or Complainant must provide the Administrator or designee with a completed Notice of Participation by an Attorney or Other Advocate form, FERPA Release of Information Form, and Certification by Licensed Attorney or Non-Attorney Advocate.

- The notice must be submitted at least three (3) Days prior to the scheduled meeting or hearing.

Failure to meet the requirements described in this section may result in the loss of the Respondent's or Complainant's right to participation of an Attorney Advisor in the process.

6.08 | Standard of Proof

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

6.09 | Determinations of Responsibility and Sanctioning

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

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

6.10 | Mutual Resolution

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

6.11 | Conduct Meeting

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

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

If a student, student group, or RSO is involved in more than one conduct proceeding concurrently, the proceedings may be combined into one conduct proceeding at the discretion of a designated University Official if the proceedings all have either the same Complainant or the same Respondent.

6.12 | Hearing

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

A hearing notice shall include the following:

For Minor Violations

- Statement of the specific alleged violation(s) against the Respondent;
- Brief description of factual allegations supporting the alleged violation(s);
- Date, time, and location for the hearing;
- Notice of the right of reasonable access to the allegation information;
- Statement indicating the Respondent may seek assistance from the OSC staff in preparation for the hearing;

- Date of when the Respondent needs to submit any additional evidence to be considered to the OSC staff.

For Serious Violations

- All of the requirements for a minor violation; AND
- If applicable, notification of possible suspension or expulsion if found responsible;
- For all alleged violations that could result in expulsion, the notice must include the possibility of expulsion and must specify that expulsion precludes matriculation at any UNC constituent institution.

The Respondent waives all claims of failure to receive adequate notice if the Respondent fails to check or open email correspondence and/or appears at the hearing and does not formally raise the issue of adequate notice at the first opportunity. It is the student's responsibility to notify the OSC of any change requests related to the scheduling of a hearing. The Director of Student Conduct or designee will determine the validity of the request and determine if a scheduling change will occur.

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

(b) Hearing Procedures

The Hearing Board shall exercise control over the proceedings. To avoid needless consumption of time, or to address a disruption, and to achieve orderly completion of the hearing. The Board may exclude any person, including Respondent, Complainant, Victim, Witness and/or Advocate.

- i. Formal rules of evidence shall not apply. The Hearing Board shall determine the admissibility of all matters of information.
- ii. Admission of any person to the hearing shall be at the discretion of the Hearing Board.
- iii. Each hearing, at the general discretion of the Hearing Board, shall proceed as follows:
 1. Presentation of formal alleged violation(s) and information.
 2. Opening statements by the Complainant and Respondent.
 3. Complainant's presentation of documents, information, and witnesses, followed by questions by the Respondent and/or Hearing Bodies.
 4. Respondent's presentation of documents, information, and witnesses, followed by questions by the Complainant and/or Hearing Bodies.
 5. Closing statements by the Complainant and Respondent.

- iv. After the hearing, the Hearing Board will enter confidential deliberations. All involved parties and witnesses are required to remain in close proximity, unless a party is excused, in the event the Hearing Board needs to recall any person.
- v. A formal administrative decision by the Hearing Board will proceed as follows:
 1. A decision by the Hearing Board of responsible or not responsible for alleged violation(s) shall be made in private, based solely on the information presented at the hearing, using the preponderance of the evidence standard. A determination of responsibility must be made prior to a decision on sanctions. The conduct record of the Respondent shall not be considered in the hearing until responsibility has been established.
 2. A finding of responsibility for any alleged violation(s) shall be followed by the determination of appropriate sanction(s). The conduct record of the Respondent, Complainant impact statements, and/or character witness statements may be considered in determining the appropriate sanction(s).
 3. After private deliberation, the Hearing Board will announce the sanctioning decision to the Respondent.

(c) Review of Hearing Board Determinations

- i. The Hearing Board has authority to impose sanctions up to and including suspension from the university. If the Hearing Board determines that expulsion is the appropriate sanction, the Hearing Board will forward a recommendation of the Respondent's expulsion to the Dean of Students or designee, who will then issue a decision on the sanction of expulsion (UNC System Policy 700.4.1).
- ii. Hearings are closed to the public.
- iii. Only the University may record (audio, transcription, and/or video) a hearing.

