

# Appalachian State University

## Code of Student Conduct

Issued by the Office of the Chancellor  
Adopted July 1991  
Revised July 2025

The University reserves the right to change policies and procedures at any time during a student's term of enrollment. Each student is responsible for maintaining current knowledge of disciplinary rules and regulations. The most current Code of Student Conduct can be accessed at [studentconduct.appstate.edu](http://studentconduct.appstate.edu)

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## RELEVANT POLICIES

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

[Academic Integrity Code](#)

Organizational Misconduct

### The Code of the Board of Governors and the UNC Policy Manual

- [Section 502 D \(3\)](#) – Chancellors of Constituent Institutions
- [UNC Policy Manual 700.4.1](#) – Policy on Minimum Substantive and Procedural Standards for Student Disciplinary Proceedings
- [UNC Policy Manual 700.4.1.1\[R\]](#) – Regulation Applicable to Student Disciplinary or Conduct Procedures: Right to an Attorney or Non-Attorney Advisor for Students and Student Organizations
- [UNC Policy Manual 700.4.2](#) – Policy on Student Conduct
- [UNC Policy Manual 700.4.3\[G\]](#) – Guidelines on Student Disciplinary Proceedings: Meaning and Effect of “Expulsion”
- [UNC Policy Manual 700.4.4 – Policy on Campus Gatherings & Related Student Conduct Matters](#)
- [UNC Policy Manual 1300.8](#)- Free Speech and Free Expression Within the University of North Carolina

### Appalachian State University Policy Manual

- [Policy 104](#) – Facility Use
- [Policy 105.3](#) – Policy Statement on the Family Educational Rights and Privacy Act of 1974, as Amended
- [Policy 106](#) – Drugs and Alcohol
- [Policy 110](#)- Discrimination and Harassment
- [Policy 301.4](#) – Clery Safety Act
- [Policy 301.5](#) – Bicycle Helmets
- [Policy 301.8](#) - Hazing
- [Policy 303.24](#) – Animals on Campus
- [Policy 303.25](#) – Tobacco and Related Product Restrictions on University Property
- [Policy 304.2](#) – Use of Skateboards and Similar Devices
- [Policy 901](#) – Information Technology Governance Policy
- [Policy 906](#) - Acceptable Use of Computing and Electronic Resources Policy
- [Policy 908](#) – E-Mail as Official Means of Communication

### University Housing

- [Housing Policies](#)

### Applicable Federal Laws and State General Statutes

- [U.S. Department of Education Information about the Family Educational Rights and Privacy Act of 1974](#)
- [U.S. Department of Education Information about the Clery Safety Act](#)
- [North Carolina Controlled Substances Act – North Carolina General Statutes, Chapter 90, Article 5](#)
- [H.R.5646 – Stop Campus Hazing Act](#)

## PURPOSE AND GOALS

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

The University acknowledges that students have rights and responsibilities as members of the Appalachian State University community, and the University has expectations regarding the behavior of its members which extend beyond the classroom into all aspects of life. The mission of the Office of Student Conduct and Academic Integrity is to educate students about community standards and prohibited conduct, promote student learning and accountability, and facilitate the development of thoughtful, responsible, and engaged members of the community. The Office of Student Conduct and Academic Integrity strives to reduce and prevent behavior that undermines student success and that negatively detracts from the mission of the University; to provide timely support and resources for students; and to ensure the health and safety of students, our campuses, and the surrounding communities. The process by which Appalachian State University educates Respondents who violate the community standards of the *Code of Student Conduct* is through disciplinary review and imposition of outcomes, which may include possible separation from the University. Decisions made using the *Code of Student Conduct* take into consideration both the rights of the student(s) and the needs of the University in accomplishing its educational goals and mission. In exercising its scope, the University is committed to the principle of fundamental fairness.

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

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

## ARTICLE I – DEFINITIONS

For purposes of this policy, the following terms have the definitions provided below. Please note that some of these terms may have different meanings in other contexts. Please refer to [University Policy 110](#) for applicable definitions of key terms covered under that policy.

- 1.01 **Administrative Hearing Officer** is a trained full-time University staff member, or a trained third party, appointed by the Director or designee, who may address a charge(s) against a Respondent in a Formal Resolution.
- 1.02 **Advisor** is an individual attorney or non-attorney who may represent a Respondent, or, a Complainant, at any point in the disciplinary proceedings. The Advisor may fully participate only to the extent and in the same manner afforded to the Respondent or Complainant(s) they represent, provided that the Advisor may not provide testimony. The Advisor may not, in the sole discretion of the individual facilitating the meeting, delay, disrupt, or otherwise interfere with the proceeding. An Advisor may not serve in any other role throughout the student conduct process, including, but not limited to, as a support individual or Witness.
- 1.03 **Appeal Board or Appeal Administrator** is the University Board or Official with the authority to review and make decisions on appeals. The Appeal Board, composed of three members from a pool of trained students, faculty, and full-time staff, as long as full-time staff maintain the majority of the board, may review appeals of Formal Resolutions. Appeals of final dispositions of student conduct proceedings must be heard and determined by separate campus administrator(s) or a neutral external adjudicator engaged by the campus, none of whom participated in the initial hearing and disposition being appealed. In Cases of Interim Action, the Appeal Administrator shall be the Director or their designee. In cases involving Expulsion, the Appeal Administrator shall be the Executive Vice Chancellor and Provost.
- 1.04 **Board Advisor** is an individual designated by the Director to advise the Administrative Hearing Officer and/or members of a Board during a hearing or appeal process to ensure that policies and procedures are appropriately followed and that the process is prompt, fair, and impartial. The Board Advisor in any case shall not be the same individual who makes any determination on responsibility, recommendation on outcome(s), or determination on outcome(s) in that case.
- 1.05 **Chancellor** is the Chancellor of Appalachian State University. The Chancellor may delegate authority to perform any of the duties assigned to that official in the *Code of Student Conduct*. All references to the Chancellor include any such designee.
- 1.06 **Clery Safety Act** is the Act and its implementing regulations, as amended.
- 1.07 **Complainant** is any individual or entity who has been subject to misconduct.
- 1.08 **Complaint** is an allegation of misconduct prohibited by the *Code of Student Conduct*.
- 1.09 **Conduct Resolution Administrator** is the person who, in their professional judgment on the basis of the information provided or in consultation with appropriate University officials, proposes findings regarding any alleged violation(s) and may specify any outcome(s) described in the *Code of Student Conduct* during Pre-Resolution meetings/Informal Resolutions.
- 1.10 **Crime of Violence** is any act(s) as defined by FERPA, and/or the Clery Safety Act.

