

**NC STATE UNIVERSITY**  
**Policies, Regulations and Rules**

Authority	<b>Vice Chancellor for Academic and Student Affairs</b>
Title	<b>Student Discipline Procedures</b>
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PRR Subject	<b>Student Discipline</b>
Contact Info	<b>Director of Office of Student Conduct (919-515-2963)</b>

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**Related Policies:**

[\*\*UNC Code Appendix 1, Section XII - Student Activities and Government\*\*](#)

[\*\*UNC Code Section 502 – Chancellors of Constituent Institutions\*\*](#)

[\*\*UNC Policy 700.4.1 - Minimum Substantive and Procedural Standards for Student Disciplinary Procedures\*\*](#)

[\*\*UNC Policy Manual 700.4.3\[G\] -- Guidelines on Student Disciplinary Proceedings: Meaning and Effect of "Expulsion"\*\*](#)

[\*\*UNC Policy 1300.1 – Illegal Drugs\*\*](#)

[\*\*NCSU POL11.35.01 - Code of Student Conduct\*\*](#)

[\*\*NCSU RUL11.31.01 - University Housing Disciplinary Procedures\*\*](#)

[\*\*NCSU REG11.35.03 – Graduate Student Discipline Procedures\*\*](#)

[\*\*NCSU REG04.05.02 – Campus/Workplace Violence Prevention and Management\*\*](#)

**Additional References:**

[\*\*Office of Student Conduct\*\*](#)

[\*\*N.C. Gen. Stat. § 143-166.1 - Law Enforcement Officers', Firemen's, Rescue Squad Workers' and Civil Air Patrol Members' Death Benefits Act\*\*](#)

## **1. INTRODUCTION**

This regulation (and its appendices) set forth the procedures that apply when a student is alleged to have violated the Code of Student Conduct (Code). While the student conduct system at North Carolina State University (NC State) does incorporate some principles associated with the legal system (e.g. due process), it is fundamentally an administrative review process and is not a court of law. Neither the Rules of Civil Procedure nor the Rules of Evidence applies. NC State's responsibility is to provide a safe environment for all members of the university community, to educate students about appropriate conduct, and to provide a fair hearing process.

## **2. DEFINITIONS**

When used in the Code and these Student Discipline Procedures (Procedures) the following definitions shall apply:

2.1 “Academic Misconduct” means conduct that is described in any provision of section 8 of the Code and shall be synonymous with the term “academic dishonesty” in N.C. Gen. Stat. § 116-40.11.

2.2 “Advisor” means an individual who gives advice or consultation to a student who is charged with a violation under the Code. The advisor may be a student assistant from the Conduct Board, another student, or a faculty or staff member who is not an attorney. Advisors do not act as representatives or advocates for a respondent. A respondent is responsible for presenting his or her case even when an advisor is present.

2.3 “Attorney” means any person licensed to practice law in the state of North Carolina. Consistent with the Disciplinary Procedures manual, an Attorney must complete specific documents prior to representing a student.

2.4 The terms Chancellor, Vice Chancellor and Dean of Academic and Student Affairs, Dean of the Graduate School, Dean of the College of Veterinary Medicine (CVM), and Director of University Housing include their designees.

2.5 “Complainant” means any person who submits a report alleging that a student and/or a student group/organization engaged in conduct that violates the Code. Note: While a student or a non-University individual may be a complainant by submitting a report of misconduct, at a hearing, the complainant refers to the university official who presents the case of misconduct on behalf of the university.

2.6 “Course of Conduct” means two or more acts, including, but not limited to, acts in which the person 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.

2.7 “Consent” means an affirmative decision to engage in sexual activity given by clear action or words. It is an informed decision made freely, willingly, and actively by all parties. Behavior will be considered “without consent” if no clear consent, verbal or nonverbal, is given. Consent cannot be procured by physical force, compelling threats, intimidating behavior, or coercion. A person cannot give consent if he or she is incapacitated as a result of alcohol or drug consumption (voluntary or otherwise), is unconscious, unaware or asleep during the act, is under the legal age to provide consent, or otherwise lacks the capacity to consent. A lack of protest or resistance is not a valid form of consent. Silence is not a valid form of consent. A prior relationship or prior sexual activity is not sufficient to demonstrate consent. Consent can be revoked or withdrawn at any time, even during a sexual act. If consent is withdrawn, the sexual act is no longer consensual.

2.8 “Deliver” means sale, transfer, exchange or sharing of any kind.

2.9 “Director” means the Director of the Office of Student Conduct, or designee.

2.10 “Faculty Member” means any person with an NC State University designation of Professor, Associate Professor, Assistant Professor, Lecturer, Instructor, and shall include personnel of the United States armed forces during the time they are assigned under military orders to a ROTC program of a constituent institution of the University of North Carolina as a permanent change of station. For the purposes of these Procedures, a graduate teaching assistant is considered to be a faculty member.

2.11 “Hearing Officer” means a full time Office of Student Conduct staff member at an Administrative Hearing or Mutual Agreement responsible for maintaining order, determining the admissibility of information, facilitating deliberations, and announcing decisions.

2.12 “Minor violation” means a violation of the Code for which the possible sanctions are less than suspension or expulsion.

2.13 “Non-Academic Misconduct” means conduct that is described in any provision of section 10 of the Code.

2.14 “Non-Attorney Advocate” means any person, who is not a licensed attorney in North Carolina, a student selects to assist them in the student conduct process. Consistent with the Disciplinary Procedures Manual, this person must complete specific documents prior to assisting the student.

2.15 “Observer” means any person, other than an Attorney, who the student selects to play this role. The Observer is a non-speaking role and may not participate as an advocate or witness in the process.

2.16 “Presiding Officer” means the person at a Conduct Board hearing responsible for maintaining order, determining the admissibility of information, facilitating deliberations, and announcing Conduct Board decisions to the respondent. The Student Chief Justice will normally serve as the presiding officer at a hearing. If the Student Chief Justice is unable to serve, the Office of Student Conduct staff member advising the board will select another member of the Conduct Board as the Presiding Officer.

2.17 “Protected class” means a group of people who are protected from discrimination under federal and state laws, and/or University policy.

2.18 “Reckless” means conduct that a reasonable person should know creates a substantial risk of harm to persons or property, or substantially interferes with University or University-sponsored activities.

2.19 “Report of Academic Integrity Violation (RAIV)” is a document that is submitted to the Office of Student Conduct that reports alleged academic misconduct in violation of the Code.

2.20 “Respondent” means a student(s) or student group/organization alleged to have engaged in conduct that violates the Code.

2.21 “Serious violation” means a violation of the Code for which the possible sanctions include suspension or expulsion.

2.22 “Student” means any person from the time he or she accepts admission to NC State up through the date of graduation. This includes, but is not limited to, new students at orientation, persons not currently enrolled but who are still seeking a degree from NC State, and any other person enrolled in a credit earning course offered by NC State. For purposes of exercising jurisdiction for University discipline, it also includes any person who has graduated from NC State if the university determines that his/her graduation or receipt of credit may have involved misconduct while he/she was working toward a degree.

2.23 “Student Conduct Referral” (SCR) is a document, issued by University Police, given to a respondent and the Office of Student Conduct that reports alleged misconduct by a student and/or a student group/organization in violation of the Code. Allegations of misconduct resulting from the SCR may be amended from that document to include additional misconduct or may be revised to provide a more accurate description of the misconduct.

2.24 “Student Group” means a number of students who are associated with each other but have not met the University requirements for registration as a Student Organization.