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

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

Article VII. SEXUAL MISCONDUCT & INTERPERSONAL VIOLENCE

Western Carolina University is committed to addressing *all* reports of sexual misconduct and interpersonal violence in a manner that ensures support, equity, and clarity for students. University Officials understand allegations related to any form of Sexual Misconduct or Interpersonal Violence can be sensitive in nature, and require a specific response guided by federal law to ensure timely support and due process for all involved. As a result, *all* alleged violations of Sexual Misconduct will be reviewed for Title IX jurisdiction. If the allegations, if true, would constitute a violation of Title IX, University Policy 129 – Title IX Sexual Harassment and its related procedures will apply. Sexual and interpersonal misconduct that does not meet the jurisdictional requirements of Title IX will follow the process outlined in this section of the Code.

This Article is designed to provide a fair and impartial process for both the Complainant and the Respondent. As a public institution, the University provides due process to Respondents accused of Sexual Misconduct and Interpersonal Violence. Consistent with due process, a Respondent is presumed not responsible until determined otherwise through this Article.

All individuals involved in addressing reports of Sexual Misconduct and Interpersonal Violence receive annual training on issues related to Sexual Misconduct and Interpersonal Violence and how to conduct a fair and impartial investigation and resolution process that protects the safety of Complainants and the University community, protects the due process rights of Respondents, and promotes accountability.

7.01 | Prohibited Sexual and Interpersonal Misconduct

- (a) **Sexual Assault:** an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation including:
 - i. *Rape:* The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration of a sex organ by another person, without the person's consent.
 - ii. *Fondling:* the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the person, including instances where the victim is incapable of giving consent because of his/her youth or because of age or because of temporary or permanent mental or physical incapacity;
 - iii. *Incest:* nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law;
 - iv. *Statutory Rape:* nonforcible sexual intercourse with a person who is under the statutory age of consent.

- (b) **Sexual Harassment** Any unwelcome conduct based on sex that is sufficiently severe, persistent or pervasive that it unreasonably denies, limits or interferes with an individual's ability to participate in an educational program or activity. Unwelcome conduct of a sexual nature includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.
- (c) **Sexual Misconduct:** Any sexual act that does not meet the definition of Sexual Assault above, that is directed against another person, without consent, including instances where one or more parties is incapable of giving consent.
- i. *Sexual Exploitation:* taking nonconsensual, unjust, or abusive sexual advantage of another for one's own advantage or benefit; or to benefit or advantage anyone other than the one being exploited; and that behavior does not otherwise constitute nonconsensual sexual contact or Sexual Harassment. Examples of Sexual Exploitation include, but are not limited to: prostituting another person; nonconsensual video or audio recording of sexual activity; going beyond the boundaries of Consent, as defined in 4.08, (such as letting friends surreptitiously watch consensual sex acts, or unauthorized distribution of photos or other materials of a sexual nature for personal gain or to discredit or otherwise malign a person who is the subject of the photos or other materials); possessing, producing, and/or distributing child pornography; engaging in voyeurism, and inducing incapacitation with the intent to commit sexual misconduct against another person or with the intent to create opportunity for a third party to commit sexual misconduct against another person.
 - ii. *Nonconsensual Sexual Contact:* directly or indirectly engaging in any other physical contact not described in the definition of Sexual Assault which is sexual in nature and performed without a person's consent.
- (d) **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. "Course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- (e) **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship is determined based on the Complainant's statement and with consideration of the length of the relationship, type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under Section 7.01(f), Domestic Violence.
- (f) **Domestic Violence:** Violence committed by:
- i. a current or former spouse or intimate partner of the Complainant;
 - ii. a person with whom the Complainant shares a child in common;
 - iii. a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;

- iv. a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the violence occurred.
- (g) **Interpersonal Abuse:** Any behavior when the Respondent and Complainant are in a current or former dating relationship, in a current or former romantic or intimate relationship, or in a familial relationship and engage in physical, sexual, emotional, economic, or psychological actions or threats of actions that a reasonable person in similar circumstances would find abusive, intimidating, or threatening; or violates any section of this Code. Interpersonal abuse does not include acts covered under Section 7.01(e) Dating Violence, or Section 7.01(f), Domestic Violence.

