

# Student Conduct Process - Interim

**Version 15**

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<b>Policy</b>	REG11.30.01
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<b>Contact</b>	Director for the Office of Student Rights and Responsibilities, (252) 328 - 6824

**Related Policies**

UNC Policy Manual 700.4.1, Policy on Minimum Substantive and Procedural Standards for Student Disciplinary Proceedings (<https://www.northcarolina.edu/apps/policy/index.php?section=700.4.1>)

UNC Policy Manual 700.4.1.1[R] Regulation Applicable to Student Disciplinary or Conduct Procedures: Right to an Attorney or Non-Attorney Advocate for Students and Student Organizations (<https://www.northcarolina.edu/apps/policy/index.php?section=700.4.1.1%5BR%5D>)

UNC Policy Manual 700.4.2, Policy on Student Conduct (<https://www.northcarolina.edu/apps/policy/index.php?section=700.4.2>)

UNC Policy Manual 700.4.3[G], Guidelines on Student Disciplinary Proceedings: Meaning and Effect of Expulsion (<https://www.northcarolina.edu/apps/policy/index.php?section=700.4.3%5BG%5D>)

University Alcohol Policy (<https://policy.ecu.edu/07/30/04>)

REG07.30.06 Freedom of Expression Regulation (<https://policy.ecu.edu/07/30/06>) (<https://policy.ecu.edu/07/30/04>)

ECU Policy on Drug Abuse, Graduate Catalog ([https://catalog.ecu.edu/content.php?catoid=21&navoid=1865#Substance\\_Abuse\\_Policy](https://catalog.ecu.edu/content.php?catoid=21&navoid=1865#Substance_Abuse_Policy))

ECU Policy on Drug Abuse, Undergraduate Catalog ([https://catalog.ecu.edu/content.php?catoid=20&navoid=1781#Substance\\_Abuse\\_Policy](https://catalog.ecu.edu/content.php?catoid=20&navoid=1781#Substance_Abuse_Policy))

ECU University Regulation Concerning Weapons on Campus (<https://policy.ecu.edu/05/20/07>)

ECU University Student and Employee Computer Use Policy (<https://policy.ecu.edu/08/05/04>)

ECU Hazing Policy (<https://osrr.ecu.edu/studentorganizations/repothazing/>)

Notice of Nondiscrimination and Affirmative Action Policy (<https://policy.ecu.edu/05/25/02>)

University Good Samaritan Regulation (<https://policy.ecu.edu/11/30/02>)

REG06.40.04 Title IX Compliance and Resolution Regulation (<https://policy.ecu.edu/06/40/04>)

REG06.40.05 University Regulation on Reports of Prohibited Interpersonal Violence and Related Misconduct (<https://policy.ecu.edu/06/40/05>) (<https://policy.ecu.edu/11/30/02>)

Use of University Facilities and Outdoor Facilities Regulation (<https://policy.ecu.edu/07/30/05>)

Residence Handbook (pdf) (<https://campusliving.ecu.edu/wp-content/pv-uploads/sites/49/2018/03/resident-handbook-2019-2020-final.pdf>)

Graduate School Policies and Forms (<https://gradschool.ecu.edu/forms/>)

Graduate and Undergraduate Catalogs (<https://registrar.ecu.edu/about-catalog/>)

Brody School of Medicine Code of Student Conduct (pdf) ([https://medicine.ecu.edu/studentaffairs/wp-content/pv-uploads/sites/238/2019/02/code-of-student-conduct\\_Revised-2011-4-2.pdf](https://medicine.ecu.edu/studentaffairs/wp-content/pv-uploads/sites/238/2019/02/code-of-student-conduct_Revised-2011-4-2.pdf))

Brody School of Medicine Code of Professional Conduct (pdf) (<https://medicine.ecu.edu/studentaffairs/wp-content/pv-uploads/sites/238/2019/02/Code-of-Student-Professional-Conduct-2.pdf>)

School of Dental Medicine Handbook (pdf) (<https://dental.ecu.edu/student-handbook/>)

Code of Ethical Conduct and Professional Behavior for Students and Residents (pdf) (<https://dental.ecu.edu/office-of-compliance/>)

#### **Additional References**

East Carolina University Faculty Manual, Part VI, Section II, Academic Integrity (<https://www.ecu.edu/cs-acad/fsonline/customcf/currentfacultymanual/part6section2.pdf>)

Residence Handbook (<https://campusliving.ecu.edu/wp-content/pv-uploads/sites/49/2018/03/resident-handbook-2019-2020-final.pdf>)

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Procedures for Reports Against Student Organizations ([https://osrr.ecu.edu/wp-content/pv-uploads/sites/234/2018/03/08\\_17\\_2017-Appendix-Procedures-for-reports-against-student-organizations-1.pdf](https://osrr.ecu.edu/wp-content/pv-uploads/sites/234/2018/03/08_17_2017-Appendix-Procedures-for-reports-against-student-organizations-1.pdf))

Student Organization Registration Tiers (<https://engage.ecu.edu/organizations>)

## **1. Introduction**

### **1.1. Purpose Statement**

As an academic community, East Carolina University is dedicated to providing a safe and vibrant learning and working environment for all its members. Under Section 502 D of the Code of the Board of Governors of the University of North Carolina System, the Board of Governors and the President of the University of North Carolina System have delegated the responsibility to manage student conduct to the Chancellor of each constituent campus. ECU's Chancellor, in turn, charged the Vice Chancellor for Student Affairs with overseeing the student conduct process. The Office of Student Rights and Responsibilities and the Student Conduct Board have been created to assist in this effort.

1.1.1 The Student Conduct Process Regulation and supporting policies and procedures have been approved by the Chancellor and are based on input from students, faculty, and staff of East Carolina University. They are intended to aid in the fulfillment of ECU's mission and in securing the broadest range of freedom for each member of the community. These policies and procedures set behavioral standards that

protect the health, safety, welfare, property, and human rights of all members of the community as well as the property of the University.

1.1.2. Additional behavioral standards are also set forth in the University's Title IX Compliance and Resolution Regulation – Interim (<https://policy.ecu.edu/06/40/04>) (“Title IX Regulation”) (which governs Title IX Conduct, and the University Regulation on Reports of Prohibited Interpersonal Violence and Related Misconduct. (<https://policy.ecu.edu/06/40/05>) (“Misconduct”).

If the conduct in question is such that the –Title IX Regulation or the Interpersonal Violence Regulation applies, each respective Regulation shall govern. This includes any conduct that might also violate paragraph 2.4 of this Regulation.

1.1.3. When a student with a disability is charged with an offense, the University will assure that all requirements of Section 504 of the Rehabilitation Act and the Americans with Disabilities Act are met.

## 1.2. Office of Student Rights and Responsibilities

The Office of Student Rights and Responsibilities (“OSRR”) administers the Student Conduct Process (referred to herein as the “Student Code of Conduct” or the “Code”). OSRR fosters student growth by promoting students' awareness and understanding of their rights and responsibilities as community members. It addresses student conduct and creates developmental learning opportunities in an effort to engage students in ethical decision-making. Any questions regarding the student conduct process should be directed to the Director of OSRR.