2.25 “Student Organization” means a number of students who have complied with University requirements for registration or recognition.

2.26 “University premises” means buildings or grounds owned, leased, operated, controlled or managed by NC State.

2.27 “University-sponsored activity” means any activity or program on or off-campus which is hosted, sponsored, authorized, or supervised by the university.

2.28 “Weapon” means any object, instrument, or substance used, attempted to be used, or capable of inflicting a wound, causing injury, or incapacitating and may include, but is not limited to: all firearms, pellet guns, paintball guns, tasers or stun guns, switchblade knives, bowie knives, chemicals such as “mace” or tear gas (if used in an illegal manner), any explosive agents, or any other object as defined in N.C. Gen. Stat. § 14-269.2.

### **3. RIGHTS AND RESPONSIBILITIES**

#### **3.1 Respondent’s Rights**

Students whose conduct is under review based on the Code have the following rights:

3.1.1 Written notice of the charges as described in these Procedures. Written notice of the charges will be provided to the student within thirty (30) days of the report of misconduct being

made, unless extenuating circumstances require a longer time period. A designated University official may investigate such reports prior to determining whether a formal charge should be brought against a student or student group/organization. As outlined in Appendix G, investigations for reports of Relationship or Interpersonal Violence or Sexual Misconduct (as defined in sections 10.14, and 10.15 of the Code) shall be investigated by the Office for Institutional Equity and Diversity (OIED). Ultimately, the Office of Student Conduct will determine whether to issue formal charges accusing a student or student group/organization of violating the Code. The constitutional prohibition against double jeopardy in criminal cases does not apply to student disciplinary proceedings. The university may impose disciplinary sanctions even where there has been a criminal proceeding disposing of the same matter. Accordingly, the university may pursue charges for a violation of the Code where corresponding criminal charges have been reduced, declined, or dismissed.

3.1.2 In cases that could result in a sanction of suspension or expulsion, the written notice of hearing shall include information specific to the factual allegations and references to possible sanctions.

3.1.3 Reasonable access, to the extent permitted by law, to the respondent's case file in the Office of Student Conduct.

3.1.4 Explanation of the procedural alternatives available within the university disciplinary process.

3.1.5 To be presumed not responsible unless proven by a preponderance of the evidence to have violated the Code.

3.1.6 To respond to the information presented and to question witnesses, through a hearing board or Hearing Officer. Respondents in disciplinary proceedings are expected to answer questions concerning their conduct. Disciplinary proceedings are administrative in nature and the person or board reviewing the case needs to have all relevant information available in order to reach a result. If the respondent refuses to answer questions, a decision will be made based upon the information present in the record. Students whose alleged misconduct may subject them to criminal proceedings should consult with their own legal counsel regarding their rights.

3.1.7 To deny responsibility (without being charged for lying in relation to that denial) if proven responsible. However, a student may be charged, or be subjected to more stringent sanctions, for lying about the facts of the case.

3.1.8 To appeal an adverse decision as described below in section 7.

3.1.9 To review the Code and these Procedures.

3.1.10 When enrolled and formally charged with non-academic misconduct, to be represented by an Attorney/Non-Attorney Advocate at the respondent's own expense, during a Disciplinary Conference, Mutual Agreement, Administrative Hearing, or Interim Suspension hearing.

3.1.11 To waive any of the above rights, provided that the waiver is made freely and in writing.

### 3.2 Complainant's Rights for Relationship or Interpersonal Violence or Sexual Misconduct

The complainant in a case involving charges of Relationship or Interpersonal Violence or Sexual Misconduct (as defined in sections 10.14 and 10.15 of the Code), shall have the following rights:

3.2.1 To make reports of misconduct through the Office for Institutional Equity and Diversity, University Police, the Office of Student Conduct, or other University Responsible Employees, as defined by NCSU REG 04.25.06.

3.2.2 To pursue criminal charges or civil action or to file a complaint with the U.S. Department of Education, Office of Civil Rights (without University assistance).

3.2.3 To receive an explanation of the applicable charges from the Office of Student Conduct.

3.2.4 To receive an explanation of the procedural alternatives available within these Procedures for making reports of misconduct against a student.

3.2.5 To have all reports of misconduct investigated by the Office for Institutional Equity and Diversity, who may confer with University Police or the other University officials as appropriate. And to receive a copy of the investigation report upon completion.

3.2.6 To receive contact and referral information from staff in the Office for Institutional Equity and Diversity, the Office of Student Conduct, University Police, or other appropriate University offices for University-based support services.

3.2.7 To be free from retaliation, harassment and intimidation from respondents, other students, Student Groups, or Student Organizations and others as the complainant engages in this process.

3.2.8 To be a witness in the disciplinary process, and to know the results of the process to the extent allowed under state and federal laws and University policies.

3.2.9 To question the respondent, investigators, and witnesses through a Hearing Officer.

3.2.10 To have a single observer at the hearing for support, to have the same access to the proceedings as the respondent, to be free of irrelevant questions about sexual history, to make an impact statement prior to imposition of sanctions if the respondent is found responsible, and to appeal a decision based on grounds described in section 7.

3.2.11 To have an Attorney/Non-Attorney Advocate present at the hearing, at his/her own expense.

### 3.3 Responsibilities of Respondents, Complainants, and Witnesses

Participants in the student conduct process have the following responsibilities:

3.3.1 To know and adhere to the Code.

3.3.2 To be honest and complete in all information provided in this process.

3.3.3 To attend all meetings, conferences, or hearings in a timely fashion.

3.3.4 For respondents, to complete any sanctions imposed for violating the Code and consistent with the decision and deadlines administered in their case.

3.3.5 To participate in a manner that is civil and respectful.

3.3.6 For complainants and respondents, to have the opportunity to present their case and secure the presence of any witnesses who will speak on their behalf.

#### **4. REFERRALS**

4.1 The Office of Student Conduct, or University Housing where appropriate, will decide whether to formally charge a student following a report of misconduct, and to initiate one of the appropriate conduct processes, outlined in section 5 below. Unless extenuating circumstances exist, formal charges will occur within thirty (30) calendar days from receipt of the report by the Office of Student Conduct or University Housing. Section 5 below describes the types of conduct processes.

4.2 When a respondent is charged with violating the Code, and the respondent's case has been addressed in a criminal proceeding for the same or similar charges where he or she has either pled guilty (including prosecutorial deferral programs and pleas of No Contest or Prayer for Judgment) or been found guilty, responsibility for a corresponding violation of the Code is deemed to be established and the case will be referred, as appropriate, to one of the conduct processes below for a determination as to sanctions only.

4.3 The Office of Student Conduct will refer all cases involving charges of Relationship or Interpersonal Violence (section 10.14 of the Code), Sexual Misconduct (section 10.15 of the Code), or charges of misconduct that threaten the safety or well-being of the campus community to an Administrative Hearing, described in section 5.6 of these Procedures.

#### **5. TYPES OF CONDUCT PROCESSES**

##### **5.1 Disciplinary Conferences through University Housing**

In cases involving the review of charges for violations of the Code, or other University policies, regulations or rules, relating to housing, the options for addressing the charges include a Disciplinary Conference through University Housing.

See **NCSU RUL 11.31.01 - University Housing Disciplinary Procedures** for more detail.

##### **5.2 Disciplinary Conference through the Office of Student Conduct (Appendix A)**

5.2.1 In cases involving the review of a Minor violation of non-academic misconduct, a Disciplinary Conference in the Office of Student Conduct may be conducted. The Disciplinary Conference is an informal process designed to resolve charges for minor violations that do not include the possibility of suspension or expulsion as sanctions. The Office of Student Conduct, within its discretion, decides whether the charge is a minor or serious violation based on the information available from the report.