- 1.11 **Day** is a business day (Monday through Friday) during which the University is fully open for business. For purposes of the *Code of Student Conduct*, “Day” does not include federal, state, and campus holidays and observances; or days on which the University’s operations are officially reduced.
- 1.12 **Dean of Students** is the Dean of Students of Appalachian State University. The Dean of Students may delegate authority to perform any of the duties assigned to that official in the *Code of Student Conduct*. All references to the Dean of Students include any such designee.
- 1.13 **Director** is the Assistant Dean of Students and Director of Student Conduct at Appalachian State University. The Director may delegate the authority to perform any of the duties assigned to that official in the *Code of Student Conduct*. All references to the Director include any such designee. The Director is subject to the authority of the Vice Chancellor for Enrollment Management and Student Affairs and the Chancellor. The Director shall administer the provisions of the *Code of Student Conduct*, oversee the day-to-day operations of the Office of Student Conduct and Academic Integrity, advise the Vice Chancellor for Enrollment Management and Student Affairs on changes in the *Code of Student Conduct* that should be considered by the Committee on Student Conduct, and advise and train members of conduct boards and individuals designated as Conduct Resolution Administrators.
- 1.14 **Disciplinary Action** is the imposition of an outcome authorized by the *Code of Student Conduct*.
- 1.15 **Disciplinary Record** is a student conduct case with a finding of Responsible maintained by the University. The University follows a Records Maintenance schedule as described in the *Code of Student Conduct*.
- 1.16 **FERPA** is [the Family Educational Rights and Privacy Act of 1974](#) and its implementing regulations, as amended.
- 1.17 **Charge** occurs when the Director or designee initiates conduct procedures to address an alleged violation(s) of the *Code of Student Conduct* by a Student or Student Organization.
- 1.18 **Formal Resolution** requires the use of a Board, or an Administrative Hearing. Additional information about Administrative Hearings and Board composition can be found in the *Code of Student Conduct*.
- 1.19 **Good Disciplinary Standing** is a student’s status when there are no pending Complaints or active Outcomes with the Office of Student Conduct and Academic Integrity.
- 1.20 **Impact Statement** is an oral or written statement describing how an incident affected the individual’s life, the desired outcomes the individual would like to see, and the overall effect on the individual.
- 1.21 **Informal Resolution** may occur during a pre-resolution meeting, where the Conduct Resolution Administrator will, in their professional judgment on the basis of the provided information or in consultation with appropriate University officials (e.g., Title IX Coordinator; University Housing; the Dean of Students), propose findings regarding any alleged violation(s) and may specify any outcome(s) described in the *Code of Student Conduct*. If the Respondent accepts the Informal Resolution, they waive their right to a Formal Resolution and, if applicable, accept responsibility for the violation(s) and the outcome(s) proposed.
- 1.22 **May** is used in the permissive sense.
- 1.23 **Member of the University Community** is any individual who is a student, faculty member, staff member, or other individual employed by or volunteering for the University.

- 1.24 **Outcome** (synonymous with the term “sanction” in The University of North Carolina Board of Governors Policy 700.4.1) may be imposed if a student is found responsible for a violation of the *Code of Student Conduct*. Outcomes are intended to educate Students on the effects of their behavior and encourage change in future decision making.
- 1.25 **Possession** or **Possessing** is physically holding or controlling the subject item or owning or controlling a room, vehicle, or other area where the subject item is present. The presence of the subject item in a room, vehicle, or other area creates a presumption that the person owning or controlling the room, vehicle, or other area possessed the subject item.
- 1.26 **Procedural Advisor** is a University official designated by the Director to assist the Respondent, Complainant, and any witnesses navigate a Formal Resolution process.
- 1.27 **Provost** is the Executive Vice Chancellor and Provost of Appalachian State University. The Provost may delegate the authority to perform any of the duties assigned to that official in the *Code of Student Conduct*. All references to the Provost include any such designee.
- 1.28 **Psychoactive Agent** is a substance which may cause alterations in perception, mood, consciousness, cognition, or behavior.
- 1.29 **Reasonable Individual** is a reasonable individual under similar circumstances and with similar identities to the individual who is the subject of the behavior in question.
- 1.30 **Respondent** is any Student who is alleged to have violated the *Code of Student Conduct*.
- 1.31 **Responsible** is when, based on the preponderance of the evidence, a student is found to have committed a violation of the *Code of Student Conduct* and/or the student has accepted responsibility in an informal or formal process.
- 1.32 **Serious Violation** is one for which the possible outcomes include suspension or expulsion.
- 1.33 **Shall** or **Will** is used in the imperative sense.
- 1.34 **Student** is any individual who, at the time of the incident, has accepted an offer of admission to the University; is currently enrolled in coursework or has registered for coursework at the University; has a continuing relationship with the University; is an auditing Student; or is participating in an educational program sponsored by or affiliated with the University.
- 1.35 **Student Organization** means an organization (such as, but not limited to, clubs, societies, associations, athletic teams, club sports teams, ROTC, fraternities, sororities, marching band, or student government) in which two or more of the members are students enrolled at the University, whether or not the organization is established or recognized by the University.
- 1.36 **Support Individual** may be present in a non-speaking role to provide emotional support to the student during any proceedings. The support individual may not participate in the proceedings, address any participants, or, in the sole discretion of the individual facilitating the meeting (e.g., Conduct Resolution Administrator, Chair, or Administrative Hearing Officer), delay, disrupt, or otherwise interfere with the proceeding. A support individual may not serve in any other role throughout the student conduct process, such as Advisor or Witness.
- 1.37 **Threat** is an expression of intent to cause physical or mental harm.

- 1.38 **University** is Appalachian State University, a constituent institution of The University of North Carolina, which offers educational programs through campus locations in Boone and Hickory, North Carolina, as well as through officially designated online courses and learning platforms.
- 1.39 **University Conduct Board** is composed of individuals selected by the Director from a pool consisting of campus administrators, faculty, and students, so long as campus administrators constitute a majority of the committee.
- 1.40 **University Official** is a University employee acting in the performance of their assigned duties, capacity, or authority. This includes any individual who is a student employee, faculty member, staff member, or other individual employed by or volunteering for the University.
- 1.41 **University Premises** includes property owned, leased, or controlled by the University, which includes On-Campus Property, Non-Campus Buildings or Property, and public property within or immediately adjacent to the University's campuses.
- 1.42 **University Representative** refers to the University employee who presents at a hearing a summary of any relevant information gathered to the Administrative Hearing Officer or University Conduct Board.
- 1.43 **University-Sponsored Activity** is any activity on-or off-campus which is initiated, funded, authorized, or supervised by the University.
- 1.44 **Vice Chancellor for Enrollment Management and Student Affairs** is the Vice Chancellor for Enrollment Management and Student Affairs of Appalachian State University. The Vice Chancellor for Enrollment Management and Student Affairs may delegate authority to perform any of the duties assigned to that official in the *Code of Student Conduct*. All references to the Vice Chancellor for Enrollment Management and Student Affairs include any such designee.
- 1.45 **Weapon(s)** include, but are not limited to, all firearms; explosive agents; fireworks; chemicals such as mace and tear gas (if used in an illegal manner); air or canister propelled guns such as BB guns, pellet guns, and paintball guns; tasers or stun guns; metallic knuckles; switchblade knives; martial arts weapons; any object or substance used, attempted to be used, or intended to inflict a wound, cause injury, or incapacitate; or any other "weapon" as defined [by N.C.G.S. §14-269.2.1.47](#)
- 1.46 **Witness** is an individual who has direct experience with, or knowledge of, events, issues, or circumstances related to the incident. A University Official, Complainant, or Respondent may identify witnesses. A Witness may not serve in any other role throughout the student conduct process, including, but not limited to, as support individual or Advisor.
- 1.47 Terms not specifically defined in the *Code of Student Conduct* shall be defined by the Merriam-Webster's Dictionary, located at [www.merriam-webster.com/dictionary](http://www.merriam-webster.com/dictionary). Terms not defined in the Merriam-Webster's Dictionary shall be defined according to their plain and ordinary usage.

