

Western Carolina University



Code of Student Conduct

2017-18

Welcome from Associate Vice Chancellor/Dean of Students

Greetings Catamounts! Whether you are reading this document for general or specific reasons, the Code of Student Conduct (Code) contains critical information to help you be a successful Student at Western Carolina University (WCU).

As an institution of higher education, WCU is committed to providing Students with a total experience in and out of the classroom. In order to reach this goal, it is essential that you not view your college experience through a passive lens. Successful Catamounts are engaged and involved throughout the campus and within local communities. As a result, I encourage you to support Student-athletes, band members, theater and dance performers, Student artists, club sports participants, and all of the many talented WCU Students. Similarly, I encourage you to attend programs sponsored by Campus Activities, Intercultural Affairs (ICA), Residential Living, Greek Student Engagement and Development, Service Learning, faculty and staff, and the University as a whole.

In addition to being an engaged Student, I hope you will be a responsible Student. Throughout your college career, you will be faced with countless opportunities to make choices. I hope you will elect to live by the WCU Community Creed, and use the Code as a source of guidance and reference when those opportunities arise.

I am honored to have the chance to work with you, and I hope you will see me as a resource/sounding board if you ever need assistance. I wish you all the best this academic year!

Respectfully,

Kevin S. Koett

Welcome from Director of Department of Student Community Ethics

Dear Western Carolina University Student,

Whether you are returning to WCU or you are an incoming Student, welcome home. Western Carolina University is proud that you have chosen to be part of our community and excited to partner with you as you pursue your goals inside and outside of the classroom. WCU is committed to provide you with a safe environment that allows you to learn and grow over the next academic year.

As part of our commitment to you and partnership with you, the Western Carolina University Code of Student Conduct (Code) was reviewed and revised. The revision process included valuable Student input that led to some of the changes that you will see in this document. Please take the time to become aware of the information in the Code.

The Department of Student Community Ethics (DSCE) is responsible to ensure that Students' rights are upheld and that University policies are followed. The Code is the document that explains the process of upholding Students' rights and following University policies. The process is intended to be educational and allow for Students to learn.

The DSCE is located on the second floor of Brown Hall. Please come by for any reason and we will be glad to assist you in any way that we can. If we have immediate availability, we will meet you then and there.

Live well, study diligently, and Go Cats!

Sincerely,

Walter M. Turner

I. Statement of Non-Discrimination

Consistent with applicable federal, state, and local laws, regulations, and policies, and the policies of The University of North Carolina System, Western Carolina University (WCU) is committed to the principle that admission, educational, and employment decisions should be based on an individual's abilities, merits, and qualifications regardless of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, and veteran status. Additionally, the University promotes the realization of equal employment opportunities for minorities, women, persons with disabilities, and veterans through its affirmative action program.

II. WCU Community Creed

In the early 1990s the WCU Community Creed was originally adapted from *Campus Life: In Search of Community* a report of the Carnegie Foundation for the Advancement of Teaching (Princeton University Press, 1990). It was updated in 2008 with additional inspiration drawn from similar statements at other institutions (i.e., University of South Carolina, University of Connecticut, Florida State University, Central Florida University, and Vanderbilt). In 2014, during Western Carolina University's 125th Anniversary celebrations, the Student Government Association updated and reaffirmed the WCU Community Creed.

As members of the WCU Community, students are expected to understand and aspire to the ideals expressed in the WCU Community Creed. The Creed establishes a foundation that helps Students be successful throughout their careers at WCU. It is in no way intended to prevent Students from engaging in independent expression and/or limit the rights identified in the United States Constitution.

The WCU Community Creed:

WESTERN CAROLINA UNIVERSITY COMMUNITY CREED	I WILL	LIVE by high standards of personal INTEGRITY .
	I WILL	EMBRACE my RESPONSIBILITIES as a member of this community.
	I WILL	RESPECT the rights and well-being of OTHERS .
	I WILL	ENGAGE MYSELF in the artistic, cultural and academic life of my University.
	I WILL	CELEBRATE and express pride in WESTERN CAROLINA UNIVERSITY .
DSCE.WCU.EDU		

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III. Scope of Authority

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

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

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)

The University reserves the right to take necessary and appropriate action to protect the safety and interests of the campus community. The Chancellor has delegated the responsibility for developing, implementing, and enforcing Student conduct policies to the Vice Chancellor for Student Affairs. The Vice Chancellor for Student Affairs has delegated the responsibility for administering the Student discipline program to the Associate Vice Chancellor/Dean of Students, who supervises the Department of Student Community Ethics (DSCE).

The scope of this Code applies to the behavior(s) of registered WCU Students that occur(s) on the University's main campus, any building or property used by the University in connection with its educational and other programs, or behavior(s) that otherwise adversely affects the University community and/or the pursuit of its mission and objectives on or off campus. Application of the Code to off-campus behavior(s) will be consistent with the following values: 1) to prevent and reduce behavior that undermines academic success and that negatively detracts from the educational mission of the University; 2) to improve the health and safety of Students and other community members; 3) to provide timely intervention, support, and resources for those who may be struggling with substance abuse/addiction, and 4) to address activities of a Student(s) that clearly conflict with the University's interests and mission.

The scope of this Code also applies to the behavior(s) of Students during 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).

The Director of Student Community Ethics (DSCE) and Associate Vice Chancellor/Dean of Students shall determine if behavior(s) off-campus affect(s) University interests and falls within the scope of the Code.

No Student is permitted to withdraw from enrollment or a specific course due to an alleged Serious Violation of the Code once WCU becomes aware of an allegation and before final resolution of a case. In addition, Students are not entitled to refunds (i.e., tuition, housing, meal plan, etc.) if they are separated from the University as a result of disciplinary action.

This document is one of the University's administrative procedures and is not the same as procedures used in civil court, criminal court, or other formal/informal resolution venues external to Western Carolina University.

IV. Student Rights and Responsibilities

The University has a long tradition of maintaining an environment that respects the dignity, rights, and value of all people and protects the tenants of freedom of expression, which includes voicing unpopular views and dissent. As members of the University community, Students have the right to express their own views, but must also take responsibility for affording the same right to all others. As members of an institution dedicated to creating an environment rich with learning opportunities that incorporate teaching, research, service, and engagement through on-campus, off-campus, online, and international experiences, WCU Students have a variety of rights and responsibilities.