\*See Appendix A for Disciplinary Conference procedures.

### 5.3 Graduate and Veterinary Student Discipline

5.3.1 Graduate students who are charged with academic misconduct involving the student's thesis or dissertation may have their cases reviewed under **NCSU REG11.35.03 – Graduate Student Discipline Procedures**. The decision regarding which procedure will be used in that instance rests with the Dean of the Graduate School. All other alleged violations of the Code by graduate students will be governed by these Procedures. Allegations of Relationship or Interpersonal Violence or Sexual Misconduct (as defined in sections 10.14 and 10.15 of the Code), shall be governed by these Procedures.

5.3.2 For students enrolled in the College of Veterinary Medicine (CVM) who are charged with any form of misconduct, the Dean of CVM will determine if the case will be reviewed using the CVM disciplinary procedures or resolved under these Procedures.

### 5.4 Report of an Academic Integrity Violation: Office of Student Conduct (Appendix B)

5.4.1 The Report of an Academic Integrity Violation (RAIV) is used by a Faculty Member to record, and to attempt resolution of, a report of academic misconduct with a student. As a result of a meeting with the faculty member, the student may choose to sign this form, accepting responsibility for the specific academic misconduct, and waiving his or her right to appeal the decision and sanctions. Faculty members may recommend sanctions up to and including a failing grade for the course based on a student's signature on this form. The signed form and supporting case materials are forwarded to the Office of Student Conduct for review and a decision on the sanction.

A student may also use the RAIV process to deny responsibility for the charges, reject the recommended sanctions, request a hearing, and preserve his or her right to appeal.

5.4.2 Depending on the circumstances of the case and whether the student has any previous violations, the Office of Student Conduct may refer the case for a hearing, even if the student has already accepted responsibility.

5.4.3 Occasionally, the Office of Student Conduct may need to make a technical correction on the RAIV to accurately reflect the appropriate definition of academic misconduct under the Code. While the technical correction may not affect the sanction imposed, the respondent will be notified of the correction.



\*See Appendix B for RAIV procedures.

## 5.5 Conduct Board: Office of Student Conduct (Appendix C)

The Conduct Board reviews academic and non-academic misconduct cases involving serious violations (except the Conduct Board shall not review cases involving charges of Relationship Violence, Sexual Misconduct, Stalking, or charges of misconduct that threaten the safety or well-being of the campus community). The composition of the Conduct Board will vary depending on the nature of the charge. Hearings by the Conduct Board are monitored by a professional staff member from the Office of Student Conduct.

### 5.5.1 Academic Misconduct

For cases of academic misconduct, the Conduct Board shall be composed of two (2) faculty members or other University employees approved by the Director, two (2) full-time students, and the Presiding Officer. The Presiding Officer will facilitate and participate in the discussion during deliberations, but will not vote except in the case of a tie. The Conduct Board will act as the designee for the Vice Chancellor and Dean of Academic and Student Affairs, the Dean of Graduate School, or the Dean of CVM in decisions resulting in a suspension. Recommendations for expulsion will be forwarded to the Vice Chancellor and Dean of Academic and Student Affairs for a decision on expulsion.

### 5.5.2 Non-Academic Misconduct

For cases of non-academic misconduct, the Conduct Board shall be a student panel composed of four (4) full-time students, and the Presiding Officer. The Presiding Officer will facilitate and participate in discussion during deliberations, but will not vote except in the case of a tie. The Conduct Board will act as the designee for the Vice Chancellor and Dean of Academic and Student Affairs, the Dean of the Graduate School, or the Dean of CVM in decisions resulting in suspension. Recommendations for expulsion will be forwarded to the Vice Chancellor and Dean of Academic and Student Affairs for a decision on expulsion.

\*See Appendix C for Conduct Board procedures.

## 5.6 Administrative Hearing: Office of Student Conduct (Appendix D)

Students referred for an administrative hearing have their cases resolved before a professional staff member in the Office of Student Conduct who acts as the Hearing Officer. This type of hearing is an option for both academic and non-academic cases. The full range of sanctions, including suspension and recommendation of expulsion, may be imposed and all rights and responsibilities that apply in Conduct Board hearings also apply for Administrative Hearings. The Director may refer a case to an Administrative Hearing, in his or her discretion, when one of the following circumstances exists:

5.6.1 The case arises at a time when the Conduct Board cannot be convened (e.g. during holidays, semester breaks, or over the summer session);

5.6.2 A backlog of cases has developed and Administrative Hearings are necessary to assure prompt resolution of cases;

5.6.3 There is sufficient reason to believe, after consulting with the student, that an Administrative Hearing is the most appropriate process for resolution of the case;

5.6.4 The case involves charges of Relationship Violence, Sexual Misconduct, or Stalking; or.

5.6.5 The case involves charges that threaten the safety or well-being of the campus community.

The basis for a case referral to an Administrative Hearing shall be provided to the respondent in writing.

\*See Appendix D for Administrative Hearing procedures, (and, if applicable, see Appendix G for additional procedures for Sexual Misconduct).

## 5.7 Mutual Agreement

At any point in a student conduct process a respondent may sign a Mutual Agreement, whereby the respondent waives a formal disciplinary conference or other hearing process by accepting responsibility for the alleged violations and any recommended sanctions. In choosing this option, the respondent must participate in a fact-finding meeting designed to assess the validity of the allegations and any factors which may affect sanctioning. The agreement must be made voluntarily and be signed by both the respondent and the administrator resolving the incident. A Mutual Agreement is a final decision and cannot be appealed.

\*See Appendix E for Mutual Agreement procedures.

## 5.8 Extraordinary Measure: Interim Suspension: Office of Student Conduct (Appendix F)

5.8.1 The Office of Student Conduct may suspend a student on an interim basis. An interim suspension may be imposed effective immediately, without prior notice, when, in the university's sole 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 serious disruption or serious threat to the university community and that response requires the student to be separated from the campus and all of its property.

5.8.2 The Director may require a student to be evaluated by a mental health professional if the Director reasonably believes that the student may meet the criteria set forth in section 12 of the Code or if a student who has been charged with violations of the Code wishes to introduce relevant evidence of any mental disorder. Students required to complete an evaluation in accordance with section 12 of the Code shall be so informed in writing in a manner where delivery can be verified. The evaluation must be completed within five (5) business days from the date of the written notice, unless an extension is granted by the Director. Any pending disciplinary action may be withheld until the evaluation is completed, at the discretion of the

Director. A student who fails to complete the evaluation may be suspended on an interim basis, or referred for disciplinary action, or both.

\*See Appendix F for Interim Suspension procedures.

## **6. REPRESENTATIVES AND ADVISORS**

### **6.1 Representation by an Attorney/Non-Attorney Advocate**

6.1.1 Representation by an Attorney/Non-Attorney advocate, at the respondent's expense, is only allowed when the respondent is currently enrolled, charged with non-academic misconduct, and heard in a Disciplinary Conference, Mutual Agreement, Administrative Hearing, or Interim Suspension Hearing (e.g. not before a Conduct Board). Otherwise, representation is not permitted in any University disciplinary proceeding. Representation or assistance by Attorneys/Non-Attorney Advocates is neither required nor encouraged. If a respondent is represented, the Attorney/Non-Attorney Advocate may not interfere with the hearing, disrupt or delay it. Full responsibility for understanding the procedures remain with the respondent even where an Attorney/Non-Attorney Advocate provides representation.