## ARTICLE II – SCOPE

### 2.01 Authority

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

This *Code of Student Conduct* is the University's primary policy governing student behavior. The provisions of the *Code of Student Conduct* are not contractual covenants between the University and the student. The University reserves the right to change the *Code of Student Conduct* at any time during a student's term of enrollment. Such changes will be communicated to members of the University community through various publications. Each student is responsible for maintaining current knowledge of the *Code of Student Conduct* and any amendments or updates that may be implemented.

An operating unit of the University (e.g., academic colleges or departments, University Housing, Athletics, International Programs) may also establish conduct standards for the student/departmental relationship, so long as those standards are consistent with the provisions of the *Code of Student Conduct* or establish higher standards of conduct set forth in the *Code of Student Conduct*. Disciplinary action in alignment with the *Code of Student Conduct* does not limit additional action by the operating unit. Outcomes applied under the *Code of Student Conduct* cannot be waived or modified by the operating unit. The operating unit may impose outcomes in lieu of outcomes applied in proceedings under the *Code of Student Conduct* only when done in consultation with the Director.

### 2.02 Admissions Decisions

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

### 2.03 Scope

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

#### a. Violation(s) of Law and University Disciplinary Actions

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



extent permitted by law. The outcome of a criminal or civil legal process is not determinative of the outcome of a University disciplinary process.

b. *Off-Campus Behavior(s)*

Types of off-campus behavior(s) that may be addressed by the Office of Student Conduct and Academic Integrity include, but are not limited to, the following:

1. felony charges;
2. acts of harm charges, including, but not limited to, assault, harassment, or threats;
3. hazing;
4. misconduct at another UNC System school may result in disciplinary action at a student's home institution. As members of a unified system, we hold all students accountable to the standards and policies that guide our universities. It is unacceptable for any UNC student to engage in behavior that violates the policies of any institution within our system;
5. behavior that occurs at any college or university may be processed under the *Code of Student Conduct* in the same manner as on-campus behavior; and
6. activities of a student or group of students that conflict with the University's interests and mission, including, but not limited to, any other behavior(s) that put the health and safety of others at risk or show disregard for the policies of the University.

**2.04 Freedom of Expression**

The University embraces and strives to uphold the freedoms of expression and speech guaranteed by the First Amendment of the United States Constitution and the North Carolina Constitution. The University has the right, under appropriate circumstances, to regulate the time, place, and manner of exercising these and other constitutionally protected rights. In administering the *Code of Student Conduct*, due care will be exercised in order to preserve freedoms of speech and expression, as articulated in current legal standards. This will be done in accordance with [UNC Policy 1300.8](#) regarding Free Speech and Free Expression.

**2.05 University as Complainant**

As necessary, the University reserves the right to initiate a Complaint, and/or to initiate conduct proceedings if there appears to be reliable information indicating that a violation may have occurred. The student conduct process will be initiated. Reports may also be addressed through other non-conduct procedures.

**2.06 Placement of Holds**

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

**2.07 Notification of Outcomes**

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

- a. The University will release the results of any disciplinary proceeding to an alleged victim of any Crime of Violence or in cases involving an alleged Crime(s) of Violence or sexual/sex-based misconduct, to be informed of the final decision and results of a disciplinary proceeding in accordance with FERPA, Title IX of the Education Amendments Act, and the Clery Safety Act; and all other rights provided to the Respondent.
- b. University Officials will be notified of any final resolution that requires their action.
- c. The University is required to release, as public records, Disciplinary Records of Respondents who have violated the University's sexual/sex-based misconduct policies. These records are subject to mandatory disclosure under North Carolina's Public Records Act.

## 2.08 **Parental Notification**

The Office of Student Conduct and Academic Integrity may notify parent(s) or guardian(s) of students under the age of twenty-one (21) of certain alcohol or drug violations. This notification generally will take place upon the determination of a violation in the student conduct process. Unless there are extenuating circumstances, the Office of Student Conduct and Academic Integrity will generally not notify the parent(s) or legal guardian(s) of students under the age of twenty-one (21) of first-time alcohol violations. For more information, please see [the Family Educational Rights and Privacy Act of 1974](#).

## 2.09 **Online Misconduct**

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

## ARTICLE III – RIGHTS OF INVOLVED PARTIES

### 3.01 Rights of the Respondent

The Respondent has the following rights:

- a. to be provided with a fundamentally fair process;
- b. to be presumed not responsible for a violation of the *Code of Student Conduct* unless determined otherwise;
- c. to be given written notice of any allegation(s) or formal charge(s) of prohibited conduct;
- d. to review the information that will be presented in any resolution, provided that the information may be shared with the Respondent in a redacted format;
- e. to present relevant information on their behalf;
- f. to obtain support, advice, or assistance from a support individual, a Procedural Advisor, and/or an Advisor, pursuant to relevant sections of the *Code of Student Conduct*;
- g. to request reasonable accommodations under [Section 504 of the Rehabilitation Act](#) and the [Americans with Disabilities Act](#) through the Appalachian State University Office of Access & Opportunity: Disability Resources;
- h. to request the identity of individuals providing written or verbal information for consideration at any hearing; to confront, in some manner, the allegations and information presented relevant to the formal charge(s) against them, which in all cases will be brought forward by the University;
- i. to request that a member of a Board or the Administrative Hearing Officer be excluded from the hearing on the basis of a conflict of interest or bias;
- j. to not speak or answer any question(s) if such statements or answers would tend to implicate them in a violation of the *Code of Student Conduct*. When a Respondent refuses to speak, therefore avoiding questioning, they relinquish the right to make a written or verbal statement at the end of the findings stage of the hearing; however, a summation of the relevant facts of the matter under adjudication may be made by the Respondent's Procedural Advisor or Advisor, provided that the summation is not a substitute for the statement the Respondent declined to provide;
- k. to pose reasonable questions to any Witness appearing at a hearing in a manner determined by the Chair or Administrative Hearing Officer;
- l. to have prior disciplinary history excluded from a Formal Resolution except during the outcome phase unless the case is heard by an Administrative Hearing Officer;
- m. to provide an Impact Statement during the resolution process as stated in the *Code of Student Conduct*;
- n. to be informed of the final decision and results of a disciplinary proceeding;
- o. to appeal any Formal Resolution, pursuant to the *Code of Student Conduct*;
- p. to have supervised access to a recording of the formal hearing proceedings; and

- q. to have any Disciplinary Records kept confidential unless an exception is allowed or required by law or regulation.

### 3.02 **Rights of the Complainant**

The Complainant has the following rights:

- a. to be provided with a fundamentally fair process;
- b. to file a Complaint within one hundred eighty (180) calendar days following the date on which an alleged violation of the *Code of Student Conduct* occurred;
- c. to file criminal charges or pursue civil action in addition to any action taken under the *Code of Student Conduct*;
- d. to request reasonable accommodations under [Section 504 of the Rehabilitation Act](#) and the [Americans with Disabilities Act](#) through the Appalachian State University Office of Access & Opportunity: Disability Resources;
- e. the University will release the final decision of any disciplinary proceeding to alleged victims of Crimes of Violence in accordance with FERPA, Title IX of the Education Amendments Act, and the Clery Safety Act;
- f. in cases of Title IX Sexual Harassment, appeal rights provided to the Respondent are also provided to the Complainant.