Retaliation (defined in Section 4.34 of The Code) is also prohibited and may be pursued consistent with The Code or included in evidence or allegations of misconduct prior to resolution pursuant to this article.

7.02 | Procedures for Managing non-Title IX Sexual Misconduct & Interpersonal Violence

- (a) Initial Outreach to Complainant
 - Upon receiving a report of sexual misconduct, the appropriate University Official will initiate outreach to the student who is alleged to have experienced misconduct.
 - This outreach will include an invitation to engage in the intake process, which is voluntary and designed to provide information about available options.
 - This initial outreach will be in writing and will contain the following:
 - Notice to the Complainant of the available options for resolution, including supportive response, mutual resolution, administrative resolution, and investigation.
 - Notice of the Complainant's right to supportive measures and availability of the Dean of Students (DOS), or designee, to facilitate these measures.
 - Indication that the DOS, or designee, will likely ask questions, as necessary, to determine policy oversight and Complainant's access to initiate appropriate grievance/accountability process.
 - The Complainant's right to an advisor at any meetings or communications involved in the supportive and resolution process(es).
- (b) Intake Meeting with Complainant
 - If the Complainant wishes to discuss the incident, resolution options, or available supports, they may initiate an intake meeting with the assigned Administrator.
 - During the intake meeting, the student will:
 - Be asked questions, *as needed*, to determine if the University has jurisdiction through University Policy 129 – Title IX Sexual Harassment or Article VII of the Code of Student Conduct.
 - Be educated on University Policy 129 – Title IX Sexual Harassment and/or Article VII of the Code of student Conduct.
 - Be informed of their rights to a prompt, fair, and impartial disciplinary proceeding.

- Be offered the opportunity to pursue accountability through the appropriate grievance process through initiating a written complaint.
- Be informed about their rights and responsibilities within the process governing their complaint.
- Be provided with an overview of resolution options.
- Learn about the supportive measures and resources available, such as, but not limited to, counseling services, academic accommodations, and safety planning.

The Complainant may choose to utilize any combination of available support and resolution options. Regardless of if the Complainant chooses to pursue accountability through a written formal complaint, they are provided continuous access to supportive measures. The Assigned Administrator will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation (see administrator authority to initiate the resolution process, below).

If the Complainant indicates they wish to initiate the grievance process, the Assigned Administrator will help to facilitate the process. The first step in any Sexual Misconduct and/or Interpersonal Violence grievance process is the filing of a written, formal complaint by the Complainant (or in some cases by the Dean of Students, or designee).

(c) Analysis of Policy Jurisdiction

Once a written formal complaint has been submitted, the Title IX Coordinator & Equity Officer will use all available information to determine if the allegations, if found to be true, fall under University Policy 129– Title IX Sexual Harassment. When an allegation is determined not to fall under University Policy 129–Title IX Sexual Harassment, or has been dismissed by the Title IX Coordinator, the definitions and procedures outlined in this section shall preside. This jurisdictional analysis may happen at any point prior to the submission of a written formal complaint, if the Title IX Coordinator & Equity Officer has enough information to determine jurisdiction.

(d) Administrator Authority to Initiate the Resolution Process

If the Complainant does not wish to initiate the grievance process, the Assigned Administrator, or DOS, may exercise discretion to initiate the grievance process. In order make this determination, the Dean of Students, or designee, will evaluate whether there is a serious and immediate threat to someone's safety or if WCU cannot ensure equal access without initiating the grievance process. The Assigned Administrator will consider the following non-exhaustive factors to determine whether to proceed:

- The Complainant’s request not to initiate the grievance process.
- The Complainant’s reasonable safety concerns regarding proceeding with the grievance process.
- The risk that additional misconduct would occur if the allegations were not investigated.
- The severity of the alleged misconduct, including whether the misconduct, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the misconduct and prevent its recurrence.

- The scope of the alleged misconduct, including information suggesting a pattern, ongoing misconduct, or misconduct alleged to have impacted multiple individuals.
- The availability of evidence to assist a Decision-maker in determining whether misconduct occurred.