6.1.2 Respondents who will be represented by an Attorney/Non-Attorney Advocate in the conduct process must, at least three (3) calendar days prior to the proceeding, notify the Office of Student Conduct in writing of this representation and provide the name and contact information of the Attorney/Non-Attorney Advocate. If the respondent is represented by an Attorney, an attorney from the Office of General Counsel may also be present.

6.1.3 Respondents being represented in a conduct process must complete and submit a signed FERPA release consenting to the Attorney/Non-Attorney Advocate to receive information and documents regarding the respondent.

6.1.4 At least three (3) calendar days prior to the proceeding, respondents being represented by an Attorney/Non-Attorney Advocate must submit a certification signed by the Attorney/Non-Attorney Advocate verifying that the Attorney/Non-Attorney Advocate has read and understood the Code, the Procedures and applicable appendices, as well as Section 700.4.1 of the UNC Policy Manual.

6.1.5 Respondents who fail to submit any of the above information by the deadline may not be allowed to have an Attorney/Non-Attorney Advocate participate in the conduct process, and the conduct process will proceed as scheduled.

### **6.2 Advisor**

When representation by an Attorney/Non-Attorney Advocate is not permitted, respondents referred for a hearing may be accompanied by an advisor, who must be a student, student assistant from the Conduct Board, or staff or faculty member who is not an attorney. Respondents being represented by an Attorney/Non-Attorney Advocate are not permitted to also

be accompanied by an advisor. Full responsibility for understanding the procedures and presenting the case remains with the respondent even where an advisor provides assistance.

### 6.3 Observer

In addition to an Attorney/Non-Attorney Advocate (when allowed) or advisor, respondents or complainants in cases involving Relationship or Interpersonal Violence or Sexual Misconduct, may bring a single observer to the hearing. An observer may be a parent, friend, or other person of the respondent's choice. Observers may not confer with the respondent, provide representation at the hearing, actively participate in the hearing, or disrupt or delay it.

## 7. APPEALS

Each student who has received a disciplinary sanction shall be notified in writing of his or her appeal rights. This notice must be given no later than the date the written decision is delivered to the student (or the date delivery is properly attempted, in the event delivery is not successful). Students who have been found responsible for a conduct violation may appeal. Complainants involving Relationship or Interpersonal Violence or Sexual Misconduct have the same appeal rights as the respondent.

### 7.1 Appeal Routes

7.1.1 Any disciplinary decision, other than expulsion decisions or where the respondent has waived his or her right to appeal, may be appealed to the Vice Chancellor and Dean of Academic and Student Affairs, the Dean of the Graduate School (for graduate students), or the Dean of CVM (for CVM students), whose decision shall be final, and no further appeal of the decision is permitted.

7.1.2 Expulsion decisions may be appealed to the Chancellor. The Chancellor's decision on appeal shall be the final decision at the university. A further appeal may be made to the UNC Board of Governors. Appeals to the Board of Governors should be sent by certified mail, return receipt requested, to the President of the University of North Carolina within ten (10) calendar days after the student receives the final University decision. The mailing address for appeals to the Board of Governors is: c/o Senior Vice President and General Counsel, Office of the President, University of North Carolina, P.O. Box 2688, Chapel Hill NC 27515-2688. A copy of the appeal to the Board of Governors must also be delivered to the Office of Student Conduct.

### 7.2 Grounds for Appeal

7.2.1 Under the appeal rights set by the UNC Board of Governors and applicable at NC State, an appeal of a disciplinary decision is limited to allegations that the decision violates due process rights, meaning there has been a material deviation from the procedural and/or substantive due process standards adopted by the UNC Board of Governors. Therefore the appeal must allege a violation of:

- (a) Procedural Standards; and/or

- (b) Substantive Standards.

7.2.2 On appeal, a respondent has the burden of showing that the disciplinary decision violates Procedural and/or Substantive Standards.

- (a) Violation of Procedural Standards means that the respondent was not provided the required notice or an opportunity for a fair hearing due to specified procedural errors, or errors in interpretation of University policies or regulations, that were so substantial as to effectively deny the respondent a fair hearing. Reasonable deviations from the procedures set out in this regulation will not invalidate a decision or proceeding unless the respondent can show that, but for the deviation or error, there likely would have been a different outcome in the case.
- (b) Violation of Substantive Standards means there is a lack of information in the record that could support the decision or sanction(s). This last ground for appeal does not mean the information presented at the hearing can be re-argued on appeal; rather, it requires a showing that no reasonable person could have determined the respondent was responsible or could have imposed the sanction that was issued.

### 7.3 Record on Appeal

In all cases resulting in an appeal, the decision, the complete record of the proceeding (including documentary evidence and any recording or transcript of testimony), the appeal materials filed by the student, and any other relevant information, will be compiled by the Director and delivered to the person designated to review the appeal.

### 7.4 Deadline and Place for Delivery of Notice of Appeal

7.4.1 Student appeals must be received within ten (10) calendar days from the date that the written decision or sanctions is provided, or attempted to be delivered, to the student through any delivery method where receipt can be verified. If the tenth (10<sup>th</sup>) calendar day falls on a weekend or University holiday, the deadline for filing the appeal will be extended to the next University business day. Failure to submit the appeal within this time limit will render the original decision final and conclusive. An extension of time may be requested in writing within the ten-day limit, but it is within the discretion of the person deciding the appeal to grant or deny such requests. The appeal must be delivered to the Office of Student Conduct.

7.4.2 The appeal must contain the following:

- (a) A copy of the decision being appealed;
- (b) A statement of the grounds for appeal, which at a minimum should contain a list of alleged errors in the decision or procedure and statement of why the decision or sanctions are in error;

- (c) A requested remedy; and
- (d) The signature of the appellant and date the appeal is being submitted.

## 7.5 Appeal Review

7.5.1 The imposition of sanctions may be deferred during the pendency of appellate proceedings, at the discretion of the person(s) reviewing the appeal, upon written request of the respondent.

7.5.2 Where sanctions are deferred during the pendency of the appellate proceedings and the student's appeal is ultimately unsuccessful, students may fail to receive grades or credit for courses or assignments already completed while awaiting a decision, or, in cases resulting in the sanction of suspension or expulsion, cause a student to pay back previously received financial aid for the semester completed. Students are encouraged to consult with Office of Student Conduct regarding the ramifications of any delay in the enforcement of sanctions before submitting a written request for such deferral.

7.5.3 Appeals will be decided on the record of the original proceedings. New hearings will not be conducted on appeal. However, the person(s) reviewing the appeal may choose to ask the parties to submit written statements of their positions on appeal, beyond the information in the appeal notice. If the hearing body is alleged to have violated these Procedures, a written response may be solicited from the hearing body or the Office of Student Conduct on its behalf. Any such written statements from the parties or the Office of Student Conduct must be drawn on information in the record; they cannot include new information or facts bearing on responsibility that were not presented at the hearing. These written statements become part of the record. Any decision to allow new information in the appeals process will be made by the person(s) reviewing the appeal.

## 7.6 Appeal Decisions

7.6.1 Following their review, the person(s) reviewing the appeal may decide:

- (a) To affirm the findings and sanction(s) imposed by the original Board/staff member.
- (b) To reverse or modify the decision and/or sanction(s) of the Board/staff member. Such reversal or modification shall take place only upon a showing of clear and material error on the part of the Board/staff member and which error affected the outcome of the case.
- (c) To remand the case to the Board/staff member for a supplemental hearing or for a new hearing. Cases will only be remanded based on:
  - Specified procedural errors or errors in interpretation of University policies or regulations that were so substantial as to effectively deny a fair hearing; or

- New and significant material information that has become available and was not available previously to a person exercising reasonable diligence, which information could have affected the outcome of the proceeding.
- (d) To dismiss the entire case. Dismissal will occur only if there is insufficient information to support a finding of responsibility.