## 1.3. Scope of the Student Conduct Process

As members of the ECU community, students have the right to be treated with respect and consideration, have freedom of inquiry, and have reasonable use of services and facilities. 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.

1.3.1. The Code pertains to anyone registered for an academic course at the University, including but not limited to, undergraduate and graduate students who are classified as degree or non-degree seeking, as well as visiting students, medical students, dental students, professional students, and students studying abroad. All students are responsible for conducting themselves in a manner that helps enhance an environment of learning in which the rights, dignity, worth, and freedom of each member of the academic community are respected. Upon acceptance of admission to ECU, each student agrees to abide by the policies of the University and to conduct her/himself on- and off-campus in a manner consistent with its educational mission. Students have a responsibility to review the Student Code of Conduct and other policies and to seek clarification if necessary from the OSRR. In addition, various academic units and administrative departments have policies specific to their area of responsibility. It is the responsibility of each student to be familiar with University policies and procedures. The Student Code of Conduct and related policies and procedures are available on-line. Printed copies are available in the OSRR upon request.

1.3.2. Students are subject to the Student Code of Conduct and related policies from the time they accept admission until they graduate from the University. This means that conduct occurring before classes begin, including New Student Orientation, or after classes end, during the academic year, and during periods between terms of enrollment is governed by this Code.

1.3.3. Recognized Student Organizations directly funded and advised by the University (e.g. councils and umbrella organizations) and Chartered Student Organizations affiliated with a national organization and/or department (e.g. fraternities, sororities, club sport teams, academic honor societies, or those chartered/registered with a national organization/office) are subject to the Student Code of Conduct. Registered Student Organizations are those consisting of any group of students formed with a common interest but not

affiliated with the University except by location (e.g. the Chess Club at East Carolina University). Registered Student Organizations are not subject to the Student Code of Conduct. However, individuals within the organization remain subject to the Code as students enrolled at ECU. (For information regarding student organization categorization, please see Student Organization Registration Tiers (<https://orgsync.com/21119/files/1065398/show>) under Additional References.)

Recognized and Chartered Student Organizations are subject to applicable accompanying policies and procedures accompanying this Regulation, including the standard operating procedure (SOP) entitled "Procedures for Reports Against Student Organizations". OSRR in consultation with the Office of University Counsel will periodically review and implement updates to the Procedures for Reports Against Student Organizations.

1.3.4. In addition to the consequences outlined in this regulation, students who represent units within the University community, such as medical students, dental students, graduate students, student athletes, resident advisors, student organization leaders, and residential students might be subject to additional behavioral consequences under the standards set by those units.

1.3.5. The Student Conduct Process regulation also applies to student behavior that violated University policies, but which was discovered after the student has left the University or has graduated. Depending on the circumstances of the case, degree revocation may be a consequence under applicable University policies.

#### 1.4. Conduct Administrators and Hearing Advisors

1.4.1. The conduct administrator is a professional OSRR staff member who investigates all alleged violations of the Student Code of Conduct. In cases where possible sanctions do not include suspension or expulsion, the conduct administrator deters a student's responsibility and issues sanctions.

1.4.2. A Hearing advisor is the professional OSRR staff member who facilitates the hearing process.

## 2. Student Code of Conduct

The University reserves the right to take necessary and appropriate action to protect the safety and well-being of the campus community and to support the mission of the University. Such action may include taking disciplinary action as outlined in this Code against students for their on- and off-campus conduct.

East Carolina University students shall refrain from the following behaviors:

2.1. Alcohol: Illegally possessing, consuming, having consumed, and/or providing alcoholic beverages to those under the legal drinking age. Being intoxicated in public.

2.2. Drugs, Drug Paraphernalia, and Other Controlled Substances: Possessing, using, distributing, buying, selling, facilitating a sale, delivering, manufacturing, and/or abusing illicit or illegally obtained substances. Misusing prescription or counterfeit drugs. Consuming, including huffing or sniffing, any substance not intended for such use. Possessing or using drug paraphernalia.

2.3. Endangerment: Acting in a manner that could or did endanger or injure a person or the ECU community. Examples of endangerment include, but are not limited to, fighting, or operating a vehicle while under the influence of alcohol or drugs, and distributing drugs (on or off campus) to members of the University community.

2.3.1 Consideration may also be given as to whether the Respondent acted in self-defense, and, whether the amount of force used was reasonable under the circumstances. Self-Defense is defined as a justifiable action by a non-aggressor using reasonable force upon another person to enable oneself to get free from imminent physical harm.

2.3.2 Failing to take advantage of an opportunity to remove oneself from the situation may negate the claim of self-defense.

2.3.3 Actions consistent with appropriate self-defense may also be considered as a mitigating factor in consideration of potential sanctioning, if applicable.

2.4. Harassment, Threats, Bullying or Intimidation: Directing action toward a particular individual or group in a manner which is unwelcome, and under the totality of the circumstances, is so severe or pervasive, and objectively offensive that it undermines and/or detracts from the target individual's academic pursuits, participation in University-sponsored activities, or employment, effectively denying equal access to University resources and opportunities.

2.4.1. The objective standard is whether the conduct was directed at a specific person, group, or entity in a manner that would cause a reasonable person to fear for one's safety, the safety of others, or the loss of or damage to property or that is defamatory.

2.4.2. East Carolina University will also enforce the University of North Carolina System Policy 700.4.2, which states:

2.4.2.1 While on University premises or while participating in University sponsored activities, acting or in a way to unlawfully threaten, coerce, harass or intimidate another person or identifiable group of persons; or acting or speaking in a manner that is a violation of a constitutionally valid University Policy prohibiting harassment and/or discrimination on the basis of a protected class, including: race/ethnicity, color, religion, sex, sexual orientation, gender-identity, national origin, age, disability, genetic information, political affiliation, or veteran status (including relationship or association with a protected veteran; or Active Duty or National Guard service).

2.4.2.2. No student shall engage in unlawful harassment resulting in an environment determined to be hostile by a reasonable person. Unlawful harassment includes conduct that creates a hostile environment by meeting the following criteria. It is:

- a. Directed toward a particular person or persons;
- b. Based in whole or in part upon any of the following protected statuses: disability, sexual orientation, race/ethnicity, age, sex, gender identity, color, veteran status (including relationship or association with a protected veteran; or Active Duty or National Guard service), gender identity, political affiliation, national origin, or religion;
- c. Unwelcome;
- d. Severe or pervasive;
- e. Objectively offensive; and
- f. So unreasonably interferes with the target person's employment, academic pursuits, or participation in University-sponsored activities as to effectively deny equal access to the University's resources and opportunities.

2.4.2.3. In determining whether student conduct violates these provisions (2.4.2.1. or 2.4.2.2.), all relevant facts and circumstances shall be considered. Care must be exercised in order to preserve freedoms of speech and expression, as articulated in current legal standards. (Please see the Freedom of Expression regulation (<https://policy.ecu.edu/07/30/06>) for more information.)

