

**Complaint Resolution Procedure for Student Respondents**  
**(pursuant to [University Policy 502, Sexual Misconduct and Interpersonal Violence](#))**

I. **Scope**

This Complaint Resolution Procedure for Student Respondents (“Procedure”) applies to all Students as defined in Section IV. Sexual Misconduct and Interpersonal Violence, as defined in Section IV, as well as attempts to engage in Sexual Misconduct or Interpersonal Violence, is prohibited by federal law, [University Policy 502](#), and this Procedure.

II. **Overview and Purpose**

The University is committed to fostering an environment that encourages prompt reporting of all types of Sexual Misconduct and Interpersonal Violence; a timely and supportive response to reports; and a fair, impartial, and equitable investigation and resolution process. The University strives to investigate and resolve cases of alleged Sexual Misconduct and Interpersonal Violence within sixty (60) Days, excluding any appeals, of a decision to proceed with an investigation. In the University’s experience, however, circumstances including, but not limited to, parallel criminal investigations, multiple witnesses, and difficulties with availability and scheduling, almost always exist; therefore, many cases may longer to be resolved. If the proceedings outlined in this Procedure take longer than one hundred twenty (120) Days, the Office of Civil Rights and Title IX will provide a written explanation to all parties as to the reason(s) for the delay.

Sexual Misconduct and Interpersonal Violence violates University policy and federal civil rights laws and may also result in criminal prosecution separate from this Procedure.

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

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

In responding to reports of Sexual Misconduct and Interpersonal Violence, the University

complies with Title IX of the Higher Education Amendments of 1972 ("Title IX") and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, as amended by the Campus Sexual Violence Elimination Act ("Clery Act").

### III. **Authority and Jurisdiction**

- A. Pursuant to [The Code of the Board of Governors of the University of North Carolina Section 502 D\(3\)](#), 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. The Chancellor has delegated to the Director the authority to administer the University student disciplinary process with respect to Sexual Misconduct and Interpersonal Violence. The University has the right to take necessary and appropriate action to protect the safety and well-being of the University community.
- B. When necessary, and in consultation with the Office of Legal Affairs, the Director may alter this Procedure to protect the University community, property, or resources.
- C. Jurisdiction under this Procedure may be exercised with respect to behavior that occurs at any time from an individual's acceptance of an offer of admission until the individual is no longer in a continuing relationship with the University.
- D. This Procedure applies to those instances of Student or Student Organization behavior that are harmful to the appropriate interests of the University, including:
  - 1. the opportunity of all members of the University community to attain educational objectives consistent with the policies and purposes of the University;
  - 2. the protection of the health, safety, welfare, and property of all individuals in the University community; and
  - 3. the protection of the University's integrity and its property.

Instances of alleged Sexual Misconduct or Interpersonal Violence, as defined in Section IV, may result in initiation of this Procedure, regardless of whether the alleged conduct occurred on University premises. The Director or designee shall determine whether an incident off campus affects University interests and thus falls within the scope of this Procedure. Instances of alleged Sexual Misconduct or Interpersonal Violence may also result in initiation of this Procedure if the alleged conduct occurred prior to an individual's acceptance of an offer of admission but an arrest or conviction occurs while the individual is a Student. The Director or designee shall determine whether the

incident affects University interests and thus falls within the scope of this Procedure.

#### IV. **Definitions**

**Administrative Hearing Officer** means a trained University staff or faculty member, or a trained third party, appointed by the Director or designee, who addresses the charge(s) against a Respondent.

**Advisor** means an individual invited to the process by a Respondent, Complainant, or witness pursuant to Section VI.1.

**Appellate Officer** means the Provost and Vice Chancellor for Academic Affairs for cases with sanctions including Expulsion or Registration Revocation, and the Vice Chancellor for Student Affairs for all other cases.

**Complainant** means an individual who allegedly experienced Sexual Misconduct or Interpersonal Violence while they were a Student or University employee.

**Consent** means an affirmative decision by all participants to engage in mutually acceptable sexual activity. Consent means unambiguous, clear, knowing, and voluntary approval given by words or demonstrated actions to engage in sexual activity. This decision must be made freely and actively by all participants. If any confusion or ambiguity on the issue of Consent arises at any time during the sexual activity, each participant must stop and confirm with the other participant(s) a willingness to continue. Silence, passivity, or lack of resistance does not imply Consent. A previous relationship or prior participation in a sexual activity between the participants does not indicate current Consent. Consent to one form of sexual activity does not imply Consent to other forms of sexual activities. Consent to engage in sexual activity with one individual does not imply Consent to engage in sexual activity with another individual. Being under the influence of drugs or alcohol does not relieve one's responsibility to obtain Consent. Consent can be withdrawn at any time.

Consent cannot and has not been obtained in situations where someone:

- is forced; threatened; unreasonably pressured; intimidated; coerced; involuntarily physically restrained, confined, isolated, or beaten; or has reasonable fear that they or another will be injured if they do not submit to or engage in the sexual activity;
- is unable to give Consent or is prevented from resisting sexual activity because they

are asleep, unconscious, unaware that sexual activity is occurring, or incapacitated (physical and/or mental inability to make informed, rational judgments and/or decisions) due to drugs or alcohol, or some other medical condition and the Respondent knows or reasonably should know of the person's status or condition;

- is exposed to a sexually transmitted infection (STI) or sexually transmitted disease (STD) by an individual who knowingly exposes them to the STI or STD without first disclosing the STI or STD;
- has a mental or physical disability that inhibits their ability to give Consent to sexual activity; or
- would, based on the individual's age, qualify as the victim of a civil or criminal offense under North Carolina law.

**Dating Violence** is committing violence against an individual with whom the Student is or has been in a social relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on a consideration of the following factors: (a) the length of the relationship; (b) the type of relationship; and (c) the frequency of interaction between the individuals involved in the relationship. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence does not include Domestic Violence as defined in this Procedure. If alleged Dating Violence occurs within a University education program or activity and against a person in the United States, it is processed according to [University Policy 504, Title IX Grievance Policy](#).