## **8. DISCIPLINARY FILES, RECORDS, AND TRANSCRIPT NOTATIONS**

### **8.1 Record Retention**

8.1.1 All conduct records related to a case will be kept in a conduct file in the name of the respondent. Conduct records will be retained in the Office of Student Conduct consistent with the University Records Retention and Disposition Schedule.

8.1.2 Consistent with the Records Retention and Disposition Schedule, Student files with sanctions resulting in suspension or expulsion will be retained in the Office of Student Conduct on a permanent basis. After eight (8) years, only those items which are necessary to understand the factual allegations involved will be retained.

### **8.2 Disclosure of Records**

8.2.1 Disciplinary records for respondents who were found responsible may be reported to third parties, in accordance with University regulations and applicable laws, including but not limited to FERPA.

### **8.3 Transcript Holds and Notations**

8.3.1 A temporary hold may be placed on a student's record while disciplinary proceedings are pending. While on hold, a student may not register for classes or receive an official copy of his or her transcript. Students may not graduate while a disciplinary action is pending.

8.3.2 Notations of disciplinary action will be made on the transcript whenever a student is suspended or expelled. Suspension notations may be removed upon student petition to the Vice Chancellor and Dean of Academic and Student Affairs. Factors to be considered in reviewing petitions for notation removal after suspension include:

- (a) The present demeanor of the student;
- (b) The student's conduct subsequent to the violation; and
- (c) The nature of the violation, including the issue of premeditation and/or the severity of any resulting damage, injury, or harm.

8.3.3 Expulsions will result in permanent notations on a student's transcript which cannot be removed. The transcript of a student who is successful in petitioning for approval of

reinstatement will retain the expulsion notation and the phrase “Approved for Reinstatement” will be added to the transcript.

8.3.4 Students who have been suspended or expelled will have their names entered into the UNC System database for suspended/expelled students. Students who have been expelled from NC State will not be admitted to another UNC System constituent institution.

## **9. RECONSIDERATION OF EXPULSION**

### **9.1 Timing of Petition**

After an expulsion has become final, the former student may submit a written petition to the Chancellor requesting approval for reinstatement. A petition for approval of reinstatement will not be considered prior to the expiration of two (2) calendar years after the effective date of the expulsion. In addition, repeat petitions will not be considered until at least one (1) calendar year has passed since the filing of the previous petition.

### **9.2 Contents of Petition**

A petition for approval of reinstatement should list reasons why the former student deserves to be readmitted to the university. The reasons should focus primarily on the former student’s activities and behavior after the expulsion and why the student believes that he or she should be given a new opportunity to pursue higher education. Re-argument of the merits of the expulsion is inappropriate unless exonerating information has become available that could not have been discovered at the time of expulsion.

### **9.3 Procedure for Review**

9.3.1 The Chancellor will forward the petition for approval of reinstatement to the Vice Chancellor and Dean of Academic and Student Affairs. The Vice Chancellor and Dean of Academic and Student Affairs will coordinate the gathering of the information and disciplinary record for review. The Vice Chancellor and Dean of Academic and Student Affairs may request additional information from the former student and/or the Office of Student Conduct when necessary.

9.3.2 The Vice Chancellor and Dean of Academic and Student Affairs will form a committee to review the petition. The committee may interview the former student and/or ask for additional information from the appropriate resources pertinent to the petition and in evaluating the petition.

9.3.3 The committee will make a recommendation regarding the petition to the Chancellor, who will render a decision and notify the petitioner. The decision whether to approve the petition for reinstatement shall be entirely at the Chancellor’s discretion.

9.3.4 Any student who successfully petitions for approval of reinstatement and returns to the university will be placed on disciplinary or academic integrity probation for the remainder of his or her academic career. In addition, the student must comply with any additional requirements



the Chancellor may impose for readmission. The transcript of a student who is successful in petitioning for approval for reinstatement will retain the expulsion notation and the phrase “Approved for Reinstatement” will be added to the transcript.

9.3.5 No institutional appeal is available. However, the former student may re-petition provided that one (1) year has elapsed from the denial of any previous petition.

## **APPENDIX A**

### **Disciplinary Conferences – Office of Student Conduct and University Housing**

A disciplinary conference will normally consist of an informal, non-adversarial meeting between the respondent and a staff member from the Office of Student Conduct or University Housing. The following procedures will be followed for Disciplinary Conferences:

1. A respondent shall receive written notice of the specific charge(s) at least five (5) University business days prior to the scheduled Disciplinary Conference. This written notification is generated from the office responsible for handling or processing the case and is typically sent to the student via his or her University email account. Respondents who wish to expedite their conference and waive the five-day notice may do so by requesting to schedule the conference earlier and confirming the waiver of their notice in writing.
2. A respondent shall have reasonable access to their case file maintained in the office responsible for deciding the case prior to and after the Disciplinary Conference. The case file consists of written materials received or generated by the Office of Student Conduct and/or University Housing and that are considered relevant to the misconduct charge.
3. A respondent may accept responsibility to the charges against him/her. The university staff member who meets with the respondent will assess the information provided from the respondent and other sources relevant to sanctioning, and then determine a sanction.
4. A respondent who denies responsibility shall have an opportunity to respond to the information presented to support the charges and to call relevant witnesses. Respondents are expected to answer questions concerning their conduct. If the respondent refuses to answer questions, a decision will be made based upon the information available in the record.
5. The respondent may be represented by an Attorney/Non-Attorney Advocate in accordance with section 6.1 of NCSU REG 11.35.02 (Student Discipline Procedures). Otherwise, the respondent may be accompanied by an observer, in his or her discretion, in accordance with section 6.3 of the Procedures. All Disciplinary Conferences involving representation will be conducted by a staff member from the Office of Student Conduct.
6. The decision to find a respondent responsible for the charges will be based on a preponderance of the evidence standard, that is, whether the respondent “more likely than not” engaged in the alleged misconduct.

7. The decision and sanctions, if any, issued by the staff member conducting the Disciplinary Conference shall be provided to the respondent in writing and shall include a brief summary of the information upon which the decision is based. The written decision shall be provided to the respondent no later than ten (10) University business days from the date the decision is made.
8. If the respondent fails to appear for the Disciplinary Conference after receiving notice, the conference will proceed without the respondent and a decision will be made based upon the information available in the record.
9. Charges against multiple students involved in the same incident may be heard in a single Disciplinary Conference only if each respondent consents to such a proceeding.
10. If the respondent is found responsible for a violation of the Code, information on appeal procedures will be provided to the student with the decision letter.

**APPENDIX B**  
**Report of an Academic Integrity Violation**

A student or University employee who believes a student has committed academic misconduct or has information that reasonably leads to the conclusion that such an act will occur, should inform the faculty member teaching the class, the teaching assistant or the Director.

A faculty member who believes that a student has attempted or committed academic misconduct shall investigate the matter. If the faculty member concludes that an academic misconduct violation has occurred, he or she should follow the procedures for a Report of an Academic Integrity Violation:

1. The faculty member should obtain the Report of an Academic Integrity Violation (RAIV) form from the Office of Student Conduct or its website. Other than the recommended sanction, faculty members should complete the RAIV form including the appropriate charge prior to meeting with the student. Faculty members are encouraged to consult with staff in the Office of Student Conduct for assistance in completing the form.