2.5. Hazing: Acting in a manner that would subject another student to physical injury or mental or emotional harm as part of an initiation, or as a criterion of initial or continued membership, into any organized University group, including any society, military groups, athletic team, fraternity or sorority, or other similar group. Planning or preparing to engage in hazing activity is also a violation of the Code. The expressed or implied consent of participants will not prevent disciplinary action. (For more information, see Procedures for Reports Against Student Organizations ([https://osrr.ecu.edu/wp-content/pv-uploads/sites/234/2018/03/08\\_17\\_2017-Appendix-](https://osrr.ecu.edu/wp-content/pv-uploads/sites/234/2018/03/08_17_2017-Appendix-)

Procedures-for-reports-against-student-organizations-1.pdf) under Additional References.)

2.6. Weapons: Possessing, distributing, using, manufacturing, assembling, storing, transporting, selling, purchasing, or acquiring any weapons as defined in this Regulation on property owned or controlled by the University, including ECU vehicles is a violation of the Code, with the exception of a handgun possessed pursuant to a concealed handgun permit and stored according to law. Possessing, either on- or off-campus, any illegal weapons, including nuclear/biological/chemical weapons, or home-made weapons. This provision also applies to students on the way to and present at any off-campus curricular and extracurricular activity sponsored by the University. Illegally concealing any weapon is a violation of the Code.

2.6.1. Weapons include, but are not limited to, objects defined in the "Regulation Concerning Weapons on Campus". Examples of weapons are: guns, rifles, pistols, bb guns, air rifles, air pistols, paintball guns, crossbows, arrows, fireworks, dynamite, bombs, grenades, mines, powerful explosives, bullets or ammunition cartridges, nunchuks, slingshots, leaded canes, blackjacks, metallic knuckles, martial arts weapons, throwing stars, Kamas, axes, razor blades, ice picks, dirks, daggers, swords, bowie knives, switchblade knives, butterfly knives, other knives with blades three or more inches in length, tasers, and stun guns.

2.6.2. Any item used or possessed for purposes of use as a weapon will be considered a weapon under this policy.

2.7. Disruptive Conduct: Being disruptive or disorderly in a manner that interferes with the function of the University or interferes with conduct of others, including law enforcement officers, who are on-campus or off-campus. Disruptive Conduct may include, but is not limited to, refusing or failing to submit appropriate identification or refusing to comply with a request from an identifiable University official acting on behalf of the University, violating University regulations or local, state, or federal orders in place to ensure the health and safety of the ECU community such as orders related to national pandemics or natural disasters, or the failure to abide by University policies, procedures, and any other requirements in place to help reduce the risk of contracting or spreading infectious diseases.

2.8. Theft: Stealing or attempting to steal property, including intellectual property, or services of any person or entity. Receiving, possessing, or selling/giving away such property when the student recognizes, or should have recognized, that the property was stolen. Selling books or helping sell books without the owner's permission is an example of theft.

2.9. Vandalism, Defacement, or Misuse of Property: Defacing, destroying, damaging, or misusing private, University, or other public properties.

2.10. Trespassing and Unauthorized Use of Property: Entering or using university facilities and/or the personal property of others without explicit permission. This includes but is not limited to, unauthorized access to residence halls, vehicles, stadiums and fields, as well as unauthorized possession, duplication, or use of the property of others or the University.

2.11. False Information, Forgery, and Fraud: Publishing and/or circulating false information that is harmful to others. Providing false information to the University, including, but not limited to, on an application required to participate in a University activity.

2.11.1. Altering, forging, or misusing documents or property which might include, but is not limited to, money, charge cards, checks, personal information, ECU One Cards, grade reports, transcripts, and parking tags. Possessing altered or forged documents or property, such as a fictitious driver's license. Deceitfully using the personal information of others.

2.12. Having Knowledge of or Assisting with a Violation: Having knowledge of, being present during, instigating,

encouraging, or facilitating a violation of the Student Code of Conduct.

2.13. Gambling: Placing a bet or wager on an uncertain outcome for money or other items of value unless permitted by law.

2.14. Hindering the University Conduct Process: Coaching, intimidating, retaliating against, or otherwise influencing witnesses, Conduct Board members, conduct administrators, and other participants in the conduct process. Failing to provide the University with relevant information regarding a conduct case as a witness, except in instances where such failure would require a student to identify his/her own violation of the Code. Failing to abide by sanctions, including bans.

2.15. Violation of University Policies: Violating University policies including, but not limited to those listed in the related policy section of this regulations and the University Policy Manual. Violations of campus or University policies, rules or regulations, or federal, state, or local law may result in a violation of the Student Code of Conduct and imposition of sanctions.

### 3. Sanctioning

3.1. Sanctioning. Violations of the Student Code of Conduct, will result in educational and/or disciplinary consequences called sanctions. Sanctions are designed with the intent of educating Respondents and protecting the ECU community. No sanctions will be enforced until all reviews have been exhausted with the exception of administrative actions taken to protect members of the ECU community. Each student who has been found responsible for violating the Student Code of Conduct shall be notified in writing of the appeal rights, including any applicable time constraints, as they pertain to her/his case.

Immediate Administrative Actions: The Office of Student Rights and Responsibilities, in conjunction with appropriate University administrators, may take interim action pending the resolution of a conduct case in order to preserve the safety and well-being of the ECU community and its members. These actions include, but are not limited to, counseling assessment and/or treatment, restriction of access or privileges, no-contact ban or removal from classes, and administrative suspension.

3.1.1. Administrative suspension is the immediate separation of the student from enrollment at the University. Administrative suspension becomes effective immediately whenever there is information that the continued presence of the student on University property poses a substantial threat. A substantial threat might include, but is not limited to, threatening the safety of any person, significantly harming or attempting to harm someone, threatening to cause or causing significant property damage, and interfering with the stability and continuance of University functions. The Director of OSRR will determine when a student poses a substantial threat to the University community.

3.1.2. OSRR will send notice to a student who has been placed on administrative suspension. A student on administrative suspension has a right to appeal this administrative action within five (5) calendar days of receipt of notice of the administrative suspension to the Dean of Students, or his/her designee. The student may submit any information he/she would like the Dean of Students to consider on appeal. While the Dean of Students is reviewing the appeal, the student shall remain on suspension.

3.1.3. In order for an administrative suspension to be modified, the student must show that the action was arbitrary or capricious, there was a procedural error, or that there is substantial new information mitigating the situation. The Dean of Students will review (1) the reliability of the information concerning the student's behavior; (2) whether or not the conduct and surrounding circumstances reasonably indicate that the continued presence of the student poses a substantial threat to others, to property, or to the stability and continuance of normal University functions; and/or (3) whether or not the student has complied with the directives of the conduct administrator placing the student on administrative suspension. The decision of the Dean of Students shall be final.



3.1.4. Students who are administratively suspended are entitled to participate in the ECU conduct process while separated from the University. (For information regarding student organization interim actions, please see Procedures for Reports Against Student Organizations ([https://osrr.ecu.edu/wp-content/pv-uploads/sites/234/2018/03/08\\_17\\_2017-Appendix-Procedures-for-reports-against-student-organizations-1.pdf](https://osrr.ecu.edu/wp-content/pv-uploads/sites/234/2018/03/08_17_2017-Appendix-Procedures-for-reports-against-student-organizations-1.pdf)) under Additional References.)