Although it is not possible to outline all of their rights and responsibilities, WCU Students have the right to (in no specific order of importance):

- Expect treatment in accordance with the rights provided to individuals by the United States Constitution, laws of the state of North Carolina, and University procedures.
- Live and learn within an environment that values freedom of access and does not discriminate against individuals on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, political affiliation, or veteran status.
- Engage in a learning environment that promotes and values freedom of expression and evaluates Students on their academic performance, not on their opinions or conduct unrelated to academic standards.
- Privacy, confidentiality, and/or appropriate management of their educational records as prescribed by FERPA, HIPPA, and other University, state, and/or federal guidelines.
- Live and learn within an environment that values freedom of association, and that has a clear process for establishing, joining, and organizing associations to promote their common interests.
- Academic evaluations, disciplinary proceedings, and/or University procedural matters. As a part of their due process rights, Students have the right to a clear understanding of all options for appeal and the associated procedures.
- Engage in academic and non-academic opportunities which value excellence, scholarship, teaching, and learning.
- Collaborate in an environment of respect for self and others.
- Live and learn within an environment that values the free and open interchange of ideas.
- Express complaints and concerns through established procedures with the expectation they will be investigated to the fullest extent possible and without fear of repercussions and/or acts of retaliation.
- Live and learn within an environment that values cultural diversity, inclusion, and equal opportunity.

Similarly, WCU Students have the responsibility to (in no specific order of importance):

- Adhere to University regulations, policies, and procedures as well as obey local, state, and federal laws.
- Understand and adhere to the Code and WCU Community Creed.
- Take the role of being a Student seriously and strive to meet the highest levels of academic integrity.
- Engage in behavior that does not deny others the rights provided to them by the United States Constitution, laws of the state of North Carolina, and/or University policies/procedures.
- Interact with others in a manner that does not discriminate against them on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, political affiliation, or veteran status.
- Understand that the Catamount email system is the official form of University communication. As a result, Students must adhere to the expectation of checking their WCU email on a regular basis (we recommend multiple times a day). This responsibility applies to Winter and Summer Breaks for Students who were registered for classes in the semesters prior to and after the breaks.
- Adhere to the expectation that no Student shall threaten, coerce, harass, or intimidate another person or identifiable group of persons, in a manner that is unlawful or in violation of a constitutionally valid University policy, while on University premises or at University-sponsored activities based upon the person's race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, political affiliation, or veteran status. (UNC Policy Manual 700.4.2)
- Adhere to the expectation that no Student shall engage in unlawful harassment leading to a hostile environment. Unlawful harassment includes conduct that creates a hostile environment by meeting the following criteria: It is: (a) Directed toward a particular person or persons; (b) Based upon the person's race, color, religion, national origin, gender, sexual orientation, gender-identity, creed, disability, or veteran status; (c) Unwelcome; (d) Severe or pervasive; (e) Objectively offensive; and/or (f) So unreasonable that it interferes with the target person's employment, academic pursuits, or participation in University-sponsored activities as to effectively deny equal access to the University's resources and opportunities. (UNC Policy Manual 700.4.2)
- Understand that in determining whether Student conduct violates these provisions, all relevant facts and circumstances shall be considered. Care must be exercised in order to preserve freedoms of speech and expression, as articulated in current legal standards. (UNC Policy Manual 700.4.2)
- Understand that University Officials shall seek advice from campus attorneys, as appropriate. (UNC Policy Manual 700.4.2)
- Report violations of the Code and/or law to an appropriate University Official (i.e. Associate Vice Chancellor/Dean of Students, DSCE, Student Affairs Office, WCU Police Department, etc.) immediately upon learning about the actual/alleged occurrence.

Staff

Dr. H. Sam Miller

Vice Chancellor for Student Affairs
114 Scott East
sammiller@wcu.edu

Dr. Kevin S. Koett

Associate Vice Chancellor/Dean of Students
114 Scott East
kskoett@wcu.edu

Mr. Walter M. Turner

Director of Student Community Ethics
234 Brown Hall
wturner@wcu.edu

Mr. Phillip Boyd

Associate Director of Student Community Ethics
234 Brown Hall
pboyd@wcu.edu

Mrs. Joanna Rathbone

Alcohol and Drug Educator
234 Brown Hall
jrathbone@wcu.edu

Mrs. Karen Reed

Administrative Support Associate
234 Brown Hall
klreed@wcu.edu

V. Definitions:

Advisor:

An attorney or non-attorney advocate who assists individuals/groups throughout the conduct process. Examples include, but are not limited to, investigation conversations, meetings to discuss allegations and/or formal charges against a Student, Student Group, RSO, etc.

Accused:

When a designated University Official brings a formal charge against a Student, Student Group, RSO, etc. to initiate conduct procedures. (UNC Policy 700.4.2)

Code:

Term used when making reference to the on-line version of the WCU Code of Student Conduct.

Complainant:

The University after it makes a formal charge that someone has done something that is in violation of the Code.

Complaining Witness:

Whether or not they are affiliated with the University in some capacity, a person, group, or organization who reports information which leads to a formal charge that someone has done something that is in violation of the Code.

Consent:

An understandable exchange of affirmative words or actions, which objectively indicate a willingness to participate in mutually agreed upon activity. Consent must be informed and freely and actively given. The lack of a negative response is not Consent. An individual who is incapacitated by alcohol and/or drugs (voluntarily or involuntarily consumed) cannot give Consent. Past Consent for any activity does not imply ongoing future Consent. An individual who is unable to give Consent as defined by law cannot give Consent (examples include, but are not limited to, individuals under the age of Consent, individuals who have disabilities which limit their ability to give Consent, etc.).

Day:

A date on the calendar when the University is officially open for business.

Hate Crime:

An offense that is committed because of the victim's race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, political affiliation, or veteran status. Conduct that may not meet the definition of a "Hate Crime" may still constitute disorderly conduct, harassment, etc.

Hearing Body:

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 Body may include Students, faculty members, and/or staff. This term may be interchanged with Hearing Officer and/or Hearing Board

Incapacitation:

A state where someone cannot make rational, reasonable decisions and lacks the mental and/or physical capacity to freely and actively give knowing Consent. The following behaviors may be, but are not limited to, signs that an individual is unable to give Consent to sexual contact - evidence of a disability that impairs ability to Consent, Intoxication, sleep, and/or unconsciousness.