## ARTICLE IV – PROHIBITED CONDUCT

All Students are responsible for conducting themselves in a manner that creates an environment of learning in which the rights, dignity, worth, and freedom of each member of the academic community are respected. Students are responsible for abiding by the *Code of Student Conduct*, agree to the expectations set forth by the University, and can be held responsible for their behavior. Lack of familiarity with University policy, intoxication or impairment from alcohol, drugs, or other substances, or an individual's disability is not an excuse or defense to a violation of the *Code of Student Conduct*. Unless specifically noted in the policy definition, intent is not a required element to establish a policy violation. Additionally, attempting to engage in behavior(s) that may be in violation of the *Code of Student Conduct* may also be pursued as an alleged violation. Prohibited conduct includes the following:

### 4.01 Accessory

- a. Assisting in the commission of or knowingly being in the presence of prohibited conduct.

### 4.02 Acts of Harm

- a. *Physical Violence* – Engaging in any behavior against another person that inflicts, attempts to inflict, or assists in (1) inflicting bodily harm to a person (2) inappropriate or unwanted physical contact with another person, such as pushing, slapping, or spitting.
- b. *Threats* – Threatening another individual or group, whether communicated to one (1) or more individuals, physically, verbally, or by any other means such that the individual or group reasonably believes that the threat is likely to be carried out. Examples include, but are not limited to, intimidation and coercion.
- c. *Endangerment* – Acting in a manner that could or did place the health or safety of another at serious risk or create a substantial risk of physical harm to a person or the Appalachian State University community.
- d. *Acts Against University Official or Emergency Personnel* – Placing a University Official or Emergency Personnel (e.g., Police Officers, Firefighters, EMT, etc.) in fear or at risk of physical harm or danger or engaging in physical violence against a University Official or Emergency Personnel.
- e. *Threats Towards a University-Sponsored Activity* – Issuing threats of violence which disrupt a University-sponsored activity and/or operations.
- f. *Bullying/Cyberbullying* – Engaging in repeated or aggressive online or other behaviors, as an individual or group of individuals, that intimidate, intentionally harm, control, or seek to control another individual physically, mentally, or emotionally such that it alters the conditions of education, employment, or participation in a university program or activity. An isolated incident, unless sufficiently severe, does not constitute a violation.

### 4.03 Alcohol

- a. *Underage Possession/Use* – Possessing or using alcohol while under the age of twenty-one (21).
- b. *Driving Under the Influence* – Operating a motor vehicle under the influence of alcohol or while impaired by the consumption of alcohol.
- c. *Providing to Minors* – Providing alcohol to any individual under the age of twenty-one (21).

- d. *Public Intoxication* – Being intoxicated in public attributable in part or in whole to the use of alcohol.
- e. *Violation of Alcohol Policies* – Violating Policy 106 – Drugs and Alcohol including, but not limited to, (a) having common source containers within any University housing, any University outdoor area, or event sponsored by a Student Organization; or (b) possessing an open container on University Premises, unless specifically permitted under Policy 106 – Drugs and Alcohol. (c) violating the Housing Alcohol Policy (d) possessing or using any item(s) that facilitates the excessive or rapid consumption of alcohol such as drinking games or drinking related devices.

#### 4.04 **Computer Misuse**

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

#### 4.05 **Disorderly Conduct**

- a. *Disruption of University Functions or University-Sponsored Activities* – Materially and substantially disrupting the functioning of the University. See [UNC System Policy 1300.8](#) and [Facility Use Policy-Section 4.1.10](#).
- b. *Disruption of Student Environment* – Engaging in behavior that is likely to disrupt, obstruct, or interfere with a student's living or learning environment.
- c. *Obscene Conduct* – Lewd, indecent, or obscene conduct. Examples include, but are not limited to, urinating and/or nudity in inappropriate locations.
- d. *Rioting/Raiding* – Rioting, inciting to riot, assembling to riot, raiding, inciting to raid, or assembling to raid University operating units or property.
- e. *Public Disturbance* – Creating a public disturbance, including, but not limited to, fighting or other violent behavior/conduct; creating the threat of imminent fighting or other violence; committing a nuisance or generally engaging in disruptive behavior; using language that is likely to provoke a reasonable individual to violent retaliation; and disrupting, disturbing, or interfering with the academic atmosphere of a living or learning environment.
- f. *Excessive/Disruptive Noise* – Engaging in excessive or disruptive noise, including, but not limited to, the public use of unapproved amplified sound and the amplification of sound in a manner that disrupts or disturbs the normal functioning of the University.
- g. *Non-Consensual Electronic Recording* – Creating, using, or sharing a photograph, video, or audio recording without consent or authorization that places or is likely to place an individual at risk of physical, mental, or emotional harm.

#### 4.06 **Drugs**

- a. *Manufacturing/Selling/Distributing* – Manufacturing (including growing marijuana), selling, distributing, or possessing with the intent to manufacture, sell, or distribute any substance identified as a controlled substance by North Carolina General Statutes, Chapter 90, Article 5 ([North Carolina Controlled Substances Act](#)).

- b. *Possession/Use* – Possessing or using any unauthorized substance identified as a controlled substance by North Carolina General Statutes, Chapter 90, Article 5 ([North Carolina Controlled Substances Act](#)).
- c. *Misuse* – Misusing over-the-counter drugs, medically prescribed drugs, psychoactive agents, or huffing/sniffing any substance not intended for such use.
- d. *Paraphernalia* – Possessing drug paraphernalia, including, but not limited to, pipes, scales, bongs, blow tubes, and roach holders.
- e. *Driving Under the Influence* – Driving while impaired attributable in part or in whole to the use of drugs.
- f. *Public Intoxication* – Being intoxicated in public attributable in part or in whole to the use of drugs.

#### 4.07 **False Information**

- a. *Bomb Threat* – Falsely reporting the presence of an unlawful explosive or incendiary device with the intent to mislead, deceive, or disrupt the operation of the University or a University-sponsored activity.
- b. *Misleading* – Furnishing false information to University or emergency personnel with the intent to deceive or mislead.
- c. *False Statements* - Knowingly making in public a false oral statement or knowingly publishing/distributing a false written or printed statement with the intent to deceive or mislead.
- d. *Misuse or Alteration of Documents* – (1) Forging, altering, or misusing University documents or records, or (2) altering documents provided to the University with the intent to deceive or mislead.
- e. *Fake Identification* – Possessing or using a fake, forged, or altered instrument of identification including, but not limited to, any kind of identification card.
- f. *False Report of Emergency* – Falsely reporting a fire or other emergency or falsely setting off a fire alarm.