3.2. Guidelines for Sanctioning. When determining sanctions, conduct administrators and members of the Student Conduct Board take into account the nature and seriousness of the violation, the impact of the violation on the community, the Respondent's past conduct history, as well as the Respondent's developmental needs, and mitigating or aggravating factors existing at the time of the offense, which may include, but are not limited to: past disciplinary record, the nature of the misconduct (i.e. the Respondent was acting under duress or a mental condition; played a minor role in the commission of the offense; knowingly exposed others to a significant risk; convinced others to participate due to a position of leadership, dominance, trust or confidence; or the offense involved weapons or was especially heinous), as well as other relevant information regarding the degree of any damage, injury, or harm resulting from it. Multiple sanctions may be imposed for one violation.

3.2.1. Violations of the Code that involve alcohol, drugs, weapons, hazing, substantial theft or fraud, physical harm to persons or property, sexual misconduct, HIPAA violations, other actions that materially or substantially interfere with or disrupt the protected free expression right of others or create a substantial risk of harm to others or the University, or an accumulation of multiple violations of the Code may result in suspension or expulsion from the University.

3.2.2. Determinations made or sanctions imposed under the Student Code of Conduct will not be subject to change solely because criminal charges arising from the same facts giving rise to a violation of the Code were dismissed, reduced or resolved in favor of or against the criminal law defendant.

3.2.3. The University reserves the right to enhance sanctions for violations which are believed to have been motivated based on the person's disability, sexual orientation, race/ethnicity, age, sex, gender identity, color, veteran status, gender identity, political affiliation, national origin, or religion. In the event a student is found responsible for such a bias-motivated violation, the sanction imposed should be more serious than that appropriate for only the underlying violation. A finding that a violation constitutes a bias-motivated violation requires a separate finding to that effect by the conduct administrator or the Conduct Board.

3.3. Range of Sanctions: The range and explanation of sanctions is provided below.

3.3.1. Warning: A written notification informing the student that the University considers the student's behavior inappropriate and that the student needs to change this behavior.

3.3.2. Probation: A period of time during which the student's behavior is under University review. Probation is intended to communicate to the student that the University considers the student's behavior inappropriate and that further violations will result in more severe consequences, which may include suspension or expulsion. Probation shall be served during the student's active terms of enrollment at the University.

3.3.3. Deferred Suspension: Deferred suspension shall be used for offenses found serious enough to warrant suspension, but where the specific circumstances of the case mitigate the offense or the repeated offenses of a less serious nature. Deferred suspension is a designated period of time during which a student is given the opportunity to demonstrate the ability to abide by the community's expectations of behavior articulated in the Student Code of Conduct. However, suspension will be automatically enforced for failure to complete any assigned sanctions by the deadline and/or for any subsequent violation of the Code. If found responsible for any subsequent violation, the student will be suspended for a minimum of two academic semesters, in addition to the other consequences imposed. Students on this status may be limited in their abilities to represent the University in certain capacities. Examples include, but are not limited

to, athletic teams other than intramurals, hold an office in a student organization, or participate in any study abroad program.

**3.3.4. Suspension:** A temporary separation from enrollment at the University for a defined period of time. Suspended students are banned from the University premises during the period of suspension and may be required to complete specified sanctions prior to reenrollment. Completion of the suspension period and other assigned sanctions does not automatically grant suspended students the right to return to the University community. All suspended students must petition the OSRR for readmission. A committee will consider the petition and make a recommendation to the Vice Chancellor for Student Affairs, or designee. After campus safety approval, students must re-apply to their academic program, but readmission to an academic program is not guaranteed.

**3.3.5. Expulsion:** Permanent separation from enrollment at the University and at any other member institution of the University of North Carolina System. Expelled students are banned from University premises. With the exception of review of a case due to the receipt of new information as outlined in section 5.5.9, below, only the Chancellor may amend this sanction to suspension if the student petitions the University demonstrating significant growth and contribution to society indicating that the individual should be given a new opportunity to pursue higher education. Such petitions can be filed with the OSRR after a minimum of five years of the completion of the conduct case. A student who has been expelled from the University may not be admitted to another constituent institution of the University of North Carolina System, unless and until the sanction of expulsion has been rescinded by the University.

**3.3.6. Revocation of Degree:** Revocation of an awarded degree for a serious violation of the Code that occurred prior to graduation, but which was discovered after a student had graduated from the University.

**3.3.7. No Contact Ban:** A ban requiring the student to have no contact with a designated individual, including, but not limited to, verbal, written, or physical contact, or contact made or attempted through a third party, all of which are prohibited. Violation of a no contact ban may be a violation of this Regulation resulting in conduct charges or other administrative action. OSRR may amend a no contact ban as necessary throughout the conduct process to protect the interests of the parties.

**3.3.8. Restricted Privileges:** A period during which the student's privilege of using University facilities or participating in University functions is modified or limited. Depending on the circumstances, restrictions may be structured to allow a student to attend class, participate in a job or internship, or use the library. A student with restricted privileges may not be eligible, for example, for early arrival on campus, extended stays in residence halls, representing the University in competition or other official capacities, campus employment, and campus leadership opportunities.

**3.3.8.1.** In enforcing this provision, OSRR will periodically review rosters of University and University recognized student organizations to identify any students on restricted privileges that may be violating this provision. A student found in violation may be subject to additional disciplinary action as noted above.

**3.3.9. Restitution:** Reimbursement to the person or entity harmed by the violation.

**3.3.10. Service:** Service hours completed at an approved service site. A student may be given up to sixty hours of campus service in response to one finding of responsibility and up to sixty calendar days to complete the service.

**3.3.11. Educational Task:** A task designed to provide the student with an opportunity to examine her/his actions and their impact on self and/or on the community.

3.3.12. Counseling: Assessment and counseling and/or treatment provided by the Center for Counseling and Student Development. A student referred for assessment must comply with the recommendations of the counselor. Information shared with a counselor is confidential; however, OSRR is advised about the overall results of the student's assessment, attendance and quality of participation in counseling. Under certain circumstances, the student may be referred for off-campus counseling/treatment. The student will assume all responsibility for off-campus counseling fees.

3.3.13. Failure to Comply with Sanctions: OSRR monitors sanctions to ensure compliance. Students who do not complete sanctions within the specified time may not be permitted to enroll for courses or may be suspended until they complete their sanctions. Students who leave the University prior to the completion of sanctions may not be allowed to reenroll until proof is provided that the sanctions imposed have been completed.

## 4. Rights and Responsibilities

4.1. Respondent Rights and Responsibilities: A student whose conduct is under review is a Respondent and has the following rights and responsibilities. The Respondent may forfeit any of these rights if, after being given appropriate notice and opportunity to exercise these rights, he/she fails to do so.

### 4.1.1. Respondent Rights

4.1.1.1. The right to an objective and impartial evaluation of the complaint.

4.1.1.2. The right to be present during the meeting with a conduct administrator and/or during the Conduct Board hearing.

4.1.1.3. The right to reasonable access to all information gathered throughout the investigation pertinent to the alleged violation.