Interim Action:

The temporary application of any sanction consistent with the Code. An Interim Action may be imposed by the Vice Chancellor for Student Affairs or designee when there is reason to believe there is a threat of disruption, damage, or to the safety and well-being of the University community. An Interim Action may be imposed at any time prior to the final resolution of either Student conduct proceedings under the Code or any criminal, civil, or administrative proceeding. During the interim action, Students may be denied access to the University Premises (banned, trespassed), including classrooms and residence halls, as well as any and all University programs and activities.

Intoxication:

A condition resulting from the use of alcohol and/or other drugs 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, etc. May also include unusual behavior, when specific concerns are expressed by others about the individual, and/or a student stating/acknowledging that s/he was intoxicated.

Minor Violation:

A violation of this Code for which the possible sanctions are other than suspension or expulsion.

Preponderance of Information:

A standard in which it is more likely than not that a Respondent violated the Code.

Recognized Student Organization (RSO):

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

Record of the Hearing:

Includes the letter containing formal charges, 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 Body. Also includes documentation related to any appeal.

Respondent:

A Student, Student Group, or RSO formally charged with a violation of the Code.

Restriction:

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

Serious Violation:

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

Student:

An individual, with the exception of Catamount School students, meeting one of the following descriptions:

- a. Person who has applied for admission, been accepted, and is registered (full or part-time) for a schedule of undergraduate or graduate courses at the University.
- b. Person attending classes (full or part-time) at or through the University.
- c. Person participating in orientation programs on University premises.
- d. Person enrolled in distance education programs through the Division of Educational Outreach.
- e. Person participating in Study Abroad programs, or other University sponsored trips.
- f. Person participating in the Intensive English Program (IEP).

Student Community Ethics Hold:

An administrative action to limit activity on a Student's University records and prevent the Student from completing University processes such as pre-registration, registration, drop/add, withdrawal, graduation, receiving official transcripts, etc. These holds may be applied to a Student's account to facilitate participation in the Student conduct process; facilitate completion of sanctions; when Interim Action has been taken; when a Student is suspended/expelled; when a student is alleged to have committed a Major Violation of the Code, etc.

Student Group:

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

Summons:

Official notice of the time, date, and location of a meeting with a hearing officer to discuss a specific matter brought to the attention of DSCE which are sent as a result of a student's failure to respond to an initial meeting request.

University Facilities:

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

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).

VI. Rules and Regulations

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. (UNC Board of Governors Policy Manual 700.4.2) The following conduct, or an attempt to engage in the following conduct, is subject to Student conduct action:

Academic Dishonesty:

Any violation defined by the WCU Academic Integrity Policy (AIP). Resolution of academic dishonesty complaints will be addressed in accordance with the AIP.

Aiding and Abetting:

Assisting with, inciting, or having knowledge of alleged violations of the Code or other University guidelines, policies, and/or regulations without reporting relevant information.

Alcohol:

Possessing, consuming, distributing, manufacturing, or displaying alcohol in violation of University policies (including, but not limited to, policies 38 and 81). Examples of violations include, but are not limited to:

- a. Providing alcohol to any person under 21 years of age.
- b. Engaging in behaviors, hosting activities, and/or possessing devices which are consistent with rapid consumption. This includes, but not limited to, beer funnels/bongs, keg stands, shotgunning/chugging, Flip Cup, Beer Pong (no matter the liquid in the target cups), etc.
- c. Being in possession, or in the presence, of common source containers including, but not limited to, kegs, party balls, wine boxes, etc.
- d. Being intoxicated, and/or displaying behaviors consistent with being intoxicated, in public or in a manner that elicits a University response.

Bullying:

Any pattern of written, electronic, or verbal communication, behavior, gesture, and/or any physical act(s) that is threatening or intimidating which places a person in actual and/or reasonable fear of harm and/or damage to his/her property, and/or creates a hostile living and/or learning environment by interfering with or impairing a Student's educational performance, opportunities or benefits, or a University Student employee's ability to perform the essential functions of his/her job.

Controlled Substances/Drugs:

Possessing, consuming, manufacturing, distributing, or displaying controlled substances/drugs or paraphernalia in violation of University policies (including, but not

limited to, policy 38). Examples of violations include, but are not limited to:

- a. Being under the influence, and/or displaying behavior consistent with being under the influence, of controlled substances/drugs in public.
- b. Possession or use of any equipment, paraphernalia, product, or material that is utilized for (or is modified for the purpose of) making, using, or concealing illegal drugs and/or other Controlled Substances.
- c. Possession with intent to manufacture, distribute, and/or sell narcotics or other Controlled Substances.
- d. Misuse of some consumer products/prescriptions (e.g., medications, spices, bath salts, synthetics, or substances intended to simulate the effects of a controlled substance/drug).

Damage to Property:

Actual/attempted damage to, or vandalism of, University property, property of a member of the University community, non-University property during an event sponsored by the University or member of the University community (i.e. a department, SGA, RSO, etc.), or property belonging to a member of the community. Includes, but is not limited to, damage in academic buildings, damage in residence halls, and littering.

Dating/Domestic Violence:

Behavior in any relationship (independent of duration/frequency) that is used by an individual to gain or maintain power and control over a romantic/intimate partner. Dating/Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes, but is not limited to, any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

Discrimination:

Unequal and unlawful treatment based on race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, political affiliation, or veteran status. (Reference University Policy 10 and University Policy 53).

Disorderly Conduct:

Behavior which initiates a University response and is considered to be an abuse of University resources, breach of peace, disruption in an academic classroom/environment, and/or an impediment upon normal University operations.

Driving Under the Influence (DUI):

Operating a motor vehicle under the influence of, or while impaired by, the consumption of alcohol or controlled substances/other drugs.

Failure to Comply:

Not following the reasonable directions of University Official(s) or law enforcement officer(s) acting in the performance of their duties. Failure to adhere to the Code and/or complete sanctions issued by a Hearing Body and/or the failure to identify (including presentation of the CatCard) oneself to these persons upon request.

False Statement:

Providing false/misleading information to, about, or filing false charges against, another person, group of people, or organization. Examples include, but are not limited to, written or oral communication given to Student Government Association (SGA), Residence Hall Association (RHA), Hearing Bodies, University Officials, faculty members, law enforcement officers, improper use of recordings, etc.