**Day** (unless otherwise specified) means a business day on which the University is open.

**Director** means the Director of Civil Rights and Title IX/Title IX Coordinator.

**Domestic Violence** is committing violence that may constitute a felony or misdemeanor crime of violence against an individual (a) who is a current or former spouse or intimate partner; (b) with whom the Student shares a child in common; (c) with whom the Student cohabitates or has cohabitated as a spouse or intimate partner; (d) who is similarly situated as a spouse under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or (e) who is a youth or adult and is protected from that Student's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred. If alleged Domestic Violence occurs within a University education program or activity and against a person in the United States, it is processed according to [University Policy 504, Title IX Grievance](#)

[Policy.](#)

**FERPA** means the Family Educational Rights and Privacy Act (20 U.S.C. Section 1232g; 34 C.F.R. Part 99), a federal law that protects the privacy of student education records. Additional information can be found in [University Policy 402, Student Education Records \(FERPA\)](#).

**Gender-Based Harassment** means engaging in unwelcome conduct based upon a target individual's actual or perceived gender through any action, method, device, or means which is so severe or pervasive, and objectively offensive that it unreasonably interferes with an individual's employment, academic performance, or participation in institutional programs or activities, effectively denying equal access to institutional resources and opportunities (*i.e.* creates a hostile environment).

**Impact Statement** means a submitted oral or written statement that describes how an incident affected the individual's life and any sanction(s) the individual would like to see imposed and the effect of the sanction(s) on the individual.

**Incest** means engaging, attempting to engage, or assisting another in engaging in any sexual intercourse between individuals who are related to each other within the degrees wherein marriage is prohibited by law.

**Minor Violation** means a case in which, based on the Respondent's prior conduct record or facts and circumstances related to the case, the Director or designee determines that the possible sanctions are less than Suspension or Expulsion for a Student or less than Registration Suspension or Registration Revocation for a Student Organization, as those sanctions are defined in Section XIII.

**Mutual Resolution** means the resolution method in which, if offered, a Respondent and a Complainant voluntarily accept the determinations on responsibility and sanction(s) proposed by the Director or designee, as described in Section VIII.

**Notice of Outcome** means a written notification that contains the determinations on responsibility and sanction(s) (if applicable), due date(s) assigned for any sanction(s), the rationales upon which the determinations are based, and any available appeal rights, including the permitted grounds for appeal and the time limits in which to appeal.

**Policy** means [University Policy 502, Sexual Misconduct and Interpersonal Violence](#).

**Process Counselor** means a staff member appointed by the Director or designee who

assists the parties in preparation for and during a hearing.

**Record on Appeal** for appeal levels below the Board of Trustees means the notice of hearing; the audio recording or written transcript of the hearing; all documents offered as information at the hearing, including the investigation report (if applicable); the summary of the hearing; and any written decision of the Administrative Hearing Officer, Vice Chancellor, or Provost. The Record on Appeal for appeals to the Board of Trustees may include additional documents pursuant to other applicable policies and procedures.

**Representative** means a licensed attorney or non-attorney advocate who represents a Student or Student Organization pursuant to Section VI.2.

**Respondent** means a Student or Student Organization who has been accused of a violation of the Policy or this Procedure.

**Retaliation** means engaging in threats, intimidation, coercion, or harassment against an individual who has engaged in protected activity, including, but not limited to, reporting an alleged violation, providing a statement or testimony as a witness, or participating in an investigation regarding an alleged violation(s) of the Policy or this Procedure.

**Serious Violation** means a case in which, based on the Respondent's prior conduct record or facts and circumstances related to the case, the Director or designee determines that the possible sanctions include Suspension or Expulsion for a Student or Registration Suspension or Registration Revocation for a Student Organization, as those sanctions are defined in Section XIII.

**Sexual Act without Consent** means engaging in any sexual penetration (anal, oral, or vaginal), however slight, with any object, without Consent.

**Sexual Contact without Consent** means deliberately touching an individual's intimate parts (including genitals, groin, breast, mouth, buttocks, or any other orifice or clothing covering any of those areas), touching an individual with one's intimate parts, or causing an individual to touch their own or another individual's intimate parts, without Consent. Sexual Contact includes any intentional bodily contact in a sexual or unwanted manner, even if the contact does not involve contact with intimate parts.

**Sexual Exhibitionism without Consent** means engaging in a sexual activity or exposing one's intimate parts (including genitals, groin, female breast [other than when breastfeeding a child], mouth, or buttocks) in the presence of others without their Consent.

**Sexual Exploitation without Consent** means taking sexual advantage of an individual without their

Consent for one's own advantage or benefit or to benefit or advantage anyone other than the one being exploited, and the behavior does not otherwise constitute one of the other Sexual Misconduct or Interpersonal Violence offenses. Sexual Exploitation includes, but is not limited to, prostituting an individual; recording, photographing, or distributing identifiable images of a private sexual activity and/or the intimate parts (including genitals, groin, breasts, or buttocks) of an individual; allowing a third party to observe private sexual activity; engaging in voyeurism; or otherwise invading sexual privacy.

**Sexual Harassment** means engaging in unwelcome conduct of a sexual nature which is so severe, persistent, or pervasive that it unreasonably interferes with an individual's University employment, academic performance, or participation in University programs or activities (*i.e.* creates a hostile environment).

**Sexual Misconduct and/or Interpersonal Violence** means, individually or collectively, Sexual Act without Consent, Sexual Contact without Consent, Sexual Exhibitionism without Consent, Sexual Exploitation without Consent, Sexual Harassment, Incest, Gender-Based Harassment, Dating Violence, Domestic Violence, Stalking, and Retaliation as those terms are defined in this Procedure. Sexual Misconduct or Interpersonal Violence can occur between strangers or acquaintances, including individuals involved in an intimate or ongoing sexual relationship. Sexual Misconduct or Interpersonal Violence can be committed by an individual of any gender or gender identity, and it can occur between individuals of the same or different genders or gender identities. Any conduct that meets the definitions and jurisdiction of [University Policy 504, Title IX Grievance Policy](#), is not considered Sexual Misconduct or Interpersonal Violence for the purposes of this Procedure.

**Staff Advisor** means an individual appointed by the Director to advise an Administrative Hearing Officer. The Staff Advisor in any particular case shall not be the same individual who makes any determination on responsibility, recommendation on sanction(s), or determination on sanction(s) in that case.

**Stalking** is engaging in a course of conduct (two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties [by any action, method, device, or means] follows, monitors, observes, surveils, threatens, or communicates to or about an individual, or interferes with an individual's property) directed at a specific individual that would cause a reasonable individual (under similar circumstances and with similar identities to the victim) to (a) fear for their safety or the safety of others or (b) suffer substantial emotional

distress. If alleged Stalking is based on sex and occurs within a University education program or activity and against a person in the United States, it is processed according to [University Policy 504, Title IX Grievance Policy](#).