4.1.1.4. The right to present information relevant to the alleged violation, including inviting witnesses.

4.1.1.5. The right to respond to information presented against her/him.

4.1.1.6. The right to a separate meeting with a conduct administrator or Conduct Board hearing in cases involving multiple Respondents. Charges against multiple Respondents involved in the same incident may be heard in a single case only if each Respondent consents to such a proceeding. In cases involving multiple Complainants against a single Respondent which arise from the same action or event, the Respondent has the right to a separate meeting with the conduct administrator or Conduct Board hearing. Charges by multiple Complainants against a single Respondent involved in the same incident may be heard in a single case only if all parties consent to such a proceeding.

4.1.1.7. The right not to provide information with the understanding that the University will make a determination with or without the Respondent's information.

4.1.1.8. The right, after receiving written notice of the outcome, to review of the decision, including to appeal as described in section 5.5.

4.1.1.9. The right to be represented, at the student's expense, by a licensed attorney or non-attorney advocate who may participate in accordance with University of North Carolina System Policy Manual 700.4.1.1 [R] and N.C. General Statute §116-40.11. A Respondent represented by an attorney or non-attorney advocate is still expected to attend all scheduled meetings and hearings.

4.1.1.10. The right to be informed of pertinent University-based support services.

### 4.1.2. Respondent Responsibilities:

4.1.2.1. The responsibility to be honest and direct in communicating with individuals involved in the

conduct process.

4.1.2.2. The responsibility to review pertinent conduct process policies and procedures and to seek clarification if necessary.

4.1.2.3. The responsibility to respond in a timely manner to University requests for information, to promptly schedule meetings when requested, and to arrive on time for scheduled meetings.

4.1.2.4. The responsibility to provide the decision-maker with pertinent information that the Respondent would like considered in the review of the alleged violation.

4.1.2.5. The responsibility to participate in the conduct process in a manner that is civil and respectful.

4.2. Complainant Rights and Responsibilities: Any ECU student, faculty, or staff member who has been negatively influenced by the alleged behavior of a student, may file a complaint against that student, and be designated by the OSRR as a Complainant. Complainants have the following rights and responsibilities. The Complainant might forfeit any of these rights if, after being given appropriate notice and opportunity to exercise these rights, he/she fails to do so.

#### 4.2.1. Complainant Rights

4.2.1.1. The right to an objective and impartial evaluation of the complaint.

4.2.1.2. The right to present information relevant to the alleged violation, including inviting witnesses.

4.2.1.3. The right to submit a written impact statement.

4.2.1.4. The right, after receiving written notice of the outcome, to review the decision, if also permitted under ECU policies, University of North Carolina System policies and local, state, and federal laws.

4.2.1.5. The right to be informed of pertinent University-based support services and to be presented with an option of reporting the incident to law enforcement, if appropriate.

4.2.1.6. For cases specific to sexual misconduct, the Complainant is entitled the rights enumerated in 4.1.1, above, such as the right to an observer/support person at the hearing; to have the same access to the proceedings as the Respondent, including the ability to question witnesses; and to appeal a decision based on grounds described in section 5.5. The Complainant may have an attorney, at the Complainant's own expense, present at the hearing.

#### 4.2.2. Complainant Responsibilities

4.2.2.1. The responsibility to be honest and direct in communicating with individuals involved in the conduct process.

4.2.2.2. The responsibility to review pertinent conduct process policies and procedures and to seek clarification if necessary.

4.2.2.3. The responsibility to respond in a timely manner to University requests for information, to promptly schedule meetings when requested, and to arrive on time for scheduled meetings.

4.2.2.4. The responsibility to provide the decision-maker with pertinent information that the Complainant would like considered in the review of the alleged violation.

4.2.2.5. The responsibility to participate in the conduct process in a manner that is civil and respectful.

4.3. If the Respondent and/or Complainant believes that a committee member or hearing official has a conflict with, bias about or an interest in a case that may unduly influence the decision making either positively or negatively, the Respondent and/or Complainant may request a different committee member or hearing official.

4.4. Students have the responsibility to update personal contact information on their Pirate Port account as

soon as it changes and to consistently monitor their ECU e-mail account and telephone answering equipment, as the University frequently communicates through these modes. U.S. Post letters will be sent to the local address provided by the student in the One- Stop system or to the permanent address if attempted contact with the student through other means is unsuccessful.

## 5. Student Conduct Hearing Procedure

5.1. The student conduct hearing procedure described below is used to address alleged violations of the Code, except for alleged academic integrity violations, which are resolved through the conduct process outlined in the Academic Integrity Policy (<https://www.ecu.edu/cs-acad/fsonline/customcf/currentfacultymanual/part6.pdf>) and any other applicable campus policies and procedures, such as those enforced by the Division of Research and Graduate Studies. Similarly, some behaviors described as violations under the Code also may be violations of the rules and policies of organizations to which the student belongs, other university units, violations of city ordinances, and/or state or federal law. When such violations occur, the student or student organization might be held accountable in multiple venues.

5.1.1 Allegations of Title IX Conduct or Interpersonal Misconduct are resolved in accordance with the University's Title IX Compliance and Resolution Regulation and the Regulation Prohibiting Interpersonal Violence and Related Misconduct applicable Appendices. These Regulations provide the applicable procedures for Title IX Conduct and Misconduct, including the investigatory, hearing, and final determination process for allegations made pursuant to these Regulation(s). A final determination finding a respondent responsible for a violation of the Regulation(s) shall include a finding of a violation of Section 2.15 of this Student Code of Conduct.

5.1.2. Alleged violations of a minor nature occurring in a residence hall may be reviewed under the Code by Campus Living staff as assigned by Campus Living. Campus Living staff will not address cases involving drugs, weapons, sexual assaults, sexual harassment, serious bodily harm or property damage without prior approval from the Director of OSRR. OSRR will address all incidents which might result in deferred suspension, suspension or expulsion.

5.1.3. The ECU conduct process is a separate and independent process from the criminal justice system. At the student's expense, he/she may be represented by a licensed attorney or non-attorney advocate who may participate in accordance with this Regulation, University of North Carolina System Policy Manual 700.4.1.1[R] and N.C. General Statute §116-40.11 ([https://www.ncleg.net/enactedlegislation/statutes/html/bysection/chapter\\_116/gs\\_116-40.11.html](https://www.ncleg.net/enactedlegislation/statutes/html/bysection/chapter_116/gs_116-40.11.html)), or as otherwise required by law

5.1.4. The Respondent has a right to have a non-participating support person present with him/her throughout the conduct process. The support person is not permitted to actively participate in the process, but is simply to provide comfort to the Respondent. If the Respondent chooses to have a licensed attorney or non-attorney advocate, as outlined in 4.1.1.9 and 5.1.2, in a Student Conduct Board Hearing, as outlined in section 5.4, the Respondent will not be permitted to have a non-participating support person present at the hearing. In the meetings with a conduct administrator, as described in sections 5.2 and 5.3, students may have both one (1) licensed attorney or non-attorney advocate as outlined in 4.1.1.9, and one (1) non-participating support person.

5.1.5. The standard used throughout the conduct process to reach case resolution is preponderance of the evidence. This standard will be used to evaluate the evidence for purposes of making findings and drawing conclusions for an investigation conducted under this regulation; meeting the standard constitutes the conclusion it is more likely than not that the alleged conduct occurred. Formal rules of evidence do not apply to student conduct cases.