Fire Safety:

Violation of fire safety regulations including, but not limited to, failure to properly evacuate during a fire alarm, intentional sounding of a false alarm, improper use of fire prevention equipment on University premises; or unauthorized setting of fires on University premises.

Fraud:

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

General Policy Violation:

Violation of any rule, regulation, policy, procedure or standard (other than those specifically outlined in the Code) duly adopted and published by the University.

Harassment:

Unlawful speech or conduct that is unwelcome or unsolicited based upon race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, political affiliation, or veteran status that creates a hostile environment for Students, or denies or limits a Student's ability to participate in or to receive benefits, services, or opportunities in the University's programs, or interferes with an employee's work performance. (Reference University Policy 10, University Policy 53, and UNC Board of Governors Policy Manual 700.4.2).

Harm to Person:

Causing, or threatening to cause, emotional/physical harm or injury to another person and/or self. Taking or threatening any actions that create a danger to any person's health, safety, or personal well-being (including self).

Hazing:

Acting in a manner or creating a situation, whether physical, mental, emotional, or psychological, which subjects another, voluntarily or involuntarily, to behavior(s) which may, as a component of becoming a member of and/or continuing membership in a Student Group or RSO, (a) abuse, mistreat, degrade, humiliate, harm, threaten, and/or intimidate; (b) endanger the mental or physical health or safety of another; (c) induce or coerce another to endanger his or her mental or physical health or safety; (d) impede the academic success of a Student; and/or (e) violate the Code, University policies, and/or local, state, and/or federal laws. The expressed or implied Consent of involved parties will not be a defense.

Illegal Gambling:

Operation of any game of chance or playing/betting on any illegal game of chance at which any money, property or other things of value is bet, whether or not the same be at stake.

Interference with Code Procedures:

Exhibiting behaviors which delay, disrupt, hinder, and/or obstruct procedures intended to investigate, adjudicate, and resolve allegation and/or formal disciplinary proceedings.

Examples include, but are not limited to:

- a. Withholding information or furnishing false information to any University Official performing his/her duties related to Code proceedings.
- b. Failure to obey the summons of a Hearing Body or University Official.
- c. Falsification, distortion, or misrepresentation of information before a Hearing Body.
- d. Disruption or interference with the orderly conduct of a hearing.
- e. Making false, frivolous, or misleading charges of Code violations.
- f. Attempting to discourage a person's participation in hearing proceedings outlined in this Code.
- g. Attempting to influence the impartiality of a member of a Hearing Body prior to, and/or during the course of, a hearing.
- h. Badgering, intimidation and/or retaliation towards a member of a Hearing Body, Complainant, Respondent or witness at any time.
- i. Failure to comply with the sanction(s) imposed under this Code.
- j. Influencing or attempting to influence another person to commit an abuse of the Code.

Internet/Technology Violations:

Engaging in the abuse of University Information Technology policies and procedures and/or University's computing and information technology resources (including but not limited to, any violation of University Policy 52).

Lewd or Indecent Conduct:

Behavior that a reasonable person would consider to be offensive or obscene in nature. Examples include, but are not limited to, defecating/urinating in public, performing consensual sexual acts in public, distributing materials with sexual content, streaking, watching pornography in a public location, etc.

Misuse of Recreational Equipment:

Using bicycles, scooters, in-line skates, skateboards and other recreational equipment on any University-owned property in a manner that causes (or may cause) damage, hazardous conditions, or harm to self or others.

Possession of Stolen Property:

Receiving, retaining, storing, or disposing of movable property which has been stolen from another person.

Serious Academic Violation:

Any behavior that demonstrates a lack of understanding of the Code through severe and/or repeated violations of the AIP. Depending upon the severity and number of occurrences, serious academic violations may result in suspension or expulsion from WCU.

Sexual Misconduct:

Any action, conduct, behavior, etc. that is sexual in nature and contrary to University policies and/or regulations.

a. Sexual Assault:

Engaging in vaginal, oral, or anal penetration or intercourse without a person's Consent.

b. Sexual Contact (Nonconsensual):

Directly or indirectly engaging in any other physical contact not described in the definition of Sexual Assault which is performed without a person's Consent. Examples include, but are not limited to, the intentional touching of an unwilling person's genitalia, groin, breast, buttocks, or clothing covering them, or forcing an unwilling person to touch another's intimate parts as listed above.

c. Sexual Exploitation:

Taking nonconsensual, unjust, or abusive sexual advantage of another for one's own advantage or benefit; or to benefit or advantage anyone other than the one being exploited; and that behavior does not otherwise constitute Sexual Assault or Sexual Harassment. Examples of sexual exploitation include, but are not limited to: prostituting another Student, nonconsensual video or audio taping of sexual activity, going beyond the boundaries of Consent (such as letting friends surreptitiously watch consensual sex acts, or unauthorized distribution of photos or other materials of a sexual nature), engaging in voyeurism, and inducing Incapacitation with the intent to commit sexual misconduct against another person or with the intent to create opportunity for a third party to commit sexual misconduct against another person.

d. Sexual Harassment:

Unwelcome conduct of a sexual nature that is so severe, persistent, or pervasive that it negatively affects the victim's activities or creates an intimidating, threatening, or abusive educational or employment environment. University Policy 53 - Sexual Harassment and Other Unlawful Harassment provides additional information.

Smoking:

The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product (including, but not limited to, e-cigarettes) inside or within the fifty (50) feet smoke-free perimeter of any WCU building (Reference University Policy 45).

Solicitation:

Distributing, promoting, selling, advertising, or collecting information or material goods on University property or within University-owned facilities without permission from an authorized University Official. Requesting that someone engage in the aforementioned activities on behalf of an individual or organization.

Stalking:

Intentionally and/or repeatedly engaging in conduct toward another person in any form (e.g., personal visits, telephone calls, instant messages, and letters) which causes that person to reasonably fear personal harm. Examples include, but are not limited to:

- a. Following a person into public places where the individual has been previously asked to cease such conduct.
- b. Contacting another person repeatedly where the individual has been previously asked to cease such conduct.
- c. Engaging in a course of conduct, or repeatedly committing acts which cause a person to reasonably fear physical, emotional, and/or psychological harm.
- d. Making severe intrusions on the personal privacy and autonomy of another person.
- e. Following, observing, monitoring, or committing violent or intimidating acts against another person and/or their personal property, regardless of the means.