If deemed necessary, the Assigned Administrator may consult with appropriate WCU employees, and/or request a meeting of the Threat Assessment Management Team to aid in a determination whether to proceed with the grievance process.

When a WCU administrator proceeds with the grievance process, they do not become the Complainant. The Complainant is the person who experienced the alleged misconduct that could constitute a violation of the Policy.

(e) Interim Actions

Interim Actions may be implemented, as deemed appropriate consistent with Section 6.04 of the Code.

(f) Advisors and Representation

All students participating in any process through the Code of Student Conduct, including Article VII, may invite an advocate or advisor as outlined in Section 6.07 of The Code.

(g) Supportive Measures and Resources

- Throughout the process, all students who are involved in an incident and engaged with the Dean of Students, or designee, will have access to supportive measures.
- Supportive Measures are non-punitive, non-disciplinary, and cannot be unreasonably burdensome to the other party. These measures must be deemed appropriate by the Assigned Administrator:
 - Academic support and accommodations that are made with the agreement of the appropriate faculty
 - Changes to living or working arrangements, as reasonably allowed and available
 - Access to health and counseling services.
 - University no-contact orders
- Supportive measures may be requested by any involved party at any point once the University has notice of an allegation.

If the Complainant indicates (either verbally or in writing) that they do not want any action taken, no Resolution Process will be initiated (unless deemed necessary by the Dean of Students, or designee), though the Complainant can elect to initiate one later, if desired. When the University proceeds with the grievance process, they do not become the Complainant. The Complainant is the person who experienced the alleged misconduct that could constitute a violation of the Policy.

If the Complainant completes a written formal complaint that has been determined not to meet jurisdiction of University Policy 129- Title IX Sexual Harassment, the Respondent will receive a Notice of Allegation of Sexual Misconduct/Interpersonal Violence and will be provided opportunity for intake and supportive measures.

(h) Initial Outreach to Respondent

- Upon receiving a written formal complaint, the appropriate University Official will initiate outreach to the student who is alleged to have engaged in misconduct.
- This outreach will include an invitation to engage in the intake process, which is voluntary and designed to provide information about available options.
- This initial outreach will be in writing and will contain the following:
 - Notice to the Respondent of the available options for resolution, including supportive response, mutual resolution, administrative resolution, and investigation.
 - Notice of the Respondent's right to supportive measures and availability of the Dean of Students (DOS), or designee, to facilitate these measures.
 - Notice of Respondent's right to participate in the grievance process and an outline of due process.
 - The Respondent's right to an advisor at any/all meetings or engagement involved in the supportive and resolution process(es).

(i) Due Process

Due process, as outlined in Section 6.05 of The Code applies to all allegations under this article.

(j) Sanctions

Any student found responsible for violating Article VII of the Code of Student Conduct will be subject to sanctions as outlined in Article X of the Code.

Factors the Hearing Board may consider when determining sanctions and responsive action include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the Parties
- The Respondent's acceptance of responsibility
- Any other information deemed relevant by the Decision-maker(s)

The sanction(s) will be implemented as soon as is feasible once a determination is final, either upon the outcome of any appeal or, if an appeal is not requested, the expiration of the window to appeal.

(k) Student Withdrawal/Separation Before Complaint Resolution

Student Complainants and Respondents are permitted to withdraw from the University and maintain all the rights outlined in this procedure; however, a withdrawal may not halt an investigation or grievance process.

Student Respondents with pending allegations for a violation of Article VII of the Code will have a registration hold placed on their student account. This hold is in place to ensure appropriate process-related conversations are held prior to a Respondent's withdrawal from WCU. Any finding and/or sanctioning may impact future enrollment.