2. The faculty member should meet with the student in question. In the meeting, the faculty member should present the information that supports the alleged academic misconduct and discuss the student's conduct.

3. The faculty member should review the allegation of misconduct with the student and allow the student to respond. Where the student accepts responsibility for the academic misconduct is, the faculty member should determine a recommended sanction for the violation. Faculty members should include the recommended sanction on the RAIV **before** the student signs the form. Faculty members may recommend sanctions up to and including a failing grade for the course. Educational sanctions may be recommended in addition to grade penalties. **Students should not sign the form if they have additional questions or want to consult a staff member in the Office of Student Conduct.** Students are not required to sign the form at the initial meeting, but are afforded two (2) University business days to consider their options. Students may sign the form accepting responsibility or select to have their case resolved in a hearing.

4. If the student chooses not to sign the RAIV, or if the faculty member is unable to meet with the student, the faculty member should forward the unsigned form and copies of all supporting documentation to the Office of Student Conduct. The faculty member and student will then be contacted by staff in the Office of Student Conduct to discuss hearing options and procedures.

5. **Students shall not be allowed to drop a course, or change the course registration to audit or credit-only, for a course in which academic misconduct allegations have been made.** After the resolution of the case, students may seek a withdrawal from the course, or change their course registration to audit or credit-only, except in cases where a failing grade penalty has been imposed as a sanction.

6. If the student chooses to sign the RAIV form, accepting responsibility, agreeing to the sanction(s), and waiving his or her right to appeal, the signed RAIV form must be made available to the student upon request. Faculty members will then forward the original form and all supporting documentation to the Office of Student Conduct. If a student denies responsibility, rejects sanctions, or does not waive his or her right to appeal on the RAIV form, the faculty member shall forward the form and all supporting documentation to the Office of Student Conduct.

7. The Office of Student Conduct will either accept the sanction or refer the case to a hearing if it finds any of the following:

- The student has previous academic misconduct history;
- The sanction recommended by the faculty member is not consistent with sanctions imposed in similar cases; or
- The faculty member may not be aware of aggravating circumstances that could impact sanctioning (see, e.g. section 9 of the Code of Student Conduct).

8. Students will retain all rights associated with a hearing if the signed RAIV form is forwarded to the Office of Student Conduct and the case is referred to a hearing.

## APPENDIX C

### Conduct Board Hearings

The following procedures will be followed for Conduct Board Hearings.

1. Once information supporting a report of misconduct is provided to the Office of Student Conduct, its staff will have thirty (30) calendar days to determine if formal charges will be brought against the student. Formal charges may be brought against a student after thirty days if extenuating circumstances exist as determined by the Director. Respondents shall be given notice of the hearing date and the specific charges against them at least ten (10) calendar days in advance. The respondent shall be accorded reasonable access to the case file, including a list of potential witnesses. The case file will be retained in the Office of Student Conduct and a copy of the file will be provided to the respondent. Respondents who wish to expedite their hearing and waive the ten-day notice may do so in writing.
2. The information supporting the charge(s) shall be presented by the complainant. The complainant may be a University Police Officer (typically where a Student Conduct Report was issued), a faculty member (typically for academic misconduct charges), or a University administrator or staff member. At hearings, the complainant may be someone other than the original individual who submitted the report of misconduct against the respondent, but will present the information supporting the charge on behalf of the University. Where the complainant is a student or someone else who is not a University employee, that person may serve as a witness but the case will be presented by a University employee designated by the Office of Student Conduct.
3. The Presiding Officer or Director may require attendance of witnesses at the request of either party or through the process of gathering information about the case. Witness attendance notices must be approved by the Director and be delivered by a delivery method that can verify receipt of the notice. University students and employees must comply with the notice, unless excused for good cause by the Director.
4. If a respondent fails to appear at the hearing after proper notice, the complainant will still be required to present his or her information regarding the alleged violation. The case will be decided on the basis of the information in the record.
5. Hearings will be closed to the public. The respondent may bring an advisor and/or observer in accordance with the section 6 of NCSU REG 11.35.02 (Student Discipline Procedures). However, the respondent may not be represented by an Attorney/Non-Attorney Advocate.
6. The Presiding Officer shall exercise control over the proceedings to avoid needless consumption of time and to achieve orderly completion of the hearing. The Presiding Officer may recess the hearing if the Conduct Board determines that the presence of additional information or witness testimony is needed to make a decision (with consultation of the Office of

Student Conduct hearing advisor). Any person, including the respondent, who disrupts a hearing may be excluded by the Presiding Officer or by the hearing advisor.

7. Hearings shall be recorded by the Office of Student Conduct. No other recordings or broadcasts shall be permitted. The recording will be maintained with the respondent's case file and will be available to the student as part of his/her student record, with appropriate redaction of information related to other students unless such information is a necessary part of an appeal.

8. The names of the Conduct Board members will be provided to each party prior to the hearing. Any party may challenge a Conduct Board member for cause. However, the respondent and complainant, or anyone acting on their behalf, may not speak to or contact a Conduct Board member prior to the hearing. Decisions as to whether a Conduct Board member should be removed for cause will be made by the Director. Conduct Board members who have information that may affect their ability to remain neutral must recuse themselves from the hearing.

9. Witnesses shall be asked to affirm or swear that their testimony is truthful. Witnesses who intentionally provide false information may be subject to University disciplinary action.

10. Prospective witnesses, other than the complainant and respondent, will be sequestered at the beginning of the hearing and excluded from the hearing during the testimony of other witnesses. In addition, all parties and witnesses shall be excluded during Conduct Board deliberations. The Office of Student Conduct hearing advisor will observe deliberations, and may inform Conduct Board members of applicable University policies, regulations and rules, as well as the range of sanctions that can be implemented, but will not participate in discussions or attempt to influence the outcome of the hearing.

11. The Conduct Board's determination shall be made on the basis of the preponderance of the evidence, that is, whether the complainant has shown that it is "more likely than not" that the respondent violated the Code. The respondent's past disciplinary record will be available during the sanctions portion of the hearing only.

12. Formal rules of evidence or civil procedure shall not apply in student disciplinary proceedings. Unduly repetitious or irrelevant information or witnesses may be excluded by the Presiding Officer. Hearsay information may be presented unless the Presiding Officer determines it is unreliable. The opposing party shall have an opportunity to rebut any hearsay information.

13. Conduct Board members may take notice of commonly known information within the general experience of University students and faculty members, provided that the respondent is informed of any such information and given an opportunity to address it at the hearing.

14. Written witness statements are the student disciplinary equivalent of affidavits, but without the formalities. They shall not be admitted into evidence unless signed by the witnesses as observed by a staff member in the Office of Student Conduct. Exceptions to the observed requirement may be approved by the Office of Student Conduct staff for good cause. Written

statements from others regarding insight into the respondent's decision-making and character introduced at the sanctioning portion of the hearing need not be witnessed.

15. Upon timely request by a party or a witness and for good cause, the Presiding Officer may allow for testimony to be presented through closed-circuit or web-based technology (particularly where a party or witness would otherwise be unable to participate in the hearing). Testimony through this mode is at the sole discretion of the Presiding Officer.

16. Charges against multiple students involved in the same incident may be heard in a single hearing only if each student-respondent consents to such a proceeding.