#### 4.08 **Fires and Emergencies**

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

#### 4.09 **Hazing**

- a. Hazing is any intentional, knowing, or reckless act committed by one person or a group against another individual or group, regardless of willingness to participate that: is connected with an initiation into, an affiliation with, or the maintenance of membership in, a Student Organization or group; and causes or creates a risk (above the reasonable risk encountered in the course of participation in the institution or the student organization) of physical or psychological injury. It includes activities such as:
  - 1. whipping, beating, striking, electronic shocking, placing harmful substances on someone's body, or similar activity;

2. causing, coercing, or otherwise inducing sleep deprivation, exposure to the elements, confinement in a small space, extreme calisthenics, or other similar activity;
3. causing, coercing, or otherwise inducing another person to consume food, liquid, alcohol, drugs, or other substances;
4. causing, coercing, or otherwise inducing another person to perform sexual acts;
5. any activity that places another person in reasonable fear of bodily harm through the use of threatening words or conduct;
6. any activity that may constitute personal servitude, including but not limited to expectations to provide beeping services, performing cleaning tasks, carry and present specific objects upon request, remain on call or continuously available, or running errands and complete tasks for another individual;
7. any activity that may constitute personal servitude, including but not limited to expectations to provide beeping services any activity against another person that includes a criminal violation of local, State, Tribal, or Federal law; and
8. any activity that induces, causes, or requires another person to perform a duty or task that involves a criminal violation of local, State, Tribal, or Federal law.

#### 4.10 **Noncompliance**

- a. *Failure to Comply* – Delaying, obstructing, resisting, or failing to comply with the reasonable request of an individual who, in the performance of their duties, identifies themselves as a University Official, event staff, or emergency personnel. This includes but is not limited to, failure to comply with a no contact directive issued by the Office of the Dean of Students or failing to comply with posted policies of ticketed, tailgating, and/or athletic events.
- b. *Outcomes* – Failing to comply with outcomes imposed under the *Code of Student Conduct* or the [Academic Integrity Code](#).
- c. *Unauthorized Disclosure* – Disclosing without authorization confidential records, tapes, information, or documents provided ancillary to any proceedings under the *Code of Student Conduct*.
- d. *Unapproved Events* – Failing to comply with the rules and regulations of holding sanctioned and approved events.

#### 4.11 **Projectiles**

- a. Throwing or launching any object or substance which has potential for damaging or defacing property or causing physical harm or disruption. This may include snowballs, toy foam darts, etc.

#### 4.12 **Retaliation**

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



**4.13 Solicitation and Fundraising**

- a. Soliciting or fundraising on University premises without authorization. Additional information can be found in [Policy 507.17 Sales and Solicitation on Campus](#).

**4.14 Stalking**

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

**4.15 Theft or Unauthorized Possession**

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

**4.16 Unauthorized Entry or Access**

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

**4.17 Vandalism**

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

**4.18 Violation of Law**

- a. Committing or attempting to commit an act that would be in violation of any federal, state, or local law, and that is not covered under any other provision of the *Code of Student Conduct*.

**4.19 Violation of University Policies, Regulations, or Rules**

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

**4.20 Weapons**

- b. *Possession* – Possessing any firearm, explosive, or Weapon on University premises without authorization, except as otherwise explicitly allowed by law.
- c. *Displaying/Brandishing* – Displaying or brandishing a firearm or Weapon of any kind, or any item that may be used or perceived as a firearm or Weapon, in a manner that would reasonably create a fear of harm to others.

## ARTICLE V – PROCESS FOR ADDRESSING PROHIBITED CONDUCT

### 5.01 Notification and Written Communication

In alignment with [Policy 908 – E-Mail as Official Means of Communication](#), all forms of written communication shall be delivered via the Respondent's official University e-mail. Special circumstances may require that written communication be delivered in person or via postal mail. Written communication shall be considered delivered on the date e-mailed, hand-delivered, or three (3) days after the communication is mailed.

### 5.02 Reporting Allegations

- a. Complaints of alleged misconduct may be filed with the Office of Student Conduct and Academic Integrity. The Complaint should be submitted as promptly as feasible after the occurrence. A delay in reporting may be reasonable under some circumstances, as determined on a case-by-case basis. An unreasonable delay in reporting, however, is an appropriate consideration in evaluating the merits of a Complaint. A Complaint must be made within one hundred eighty (180) calendar days following the date on which an alleged violation of the *Code of Student Conduct* occurred. In extenuating circumstances, the timeline for filing a Complaint may be extended. *(Note: Any Complaint regarding concerns of discrimination, harassment or retaliation based on protected status, workplace bullying, and sexual/sex-based misconduct should be reported through the Appalachian State University Office of Access & Opportunity: Equal Opportunity (EO).)*
- b. To be considered, a Complaint must include factual information supporting the allegation(s). Anonymous Complaints may be submitted; however, cannot be the sole basis of a referral under the *Code of Student Conduct*. Information provided through public electronic sources or public records (e.g., criminal citations, etc.) may be used as a Complaint of misconduct.
- c. In their professional judgment, on the basis of the information provided or in consultation with appropriate University officials, the Director will determine:
  1. if a Complaint shall be pursued or dismissed,
  2. what the possible minimum outcomes may be, based on the nature of the Complaint or the Respondent's prior disciplinary history, and
  3. the most appropriate means for addressing the Complaint (e.g., investigation, Informal Resolution, Formal Resolution).

A determination to initiate a disciplinary proceeding accusing a student of a violation of the *Code of Student Conduct* should be made by a designated university official within a reasonable period of time after the constituent institution receives the report.

- d. For purposes of addressing alleged violations of the *Code of Student Conduct*:
  1. For substantive purposes of determining responsibility for a *Code of Student Conduct* violation, the definitions set forth in the *Code of Student Conduct* in effect at the time of the alleged incident shall apply.
  2. For procedural purposes, the process set forth in the *Code of Student Conduct* at the time the Director determines to pursue a Complaint shall apply.

- e. Allegations of misconduct will be presented to the Respondent in writing and will include the alleged violation(s) and details about next steps relevant to the *Code of Student Conduct*.

### 5.03 **Review of Information**

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

### 5.04 **Standard of Information**

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

### 5.05 **Presence of Support Individuals and Advisors**

The Respondent has the right to be accompanied by one (1) support individual. This individual is present to provide emotional support to the Respondent(s). The support individual may not participate in the proceedings, address any participants, or, in the sole discretion of the individual facilitating the meeting (e.g., Conduct Resolution Administrator, Chair, Administrative Hearing Officer), delay, disrupt, or otherwise interfere with the proceeding. The Advisor may fully participate only to the extent and in the same manner afforded to the Respondent(s) they represent, provided that the Advisor may not provide testimony. A support individual may not serve in any other role throughout the student conduct process, including, but not limited to, as Advisor or Witness.

- a. The Respondent may be represented by one (1) Advisor. Notification of the Advisor and/or support individual's planned participation, as well as other required documents related to their participation, must be submitted prior to the meeting.
- b. In the sole discretion of the individual facilitating the meeting, the Respondent may confer with their Advisor so long as it does not delay, disrupt, or otherwise interfere with the proceeding.
- c. Reasonable effort will be made to accommodate the availability of support individuals or an Advisor; however, the availability of involved parties (Respondent, Witnesses, the Conduct Resolution Administrator, Administrative Hearing Officer, Board members), and other necessary participants as well as the expectation to promptly complete the proceeding may, in the discretion of the Director, take priority when determining the meeting date and time.