7.03 | Resolution Options

(a) Mutual Resolution

- The process available for mutually resolving a complaint in cases where:
 - Both Complainant and Respondent are enrolled students at Western Carolina University;
 - Alleged misconduct is not covered under University Policy 129 – Title IX Sexual Harassment; and
 - Both the Complainant and Respondent agree to engage in the mutual resolution process and voluntarily agree to the terms of the resolution.
- Either Complainant or Respondent may propose terms of a mutual resolution for consideration. A University Official will facilitate the resolution process.
 - The Parties have three (3) days to respond to an offer of Mutual Resolution.
 - Once the Complainant and Respondent agree on the terms of the mutual resolution, the terms (including any findings and sanctions) will be documented and both parties will sign.
 - The signed agreement constitutes the conclusion of the conduct process and may not be appealed.
- If the Parties are not able to come to a Mutual Resolution, the designated University Official shall refer the case to investigation pursuant to this Article.

(b) Administrative Resolution

- A designated administrator may, without the Complainant, propose an administrative resolution to a Respondent when:
 - The Respondent accepts responsibility for a violation outlined in Article VII of the Code of Conduct, or any other violation of the Code that relates to the current allegation(s).
 - The Complainant is either not engaged in the resolution process or has suggested sanctions that are objectively disproportionate to the alleged violation.
- The administrative resolution must be consistent with institutional standards for accountability and fairness. The designated administrator retains discretion in determining whether this resolution is appropriate and may consult relevant parties as needed.
- If an administrative resolution is reached, the Respondent must agree to the proposed sanctions, and the matter will be considered resolved without a formal hearing.
- If the Respondent accepts a Mutual Resolution and the Complainant does not respond after multiple contact attempts from the Assigned Administrator, the resolution may be implemented with the existing agreement as an Administrative Resolution.
 - The Resolution must be in writing and signed by the Respondent and the Assigned Administrator, or designee.

- A Respondent may not appeal an administrative resolution.
- At the conclusion of an administrative resolution, all parties will simultaneously receive notice of the final resolution. This will include any finding, sanction(s), and rationale for pursuing administrative resolution.
- The Complainant may, within 5 days of receiving the Notice of Administrative Resolution, submit a written appeal to the Dean of Students, or designee, for review.

(c) Investigation

- If the case proceeds to an investigation, the case will be assigned to either a trained University Investigator or a staff member in the Office of Student Conduct (OSC). This person will act as a neutral investigator, and not a decision-maker. If an Investigation is initiated, the Parties involved will receive simultaneous written notification. Written notification will include a meaningful summary of the allegations, the policies alleged to have been violated, and a description of the investigation process, and may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official WCU records, or emailed to the Parties' WCU-issued or designated email account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.
- The investigator will conduct interviews with the Complainant, the Respondent, and any relevant third-party witnesses, and will collect and review any other information relevant to the report. If during the investigation proceedings, additional allegations of Sexual Misconduct or Interpersonal Violence are raised by either party, the investigator may conduct the investigations simultaneously.
- All investigations are thorough, reliable, impartial, prompt, and fair. They involve interviewing all available, relevant Parties and witnesses, obtaining relevant evidence, and identifying sources of expert information, as necessary. Any investigation will not be impacted by concurrent criminal, civil, or other proceedings (see Section 3.02: Jurisdiction of the Code).
- Once the formal investigation is completed, the investigator will prepare an investigation report. The investigator will distribute a draft of the investigation report to the Complainant and the Respondent and will provide the Complainant and the Respondent an opportunity to submit written additions or clarifications to the investigation report. Once the investigation report is finalized, the investigator will distribute the documents to the Office of Student Conduct in order to initiate a Hearing Board.
- WCU will make a good faith effort to complete the investigation as promptly as circumstances permit and will communicate regularly with the Parties to update them on the progress and timing of the investigation. Investigations can take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc. Western Carolina University aims to complete all investigations within 30 (thirty) business days, which can be extended by the Dean of Student's Office as necessary.

(d) Hearing Board

- If the case proceeds to a Hearing, a University Hearing Board, facilitated by OSC, will determine responsibility and sanctioning consistent with the Code.

- Hearings will be administered consistent with Section 6.12 of the Code of Student Conduct using the preponderance of the evidence standard (defined in Section 6.02).
- For allegations that fall under Article VII of the Code, the Chair of the hearing board shall be the Director or Associate Director of the Office of Student Conduct, or designee. The other 2 (two) hearing board members shall be (1) one WCU Staff member and (1) one WCU Faculty member from the trained pool of Office of Student Conduct hearing board members.
- At the conclusion of the Hearing Board, a notice will be sent to all Parties simultaneously, or without significant time delay between notifications. The notice will include the board's finding(s), rationale, sanction(s), and appeal rights for all parties.