Substantial Interference:

Behavior which substantially disrupts the functioning of the University and/or initiates a University response as a result of an infringement upon the protected free expression rights of other members of the University community. Examples include, but are not limited to, blocking the flow of pedestrian or vehicular traffic, preventing or attempting to prevent a scheduled presentation (i.e. using artificial noise makers to prevent a speaker from talking), etc.

Theft:

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

Trespassing (Unauthorized Entry):

Entering a building or area where the individual has been informed by University Officials and/or law enforcement officers that s/he 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).

Violation by Guest:

Any violation of the Code by a person present on University premises at the invitation of or being hosted by a Student.

Violation of Law:

Conviction, or plea of guilty, or no contest to, a violation of any federal, state, or local law

when the violation may have any adverse impact on the University community.

Weapons:

Illegal or unauthorized possession or use of harmful or dangerous items or any action in violation of University Policy 91. Items considered by the University to be weapons include, but are not limited to, air/air soft guns, BB guns, blackjacks, bowie knives, dangerous chemicals (including mace), daggers, dirks, explosives (dynamite, bomb, mine, etc.), firearms, fireworks, grenades, guns, incendiary devices, leaded canes, martial arts equipment, metallic knuckles, paintball guns, pistols, razors/razor blades (other than for the purpose of personal shaving), rifles, shurikens, sling shots, spring-action knives, and stun guns/tasers.

VII. Referrals

Anyone, including but not limited to Students, University employees, University volunteers, or local members of the community may refer a Student, Student Group, or RSO suspected of violating this Code. The referral must be in writing (incidentreport.wcu.edu or in person in 114 Scott East/224 Brown Hall) and must include factual information supporting the allegation. A person making such a referral may be asked to appear before a Hearing Body as a witness. Referrals should be made as soon as possible after the alleged incident. Anonymous referrals may limit the ability of University Officials to pursue the allegation(s).

VIII. Violations of Law/Policy

Violations of campus or University policies, rules or regulations, or federal, state, or local law may result in a violation of the Code and imposition of Student conduct action(s) (UNC Policy Manual 700.4.2). The Code differs from the criminal or civil justice systems in scope, purpose, procedure, and outcome(s). 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 Student 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.

Victims of sexual violence and other crimes/violations are encouraged to notify and seek assistance from the Western Carolina University Police Department and/or the Associate Vice Chancellor/Dean of Students. There are significant differences between pursuing a matter criminally and addressing it through the University conduct process. Victims of sexual violence and other crimes/violations are not required by the University to pursue action through either entity.

Under appropriate circumstances, designated University Officials may implement a no-contact order as an interim action and/or sanction at the request of (or on behalf of) a student.

IX. Due Process

The focus of inquiry in Student conduct proceedings shall be to determine whether the Respondent is or is not responsible for violating the Code. Respondents are presumed to be not responsible until a finding is determined using University conduct/hearing procedures. Any Student formally charged with a violation of the Code is entitled to a hearing before an appointed Hearing Body as specified

in this Code. With the exception of cases involving allegations of sexual misconduct, the Respondent and the University may agree to mutually resolve the charge(s) without a hearing. During investigative and hearing phases of a proceeding, formal rules of evidence shall not be applicable. Similarly, deviation from prescribed procedures shall not necessarily invalidate a decision or proceeding, unless significant prejudice to the Respondent or the University may result.

X. Participation

Prior to the filing of formal charges/dismissal of allegations against Students/RSOs, designated University Officials will conduct an investigation and interview appropriate individuals. With the exception of victims of sexual misconduct, Students/RSOs involved in an alleged incident are expected to participate and engage with the DSCE and/or University Officials in a timely manner. The expectations of participation include:

- A. A University Official will contact an involved Student via University email with an initial meeting letter outlining how the Student may contact the University Official to schedule an appointment.
- B. If the Student fails to respond to the initial meeting letter by the specified deadline, a summons will be sent to the Student's University email and, as a courtesy, a letter may be sent to the Student's address on file. Should separation from the University be a potential outcome of this meeting, it will be indicated in the summons.
- C. Should the Student respond to the summons, an initial meeting will take place on the date and time outlined in the official letter. A student may request an earlier meeting time based upon availability of all parties.
- D. Failure to respond to a summons will result in the matter being resolved *in absentia*. A hearing *in absentia* will consider all available information, and does not constitute grounds for dismissal of charges, cancellation of a hearing, or appeal.

On normal business days, summons meetings will be scheduled around a Student's academic schedule only. Summons meetings may be scheduled during Winter and Summer breaks. Failure to engage in the process and/or complete sanctions as a result of adjudication of a case through the Hearing Body may result in additional Code charges and/or sanctions up to and including separation from the University.

XI. Interim Action

In response to a referral of information, and/or as a component of the original investigation/review of any potential Student conduct matter, the Associate Vice Chancellor/Dean of Students or designee will determine if it is reasonable to be concerned about the general safety and/or well-being of individuals or the campus community as a whole. If reasonable concern exists, the Associate Vice Chancellor/Dean of Students or designee may impose an Interim Action against a Student, Student Group, and/or RSO.

A. Process:

If an Interim Action is deemed appropriate/necessary by a designated University Official, the Student(s), Student Group(s), and/or RSO(s) 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.).
- c. Notification of a no contact order (if applicable).
- d. A ban/trespass notice (if applicable).
- e. Information related to options for appealing the Interim Action.

B. Communication:

When an Interim Action is implemented, the Associate Vice Chancellor/Dean of Students or designee will communicate with the 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 would be sent to faculty stating that the student would not be in classes.

C. Appeal:

If a Student elects to appeal an Interim Action, s/he must do so within five (5) days of receiving notification. Appeals must be written, clearly explain the rationale for requesting a decision change, and submitted to the Associate Vice Chancellor/Dean of Students. 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 Action(s) will remain in effect until a decision has been made with regard to the appeal.

XII. Mutual Resolution

The Director of DSCE or designee may offer or accept Mutual Resolutions (including applicable sanctions) for any violation(s) under the Code, except for Sexual Misconduct, at any time prior to the hearing. The Mutual Resolution acceptance must be in writing and signed by the Respondent and the Hearing Body. A mutual resolution may not be appealed, and waives the Student’s right to participate in a hearing.