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

In appropriate circumstances the Director or their designee, such as the Executive Director of Access & Opportunity, may impose an Interim Action on a Respondent who has allegedly violated the *Code of Student Conduct*. Interim Action may be imposed effective immediately, without prior notice, when, in the Director's judgment, there is a need to implement a timely and individualized response based on the seriousness of the alleged violation(s) of the *Code of Student Conduct*, there is a potential for

serious disruption or serious threat to the University community and that response may require the Respondent to be separated from area(s) of campus and its property. Interim Action is reviewed in accordance with the procedures outlined in Appendix B and may also include alleged violations of [Policy 110: Discrimination and Harassment](#) while they are being reviewed by the University.

a. *Circumstances Where Interim Action May Apply*

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

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

b. *Removal from University Housing*

The Director or their designee, in conjunction with appropriate University Housing administrators, may remove or effect a change in residence of a Respondent for an interim period pending disciplinary proceedings or medical evaluation. The changes shall become effective immediately without prior notice whenever there is evidence that the continued presence of the Respondent in University Housing poses a substantial threat to individuals or property. Removal from or change in residence pursuant to this section is not appealable.

c. *Temporary Diversion from Regular Process*

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

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

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

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

## 5.07 **Pre-Resolution Meetings**

- a. After being informed of the alleged violation(s) and their rights under the *Code of Student Conduct*, including the right to a Formal Resolution as set forth in the *Code of Student Conduct*, the Respondent

may voluntarily waive the right to a Formal Resolution and resolve with an Informal Resolution during their pre-resolution meeting.

- b. During a pre-resolution meeting, the Conduct Resolution Administrator will, in their professional judgment based upon the information provided or in consultation with appropriate University officials (e.g., Title IX Coordinator; University Housing; the Dean of Students), propose findings regarding any alleged violation(s) and may specify any outcome(s) described in the *Code of Student Conduct*.
  - 1. If the Respondent accepts the Informal Resolution, they waive their right to a Formal Resolution and, if applicable, accept responsibility for the violation(s) and the outcome(s) imposed.
  - 2. If the Respondent declines the Informal Resolution, the case will be referred to a Formal Resolution.
  - 3. The Respondent may be given up to two (2) days to review the Informal Resolution and decide if they would like to accept or decline the proposed findings and outcomes.
- c. Once the Informal Resolution is signed, the outcome letter must be delivered in writing to the Respondent within five (5) days.
- d. An Informal Resolution may not be appealed.

#### 5.08 **Formal Resolution**

- a. Unless an Informal Resolution is accepted, the Conduct Resolution Administrator shall refer the case to a hearing for Formal Resolution. The Director may also refer any case directly to a hearing without the option of an Informal Resolution.
- b. The Director or their designee will determine which formal resolution body will address the formal charge(s) by considering the nature of the allegation(s), scheduling, or any extenuating factors. A Formal Resolution can be obtained through one of the following:
  - 1. Administrative Hearing– an Administrative Hearing generally will be conducted by an Administrative Hearing Officer who is a trained University staff member, or a trained third party, appointed by the Director or designee, who addresses the charge(s) against a Respondent
  - 2. University Conduct Board – The University Conduct Board shall be composed of individuals selected by the Director from a pool consisting of campus administrators, faculty, and students, so long as campus administrators constitute a majority of the committee.
    - i. One full-time staff member of the University Conduct Board will be appointed Chair by the Director each time it is convened.
- c. A University Conduct Board shall consist of three (3) to five (5) members including the Chair at the discretion of the Director. A case may be referred to an Administrative Hearing Officer when one or more of the following circumstances exists:
  - 1. the case arises at a time when the Conduct Board(s) cannot be convened
  - 2. the case is complex and/or involves a large number of parties or Witnesses; or

3. other circumstances that, in the sole discretion of the Director, warrant use of an Administrative Hearing Officer in order to advance the prompt and equitable resolution of cases or to support the orderly administration of cases being considered under the *Code of Student Conduct*.

Written notice of the hearing shall be provided to the Respondent at least five (5) days prior to the hearing date in cases in which the minimum outcome is less than Suspension, and at least ten (10) days prior to the hearing date in cases in which the minimum outcome is Suspension or Expulsion. The notice will include the formal charge(s), a brief narrative of the incident, and for serious violation cases, the minimum outcome(s). For all cases which could result in Expulsion, the notice will specify that Expulsion precludes enrollment and matriculation at any University of North Carolina constituent institution.

- d. The Director may postpone the hearing, provided that written notice of the new hearing date is given to the Respondent.
- e. The Respondent may request one (1) postponement of the hearing by submitting that request to the Director. Requests should be made at least two (2) days prior to the hearing and will generally only be granted in cases of serious student illness, family emergency, or when a student has a scheduled exam that directly conflicts with the scheduled time.
- f. Cases regarding multiple Respondents or multiple Complainants involved in the same incident may be resolved as a single case only if each Respondent and each Complainant consents in writing to such a proceeding.
- g. The Chair or Administrative Hearing Officer is delegated the authority to conduct hearings in a manner designed to effectively and efficiently elicit information needed to make a decision. This includes the authority to review the admissibility of any information, to question Witnesses, to limit the length of statements of any participant if the statement appears to be repetitious or irrelevant, and to remove any participant who is unruly or disruptive. The Chair or Administrative Hearing Officer is charged with the responsibility to conduct the hearing in a manner that will do the following:
  1. ensure a fundamentally fair process;
  2. protect the rights of the Respondent and Complainant; and
  3. ensure that participants are treated with respect.
- h. Prior to considering the charges, the Chair or Administrative Hearing Officer shall address the following:
  1. the procedures that will be followed;
  2. the hearing being closed to the public;
  3. the importance of confidentiality of the proceedings;
  4. the University's commitment to the principle of fundamental fairness;
  5. the presumption that a Respondent is not responsible for a violation of the *Code of Student Conduct* unless determined otherwise; and
  6. whether any Board member or Administrative Hearing Officer wishes to recuse themselves due to a conflict with, bias about, or interest in the case.

- i. Special considerations may be provided for statements by alternate methods (e.g., room divider, teleconference, video conference). Such considerations are at the discretion of the Director.
- j. All formal resolution hearings will be recorded, and the recordings will serve as the verbatim record. The University retains the sole right to record hearings. No other recordings may be made of the hearings.
- k. All hearings are closed to the public. The Respondent has the right to appear with a Procedural Advisor in addition to support individuals and an Advisor as described in the *Code of Student Conduct*.
- l. The Respondent may request that a member of the Board be excluded from the hearing. This request must be made immediately after the introduction of the Board and requires justification. Additionally, a Board member may recuse themselves if they believe there is a conflict with, bias about, or interest in the case. The Chair or Administrative Hearing Officer shall make the final decision whether to exclude any Board member; this decision cannot be appealed. In the case of an Administrative Hearing, this request must be made within two (2) days of the Respondent's receipt of notice of the Formal Resolution and the identity of the Administrative Hearing Officer. Participation in prior disciplinary proceedings alone will not result in recusal.
- m. The Board or Administrative Hearing Officer, and Respondent may ask reasonable questions of any Witnesses appearing at the hearing. This is not intended to preclude the introduction of written statements, previously written memoranda, letters, or other written material. When practical, the opportunity for questioning should be afforded; however, other information may be introduced at a hearing even though the writer is not present for questioning. Members of the Board or the Administrative Hearing Officer shall attach whatever weight or significance to these documents or statements they deem appropriate.
- n. To determine findings for any alleged violation(s), a vote by the Board will be taken in a closed executive session and will be based solely on the information presented during the hearing. The Board shall base its determination on information that it finds to be reliable, including any assessment of the credibility of information. A vote of "Responsible" by a simple majority of the members present, shall be required to find the Respondent be found responsible for any violation(s). In cases resolved by an Administrative Hearing Officer, they will determine the level of Responsibility based on the preponderance of the evidence standard and the information provided.
- o. Information regarding any prior disciplinary history may not be introduced or considered in deliberations regarding findings of Responsibility.
- p. If the Respondent is found Responsible, the Respondent may provide an Impact Statement and any information related to the Respondent's character, including prior disciplinary history, for consideration by the Board or Administrative Hearing Officer in determining an outcome. A Complainant involved in an alleged Crime of Violence and/or alleged sexual/sex-based misconduct may also provide an Impact Statement. Impact Statements and information provided by either a Complainant or Respondent are not binding but will be given such weight as the Board or Administrative Hearing Officer deems appropriate.
- q. Decisions made by the Board or Administrative Hearing Officer are final unless Expulsion is recommended. In cases involving Expulsion, the recommendation will be forwarded to the Vice Chancellor for Enrollment Management and Student Affairs, who shall make the final administrative