**Student** means an individual who 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. The continuing relationship ends upon graduation, termination of the relationship, or a break in enrollment of twelve (12) consecutive months after the last semester attended at the University.

**Student Organization or Organization** means a collection of individuals associated with each other for a common purpose that has complied with formal requirements for registration through the Student Government Association. This includes, but is not limited to, registered student organizations, fraternities and sororities, student media organizations, and club sports teams.

## V. **Timing; Preservation of Information; Other Violations; Retaliation**

### 1. **Timing of Reports and Availability of Procedure**

There is no time limit to invoking this Procedure. Nevertheless, individuals are encouraged to submit a report immediately after the alleged violation(s) occur in order to maximize the University's ability to obtain information; provide prompt support; and conduct a thorough, impartial, and reliable investigation. Failure to promptly report alleged Sexual Misconduct and Interpersonal Violence may result in the loss of relevant information and witness testimony and may impair the University's ability to implement this Procedure.

An individual who allegedly experienced Sexual Misconduct and Interpersonal Violence has the right to file a criminal complaint with Police and Public Safety or other appropriate law enforcement. The individual is not required to file a criminal complaint and may choose to pursue only the University process described in this Procedure. The processing of a report pursuant to this Procedure is independent of any criminal investigation. This Procedure differs from the criminal justice system in scope, purpose, procedure, and outcome, and it is not designed to replace state or federal criminal laws or procedures. The University will not wait until the conclusion of a criminal investigation or criminal proceeding to investigate a report of Sexual Misconduct and Interpersonal Violence and, if needed, will take interim action to protect the individual within the educational setting. The Office of Civil Rights and Title IX may be given



access to any investigation notes and findings of Police and Public Safety needed to investigate the report, as long as the criminal investigation is not compromised.

## **2. Preservation of Information**

Individuals are encouraged to preserve any information that may be important to an investigation of a report of Sexual Misconduct or Interpersonal Violence, including, but not limited to, handwritten or electronic communications such as text messages, telephone messages, emails, and videos and/or photographs related to the incident. The University encourages an individual who allegedly experienced Sexual Misconduct or Interpersonal Violence to seek medical help within seventy-two (72) hours of an incident so that any physical information can be preserved for use at a later date should that be necessary.

## **3. Other Violations**

A priority of the University is Student safety, and the use of alcohol or drugs never makes a Complainant at fault for incidents of Sexual Misconduct or Interpersonal Violence. An individual should not be deterred from reporting an alleged incident(s) of Sexual Misconduct or Interpersonal Violence simply because the Complainant or any witness may have violated University policy. Therefore, any alcohol, drug, or other alleged violation(s) of accountability policies will be addressed separately.

## **4. Retaliation**

Retaliation against any individual making a report of Sexual Misconduct or Interpersonal Violence or against any individual cooperating in the investigation of any allegation of Sexual Misconduct or Interpersonal Violence is prohibited by Title IX and the Policy. Any such retaliation should be reported promptly to the Office of Civil Rights and Title IX, and in the case of imminent threat of serious bodily injury, to Police and Public Safety. Retaliation will be addressed separately from the underlying allegation(s) of Sexual Misconduct and Interpersonal Violence.

# **VI. Advisors and Representatives**

## **1. Advisors**

The Respondent, the Complainant, and any witnesses may each invite an individual to any interview, meeting, hearing, or other part of the process to serve solely as an Advisor. The Advisor may confer with the Respondent, the Complainant, or the witness they are advising but

may not address a University official or Administrative Hearing Officer, other parties, or witnesses, and may not unreasonably delay, disrupt, or otherwise interfere with the proceedings. An Advisor may not argue, make statements, or question witnesses; however, an Advisor may respond to questions if asked to do so. An Advisor may not be called as a witness.

The Respondent, Complainant, and any witnesses must complete a [FERPA Consent Form](#) prior to being accompanied by an Advisor.

The Advisor may be in addition to the Respondent's and the Complainant's respective Representatives pursuant to Section VI.2.

## 2. **Representatives**

### a. **General**

In accordance with [N.C.G.S. § 116-40.11](#), the Respondent may be represented, at their own expense, by a Representative. A Complainant may be represented, at their own expense, by a Representative. The Respondent, Complainant, and their selected Representatives are subject to the requirements described in Section VI.2.b.

When scheduling a meeting or hearing in which the Respondent or the Complainant has notified the University that a Representative plans to participate, the University will make reasonable efforts to accommodate the Representative's schedule. The University will, however, prioritize the availability of the Respondent, Complainant, witnesses, the designated Administrative Hearing Officer, investigator, and other necessary participants when determining the date and time for a meeting or hearing.

A Representative may fully participate in the process only to the extent afforded to the Respondent or Complainant they represent, and only when the Respondent or Complainant they represent is present. The Representative may not unreasonably delay, disrupt, or otherwise interfere with the process. A Representative may not be called as a witness. A Representative may act on behalf of the Respondent or Complainant they represent in any instance where the action is not inherently personal to the Respondent or Complainant. Inherently personal actions include, but are not limited to, personal testimony, signing documents, and completing sanctions.

An attorney or other individual representing the University may participate in any process in which a Representative is participating.

## **b. Requirements for Serving as a Representative**

In order for a Representative to participate in the process, the Respondent or Complainant must provide the Director or designee with a completed [Notice of Attorney or Non-Attorney Advocate Representation form](#) that includes the Notice of Representation, FERPA Consent, and Certification by Representative. The notice must be submitted at least three (3) Days prior to the scheduled meeting or hearing. Failure to meet the requirements described in this section may result in the loss of the Respondent's or Complainant's right to participation of a Representative in the process.

## **VII. Initial Response**

### **1. Initial Meeting with Complainant**

Upon receipt of a report of any allegation of Sexual Misconduct or Interpersonal Violence, the Director or designee will promptly request a meeting with the Complainant to:

- provide the Complainant with a general understanding of this Procedure;
- provide the Complainant with a written explanation of the Complainant's rights and options pursuant to this Procedure, including the right to an Advisor as described in Section VI.1. and to have a Representative participate as described in Section VI.2;
- discuss and provide written information regarding forms of support or immediate interventions available to the Complainant, such as on and off-campus resources, interim measures, etc.;
- discuss and provide written information regarding any accommodations that may be appropriate concerning the Complainant's academic, University housing, transportation, and/or University employment arrangements;
- seek to determine if the Complainant wishes to notify law enforcement authorities, wishes to be assisted in notifying law enforcement authorities, or does not wish to notify law enforcement authorities of the allegation(s); and
- inform the Complainant about how the University will share information only on a need-to-know basis and will strive to protect the Complainant's privacy, including the omission of the Complainant's identifying information in publicly available records, to the extent permissible by law.