7.04| Appeals

The Dean of Students, Associate Dean of Students, or designee with no conflict of interest will be assigned to process any appeal. The Appeal Decision-maker will not have been previously involved in the Resolution Process for the Formal Complaint.

(a) Appeal Grounds:

Appeals are limited to the following grounds:

- i. Violation of due process.
- ii. Material deviation from Substantive and Procedural Standards adopted by the UNC Board of Governors, as set forth in the UNC Policy Manual 700.4.1.
- iii. There is new evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter.
- iv. The Assigned Administrator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

(b) Request for Appeal:

- Any party may submit a written request for appeal ("Request for Appeal") to the Dean of Students, or designee, within five (5) business days of the delivery of the Notice of Outcome.
- The Request for Appeal will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.
- If the Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Appeal Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.
- All other Parties and their Advisors, the Assigned Administrator, and, when appropriate, the Investigator(s), board member(s), and/or the Decision-maker will be provided a copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

(c) Appeal Determination Process

- In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.
- Appeal decisions are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions apply the preponderance of the evidence standard.
- The Appeal Decision-maker may consult with the Administrator and/or legal counsel on questions of procedure or rationale, for clarification, if needed, and will maintain documentation of all such consultation.

(d) Appeal Outcome

If the appeal is timely and states a valid reason for appeal, the appellate decisionmaker shall render a decision and send notice of the appellate decision within ten (10) days for minor violations and within a reasonable time frame for serious violations. The decision may:

- i. Affirm the finding of responsibility and the sanction(s).
- ii. Affirm the finding of responsibility and modify the sanction(s).
- iii. Dismiss the finding(s) and eliminate the sanction(s). Dismissal will occur only if there is insufficient information to support a finding of responsibility.

A Notice of Appeal Outcome letter (“Appeal Outcome”) will be sent to all Parties simultaneously, or without significant time delay between notifications. The appeal outcome will indicate any action taken by the appellate body, impact on sanctions, and a rationale for determination of preponderance on the appeal. The decision of the appellate decision maker shall be final and conclusive, and the sanctions will be imposed as directed.

Article VIII. ADDITIONAL CONDUCT PROCEDURES FOR STUDENT GROUPS AND RECOGNIZED STUDENT ORGANIZATIONS

Student groups and registered student organizations (RSOs) are responsible for fostering a culture that upholds respect for others’ rights and upholds the Code of Conduct. Misconduct that is encouraged, approved, sanctioned, or not stopped by a group, or its leadership, may result in both collective (organizational) responsibility and/or individual responsibility for those involved.

To determine whether a violation was the result of individual actions or was supported by the group-as-a whole, the University will consider several factors, including:

- Whether the student group or RSO’s funds were used for any event where the alleged violation may have occurred.

- Whether the violation took place during an activity sponsored or sanctioned by the student group or RSO.
- Whether the location of the alleged violation is commonly associated with the group.
- Whether the conduct appears to be part of an ongoing pattern that has not been addressed by group leadership.
- Whether multiple members of the group engaged in the behavior together, and/or whether the group members were publicly identifiable as representing the RSO or student group at the time of the misconduct.

Student groups and RSOs are expected to take active steps to prevent misconduct and address concerns within their community.

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

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

- (a) Student groups and RSOs may face formal alleged violations of the Code without regard to whether members of such groups or organizations are individually alleged with violations arising from the same occurrences.
- (b) A student group or registered student organization (RSO), along with its officers, leaders, or any identifiable spokespersons, may be held collectively or individually responsible if members of the group violate the Code and the group, its leaders, officers, or spokespersons either directly encouraged the behavior or allowed it to happen, whether openly or passively.
- (c) The officers, leaders, or any identifiable spokespersons for a student group or RSO may be directed by the Dean of Students, or designee, to take appropriate action designed to prevent or end violations of the Code by the student group or RSO or by any persons associated with the student group or RSO who can reasonably be said to be acting in the student group's or RSO's behalf. Failure to make reasonable efforts to comply with the directive shall be considered a violation of this Code both by the officers, leaders, and/or spokespersons for the student group or RSO and by the student group or RSO itself.