decision. The Respondent will be banned from all University premises and University-sponsored activities and is subject to arrest for trespassing if found on any University premises or at a University-sponsored activity during the period of time in which the recommendation of Expulsion is under review by the Vice Chancellor for Enrollment Management and Student Affairs.

- r. A decision must be made within five (5) days of the date of the hearing. Notice of the decision must be delivered in writing to the Respondent within five (5) days of the decision. The notice will include a brief summary of the information upon which the decision is based and shall specify any appeal rights. The final results of a disciplinary proceeding conducted with respect to an alleged Crime of Violence shall be reported to the alleged victim in accordance with FERPA and the Clery Safety Act.

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

- a. If the Respondent has been notified pursuant to the *Code of Student Conduct* and fails to respond within five (5) days of the initial notice, a hold may be applied to prevent registration, transcript attainment, and/or graduation.
- b. If the Respondent fails to attend their scheduled hearing for a Serious Violation, the Board or Administrative Hearing Officer shall resolve the case in their absence.
  - 1. The Board or Administrative Hearing Officer will, in their professional judgment, determine findings for any alleged violation(s) and may specify any outcome(s) described in the *Code of Student Conduct*.
  - 2. The resolution must be delivered in writing to the Respondent within five (5) days of the decision. The Office of Student Conduct and Academic Integrity may place a hold on the Respondent's account until such time as they confirm receipt of the written decision.
  - 3. If the Board or Administrative Hearing Officer determines that the Respondent's failure to appear was not for the purpose of defeating the disciplinary proceedings, they may rescind the disciplinary action and move forward with either an Informal or Formal Resolution.



## ARTICLE VI – APPEALS

### 6.01 Purpose and Grounds for Appeal

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

### 6.02 Filing an Appeal

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

### 6.03 Resolving an Appeal

- a. The Appeals Board or Administrator may rule on the appeal upon receipt or appoint a committee to recommend action on the appeal. Appeals of final dispositions of student conduct proceedings must be heard and determined by separate campus administrator(s) or a neutral external adjudicator engaged by the campus, none of whom participated in the initial hearing and disposition being appealed.
- b. The Appeals Board or Administrator may issue one of the following decisions:
  1. uphold the finding(s) of responsibility and outcome(s);
  2. uphold the finding(s) of responsibility and reduce, but not eliminate, the outcome(s); or
  3. remand the case to the same or a new Board or Administrative Hearing Officer.
- c. A decision must be made within fifteen (15) days after the appeal is received by the Appeals Board or Administrator. Notice of the decision must be delivered in writing to the Respondent within five (5) days of the decision. The final results of an appeal decision made with respect to an alleged Crime of Violence or act of relationship violence shall be reported to the alleged victim in accordance with FERPA and the Clery Safety Act.
- d. The decision of the Appeals Board or Administrator is final and cannot be appealed further except as otherwise provided in The Code of the Board of Governors of the University of North Carolina [Section 502 D \(3\) – Chancellors of Constituent Institutions](#).

**6.04 Deferral of Outcomes**

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

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

## ARTICLE VII – OUTCOMES FOR INDIVIDUALS

Respondents who are found to have violated the *Code of Student Conduct* will receive outcomes appropriate to the current violation(s) and in consideration of any prior conduct history and/or Compelling Factors. The number of outcomes issued may vary depending on the situation in question. Outcomes are intended to educate Respondents on the effects of their behavior and invoke change in future decision-making. Outcomes may be issued individually, or a combination of outcomes may be assigned. A Conduct Resolution Administrator, Administrative Hearing Officer, or Board may implement any of the outcomes listed in this Article, pursuant to the guidelines set forth in the *Code of Student Conduct* when a finding of responsibility for a violation of policy by the Office of Access and Opportunity: Equal Opportunity has been determined. Unless otherwise noted, all outcomes become effective upon the conclusion of any appeal process, or if no appeal request is submitted, on the deadline for submitting an appeal request.

7.01 **Status Outcomes** – are those issued that impact a Respondent's Disciplinary status and include the following:

- a. *Letter of Concern* – notification that the University is concerned about the Respondent's behavior.
- b. *Disciplinary Warning* – official disciplinary action conveying to the Respondent that their behavior was unacceptable, and that any future violation of the *Code of Student Conduct* may result in more severe disciplinary action, including Disciplinary Probation, Suspension, or Expulsion.
- c. *Disciplinary Probation* – period in which the Respondent's behavior is under University review, conveying that the behavior was unacceptable, and that any future violation of the *Code of Student Conduct* may result in more severe disciplinary action, including Suspension or Expulsion.
  1. Disciplinary Probation shall be imposed for a period no less than the remainder of the current semester up to the remainder of the Respondent's academic career.
  2. If the Disciplinary Probation is for an indefinite period, the Respondent may petition the Director in writing for reinstatement to good standing, but not earlier than two (2) calendar years from the effective date of the Disciplinary Probation.
- d. *Disciplinary Suspension* – separation from the University for a period no less than the remainder of the current semester.
  1. A Suspension may be deferred until the end of the current semester when Compelling Factors are present.
  2. During the period of Suspension, the Respondent shall be banned from all University premises and University-sponsored activities and is subject to arrest for trespassing if found on any University premises or at a University-sponsored activity.
  3. A notation of Suspension shall be recorded on the Respondent's official University transcript maintained by the Registrar's Office. A notation will also be added to the University of North Carolina Suspension/Expulsion database.
  4. A date at which time the Respondent may request to be cleared by the Office of Student Conduct and Academic Integrity and returned to Good Disciplinary Standing can be established contingent upon fulfillment of all requirements set forth by a Conduct Resolution Administrator, Administrative Hearing Officer, or Board.

5. The notation of Suspension shall be removed from the Respondent's transcript after they have been returned to Good Disciplinary Standing. In the case of Suspension for an indefinite period of time, the notation of Suspension shall be removed upon approval of the Director.

e. *Expulsion* – permanent separation from the University.