### **2. Complainant Does Not Wish to Proceed or Requests Confidentiality**

If the Complainant does not wish to proceed with an investigation or the University process, and/or requests the report remain confidential, the University may still be required to investigate and take reasonable action in response to the Complainant's information or any other information learned while reviewing the report. The Director or designee will inform the Complainant that the University's ability to respond may be limited without the Complainant's participation.

The Director will weigh the Complainant's request(s) for confidentiality and/or wish not to proceed with an investigation or the University process against the University's obligation to provide a safe, non-discriminatory environment for its campus community. Specifically, the Director may consider the following factors:

- the seriousness of the alleged Sexual Misconduct or Interpersonal Violence;
- whether there have been other known reports of Sexual Misconduct or Interpersonal Violence against the same accused Student at the University or any other school or known prior criminal charges against the accused Student;
- whether the accused Student threatened further Sexual Misconduct or Interpersonal Violence, Retaliation, or violence against the Complainant or others;
- whether the alleged Sexual Misconduct or Interpersonal Violence was committed by multiple individuals;
- whether the alleged Sexual Misconduct or Interpersonal Violence involved use of a weapon;
- the ages and respective roles of the Complainant and accused Student;
- whether the University possesses other means to obtain relevant information about the alleged Sexual Misconduct or Interpersonal Violence;
- whether the report reveals a pattern of conduct at a particular location or by a particular Student and/or Student Organization; and
- the accused Student's right to receive information about the allegation(s) if the information is maintained by the University as an education record under [FERPA](#) or as part of a personnel file under the State Human Resources Act.

The Director or designee will inform the Complainant if the University cannot ensure confidentiality. In an instance where the University must disclose a Complainant's identity to a Respondent after the Complainant has requested confidentiality, the Director or designee will

inform the Complainant prior to making the disclosure and will share information only on a need-to-know basis.

Even if the Complainant does not wish to proceed with an investigation or the University process because the Complainant insists on confidentiality or requests that the report not be resolved, the University reserves the authority to undertake an appropriate action, including the interim measures described in Section VII.4. of this Procedure. The Director or designee will inform the Complainant that the University will follow this Procedure in resolving the report.

### **3. Complainant Wishes to Proceed with the University Process**

A Complainant may elect to proceed with the University process, which may involve a hearing before an Administrative Hearing Officer pursuant to this Procedure. If the Director or designee determines that a charge(s) will be pursued, they will deliver a written notice of referral to the Respondent. The notice of referral will include the following:

- notice of the charge(s);
- information regarding next steps in the Procedure (e.g. a request that the Respondent participate with the Director or designee in a meeting to discuss details related to the alleged violation(s), or a referral to an investigation);
- if a Serious Violation, notice that possible sanctions include Suspension or Expulsion for a Student or Registration Suspension or Registration Revocation for a Student Organization;
- if a Serious Violation, notice that the Respondent's University account and official academic transcript will be placed on hold until determinations on responsibility and sanction(s) (if applicable) are made;
- a statement indicating that the Respondent has the right to be represented, at their own expense, by a Representative during the process pursuant to Section VI.2.; and
- if the Director or designee requests a meeting, notice that the Respondent is required to respond to the Director's or designee's request within three (3) Days of delivery of the notice of referral.

### **4. Interim Measures**

#### **a. General**

In all reports of alleged Sexual Misconduct or Interpersonal Violence, the University may take prompt action to prevent continuing or future acts of Sexual Misconduct or Interpersonal Violence in any form against any individual who participates in the investigation and other parts of this Procedure. Such action may include an interim removal or interim suspension as described in Section VII.4.b. The University may also take immediate steps to accommodate reasonable requests for academic, University housing, transportation, University employment, and other accommodations as appropriate.

**b. Interim Removal or Interim Suspension**

When the University determines that the continued presence of a Student on University premises or in University housing (a) is potentially threatening, harmful, or dangerous to others or the University community; (b) poses a threat of significant property damage; (c) impacts the stability and continuity of normal University activities; and/or (d) directly and substantially impedes the lawful activities of others, the Director or designee may, on an interim basis, suspend the Student and/or remove the Student from University housing, pending the outcome of this Procedure.

Within five (5) Days of the effective date of the interim suspension or interim removal, the Student may submit a written request for termination or modification to the Director or designee. In reviewing the request, the Director or designee shall consider the following issues only:

- the reliability of the information concerning the Student's alleged conduct, including an assertion of mistaken identity; and
- whether the alleged conduct in the surrounding circumstances reasonably indicates that the continued presence of the Student on University premises, in University housing, or in the classroom is threatening, harmful, or dangerous to others or the University community; poses a threat of significant property damage; impacts the stability and continuity of normal University activities, including the normal conduct of class; and/or directly and substantially impedes the lawful activities of others.

The Director or designee may, in their discretion, meet with the Student and utilize information gathered in that meeting to decide whether to terminate or modify the interim suspension or interim removal. The Student may be represented in that meeting, at their own expense, by a Representative pursuant to Section VI.2.

Under certain circumstances, as a condition for termination or modification of the interim

suspension or interim removal, the Director or designee may require that certain conditions be met, such as the Student's consent to completion of a medical or psychological evaluation to be arranged by the University. The Student shall ensure that the medical or psychological evaluation report or other requested report is delivered to the University promptly. Within five (5) Days after delivery of such report, the Student may submit a written request for termination or modification of the interim suspension or interim removal to the Director or designee. The Director or designee shall consider such report in deciding whether to terminate or modify the interim suspension or interim removal.

No Student is permitted to withdraw from enrollment at the University after being placed on interim suspension until (a) determinations on responsibility and sanction(s) (if applicable) are made as part of this Procedure or (b) the interim suspension is terminated. Any restrictions related to being charged with a Serious Violation shall still apply regardless of the status of the interim suspension. A student who has been placed on interim removal from a class may withdraw from enrollment in the class or from the University during such interim removal; however, the process will proceed regardless of the student's enrollment.