5.1.5.1 To ensure the health and safety of individuals and the ECU Community, there may be times when OSRR determines it necessary to conduct operations through alternative means, including virtual platforms. This may include, but is not limited to, assigned sanctions providing educational resources

(including Make Better Choices), pre-hearing or gathering of information meetings and administrative hearings, Student Conduct Board hearings, and Title IX hearings. Decisions regarding OSRR operations may be determined by guidance from the UNC system, University administration, and/or local, state, or federal directives.

## 5.2. Initial Intake

5.2.1. All complaints will be reviewed by the OSRR Director or his/her designee to determine whether or not the reported behavior is governed by the Code. Anonymous complaints may result in a formal charge if they contain sufficient information to independently establish a violation of the Code. Allegations may also be addressed with education and through referrals to on- and off-campus resources, if appropriate.

5.2.2. The University does not tolerate retaliation against individuals who file a complaint. Retaliation means any act of interference, restraint, penalty, coercion, reprisal, intimidation, threats, or harassment against an individual for using applicable policies responsibly (including testifying, assisting, or participating in a hearing, proceeding, review process or investigation; opposing an illegal act; or exercising any other right protected by this Regulation). Students who retaliate against such persons will be held accountable under the Code. It is the responsibility of the target of the retaliation to immediately report the behavior to OSRR.

5.2.3. The determination to investigate a conduct case will be made within a reasonable period of time after receipt of a complaint. If it is believed that the behavior is governed by the Code, the student will be invited to a pre-hearing or gathering of information meeting ("Initial Meeting") with a conduct administrator. The student will be notified of the Initial Meeting date and time in writing.

5.2.4. The Respondent may request a reasonable postponement of the meeting by contacting the conduct administrator in writing no less than two (2) business days before the scheduled meeting. The Respondent will need to explain why he/she is requesting a different meeting date or time and will need to provide an alternate meeting date and time. The conduct administrator will make the final determination of the meeting date and time. If the Respondent does not appear for a scheduled meeting, the University reserves the right to make a determination regarding formal charges in the student's absence.

5.2.5. After the Initial Meeting, the conduct administrator will determine whether formal charges will be pursued. OSRR may consider any additional information received after the Initial Meeting to determine whether or not to formally charge a student with a conduct violation. If a student is to be formally charged with a potential violation of the Student Code of Conduct, the student will receive written notice of the following: the offense(s) charged with a brief summary of the factual allegations supporting the charge, a referral to a hearing with the conduct administrator or the Conduct Board, the hearing date and time, and possible sanctions.

5.2.5.1. If the alleged violation might result in a sanction other than suspension or expulsion, the hearing will take place with the conduct administrator, described in 5.3, below. The hearing will take place no earlier than five (5) calendar days after the notice is sent to the Respondent via letter or e-mail, unless the Respondent agrees to an earlier hearing date. The Respondent may waive the hearing and accept a sanction proposed by the conduct administrator. The waiver and acceptance must be in writing and signed by the Respondent.

5.2.5.2. If the alleged violation might result in suspension or expulsion, the matter will be referred to the Conduct Board, described in 5.4, below, and will take place no earlier than ten (10) calendar days after the notice is sent to the student via letter or e-mail, unless the student requests an earlier hearing date. In charges that might result in expulsion, the student will be informed that expulsion precludes matriculation at any UNC constituent institution. If a hearing date is not set in the notice of the charge, written notice of the hearing date shall be sent to be received by the student not less than five (5) calendar days before the proceeding is scheduled for hearing.

5.2.6. If the Respondent fails to meet with the conduct administrator or Conduct Board after being properly

notified, the case will be decided on the basis of information gathered by the conduct administrator or the Conduct Board.

5.2.7. If the conduct administrator believes that there was no violation or there is insufficient information to make a determination that a violation of the Student Code of Conduct occurred, the conduct case will be closed.

### 5.3. Hearing with a Conduct Administrator

5.3.1. The Respondent will meet with a conduct administrator to discuss the reported behavior. In this hearing, the conduct administrator will review all available, relevant information, including all evidence and defenses, witness testimony and documents presented by the parties, and will determine by a preponderance of the evidence whether or not a violation of the Code occurred. This determination shall be based solely on the evidence presented at the hearing.

5.3.1.1. A conduct administrator who has a conflict with, bias about or an interest in a case should recuse him/herself. If the conduct administrator has a conflict with, bias about or an interest in a case and refuses to recuse him/herself, the Director of OSRR, or his/her designee, shall make the recusal decision. Challenges to the conduct administrator received prior to the hearing will be determined within five (5) calendar days of OSRR's receipt of the challenge or at the start of the hearing, whichever is earlier.

5.3.2. The Respondent and/or Complainant may request a reasonable postponement of the hearing by contacting the conduct administrator in writing no less than two (2) business days before the scheduled hearing. The Respondent or Complainant will need to explain why he/she is requesting a different hearing date or time and will need to provide an alternate hearing date and time. The conduct administrator will make the final determination of the hearing date and time. If the Respondent does not appear for a scheduled hearing, the University reserves the right to make a determination in the student's absence.

5.3.3. If the conduct administrator determines by a preponderance of the evidence that a violation of the Student Code of Conduct did occur, he/she will assign appropriate sanctions and will notify the Respondent in writing within ten (10) calendar days of the date the decision was made. The letter will include a brief summary of the information upon which the decision was based and will outline Respondent's right to appeal the decision to the Director of OSRR or his/her designee, including the time in which to appeal and the permitted grounds for the appeal.

5.3.4. Prior to a hearing, the Respondent may make an appointment in OSRR to review the information and witness lists to be presented at the hearing. An appointment to review information in OSRR must be made at least two (2) business days in advance.

5.3.5. The student may waive the hearing and accept a sanction proposed by the conduct administrator. The waiver and acceptance must be in writing and signed by the student.

5.3.6. Hearings with the conduct administrator are closed to the public.

### 5.4. Student Conduct Board Hearing

5.4.1. As indicated above, Student Conduct Board hearings will be convened when the Respondent's case involves possible sanctions of suspension or expulsion. The student will be notified by the OSRR in writing of the formal charge against the student and referral of the charge to the Student Conduct board. The notice shall specify the offense(s) charged, the possible sanctions, a brief recital of the factual allegations supporting the charge, and the hearing date and time. For all charged offenses which could result in expulsion, the notice shall indicate this possibility, and shall specify that expulsion precludes matriculation at any UNC constituent institution. The hearing date may not be scheduled for at least ten (10) calendar days

after the student receives notice of the referral, unless the student agrees to an earlier hearing date.

5.4.2. The Respondent and/or Complainant may request a reasonable postponement of the hearing by delivering a request to OSRR in writing no less than two (2) calendar days before the hearing. The person requesting the postponement will need to explain why he/she is requesting a different hearing date or time and will need to provide an alternate hearing date and time. OSRR will make the final determination of the hearing date and time. If the Respondent or Complainant does not appear for a scheduled hearing after being properly notified, the University reserves the right to make a determination in the individual's absence.