- (d) Student groups and RSOs may be held accountable collectively if any of these situations apply:
 - i. An alleged violation was committed by one or more members of a student group or RSO
 - ii. A student group's or RSO's funds were used to finance the activity
 - iii. An alleged violation occurred as a result of a student group's or RSO's sponsored function
 - iv. It is the responsibility of the President or designee of the student group or RSO to determine whether to enter into a mutual resolution or go to a hearing on behalf of the student group or RSO. The President or designee of the student group or RSO would be the Respondent if the determination was made for the student group or RSO to participate in a hearing.

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

- (a) Recognition Probation - is given for a specific period of time. Further violations of the Code during the probationary period may result in recognition suspension or revocation. During the period of recognition probation, the student group or RSO is not considered in good conduct standing with the University. The student group or RSO may seek and add members during this probationary period and may host other activities unless otherwise specified.
- (b) Recognition Suspension - is the removal of University recognition for a specific period of time. During the Recognition suspension, the student group or RSO is not considered in good conduct standing with the University. While under suspension, the student group or RSO may continue to occupy or hold property but may not seek or add members, hold or sponsor events in the University community, or sponsor or attend any events that are social in nature.
- (c) Recognition Revocation - is the permanent removal of University recognition for a student group or RSO. Recognition revocation means the student group or RSO may not function at the University, participate in University programs, or utilize University facilities or services. Recognition revocation may be recommended by the Hearing Officer but must be imposed by the Dean of Students or designee following review of the record of the hearing.
- (d) Restrictions - denial of specified privileges for a designated period of time including, but not limited to, attendance at events, access to facilities, participation in non-academic activities, and interpersonal contact restrictions.

- (e) Suspension of activities of the student group or RSO, including but not limited to:
 - i. Exclusion from intramural competition;
 - ii. Denial of use of University facilities for meetings or activities;
 - iii. Suspension for new member education, recruitment, and/or intake process; or
 - iv. Loss of social privileges for no less than one month. The student group or RSO may not sponsor any activity, party, or function that is social in nature during the time parameters established.
- (f) Restitution for expenses incurred by individuals or the University as a result of providing educational programs or other educational experiences related to the violation(s).
 - i. Restitution for losses to University or person/organization/group.
 - ii. Group educational opportunity/assignment.
 - iii. Individually based educational opportunity/assignment.
 - iv. Group leadership educational opportunity/assignment.
 - v. Any other appropriate student group or RSO sanction as recommended by the Hearing Officer or determined by the Dean of Students or designee.

Article IX. ADDITIONAL CONDUCT PROCEDURES FOR ACADEMIC INTEGRITY CASES

The Academic Integrity Process is overseen by the Division of Academic Affairs. Students, faculty, staff, and administrators of WCU strive to achieve the highest standards of scholarship and integrity. The academic integrity policy can be found as a link on the Dean of Students web page, dos.wcu.edu.

Article X. SANCTIONS

Factors that affect the severity of the sanction may include the present demeanor of the student, past conduct record of the student, the nature of the incident, the severity of any damage, injury, or harm resulting from the incident, and whether the incident was motivated by bias based on actual or perceived race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, political affiliation, or veteran status.

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

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

10.01 | Sanctions Associated with Minor Violations

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

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

10.02 | Sanctions Associated with Serious Violations

Sanctions associated with serious violations include any of the sanctions associated with minor violations, and:

- (a) *University Suspension* - separation of the Respondent from the University for a definite period of time, after which the Respondent is eligible to apply for readmission. Conditions for readmission may be specified, and a registration hold will remain on your account and the sanction of University Suspension is recorded in the University of North Carolina Suspension and Expulsion database.
- (b) *University Expulsion* - permanent separation of the Respondent from the University and any University of North Carolina System constituent institution. A registration hold will remain on your account and the sanction of University Expulsion is recorded in the University of North Carolina Suspension and Expulsion database.