#### **VIII. Mutual Resolution**

If the Director or designee determines that the Mutual Resolution process is appropriate, the Respondent and the Complainant will be individually asked whether they agree to engage in that process. Participation is completely voluntary, and either party may elect to proceed with an investigation at any point prior to signing a Mutual Resolution. In general, a Mutual Resolution in lieu of an investigation will only be appropriate when the basic facts of the underlying incident are not in dispute.

The Director or designee will speak with the Respondent and the Complainant separately to discuss possible resolutions and to ascertain each party's perspective regarding responsibility and sanctions. If the Director or designee identifies a possible resolution, they will offer the proposed Mutual Resolution to both parties. The parties have three (3) Days to respond to an offer of a Mutual Resolution.

If both parties accept a Mutual Resolution, they must voluntarily accept the determinations on responsibility and sanction(s) and waive their right to a hearing. The Mutual Resolution must be in writing and signed by the Respondent, the Complainant, and the Director or designee. The signed Mutual Resolution may not be appealed.

If the Respondent accepts a Mutual Resolution and the Complainant does not respond after

multiple contact attempts from the Director or designee, a Mutual Resolution may still be approved. The Respondent must voluntarily accept the determinations on responsibility and sanction(s) and waive their right to a hearing. The Mutual Resolution must be in writing and signed by the Respondent and the Director or designee. The Respondent may not appeal the Mutual Resolution. The Complainant will have three (3) Days following written notification of a finalized Mutual Resolution to request reconsideration by the Director or designee.

If the Director or designee does not offer a Mutual Resolution or if a Mutual Resolution meeting the criteria above is not reached, the Director or designee shall refer the case to an investigation or a hearing pursuant to this Procedure.

## **IX. Investigation Proceedings**

The Director or designee will determine whether to conduct an investigation. If the Director determines that an investigation will proceed, the Director will appoint an investigator.

The Director or designee will promptly request a meeting with the Respondent to:

- provide the Respondent with a general understanding of this Procedure;
- provide the Respondent with a written explanation of the Respondent's rights and options pursuant to this Procedure, including the right to an Advisor as described in Section VI.1. and to have a Representative participate as described in Section VI.2.;
- discuss and provide written information regarding forms of support or immediate interventions available to the Respondent, such as on and off-campus resources, interim measures, etc.;
- discuss and provide written information regarding any accommodations that may be appropriate concerning the Respondent's academic, University housing, transportation, and/or University employment arrangements; and
- inform the Respondent about how the University will share information only on a need-to-know basis and will strive to protect the Respondent's privacy, including the omission of the Respondent's identifying information in publicly available records, to the extent permissible by law.

The investigator will provide a written notice of investigation to both the Respondent and Complainant. This notice will include a reference to the charge(s); a description of the investigation process; a reminder regarding the preservation of information as described in Section V.2.; a reminder regarding the Respondent's and Complainant's right to be



represented, at their own expense, by a Representative; a reaffirmation of available resources throughout this Procedure; and a reminder that Retaliation is prohibited under University policy.

The investigator will conduct interviews with the Complainant, the Respondent, and any relevant third- party witnesses, and will collect and review any other information relevant to the report. When applicable, the investigator will coordinate with Police and Public Safety and other law enforcement officials. If during the investigation proceedings, additional allegations of Sexual Misconduct or Interpersonal Violence are raised by either party, the Director or designee may conduct the investigations simultaneously.

All interviews conducted by the investigator will be audio recorded by the investigator but may not be recorded by any party or witness. Notice will be provided to each interviewee that the interview is being recorded.

Once the formal investigation is completed, the investigator will prepare an investigation report. After the Director or designee reviews the investigation report, the investigator will distribute a draft of the investigation report to the Complainant and the Respondent and will provide the Complainant and the Respondent an opportunity to submit written additions or clarifications to the investigation report. Once the investigation report is finalized, the investigator will distribute the documents to the Director.

The Director will then determine whether there is sufficient information to continue pursuing the charge(s). If the Director determines that the charge(s) will be pursued, the case may be resolved through a Mutual Resolution, or may be referred to a hearing, as provided in Section X. If the Director determines that the charge(s) will not be pursued, the Complainant may request an independent review of the Director's determination by submitting a written request to the Dean of Students or designee within five (5) Days of receiving notice of the determination. Both the Respondent and Complainant shall be notified within a reasonable time in writing of the Dean of Student's decision. The decision of the Dean of Students or designee is final and conclusive.

If the Respondent takes responsibility for the charged conduct but does not accept the sanction(s) offered in a Mutual Resolution, the Respondent may request a sanctions-only hearing by notifying the Director or designee in writing. Upon such a request, the Director or designee, in their discretion, may offer a sanctions-only hearing. In a sanctions-only hearing, the Administrative Hearing Officer accepts the Respondent's admission of responsibility for the violation(s) and makes a decision only on an appropriate sanction(s). The Administrative Hearing Officer may need to review and/or solicit facts

about the incident(s) during the hearing to determine an appropriate sanction(s).

X. **Notice of Hearing**

If the case is referred to a hearing, the Director or designee shall deliver a written notice of hearing to the Respondent and the Complainant. The notice of hearing will include the following:

- notice of the charge(s), citing the alleged behavior prohibited by this Procedure and/or other University policy;
- the date, time, and location of the hearing;
- the name of the Administrative Hearing Officer who will hear the case;
- the names of any witnesses being called to provide testimony;
- a statement indicating that the Respondent and the Complainant may seek assistance from a Process Counselor in the preparation of their case for the hearing;
- a statement indicating that the Respondent and the Complainant have the right to be represented, at their own expense, by a Representative during this Procedure pursuant to Section VI.2.;
- if a Serious Violation, notice that possible sanctions include Suspension or Expulsion for a Student or Registration Suspension or Registration Revocation for a Student Organization; and
- if a Serious Violation, notice that the Respondent's University account and official academic transcript will be placed on hold until determinations on responsibility and sanction(s) (if applicable) are made.

In a case of a Minor Violation, the Respondent and the Complainant shall have no fewer than five (5) Days' notice of the hearing. In a case of a Serious Violation, the Respondent and the Complainant shall have no fewer than ten (10) Days' notice of the hearing. The time limit for any notice of the hearing may be waived by both the Respondent and the Complainant.