1. Pending the decision of the Vice Chancellor regarding the recommendation from the Formal Resolution, a Respondent shall be banned from all University premises and University-sponsored activities and is subject to arrest for trespassing if found on any University premises or at a University-sponsored activity.
2. Expulsion precludes enrollment and matriculation at any University of North Carolina constituent institution.
3. The former student shall be banned from all University premises and University-sponsored activities and is subject to arrest for trespassing if found on any University premises or at a University-sponsored activity.
4. A notation of Expulsion shall be recorded on the former student's official University transcript maintained by the Registrar's Office. A notation will also be added to the University of North Carolina Suspension/Expulsion database.
5. The former student may petition the Chancellor, through the Office of Student Conduct and Academic Integrity, to rescind the Expulsion no earlier than two (2) years after the effective date of the Expulsion. The Chancellor's conclusion shall be based on the former student's petition and relevant documentation supporting or opposing the rescission. If the Expulsion is rescinded, the Expulsion notation shall be removed from the former student's transcript, and they are no longer precluded from enrollment and matriculation at any University of North Carolina constituent institution on the basis of the Expulsion.

7.02 **Educational Outcomes** – may be given in addition to Disciplinary Status outcomes include, but are not limited to, the following:

- a. restitution for loss, damage, or actual expenses incurred as a result of the Respondent's behavior;
- b. participation in educational programming, which may include online programs, counseling, evaluation and compliance with any recommendations, reflection pieces, or other activities;
- c. program service fee for on-campus alcohol and other drug education, ranging from \$25-\$100);
- d. change in current University Housing assignment;
- e. loss of University Housing privileges;
- f. random drug testing at the Respondent's expense;
- g. restriction from representing the University in any official function or leadership position (e.g., varsity athletics, student leadership position, cheerleader, elected office in any Recognized Student Organization);
- h. ban for a definite or indefinite period of time from all or a portion of any University premises or University-sponsored activity;

- i. restriction of contact with, or proximity to, other specified members of the University community; and
- j. any other outcome determined appropriate by a Conduct Resolution Administrator, Administrative Hearing Officer, or Board.

**7.03 Post-Enrollment and Post-Graduation Outcomes**

A Respondent who has violated the *Code of Student Conduct*, but who graduates before imposition of an outcome, is subject to:

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

**7.04 Compelling Factors**

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

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

## ARTICLE VIII – DISCIPLINARY RECORDS

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

### 8.01 Records Maintenance

- a. Findings of Not Responsible are considered internal to the University and are not disclosed as part of a Respondent's disciplinary history.
- b. Letters of Concern and Disciplinary Warnings may be disclosed as part of the proceedings under the *Code of Student Conduct* but are considered internal to the University. Disciplinary Warnings may be reportable if a later finding of Responsibility resulting in Disciplinary Probation, Suspension or Expulsion is included in the student's record.
- c. Disciplinary Records are maintained consistent with the [University Records Retention and Disposition Schedule](#).
- d. The University has the right to maintain any Disciplinary Records in excess of the minimum period.

### 8.02 Access and Privacy

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

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

## ARTICLE IX – REVIEW AND REVISION

### 9.01 Annual Review

- a. Subject to the authority of the Vice Chancellor for Enrollment Management and Student Affairs and the Chancellor, the Committee on Student Conduct shall annually review the *Code of Student Conduct* to determine appropriate revisions that are in the best interest of the University. These revisions shall be considered recommendations to the Chancellor.
- b. The Committee on Student Conduct shall be composed of two (2) members of the Deans' Council appointed by the Provost, the Chair of the Faculty Senate (or Faculty Senate delegate) and the Chair of the Council of Chairs (or department chair delegate), two (2) members of the Division of Student Affairs appointed by the Vice Chancellor for Enrollment Management and Student Affairs, the Student Body President (or delegate), one (1) member of a Recognized Student Organization, the Graduate Student Body President (or delegate), the President of the Residence Hall Association (or delegate), and the Director. Each member of the Committee on Student Conduct shall serve a one (1) year term and may be reappointed. The Vice Chancellor for Enrollment Management and Student Affairs shall serve as Chair of this Committee. A quorum shall consist of a simple majority of the appointed members.
- c. The Chancellor reserves the right to appoint other such committees or groups as they deem appropriate to advise them on changes or revisions to the *Code of Student Conduct*.

### 9.02 Changes Beyond the Annual Review

The Chancellor reserves the right to review and amend the *Code of Student Conduct* at any time.

## APPENDIX A – AMNESTY POLICY

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

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

### **The Amnesty Policy may apply to the following:**

- a. students who seek assistance from a University Official or emergency personnel on their own behalf;
- b. individuals who seek assistance from a University Official or emergency personnel on the behalf of another and who remain on the scene to provide support (the policy may also apply to the student who received assistance); or students who report alleged Code of Student Conduct, [Policy 110: Discrimination and Harassment](#), and/or law violations.

### **The Amnesty Policy may not apply to the following:**

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

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

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



## APPENDIX B – INTERIM ACTION

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

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

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

**Interim Actions may include, but are not limited to:**

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

**Interim Suspension**

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

*a. Interim Suspension Review*

A Respondent placed on Interim Suspension shall be afforded a review to address their Interim Suspension and request that the Interim Suspension be lifted. The person issuing the Interim Action shall conduct the review. The following procedures will be applicable:

1. A request for a review must be submitted to the Director within two (2) days of the Respondent's receipt of the notice of Interim Action. In extenuating circumstances, the Director may grant an extension of time. This request must be made in writing to the Director. The request must clearly state the grounds on which it is based and present specific reasons or justifications to support the request. If no request is received by involved parties, University disciplinary proceedings will be scheduled.

2. The Respondent will be informed of the time, date, and location of the review in writing at least two (2) days in advance. This notice period may be waived in writing by the Respondent. The Respondent will remain suspended on an interim basis pending a decision following the review but may be allowed to be on University premises to attend the hearing or for other necessary purposes, as authorized in writing by the Director. If the notice of Interim Suspension requires the Respondent to be evaluated by a licensed health professional acceptable to the University, the review will be held after the Director receives a written evaluation.
3. The Respondent may request that the Director or designee be replaced with another designee in the review. This request must be made in writing and requires justification. Additionally, a Director or designee may recuse themselves if they believe there is a conflict with, bias about, or interest in the review. The Dean of Students shall make the final decision whether to change the Director or designee for the review; this decision cannot be appealed. Participation in prior administrative meetings or disciplinary proceedings alone will not result in recusal.
4. Information utilized during the Interim Suspension review may include the Respondent's Disciplinary Records, including written evaluations from a licensed psychiatrist or psychologist, and verbal testimonies from the Respondent and any Witnesses. The Respondent will be asked to provide consent to the disclosure of any medical or mental health information relevant to the appeal review to those present. All information that may be utilized will be available for inspection by the Respondent in the Office Student Conduct and Academic Integrity during normal business hours.
5. The Interim Suspension review shall be conversational and non-adversarial. A decision shall be made on the basis of the information presented during the review. Formal rules of evidence and procedure will not apply. Any individual who disrupts the review may be excluded.
6. In addition to supporting individuals and an Advisor, the Respondent may have a licensed health professional acceptable to the University present as support.
7. The Interim Suspension review may be conducted in the absence of the Respondent if they were provided with proper notice.
8. The Interim Suspension review shall be recorded, and the recording will be kept with the pertinent disciplinary file.
9. A decision must be made within ten (10) days of the conclusion of the review. Notice of the decision must be delivered in writing to the Respondent within five (5) days of the decision. The written decision will contain a statement of reasons for any determination to continue Interim Suspension.
10. The decision of the Interim Suspension Administrator shall be final and conclusive and not subject to additional appeal.

### **Scheduling University Disciplinary Proceedings**

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

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

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