17. The sequence of a Conduct Board Hearing shall be as follows:

- (a) The Presiding Officer shall read statements regarding the expectations for truthfulness and confidentiality, then sequester the witnesses in the case, except as provided in the Procedures.
- (b) The Presiding Officer shall read the charge(s) and record whether the respondent accepts or denies responsibility for the charge(s).
- (c) The complainant shall present his or her case, including any witnesses. The Conduct Board and respondent may question the complainant and witnesses during the presentation.
- (d) The respondent shall present his or her case including any witnesses. The Conduct Board and complainant may question the respondent and witnesses during the presentation.
- (e) Questions from the parties shall be directed through the Conduct Board. The Presiding Officer may limit questioning that is redundant, irrelevant, or abusive.
- (f) The complainant and respondent may make a closing statement. A closing statement is a short summary of the information previously presented, and conclusions the speaker wishes the Conduct Board to draw from the information.
- (g) The Conduct Board will enter into a period of deliberation. A decision will be made by majority vote. Only the Conduct Board members and the Office of Student Conduct hearing advisor may be present at deliberations. Deliberations are not recorded.
- (h) The Conduct Board will announce its finding on each charge. Decisions of the Conduct Board may be "responsible" or "not responsible."
- (i) A determination of responsibility shall be followed immediately by a sanctions portion of the hearing in which either party may submit information or make statements concerning the appropriate sanction to be imposed. The past disciplinary record of the respondent shall not be supplied to the Conduct Board prior to this portion of the hearing, except in cases where the charge includes failure to follow through on previous sanctions,

recommendations, directives or violations of behavioral contracts. In those instances, the allegations of the complaint would already reflect the past disciplinary record of the respondent.

- (j) The Conduct Board will enter into a period of deliberation for sanctioning. A decision will be made by majority vote. Procedures for this deliberation are the same as for deliberation of responsibility on the charge(s).
- (k) As the designee for the Vice Chancellor and Dean of Academic and Student Affairs, the Dean of the Graduate School or the Dean of the CVM, the Conduct Board has authority to impose sanctions up to and including suspension from the university. If the Conduct Board determines that expulsion is the appropriate sanction, the Conduct Board will forward a recommendation of the respondent's expulsion to the Vice Chancellor and Dean of Academic and Student Affairs, who will then issue a decision on the sanction of expulsion.
- (l) Any determination of responsibility and sanctions may be provided verbally to the respondent at the conclusion of the hearing. A written decision that includes an explanation of the findings and reasoning supporting the Conduct Board's decision will be sent to the student within ten (10) University business days of the decision through a means where delivery can be verified. The time limit for filing an appeal begins upon delivery or attempted delivery of the written notification of the decision to the student.



## **APPENDIX D**

### **Administrative Hearings**

1. All the rights, responsibilities, and procedures applicable to a hearing before the Conduct Board outlined in Appendix C also apply in an Administrative Hearing except that the Hearing Officer is a staff member from the Office of Student Conduct.
2. Cases involving charges of misconduct that threaten the safety or well-being of the campus community will only be heard in an Administrative Hearing.
3. Cases involving charges of Relationship Violence, Sexual Misconduct or Stalking, in violation of sections 10.14 and 10.15 of the Code will only be heard in an Administrative Hearing and are also subject to additional processes and procedures as outlined in **Appendix G**.

## **APPENDIX E**

### **Mutual Agreement**

A respondent may choose to waive his or her right to a disciplinary conference or hearing, to accept responsibility for violations of the Code of Student Conduct, and to accept a sanction determined by a staff member in the Office of Student Conduct. The following procedures will apply for resolution by Mutual Agreement:

1. Upon being presented with the information regarding the charge(s), and providing a response to the charge(s), the respondent may accept responsibility and engage in a discussion about any factors that could impact sanctioning.
2. The staff member in the Office of Student Conduct will take into consideration any factors affecting possible sanctions and will determine appropriate sanctions to be presented to the respondent.
3. The respondent will be allowed to ask questions of the Hearing Officer regarding the suggested sanctions and will be permitted two (2) University business days to consider the agreement. The respondent may be represented by an Attorney/Non-Attorney Advocate in accordance with section 6.1 of NCSU REG 11.35.02 (Student Discipline Procedures), and seek any outside counsel in making a decision to sign the Mutual Agreement.
4. The respondent may sign the Mutual Agreement, indicating an acceptance of responsibility for the allegation(s) and the sanctions. As a condition of entering into the agreement, a respondent waives his or her right to appeal the decision and sanctions.
5. The respondent may decide against signing the Mutual Agreement and may continue with the resolution of his or her case through the completion of another appropriate conduct process.

## APPENDIX F

### Extraordinary Intervention: Interim Suspension

In certain circumstances, an extraordinary intervention in the form of an interim suspension may be necessary to separate a student from the campus community who may pose a serious risk of danger to, disruption or interference with another member(s) of the university community. Students subject to interim suspension may appeal the suspension through an informal hearing before the Vice Chancellor and Dean of Academic and Student Affairs within five (5) University business days from the effective date of the interim suspension. The Director may observe and answer questions the Vice Chancellor and Dean of Academic and Student Affairs may have regarding the interim suspension. Any appeal hearing regarding an interim suspension will be limited to the following issues:

- The reliability of the information concerning the student's behavior;
- Whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the student on the university campus and/or in the Residence Halls poses a threat as listed in section 12 of the Code; and/or
- Whether or not the student has completed an evaluation by a mental health professional from the NC State Counseling Center or one of his or her choice, as directed by the interim action.

The following procedures will be followed for an interim suspension:

1. Students will be informed of the time, date, and location of the informal hearing, in writing, delivered by means through which receipt can be verified, at least two (2) University business days in advance. This notice period may be waived in writing by the student. The student will remain suspended on an interim basis pending completion of the informal hearing, but will be allowed to enter the campus to attend the hearing, or for other necessary purposes as authorized in writing by the Director.
2. The interim suspension order may require the student to be evaluated by a mental health professional. In those cases, the informal hearing will be held within five (5) University business days after the Director has received a copy of the student's evaluation.
3. The entire case file, including the names of prospective witnesses and the mental health professional or NC State Counseling Center's recommendations, consistent with state and federal law and University regulations, will be available for inspection by the student in the Office of Student Conduct, during normal business hours.
4. The informal hearing shall be conversational and non-adversarial. Formal rules of evidence and civil procedure will not apply. The Vice Chancellor and Dean of Academic and Student Affairs shall exercise control over the proceedings to avoid needless consumption of time and to achieve the orderly completion of the hearing. Any person who disrupts the hearing may be excluded.

5. The student may choose to be accompanied by an observer, in accordance with section 6.3 of NCSU REG 11.35.02 (Student Discipline Procedures), and a mental health professional, or, in lieu of a mental health professional, by a University faculty or staff member. The student may also be represented by an Attorney/Non-Attorney Advocate in accordance with section 6.1 of the Procedures.

6. Those persons assisting the student will be given reasonable time to ask relevant questions of any individual appearing at the informal hearing, as well as to present relevant information.

7. A student is expected to answer questions concerning his or her conduct. If the student refuses to answer questions, a decision will be made based upon the information available and may result in continued or indefinite suspension from the institution.

8. The informal hearing may be conducted in the absence of a student who fails to appear after proper notice.

9. Where a psychiatric or psychological evaluation is required in the interim suspension order, the provider who prepared the evaluation or NC State Counseling Center staff member who prepared the recommendation may be expected to appear at the informal hearing, and to respond to relevant questions, upon request of any party, if the Vice Chancellor and Dean of Academic and Student Affairs determines that such participation is essential to the resolution of a dispositive issue in the case. The provider may be asked to provide a written statement. The student will be asked to sign a release allowing the individuals to present any medical information protected by privacy laws.