Notice is sufficient if sent via email to the Respondent's and the Complainant's University email addresses or mailed via first class, registered, or certified mail to the Respondent's and the Complainant's current addresses as shown in the student information system on the date of mailing. All claims of failure to receive adequate notice are waived by the Respondent and the

Complainant if the Respondent and the Complainant appear at the hearing and do not formally raise the issue of adequate notice at the first opportunity.

## **XI. Conduct of the Hearing**

### **1. Attendance of Parties**

The Respondent and the Complainant may remain present throughout the hearing, with the exception of the Administrative Hearing Officer deliberations. If either the Respondent or the Complainant fails to appear at the hearing after being notified pursuant to this Procedure, the hearing will continue in their absence.

### **2. Attendance of Process Counselors**

A Process Counselor will attend the hearing and may provide procedural advice to the Respondent. An additional Process Counselor will attend the hearing and may provide procedural advice to the Complainant. Any witnesses called to provide testimony may seek procedural advice from a Process Counselor. Participants may decline the assistance of a Process Counselor. The Process Counselor is in addition to the Respondent's and the Complainant's respective Representatives and any Advisors, as described in Section VI.

### **3. Challenges to Administrative Hearing Officer**

The Respondent or the Complainant may challenge the Administrative Hearing Officer on grounds of bias or an individual relationship that might affect impartial consideration of the case. The Respondent or the Complainant must submit the challenge in writing to the Director at least three (3) Days prior to the scheduled hearing. The Director must respond to the challenge prior to the hearing. If the Director, in their sole discretion, determines possible bias, they will excuse the Administrative Hearing Officer and appoint a replacement. The hearing may be rescheduled at the discretion of the Director in order to appoint an available replacement.

### **4. Multiple Respondents**

Pursuant to FERPA, a charge(s) against multiple Respondents involved in the same incident may be heard in a single hearing only if each Respondent consents in writing in advance of the hearing.

### **5. Special Accommodations**

Upon request to the Director or designee by the Respondent, the Complainant, or any

witnesses, the University may be able to provide special accommodations for testimony by alternate methods (e.g., room divider or video conference). Such accommodations are at the discretion of the Director or designee. The University's ability to provide special accommodations may be limited by the timing of the request and the accessibility of resources.

When possible, the Respondent and the Complainant will be notified in writing in advance of the hearing of any special accommodations granted.

## **6. Administration of the Hearing**

Formal rules of evidence do not apply. The Administrative Hearing Officer, in consultation with the Staff Advisor, will determine the admissibility of any information. The Respondent's prior conduct record is not to be considered in the hearing unless and until the Respondent is found responsible for a violation(s) of this Procedure.

The Administrative Hearing Officer will exercise control over the proceedings in order to maintain a fair, impartial, and efficient hearing. The Administrative Hearing Officer may exclude or remove any individual who unreasonably delays, disrupts, or otherwise interferes with the hearing, including the Respondent, the Complainant, or either of their Representatives or Advisors.

A Staff Advisor appointed by the Director will attend the hearing to assist the Administrative Hearing Officer, may comment on questions of procedure and admissibility of information, and will otherwise assist in conducting the hearing. The Staff Advisor will be present while the Administrative Hearing Officer makes any determinations, but may not actively participate in the determinations.

Each hearing shall be audio recorded and/or transcribed by the University and not by any other individual, and the recording and/or written transcript becomes a part of the case file. All documents or recordings included in the case file are the property of the University.

## **7. Closed Hearing**

The hearing is closed to the public. Admission of any individual to the hearing shall be at the discretion of the Administrative Hearing Officer, in consultation with the Staff Advisor. The Respondent and the Complainant shall have the same opportunities to have others present.

## **8. Presentation of Information**

- a. The University shall present the case, including witnesses and/or documentary information to establish the charge(s).
- b. The investigator will present the information regarding the investigation to the Administrative Hearing Officer.
- c. The Respondent and Complainant, as well as all witnesses, are expected to give truthful testimony. Furnishing untruthful testimony may subject a University student or employee to appropriate disciplinary action.
- d. All witnesses with any relevant information and all relevant information must be brought to the attention of the investigator during the investigation. Absent extraordinary circumstances and except in the case of character documents as described in Section XI.9., no witnesses who were not brought to the attention of the investigator may participate in the hearing, and no information that was not brought to the attention of the investigator may be presented.
- e. The Respondent and the Complainant will not be allowed to directly cross-examine or question each other or any witnesses under any circumstances. If the Respondent or the Complainant has a question for each other or a witness during the hearing, they must present the question to the Administrative Hearing Officer, who may then ask the question or a rephrased question in their discretion on behalf of either the Respondent or the Complainant. The Respondent and the Complainant will be afforded an opportunity to examine any documents offered as information.
- f. University students or employees called as witnesses must attend the hearing unless compliance would result in significant and unavoidable individual hardships or substantial interference with normal University activities. A desire to avoid questioning may not be used to demonstrate "individual hardships." Failing to appear after an appropriate request may subject a University student or employee to appropriate disciplinary action.
- g. The Respondent's or Complainant's prior sexual history is generally not relevant and will not be considered as information except in the following circumstances: (a) the Respondent's prior sexual history or other behavior may be relevant when that history or behavior is sufficiently similar to the alleged violation(s) to demonstrate a pattern of conduct; (b) the Complainant's prior sexual history with the Respondent may be relevant to assess the manner and nature of communications between them with respect to Consent; or (c) the Complainant's or Respondent's prior sexual history with any other individual may be relevant under very limited circumstances to prove intent, motive, absence of mistake, or to explain an injury or physical finding. In rare

circumstances, the Administrative Hearing Officer, in consultation with the Staff Advisor, may determine that information related to prior sexual history is relevant even if not covered by one of the exceptions above.

## **9. Impact Statements and Character Documents**

If the Administrative Hearing Officer determines that the Respondent is responsible for a violation(s) of University policy, the Respondent may present an Impact Statement as part of the sanctioning phase of the hearing. The Respondent may also present any documents or letters regarding their character as part of the sanctioning phase of the hearing.

If the Administrative Hearing Officer determines that the Respondent is responsible for a violation(s) of University policy related to Sexual Misconduct or Interpersonal Violence, the Complainant may present an Impact Statement as part of the sanctioning phase of the hearing.