XIII. Notification of Hearing

If formal charges are filed, and there is no Mutual Resolution, the Director of DSCE or designee shall email, hand-deliver, mail, or share in-person/via telephone (with a follow-up letter) a hearing notice to the Respondent. The notice shall include:

- A. Statement of the specific charges against the Respondent.
- B. Brief description of the information upon which the charges are based.
- C. Date, time, and place for the hearing.
- D. Notice of the right of reasonable access to the allegation information.
- E. If applicable, notification of possible suspension or expulsion if found responsible.
- F. Statement indicating that the Respondent may seek assistance from DSCE staff in the preparation of his or her hearing.

The Respondent waives all claims of failure to receive adequate notice if the Respondent 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 DSCE of any change requests related to the scheduling of a hearing. The Director of DSCE 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 DSCE or designee during times of heavy caseloads, if the charge occurs close to the end of an academic semester or term, or in the event of the reasonable need of either party for additional time.

XIV. Notification of Violations

A. Minor Violations:

All charges shall be presented to the Respondent in a written notice that will include the date of the hearing. The date of the hearing will not be fewer than ten (10) days after receipt of written notice, unless the Respondent waives the ten-day preparation period in writing.

B. Serious Violations:

Written notice of hearing shall specify the offense charged, the possible sanctions, and a brief recitation of the factual allegations supporting the charge. For all charged offenses that could result in expulsion, the notice must include the possibility of expulsion and must specify that expulsion precludes matriculation at any UNC constituent institution. The date of the hearing will not be fewer than ten (10) days after receipt of written notice, unless the Respondent waives the ten-day preparation period in writing.

XV. Hearing Process and Procedures

A. Student Group or RSO Respondent

In a hearing in which a Student Group or RSO is the Respondent, the president or equivalent officer of the Student Group or RSO shall represent the Student Group or RSO unless s/he petitions and receives written approval from the Director of DSCE or designee to substitute another Student officer to represent the Student Group or RSO at the hearing.

B. Hearing

The following procedural guidelines shall be applicable in hearings conducted by a Hearing Body.

- a. The burden of proof is the responsibility of the University in all hearings, and must establish that the Respondent is responsible for a violation of the Code by preponderance of the information.
- b. Unless s/he specifically waives this right, a Student who elects to appear before a Hearing Body will be given a minimum of ten (10) day notice of the specific charges being presented to the board and details of the hearing (date, location, and time).

- c. Respondents have the right to be assisted, at their expense, by an Advisor of their choosing. In cases of Sexual Misconduct the Complaining Witness(es) and/or victim(s) have the right to be assisted, at their expense, by an Advisor of their choosing. The Respondent(s), Complaining Witness(es), and/or victim(s) must notify the Director of DSCE or designee a minimum of five (5) days prior to the hearing of his/her intention to be assisted/represented at the hearing by an Advisor. This notice is solely for the purpose of allowing the University to make appropriate arrangements for the hearing.
- d. The Director of DSCE or designee will send a list of potential Hearing Body members to the Respondent a minimum of seven (7) days prior to the hearing. The Respondent may challenge any Hearing Body member on grounds that s/he has a specific conflict, bias, or an interest in the case. The Respondent must submit the challenge in writing to the Associate Vice Chancellor/Dean of Students or designee a minimum of five (5) days prior to the scheduled hearing. Associate Vice Chancellor/Dean of Students or designee must make a decision on the challenge within three (3) days. If s/he determines possible bias, the Hearing Body member shall be excused and a replacement will be appointed by the Associate Vice Chancellor/Dean of Students or designee.
- e. The Respondent and Complaining Witness/victim will be given the opportunity to review any written information that will be used at the hearing, including a list of witnesses, no less than two (2) days prior to the hearing. Information may be redacted in order to comply with FERPA regulations and other University policies.
- f. Prior to the hearing, but after the parties have had an opportunity to review the written information, the Associate Vice Chancellor/Dean of Students will provide recommended findings and sanctions. Either the Respondent or Complaining Witness/victim may (UNC Policy 700.4.1):
 - 1. Accept both the investigative findings and recommended sanction(s).
 - 2. Request a hearing on the investigative findings and recommended sanction(s).
 - 3. If either the Respondent or Complaining Witness/victim requests a hearing, the matter will be referred to the hearing panel to determine whether a policy violation occurred and/or recommend an appropriate sanction.
- g. With the exception of matters involving alleged Sexual Misconduct, charges against multiple parties involved in the same incident may be heard in a single case only with the approval of the Director of DSCE and written Consent from each Respondent.
- h. If the Respondent fails to appear after proper notice, the Hearing Body will proceed with the hearing *in absentia* and make determinations with the available information.
- i. Information, Testimony, and Witnesses:

1. The Director of DSCE, designee, or other University Officials, may serve as witnesses, present other witnesses, and submit documents during the hearing.
2. The Respondent, Complaining Witness, and/or victim shall be given the opportunity to present witnesses and/or documentary information. The Chair of the Hearing Body has the discretion to determine if the information is relevant to the charge and does not otherwise infringe the rights of other Students.
3. Even if present during the hearing process, no witness shall be forced/required to testify.
4. Witnesses and/or information shall be subject to questioning and/or examination by the University Official(s), Complainant, Complaining Witness(es), victim(s), hearing board members, and/or the Respondent(s).
5. All parties involved in the hearing process are expected to give truthful testimony. Furnishing untruthful testimony may subject individuals to further action under the Code.

C. Hearing Board Procedures:

1. The chair of the Hearing Body shall exercise control over the proceedings to avoid needless consumption of time and to achieve orderly completion of the hearing. The chair of the Hearing Body may exclude any person who disrupts a hearing, including the Respondent(s), Complaining Witness(es), victim(s), witness(es) and/or Advisor(s).
2. Formal rules of evidence shall not apply. The Chair of the Hearing Body shall determine the admissibility of all matters of information.
3. Admission of any person to the hearing shall be at the discretion of the Chair of the Hearing Body.
4. Each hearing, at the general discretion of the Chair of the Hearing Body, shall proceed as follows:
 - a. Presentation of formal charges.
 - b. Opening statements by the Complainant and Respondent.
 - c. Complainant's presentation of documents, information, and witnesses, followed by questions by the Respondent, Complaining Witness (if applicable), and/or Hearing Body members.
 - d. Respondent's presentation of documents, information, and witnesses, followed by questions by the Complainant, Complaining Witness (if applicable) and/or Hearing Body members.
 - e. Closing statements by the Complainant and Respondent.