5.4.3. Conduct Board Hearing Panel Composition. The hearing panel is composed of three students, one faculty member and one staff member of the Student Conduct Board. One of the student members will be the Chair; the Chair will direct the hearing process, outline the basic facts of the case gathered by the University, and, in consultation with the other Board members, make determinations about what information is relevant to the proceedings. The Chair is responsible for ensuring an orderly hearing and, therefore, may remove any person who, in his/her discretion, interferes with the work of the Board. The Chair will facilitate the Board's discussion regarding the case and will vote only in the event of a tie. It is the Chair's responsibility to write a rationale for the Board's decision.

5.4.3.1. A Board member who has a conflict with, bias about or an interest in a case must recuse him/herself. If the Board member refuses to recuse him/herself, the Chair, along with the hearing advisor (a professional OSRR staff member) will make the recusal decision. If the Board Chair has a conflict with, bias about or an interest in a case and refuses to recuse him/herself, the hearing advisor, in consultation with the Director of OSRR, will make the recusal decision. The Respondent and/or Complainant may also challenge the participation of any Board member due a conflict with, bias about or an interest in a case that may unduly influence the Board's decision making, either positively or negatively. The challenging party will be asked to provide specific reasons for the challenge. The Chair, along with the hearing advisor (a professional OSRR staff member), will determine whether the identified Board member should be removed from the case. If the removal of a Board member results in less than five members being able to serve during the hearing, the Respondent will be given an option to continue with the existing Board or reschedule the hearing in order for the case to be reviewed by a full five-member Board panel. Challenges to the Board's composition received prior to the hearing will be determined by the Chair and hearing advisor within five (5) calendar days of OSRR's receipt of the challenge or at the start of the hearing, whichever is earlier.

5.4.3.2. The hearing advisor and an attorney from the Office of University Counsel, if in attendance, will remain in the hearing room with the Board at all times. This includes, but is not limited to, during the Board's consideration of any procedural issues (requests to continue the hearing, objections to the Board's consideration of certain witness or documentary evidence, challenges to the Board's composition, etc.) raised by the parties.

5.4.4. Hearing Outline. During the hearing, the Board will review all available, relevant information and, based on a preponderance of the evidence standard, make a determination as to whether or not a violation of the Code had occurred. A hearing will be divided into two parts: (1) the presentation of the facts and (2) if the Board finds the student responsible, the Board will determine sanctions.

5.4.4.1. The basic facts of the case gathered by the University will be outlined. At the hearing, the University must present sufficient witness and/or documentary evidence to establish the violation. The Respondent shall be given an opportunity to question this evidence, either by direct questions (non-Title IX hearings only) or inquiries transmitted through the Board Chair. The Respondent and Complainant will be afforded an opportunity to speak to the Board and present any witness or documentary evidence, provided that the evidence is relevant to the charge or other evidence presented and does not otherwise infringe the rights of other students. The Board will also have an opportunity to ask questions of all



involved.

5.4.4.2. Once all relevant information has been presented, the Conduct Board, along with the hearing advisor and an attorney from the Office of University Counsel, if in attendance, will remain in the hearing room and all other participants will be dismissed while the Board deliberates regarding a finding of responsibility or non-responsibility. This determination shall be based solely on the evidence presented at the hearing.

5.4.4.3. The Board will reconvene the hearing and announce its decision. If the student is found responsible, he/she may submit character witness letters and/or testimony attesting to his/her character. If such character witness letters or testimony are relevant to the underlying charge, such information may be presented to the Board before it makes a determination of responsibility. If the Respondent is found responsible, he/she may make any statements, oral or written, regarding mitigating or extenuating circumstances that he/she wishes the Board to consider. The Complainant may provide an impact statement to the Board.

5.4.4.4. The Board, along with the hearing advisor and an attorney from the Office of University Counsel, if in attendance, will remain in the hearing room and all other participants will be dismissed while the Board deliberates regarding appropriate sanctions. The Board will reconvene the hearing to announce its decision. The decision will also be shared with the Respondent in writing within ten (10) calendar days of the date the decision was made. The letter will include a brief summary of the information upon which the decision was based and, will outline Respondent's appeal rights. This decision may be appealed by the Respondent pursuant to 5.5 below.

5.4.4.4.1. Victims of crimes of violence shall be notified of the results of the disciplinary proceedings of the alleged Respondent. "Results" means the name of the student Respondent, the violation charged or committed, the essential findings supporting the conclusion that the violation was committed, the sanction if any imposed. The duration of the sanction and the date the sanction was imposed.

5.4.5. Prior to a hearing, the Respondent may make an appointment with OSRR to review any written evidence (including photographs or videos) that will be used at the hearing and to obtain a list of witnesses. An appointment to review information in OSRR must be made at least two (2) business days in advance.

5.4.6. The Respondent may waive the hearing and accept the sanction proposed by the University. A designated University official must determine that the waiver and acceptance is voluntary and that the charge and sanction have factual support. The Director of OSRR (or his/her designee) shall serve as the designated University official if the Respondent waives the hearing prior to the scheduled hearing date. In the event the Respondent waives the hearing the day of the hearing, the hearing advisor will serve as the designated University official. The waiver and acceptance must be in writing and signed by the student and the designated University official.

5.4.7. The hearing will be audio recorded; however, recording quality problems and/or malfunctions will not invalidate or nullify the decision of the Conduct Board.

5.4.8. The Student Conduct Board hearings are closed to the public.

5.4.9. Conduct board members and staff assigned to perform work related to the hearing should report any potential procedural irregularities or procedural errors that come to their attention, which may have occurred before or during the hearing, to the Director of OSRR for review by the Vice Chancellor of Student Affairs. The Vice Chancellor of Student Affairs, or his/her designee, shall have the authority to determine whether

corrective action, including but not limited to, a new hearing, is necessary to correct such procedural errors. This review does not constitute an appeal and is a separate, independent review of the hearing procedures.

## 5.5. Appeals

5.5.1. During an appeal, the appealing party has the burden of showing either (1) a violation of due process; or (2) a material deviation from Substantive and Procedural Standards adopted by the Board of Governors:

5.5.1.1. Violation of Due Process. Due Process requires notice and an opportunity to be heard. A violation of due process means that the appealing party was not provided the required notice or an opportunity to be heard 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.

5.5.1.2. Material Deviation from Substantive and Procedural Standards. Material Deviation from Substantive and Procedural Standards require that the decision reached be neither arbitrary nor capricious. A material deviation from substantive standards means that there is a lack of information in the record that could support the decision or sanction(s). This 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, based on the information in the record. A material deviation from procedural standards means that a lack of information in the record that could support the decision is due to a procedural error that resulted in the proffered evidence or testimony being excluded.

5.5.2. The student must specify in writing ("Appeal Letter") which grounds form the basis for her/his appeal. The student must provide factual information to support her/his claim and explain what outcome he/she is seeking. The student has a right to be assisted in preparing his/her written challenge by a licensed attorney or non-attorney advocate, at the student's expense.