If the Administrative Hearing Officer determines that the Respondent is responsible for a violation(s) of University policy related to a crime of violence (as defined in Section II.B.10 of [University Policy 402, Student Education Records \(FERPA\)](#)), any victim of the crime of violence may present an Impact Statement as part of the sanctioning phase of the hearing.

The Administrative Hearing Officer may consider, but is not bound by, any Impact Statements or character documents when considering sanction(s).

## **XII. Outcome**

### **A. Determination on Responsibility**

The determination by the Administrative Hearing Officer on responsibility for any charge(s) shall be made in private, based solely on the information presented at the hearing. The determination on responsibility must be announced at the hearing prior to considering sanction(s). The determination on responsibility must contain a brief rationale upon which the determination is based.

### **B. Determination on Sanction(s)**

Following a determination by the Administrative Hearing Officer that a Respondent is responsible for any charge(s), the Administrative Hearing Officer will consider an appropriate sanction(s). The prior conduct record of the Respondent shall be considered at this time.

After private deliberation and in consultation with the Staff Advisor and/or the Director, if necessary, the Administrative Hearing Officer will announce the sanction(s) and specify appeal rights, including the time in which to appeal and the permitted grounds for appeal. The Administrative Hearing Officer will include a brief rationale to support the sanction(s).

In cases of Expulsion or Registration Revocation, the Administrative Hearing Officer's sanction(s) is a recommendation to the Vice Chancellor of Student Affairs, in consultation with the Director. Only the Vice Chancellor for Student Affairs may impose a sanction of Expulsion or Registration Revocation.

The Director or designee shall deliver the written Notice of Outcome simultaneously to the Respondent and the Complainant no later than ten (10) Days after the conclusion of the hearing.

### XIII. **Sanctions**

Sanctions are intended to educate students on the effects of their behavior and encourage change in future decision making. To be considered in good conduct standing, a student must have completed any and all outstanding sanctions by the appropriate due dates.

#### A. **Compelling Factors**

Compelling factors affect the severity of the sanction(s) imposed through this Procedure. They may include, but are not limited to, the Respondent's demonstrated understanding of their responsibility and level of accountability; the prior conduct record of the Respondent; the nature of the incident and the facts and circumstances related to the case; the severity of any damage, injury, or harm resulting from the incident; the level of disruption to normal University activities and services; whether the incident was motivated by bias based upon an individual's actual or perceived race, color, religion, age, national origin, ethnicity, sex, gender identity, sexual orientation, disability, or veteran status; and guidance from applicable governing policies and regulations of the UNC Board of Governors.

#### B. **Individual Student Sanctions**

One or more of the following sanctions may be imposed on a Student found responsible for a violation(s) of the Policy or this Procedure.

**Warning.** Formal written warning indicating that the Respondent's behavior was

unacceptable and that if the Respondent is subsequently found responsible for additional policy violation(s), more severe sanctions could result.

**Probation.** A status in which the Respondent is deemed not to be in good conduct standing with the University for a definite period of time not less than the remainder of the semester in which the Probation is imposed or for an indefinite period of time. Probation does not affect the Respondent's academic standing, is not shared with faculty members, and is not notated on the Respondent's academic transcript. In the event the Respondent is subsequently found responsible for a violation(s) of University policy while on Probation, more severe sanctions, including Suspension or Expulsion, could result. Conditions restricting the Respondent's participation in University activities may also be imposed. If the 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 Probation.

**Deferred Suspension.** A status in which the Respondent is deemed not to be in good conduct standing with the University for a definite period of time not less than the remainder of the semester in which the Deferred Suspension is imposed or for an indefinite period of time. Deferred Suspension does not affect the Respondent's academic standing, is not shared with faculty members, and is not notated on the Respondent's academic transcript. In the event the Respondent is subsequently found responsible for a violation(s) of University policy while on Deferred Suspension, more severe sanctions, including Suspension or Expulsion, could result, with Suspension being considered as a most likely possibility. Conditions restricting the Respondent's participation in University activities may also be imposed. If the Deferred Suspension 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 Deferred Suspension.

**Suspension.** Separation of the Respondent from the University for a definite period of time not less than the remainder of the semester in which the Suspension is imposed or for an indefinite period of time.

During the Suspension period, the Respondent is trespassed from the University and may not be present on University premises; attend or participate in classes; access various University electronic systems, including, but not limited to, email services; or participate in Student Organizations or any University- sponsored program, activity, or related event. Violation of the terms of Suspension may subject the Respondent to additional sanctions and/or to arrest. The Respondent will be automatically withdrawn from registered courses based upon the



effective date of the Suspension. The Respondent will be responsible for any financial obligations to the University but may be eligible for a reduction of tuitions and fees based upon the effective date of the Suspension and the University's Reduction of Tuition and Fees Schedule. Notification of the Suspension will appear on the Respondent's academic transcript and will remain until the end of the Suspension period. The Respondent's name will be added to the UNC System Suspension/Expulsion Database, where it will remain indefinitely. In order to re-enroll at the University at the conclusion of the Suspension period, the Respondent must reapply for admission to the University, but no Respondent may re-enroll at the University until after the Suspension period has ended. If the Suspension 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 Suspension. If the Director grants reinstatement, the Respondent may reapply for admission to the University, but no Respondent may re-enroll at the University until after the Director has granted reinstatement.

**Expulsion.** Permanent separation of the Respondent from the University. The Respondent is trespassed from the University and may not be present on University premises; attend or participate in classes; access various University electronic systems, including, but not limited to, email services; or participate in Student Organizations or any University-sponsored program, activity, or related event. Violation of the terms of Expulsion may subject the Respondent to arrest. The Respondent will be automatically withdrawn from registered courses based upon the effective date of the Expulsion. The Respondent will be responsible for any financial obligations to the University but may be eligible for a reduction of tuitions and fees based upon the effective date of the Expulsion and the University's Reduction of Tuition and Fees Schedule. A Respondent who has been expelled from one constituent institution of The University of North Carolina system may not be admitted to another UNC System institution until the Expulsion has been rescinded by the institution that imposed the sanction. Notification of the Expulsion will appear on the Respondent's academic transcript until the date the Expulsion is rescinded, if it is rescinded. The Respondent's name will be added to the UNC System Suspension/Expulsion Database, where it will remain indefinitely. The Respondent may petition the Chancellor in writing for the Expulsion to be rescinded, but not earlier than two (2) calendar years from the effective date of the Expulsion.