- f. Confidential deliberations of the hearing board. All parties and witnesses are required to remain in close proximity (unless a party is excused by the Chair) in the event the Hearing Body needs to recall any person.
- g. Hearing Body decisions will proceed as follows:
 1. A decision by the Hearing Body on responsibility or non-responsibility for formal charges shall be made in private, based solely on the information presented at the hearing, using the standard of Preponderance of the Information. A determination of responsibility must be made prior to a decision on sanctions. Except where prior Academic Integrity violations are an element of the charges, the conduct record of the Respondent shall not be considered in the hearing until responsibility has been established.
 2. A finding of responsibility on any charge shall be followed by the determination of appropriate sanction(s). The conduct record of the Respondent, victim impact statements, and/or character witness statements may be considered in determining the appropriate sanction(s).
 3. After private deliberation, the Hearing Body will announce the sanctioning decision to the Respondent.
 4. If the Hearing Body determines that neither suspension nor expulsion are appropriate, a recommendation (including all sanctions imposed by the Hearing Body) to that effect will be forwarded to the Director of DSCE.
 5. If the Hearing Body determines that suspension is appropriate, a recommendation (including all sanctions imposed by the Hearing Body) to that effect will be forwarded to the Associate Vice Chancellor/Dean of Students for a final administrative decision.
 6. If the Hearing Body determines that expulsion is appropriate, a recommendation (including all sanctions imposed by the Hearing Body) to that effect will be forwarded to the Vice Chancellor for Student Affairs for a final administrative decision.
 7. In hearings that include a charge of Sexual Misconduct, but do not include a recommended suspension or expulsion, the Hearing Body shall make a recommendation (including all sanctions imposed by the Hearing Body) to the Associate Vice Chancellor/Dean of Students for a final administrative decision.
 8. Hearings are closed to the public.
 9. Only the University may record (audio, transcription, and/or video) a hearing.
 10. A decision letter outlining the final outcome of the hearing must be transmitted to the Respondent in writing within ten (10) days of the conclusion of hearing. The document will contain a brief summary of the information upon which the decision is based, a summary of the Hearing Body'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 final results of a proceeding and/or sanctions against a Respondent found responsible for Sexual Misconduct to the victim.

11. 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 record retention policies. Examples include, but are not limited to, all hearing transcripts, audio or video recordings, and/or hearing notes.

XVI. Sanctioning

Factors that affect the severity of the sanction(s) may include the present demeanor and past conduct record of the Student, the nature of the incident, the severity of any damage, injury, or harm resulting from the incident, and whether the incident was motivated by bias based on actual or perceived race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, political affiliation, or veteran status. Respondents who fail to complete sanctions will be referred to a designated University Official to develop an action plan for completion of the sanctions. At the discretion of the Associate Vice Chancellor/Dean of Students, failure to complete sanctions may result in an Educational Outreach Assessment. Decisions related to incomplete sanctions are not subject to appeal.

At the discretion of the Vice Chancellor for Student Affairs or designee, the imposition of any sanction(s) may be deferred during the duration of an appeal. However, the sanction(s) may be imposed upon written notice at any time after the hearing decision if the Respondent has been found responsible for a violation of the Code. At the discretion of the Associate Vice Chancellor/Dean of Students or designee, sanction(s) against Student Groups or RSOs found responsible for violating the Code may be imposed upon written notice at any time after the hearing decision. Students requesting a deferment of a sanction must submit a written request which clearly outlines the rationale for the request to the Associate Vice Chancellor/Dean of Students.

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

A. Sanctions associated with Minor Violations:

1. Reprimand:

Written notice of a violation of specified regulations and/or polices.

2. Probation:

Written notice of 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.

3. 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.

4. 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 Associate Vice Chancellor/Dean of Students, Director of DSCE, or designee when a Respondent does not complete an Educational Outreach Assessment.

5. 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 not just him/herself but also his/her peers. An EOA may be financial, non-financial, or become financial if a Respondent does not complete a non-financial sanction.

6. Community Restitution:

An EOA imposed to provide a work-related experience for Students to help others in a positive fashion. Respondents who do not meet their community restitution deadlines will be assessed a financial EOA that will be determined by multiplying the hours assigned by the current North Carolina minimum wage.

7. Educational Sanctions:

Participating in a specific activity, course, event, or program, receive specific instruction, complete a research/reflective assignment, etc. The Respondent is responsible for related expenses.

8. 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.

9. Residence Hall Expulsion:

Permanent separation of the Respondent from the residence halls.

B. Sanctions associated with Serious Violations:

In addition to suspension or expulsion (as described below), Serious Violations may result in the imposition of sanctions typically associated with Minor Violations.

1. University Suspension:

Separation of the Respondent from the University for a definite period of time, after which the Respondent is eligible to apply for readmission. Conditions for readmission may be specified. The sanction of University Suspension is recorded in the University of North Carolina Suspension and Expulsion database.

2. University Expulsion:

Permanent separation of the Respondent from the University and any University of North Carolina System constituent Institution. The sanction of University Expulsion is recorded in the University of North Carolina Suspension and Expulsion database.

XVII. Student Groups and RSOs

In addition to individual students, Student Groups and/or RSOs are accountable for adhering to the Code. The following information applies to Student Groups and RSOs:

The aforementioned hearing procedural guidelines shall be applicable Student Groups and RSOs.

- A. Student Groups and RSOs may be charged with violations of this Code without regard to whether members of such groups or organizations are individually charged with violations arising from the same occurrences.
- B. A Student Group or RSO and its officers, leaders, or any identifiable spokespersons may be held collectively or individually responsible when violations of this Code by those associated with the Student Group or RSO have received the tacit or overt Consent or encouragement of the Student Group or RSO or of the Student Group's or RSO's leaders, officers, or spokespersons.
- C. The officers, leaders, or any identifiable spokespersons for a Student Group or RSO may be directed by the Vice Chancellor for Student Affairs or designee to take appropriate action designed to prevent or end violations of this 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, 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: an alleged violation was committed by one or more members of a group or RSO; an alleged violation was committed by one or more members of a group or RSO and the RSO's funds were used to finance the activity; an alleged violation occurred as a result of a group or RSO sponsored function.
- E. One or more of the following sanctions may be imposed on a group or RSO responsible for violation of conduct regulations. All sanctions require review and approval of the Associate Vice Chancellor/Dean of Students or a designee and may be altered, deferred, or eliminated.