10. The informal hearing shall be recorded. The recording will be kept with the pertinent casefile.

11. A written decision shall be rendered by the Vice Chancellor and Dean of Academic and Student Affairs within five (5) University business days after the completion of the informal hearing. The written decision will contain a statement of reasons for any determination to continue interim suspension.

12. The decision of the Vice Chancellor and Dean of Academic and Student Affairs regarding interim suspension shall be final and not subject to appeal.

13. University student disciplinary proceedings shall be scheduled as soon as practicable following the interim suspension, unless the student requests a deferral until after any criminal proceedings or medical treatments. A request for deferral must be filed with the Director within two (2) University business days from receipt of the initial interim suspension order or the informal hearing decision by the Vice Chancellor and Dean of Academic and Student Affairs. In reviewing the request the Director shall consider the following:

- Whether the interests of the university will be served by postponing the campus proceedings until after the criminal process or medical treatment has been resolved;
- The amount of time the resolution might take; and

- The likelihood that witnesses necessary to provide for a full and fair hearing on campus will or will not be available at a later date.

## APPENDIX G

### Relationship or Interpersonal Violence and Sexual Misconduct

In order to comply with Title IX of the Higher Education Amendments of 1972 (20 U.S.C. § 1681 et seq. (Title IX) and the Violence Against Women Reauthorization Act of 2013, reports of conduct involving alleged violations of sections 10.14 (Relationship or Interpersonal Violence, including Dating Violence, Domestic Violence and Stalking) or 10.15 (Sexual Misconduct) of the Code are subject to specialized and/or additional processes and procedures. These processes and procedures are designed to provide a prompt and equitable resolution for both the complainant and respondent.

#### General Provisions for Processing Reports of Relationship or Interpersonal Violence or Sexual Misconduct.

1. Reports of misconduct involving allegations of Relationship or Interpersonal Violence or Sexual Misconduct pursuant to sections 10.14 or 10.15 of the Code (“reports”) may be filed directly with the Office for Institutional Equity and Diversity (OIED), the Office of Student Conduct, or University Police. Upon receiving notification of allegations, the receiving office shall immediately notify the other offices of the report to ensure Clery and Title IX obligations are met. The receiving office shall provide resources and notification of rights to the complainant and respondent.
2. Reports will be reviewed by OIED to determine whether the alleged actions warrant a Title IX investigation and/or whether a complainant’s request for confidentiality can be maintained. If the complainant wishes to remain anonymous, OIED will assess whether a request for confidentiality should be maintained under Title IX and inform the complainant. This assessment will be consistent with **NCSU REG 04.25.05 – Discrimination, Harassment and Retaliation Complaint Procedure**. If the report does not fall within Title IX, OIED will inform the Office of Student Conduct, which will then promptly, thoroughly and impartially investigate and resolve the matter consistent with the Student Discipline Procedures (NCSU REG 11.35.02).
3. A complainant has the right to file a criminal complaint with University Police or other appropriate law enforcement authority. The processing of a report pursuant to the Student Discipline Procedures is independent of any criminal investigation. The University will not wait until the conclusion of a criminal investigation or criminal proceeding to investigate a report of Relationship or Interpersonal Violence or Sexual Misconduct and, if needed, will take interim action to protect the complainant within the educational setting. In cases involving potential criminal conduct where the complainant has not pressed criminal charges, the University will determine, consistent with federal and state law, whether appropriate law enforcement should be notified.

4. If the report falls within Title IX, OIED will conduct a review and investigation using its standard operating procedures for Title IX investigations. The OIED investigator will provide a draft report to OIED's Title IX Coordinator or Deputy Coordinator for review of the Title IX components and compliance, including whether the alleged conduct could be considered Sexual Harassment, as defined in NCSU POL 04.25.05. OIED will then create a final report.
5. Upon completion of the investigation and final report, OIED will provide the report to the Office of Student Conduct. The report will be treated as confidential, to the extent allowable under applicable law. An Office of Student Conduct investigator will determine whether the facts are sufficient to bring a charge under the Code relating to Relationship or Interpersonal Violence, including Dating Violence, Domestic Violence and Stalking, Sexual Misconduct, or any other provision of the Code. If no charge is brought, the matter will be closed and the Office of Student Conduct investigator will notify the complainant and respondent and inform them of their rights.
6. If Code charges are brought against the respondent, the Office of Student Conduct investigator will notify the complainant and respondent of their rights under the Code and this Regulation.
7. At any point following the filing of a report of Relationship or Interpersonal Violence or Sexual Misconduct the university may take interim action to separate the respondent and the complainant. Such interim actions include, but are not limited to: issuing a "no contact" order, altering the student(s)' academic schedule, changing University housing assignment, etc. In considering interim actions, the Director in consultation with the Title IX Coordinator will seek to minimize unnecessary or unreasonable burdens on either party, but will make reasonable efforts to take into account the wishes of the complainant with respect to interim actions. In cases where the Director determines that the interim action should be the extraordinary intervention of suspension, the procedure in Appendix F will be followed.
8. If a complainant requests that his or her report remain confidential, he or she will be notified that the university may still be obligated to investigate and take reasonable steps in response to the report (though any response may be limited by the complainant's request to keep the report confidential). Even when disciplinary action cannot be imposed against a respondent because the complainant insists on confidentiality, the university may still implement interim action(s) to separate the respondent and complainant.
9. It is a separate violation of sections 10.14 or 10.15 of the Code for any Student, Student Group or Student Organization to retaliate against any person making a report of Interpersonal or Relationship Violence or Sexual Misconduct, or against any person participating in the investigation procedure involving these reports. Retaliation includes threats, harassment, intimidation, and/or coercion and should be reported promptly to the Office of Student Conduct.
10. It is not the practice of the university to pursue disciplinary action against a complainant or witness for his or her improper use of alcohol or drugs provided that such student is acting in good faith as a complainant or witness to the alleged Interpersonal or Relationship Violence or Sexual Misconduct.

#### Hearing Procedures

1. The procedures for an Administrative Hearing (Appendix D) will be followed except with the following adjustments as noted below.
2. Both the complainant and respondent may have a single observer, in accordance with section 6.3 of the Student Discipline Procedures (NCSU REG 11.35.02, as support present during the hearing. An observer may not serve as a witness in the hearing.
3. Both the respondent and complainant may be represented by an Attorney/Non-Attorney Advocate in accordance with sections 3.2.11 and 6 of the Procedures
4. An Office of Student Conduct Hearing Officer will facilitate the Administrative Hearing. The Office of Student Conduct investigator will present the charges. The Hearing Officer and investigator shall not discuss the case outside of the Administrative Hearing. The OIED investigator for the case and/or University Police may be witnesses and may provide witness testimony as allowed regarding their investigatory fact findings.
5. Where the respondent is found to be “responsible,” for the charges, the complainant may present an impact statement (either verbally or in writing) prior to sanctioning. The impact statement may include a request for a specific sanction, though the Hearing Officer is not bound by such request. The respondent will be allowed to respond to the impact statement.
6. At the same time that the respondent is provided with the final written decision, including findings of fact and sanction(s), a copy of the final written decision and sanction(s) shall be provided to the complainant. The Office of Student Conduct shall consult with OIED throughout this process as needed and inform OIED of the final outcome.
7. A complainant or respondent, if dissatisfied with the final decision, may file an appeal as provided in pursuant to section 7 of the Procedures. The time limit for filing an appeal begins upon delivery or attempted delivery of the written notification of the final decision to the complainant or respondent.