10.03 | Incomplete Sanction Assessment

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

- (a) Educational Outreach Assessment
- (b) Ineligibility to request Student Affairs Emergency Funds

Article XI. APPEALS

An appellate review is an examination of a decision reached by a Hearing Officer or Hearing Board for the purpose of determining whether there is cause to believe that the outcome of the hearing was reached without appropriate process. Any disciplinary decision, other than where the Respondent has waived their right to appeal, may be appealed. Only the student who has been found responsible for a Code violation may appeal, except as allowed in cases involving violations of Article VII of the Code.

11.01 | Filing an Appeal

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

11.02 | Grounds for an Appeal

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

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

11.03 | Procedures for Resolving an Appeal

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

- (a) Appeal decisions will be based upon the record of the hearing and the party's written appeal. The appellate decision maker may call for the submission of new and/or additional oral or written information as necessary to reach a fully informed decision. The party making the appeal shall be provided fair opportunity to respond to such additional information before the appeal is decided, and the information shall be added to the record of the hearing.
- (b) Upon receipt of the appeal, the appellate decision maker shall first determine whether the appeal was received timely and whether it meets one of the grounds for appeal established in Section 11.02.
 - i. If the appeal is not timely and/or does not state a valid reason for appeal, the appellate decisionmaker shall not consider the appeal and the appeal shall be dismissed.
 - ii. If the appeal is timely and states a valid reason for appeal, the appellate decisionmaker shall render a decision and send notice of the appellate decision within ten days for minor violations and within a reasonable time frame for serious violations. The decision may:
 - 1. Affirm the finding of responsibility and modify the sanction(s).
 - 2. Reassign the case to a Hearing Officer for a full or partial rehearing pursuant to this Code.
 - 3. Dismiss the finding(s) and eliminate the sanction(s). Dismissal will occur only if there is insufficient information to support a finding of responsibility.
 - iii. The appellate decision maker shall send copies of the appeal decision to the appellant and the Director of Student Conduct or designee. The decision of the appellate decision maker shall be final and conclusive, and the sanctions will be imposed as directed.
 - iv. Appeals related to suspension must be addressed to the Dean of Students.
 - v. Appeals related to expulsion must be addressed to the Vice Chancellor for Student Affairs.

Article XII. CASE FILES AND CONDUCT RECORDS

12.01 | Records Maintenance

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

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

12.02 | Access and Confidentiality

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

Family Educational Rights and Privacy Act (FERPA)

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

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

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

Article XIII. REVIEW, REVISION, AND REVISION HISTORY

13.01 | Annual Review

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

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

13.02 | Changes Beyond the Annual Review

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

13.03 | Revision History

Revisions to the Code were published on the following dates:

- August 26, 2014
- August 14, 2015
- June 3, 2016
- August 15, 2016
- August 18, 2017
- August 17, 2018
- July 3, 2019
- July 10, 2019
- August 12, 2020
- August 20, 2021
- June 24, 2022
- August 11, 2023
- August 16, 2024
- March 18, 2025

Article XIV. DIRECTORY OF CONTACTS

Office of Student Conduct

224 Brown Hall
(828) 227-7234

Associate Dean of Students

227 HFR Administration Building
(828) 227-7147

Dean of Students

227 HFR Administration Building
(828) 227-7147

Vice Chancellor for Student Affairs

227 HFR Administration Building
(828) 227-7147

Title IX Coordinator

520 HFR Administration Building
(828) 227-7116

UNIVERSITY RESOURCES

Accessibility Resources

Killian Annex, Suite 137
(828) 227-3886

Advising Center

1st Floor Killian Annex
(828) 227-7753

Counseling and Psychological Services (CAPS)

225 Bird Building
(828) 227-7469

Mathematics Tutoring Center

455 Stillwell
(828) 227-2274

Office of the Provost (Academic Integrity)

550 HFR Administration Building
(828) 227-2670

Residential Living

Brown Hall, 2nd Floor
(828) 277-7303

Student Concern Response Team

HFR Administration Building
(828) 227-7147

Student Retention

Killian Annex, Suite 214
(828) 227-7171

University Police

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

Writing and Learning Commons

207 Belk
(828) 227-2274