5.5.3. The Appeal Letter must be dated, signed by the student, and received by OSRR within five (5) calendar days from the date that the written decision on sanctions is provided to the student, either by hand delivery or by delivery or attempted delivery through e-mail or postal mail. Appeals should be directed to [osrr@ecu.edu](mailto:osrr@ecu.edu); or 364 Wright Building. Failure to deliver the written notice of appeal within this time limit will render the decision of the conduct administrator/Conduct Board final and conclusive. An extension of time may be requested within the five (5) day limit, but it is within the discretion of OSRR to grant or deny such requests.

5.5.4. Appeals will be limited to the record of the hearing, including the supporting documents provided by the Respondent and available records ("Written Record") within the OSRR.

5.5.5. In appeals from a hearing with the conduct administrator, the Director of OSRR or his/her designee will review the Written Record and make a determination as to whether a decision and/or sanction should be altered. If the OSRR Director or his/her designee determines that an appeal is not granted, the decision of the conduct administrator and any assigned sanctions will go into effect and the student will have no further appeal opportunities. The Director of OSRR or his/her designee's decision is final.

5.5.5.1. The final decision of the Director of OSRR or his/her designee will be made within 45 calendar days after the hearing and will be shared with the Respondent in writing within ten (10) calendar days of the date the decision was made. The letter will include a brief summary of the information upon which the decision was based.

5.5.6. In appeals from a hearing before the Conduct Board where suspension is assigned, the Director of

OSRR will compile the Written Record and provide it to the Vice Chancellor for Student Affairs, or his/her designee, who will make the final administrative determination. The Vice Chancellor, or his/her designee, will determine whether to impose the sanctions recommended by the Conduct Board, to modify the sanctions recommended by the Conduct Board, to refer the case back to OSRR for a new hearing before a different Conduct Board, or take other necessary administrative action.

5.5.7. All hearings before the Conduct Board where expulsion is recommended will be reviewed by the Vice Chancellor for Student Affairs who will make the final administrative determination. The Director of OSRR, or his/her designee, will compile the Written Record and provide it to the Vice Chancellor for Student Affairs for review. The Vice Chancellor will determine whether to impose the sanctions recommended by the Conduct Board, to modify the sanctions recommended by the Conduct Board, or to refer the case back to OSRR for a new hearing before a different Conduct Board, or take other necessary administrative action. If the Vice Chancellor determines that the student should be expelled from the University, the student has the right to file an appeal by following the process described in 5.6.

5.5.7.1. If the Vice Chancellor of Student Affairs is unavailable, has a conflict of interest, or when the Chancellor determines that a substitution is necessary to ensure a fair and timely review, the Chancellor may assume the responsibility of reviewing Conduct Board appeals or designate another vice chancellor.

5.5.8. The final decision in cases where suspension or expulsion is the sanction will be made within 45 calendar days after the hearing and will be shared with the Respondent in writing within ten (10) calendar days of the date the decision was made. The letter will include a brief summary of the information upon which the decision was based and any appeal rights, including the time limits in which to appeal and the permitted grounds for appeal.

5.5.9. New Information. Requests for reconsideration based on new information, sufficient to alter a decision and not reasonably available at the time of the decision, should be directed to the original decision-maker. A Complainant or Respondent has one (1) calendar year after the final imposition of sanctions by the University to present new information.

## 5.6. Appeal of Expulsion

5.6.1. Should the Vice Chancellor for Student Affairs uphold the Conduct Board's recommendation and make a final administrative decision to expel a student, the student has the right to appeal the decision to the East Carolina University Board of Trustees. The student should send a written appeal by certified or registered mail, return receipt requested, or by another means that provides proof of delivery to the Assistant Secretary to Board within ten (10) calendar days after the notice of the Vice Chancellor's decision is sent to the Respondent. A copy should also be provided to the Office of Student Rights and Responsibilities and the Vice Chancellor for Legal Affairs and University Counsel of East Carolina University. If the appeal is received in a timely manner, the Board of Trustees will establish a schedule for its review. If the Respondent fails to comply with the schedule, the Board of Trustees may dismiss the appeal. The decision of the Board of Trustees is final.

## 6. Records

6.1. Family Educational Rights and Privacy Act of 1974: Conduct case information is recorded and maintained by OSRR in compliance with the Family Educational Rights and Privacy Act of 1974 (FERPA). Generally, information contained in OSRR files that personally identifies a student will not be released without the written and dated consent of the student identified in the record. However, disciplinary records may be shared with third parties to the extent allowed under FERPA. Victims of violence will be notified of the final disposition of the case to include the name of the Respondent; the letter of the alleged violation committed; the findings supporting the conclusion; the sanctions imposed, if any; the duration of the sanctions; and the date the sanctions were imposed. For specific information on FERPA, please contact the Registrar's Office.

6.2. Maintenance of Records: Conduct records are maintained by the OSRR for at least eight years from the completion of the last sanction imposed. Records of students, who have been suspended, expelled, and of those who have a pending case or have not completed sanctions are kept indefinitely.

6.3. UNC Suspension/Expulsion Database: Information about students who are suspended, expelled, or have serious pending cases is entered into a UNC database, where it is stored permanently. All UNC constituent institutions have access to this information.

6.4. Transcript Notation: Conduct suspensions and expulsions will be marked on the student's transcript until all sanctions have been completed. For more information, please contact the Office of the Registrar.

6.5. Awarding of Degrees: The University does not award degrees solely because a student successfully completed all academic requirements. Violations of the Student Code of Conduct, including academic and non-academic violations, might result in a degree not being awarded. When a student has a disciplinary complaint pending, the awarding of the degree might be delayed until the complaint is resolved and, if imposed, the sanctions have been completed.

6.6. Withdrawal: Students with a pending conduct case will not be permitted to withdraw from the University without first resolving the case or receiving permission from the Director of OSRR to do so.

6.7. Continual Enrollment: Students with a pending conduct case might be prohibited from future enrollment until the conduct matter is resolved by the University.

## 7. Review of the Conduct Process

7.1. The Director of the OSRR will convene the Conduct System Review Committee every three years. This committee will assess the effectiveness of the conduct process and related policies and recommend any changes in policy, procedure, or the Code to the Chancellor.

7.2. The Committee shall be composed of two students appointed by the President of the Student Government Association, two staff members appointed by the Chair of the Staff Senate, and two faculty members appointed by the Chair of the Faculty Senate. The Dean of Students or designee shall serve as a chair of the Committee, voting only if there is a tie.

7.3. The Director of OSRR shall present a report to the Vice Chancellor for Student Affairs reflecting information regarding the state of the conduct system no later than June 30th of the review year. The Director of OSRR and other staff members directly involved in the conduct process shall serve as non-voting members of the Committee. The Director of OSRR is permitted to convene the Committee outside of the typical three-year review cycle when necessary.

7.4. The University will review and update this Regulation, as appropriate, annually, in addition to the review every three years by the Committee. The University will evaluate, among other things, any changes in legal requirements, existing University resources, and the resolution of cases from the preceding year (including, but not limited to, timeframes for completion and sanctions and remedies imposed).

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## East Carolina University

E 5th Street | Greenville, NC 27858 (<https://www.google.com/maps/place/East+Carolina+University>) | 252-328-6131 (tel:+12523286131)

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