1. Warning:

An official verbal notice that a concern exists. Repetition of any formal charges that result in a finding of responsibility of a Student, Student Group or RSO on "Warning" within a designated period of time shall result in further disciplinary action.

2. Reprimand:

An official written notice of misconduct. Repetition of any formal charges that result in reprimand of the Student, Student Group or RSO within a period of two

years shall automatically carry Probation/Recognition Probation as a minimum sanction.

3. Recognition Probation:

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.

4. Recognition Suspension:

The temporary removal of University recognition for a definite period of time. During the period of Recognition Suspension, the group or RSO is not considered in good conduct standing with the University. While under suspension, the 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.

5. Recognition Revocation:

The permanent removal of University recognition for a group or RSO. Recognition Revocation means that the 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 Body but must be imposed by the Associate Vice Chancellor/Dean of Students following review of the record of the hearing.

6. Additional Sanctions (include, but are not limited to):

- a. Suspension of activities of the group or RSO, including but not limited to:
 1. Exclusion from intramural competition.
 2. Denial of use of University facilities for meetings or activities.
 3. Suspension for new member education, recruiting, and/or intake process.
 4. Loss of social privileges for no less than one month. The group or RSO may not sponsor any activity, party, or function that is social in nature during the time parameters established.
 5. 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).
 6. Restitution of loss to University or person/organization/group.
 7. Group educational opportunity/assignment.
 8. Any other appropriate group or RSO sanction as recommended by the Hearing Body or determined by the Associate Vice Chancellor/Dean of Students.

XVIII. Appeals

An appellate review is an examination of a decision reached by a Hearing Body for the purpose of determining whether there is cause to believe that the outcome of the hearing might be flawed. Only the Student who has been found responsible for a Code violation may appeal, except as allowed in cases involving Sexual Misconduct. In cases involving Sexual Misconduct allegations, either party may appeal the final administrative decision consistent with Serious Violation appeals. A Student may request only one appellate review, which must be made in writing and addressed to the Associate Vice Chancellor/Dean of Students.

A. Appeal Deadline

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

B. Grounds for Appeal

In accordance with University of North Carolina Code Section 502 D (3), appeals must 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.

C. Minor Violations

For appeals of decisions on Minor Violations, records associated with the hearing will be forwarded to the Associate Vice Chancellor/Dean of Students.

- a. The Associate Vice Chancellor/Dean of Students shall decide appeals based upon the record of the hearing and the party's written appeal. The Associate Vice Chancellor/Dean of Students 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 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 Associate Vice Chancellor/Dean of Students must render a decision within five (5) days, and notice of the appellate decision must be communicated within ten (10) days. The decision may:
 1. Affirm the finding of responsibility and the sanction(s).
 2. Affirm the finding of responsibility and modify the sanction(s).
 3. Remand the case to the Hearing Body for a full or partial rehearing pursuant to this Code.
 4. Overturn the finding(s) and eliminate the sanction(s).
- c. The Associate Vice Chancellor/Dean of Students shall send copies of the appeal decision to the party and the Director of DSCE. The decision of the Associate Vice Chancellor/Dean of Students shall be final and conclusive, and the sanctions will be imposed as directed.

D. Serious Violations

For appeals of decisions on Serious Violations, the Associate Vice Chancellor/Dean of Students will immediately forward appeals meeting the requirements set forth above, along with the record of the hearing on appeal, to the appropriate University Official.

- a. The appropriate University appellate decision maker shall decide appeals based upon the record of the hearing and the party's written appeal. That individual 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 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 on appeal.
- b. The designated appellate decision maker shall notify the party within a reasonable time in writing of the decision on appeal. The decision may:
 1. Affirm the finding of responsibility and the sanction(s).
 2. Affirm the finding of responsibility and modify the sanction(s).
 3. Remand the case to the Hearing Body for a full or partial rehearing pursuant to this Code.
 4. Overturn the finding(s) and eliminate the sanction(s).

E. Suspension or Expulsion

In accordance with University of North Carolina Code Section 502 D (3), the following appeal rights apply when a sanction of suspension or expulsion have been implemented, and a grounds for appeal has been established:

- a. The appropriate University appellate decision maker shall decide appeals based upon the record of the hearing and the party's written appeal. That individual 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 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 on appeal.
- b. The designated appellate decision maker shall notify the party within a reasonable time in writing of the decision on appeal. The decision may:
 1. Affirm the finding of responsibility and the sanction(s).
 2. Affirm the finding of responsibility and modify the sanction(s).
 3. Remand the case to the Hearing Body for a full or partial rehearing pursuant to this Code.
 4. Overturn the finding(s) and eliminate the sanction(s).
 5. Where the sanction is suspension or expulsion, an appeal may be made to the Board of Trustees.
 6. Where the sanction is expulsion, an appeal may be made to the Board of Governors.

7. No appeal to the president is permitted.
8. Appeals related to suspension or expulsion must be addressed to the Vice Chancellor for Student Affairs. The Vice Chancellor for Student Affairs will forward the appeal to the appropriate University Official(s).

XIX. FERPA

Under the *Family Educational Rights and Privacy Act*, the University may release “directory information” on Students when requested. Directory information includes the Student's name, addresses, telephone numbers, electronic mail address, major field of study, academic classification (e.g., first-year, sophomore, junior, senior, graduate Student), dates of attendance, participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees awarded by the University, honors and awards received, and the most recent educational agency or institution attended. If you object to your directory information being released, contact the Associate Vice Chancellor/Dean of Students’ office for more details. (Reference University Policy 74)

XX. Files and Records

- A. The conduct files, including audio recordings or transcripts of hearings, of Students found responsible for any of the violations charged 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 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.
- B. Students may inspect their conduct files in accordance with University Policy 72 - Family Educational Rights and Privacy (FERPA or Buckley Amendment and University Policy 74 - Records Requests).

XXI. Revision and Communication

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

Amended:

8-16-12	6-3-16
8-30-13	8-15-16
8-26-14	8-18-17
8-14-15	