**Removal from University Housing.** Loss of the privilege of living in University housing. Removal may be for a definite period of time not less than the remainder of the semester in which the Removal is imposed or for an indefinite period of time. If the Removal is for an indefinite period, the Respondent may petition the Director in writing for restoration of University housing privileges, but not earlier than one (1) calendar year from the effective date of the Removal. Any cancellation fee, pro-rata refund, or return of deposit shall be assessed as

described in the housing contract between the University and the Respondent.

**Post-Enrollment and Post-Graduation Sanctions.** A Respondent who is found responsible for a violation(s) of the Policy or this Procedure, but who graduates from the University before imposition of a sanction, is subject to (a) revocation of any degree awarded; (b) temporary or permanent withholding of the transcript for any degree earned, regardless of whether the degree has been awarded; and/or (c) having sanction(s) imposed as a condition of re-enrollment at the University.

**Additional Sanctions.** The following sanctions may be imposed in addition to those listed above:

- restitution for loss incurred by an individual or the University as a result of the Respondent's violation(s);
- exclusion and/or trespass from all or a portion of any University premises or any University- sponsored program, activity, or related event, as specified in the sanction, for a definite or indefinite period of time;
- an administrative no contact order with an individual(s);
- loss of driving and/or parking privileges on University Premises;
- community service and/or participation in educational programs;
- restitution for expenses incurred by individuals or the University as a result of providing educational programs or other educational experiences related to the violation(s); or
- any other appropriate sanction as determined by the Director or designee.

### C. Student Organization Sanctions

One or more of the following sanctions may be imposed on a Student Organization found responsible for a violation(s) of the Policy or this Procedure:

**Warning.** Formal written warning indicating that the Respondent's behavior was unacceptable and that if the Respondent is subsequently found responsible for a violation(s) of University policy, more severe sanctions could result.

**Registration Probation.** A status in which the Respondent is deemed not to be in good conduct standing with the University for a definite period of time not less than the remainder of the semester in which the Registration Probation is imposed. In the event the Respondent is subsequently found responsible for a violation(s) of University policy while on Registration

Probation, more severe sanctions, including Registration Suspension or Registration Revocation, could result. The Respondent may seek and add members during this probationary period and may host other activities unless otherwise specified.

**Deferred Registration Suspension.** A status in which the Respondent is deemed not to be in good conduct standing with the University for a definite period of time not less than the remainder of the semester in which the Deferred Registration Suspension is imposed. In the event the Respondent is subsequently found responsible for a violation(s) of University policy while on Deferred Registration Suspension, more severe sanctions, including Registration Suspension or Registration Revocation, could result, with Registration Suspension being considered as a most likely possibility. The Respondent may seek and add members during this probationary period and may host other activities unless otherwise specified.

**Registration Suspension.** Removal of University recognition of the Respondent for a definite period of time. During the period of Registration Suspension, the Respondent is deemed not to be in good conduct standing with the University. While under Registration Suspension, the Respondent may continue to occupy or hold property, but may not function at the University; utilize University facilities or services; or participate in any University-sponsored program, activity, or related event.

**Registration Revocation.** Permanent removal of University recognition of the Respondent. The Respondent may not function at the University; utilize University facilities or services; or participate in any University-sponsored program, activity, or related event. The Respondent may petition the Vice Chancellor for Student Affairs in writing for the Registration Revocation to be rescinded, but not earlier than two (2) calendar years from the effective date of the Registration Revocation.

**Additional Sanctions.** The following sanctions may be imposed in addition to those listed above:

- exclusion from intramural competition;
- restitution for loss incurred by an individual or the University as a result of the Respondent's violation(s).
- denial of use of University premises for meetings or activities;
- exclusion and/or trespass from all or a portion of any University premises or any University-sponsored program, activity, or related event, as specified in the sanction, for a definite or indefinite period of time;

- suspension of rushing, recruiting, or intake processes;
- loss of social privileges where the Respondent may not sponsor any activity, party, or function that is social in nature during the established period of time;
- community service and/or participation in educational programs;
- restitution for expenses incurred by individuals or the University as a result of providing educational programs or other educational experiences related to the violation(s); or
- any other appropriate sanction as determined by the Director or designee.

#### **D. Deferral of Sanctions**

At the discretion of the Director, the imposition of a sanction normally will be deferred until after a decision on a first-level appeal as described in Section XIV, but may be imposed immediately after the hearing if:

- the Respondent has been found responsible for an act which resulted or foreseeably could have resulted in individual injury to another;
- the Respondent has been found to be in possession of a weapon; or
- the Respondent has committed an additional violation of University policy or has violated the terms of a previous sanction(s).

### **XIV. Appeals**

#### **A. Grounds for Appeal**

The Respondent or Complainant (hereinafter Appellant) may appeal the determination on responsibility and/or the determination on sanction(s) based on the following grounds:

1. a violation of due process; or
2. a material deviation from Substantive and Procedural Standards adopted by the Board of Governors, described in The University of North Carolina Board of Governors [Policy 700.4.1](#).

#### **B. Process**

Within five (5) Days after delivery of the Notice of Outcome, the Appellant may submit written rationale for appeal of the determination on responsibility and/or the determination on sanction(s) to the Director.

Both the Respondent and the Complainant will be notified that the other party has submitted an appeal.

The Director or designee will promptly forward appeals meeting the grounds described in Section XIV.1., along with the Record on Appeal, to the Appellate Officer. Appeals not meeting the grounds described in Section XIV.1. will not be considered.

The Appellate Officer shall decide appeals based upon the Appellant's written appeal and the Record on Appeal. The decision may:

- Affirm the determinations on responsibility and the sanction(s) (if applicable);
- Affirm the determination on responsibility and reduce but not eliminate the sanction(s); or
- Remand the case to the same or a new Administrative Hearing Officer.

The Respondent and the Complainant shall be notified within a reasonable time in writing of the decision on appeal. The decision of the Appellate Officer affirming the determination on responsibility shall be final and conclusive, and the sanction(s) will be imposed as directed. If the case is remanded to an Administrative Hearing Officer, this Procedure shall apply.

If the decision of the Appellate Officer imposes a sanction of Expulsion for a Student or Registration Revocation for a Student Organization, a Respondent or Complainant who believes that the rights described in [Section 502 D\(3\) of The Code of the University of North Carolina](#) (violation of due process or material deviation from Substantive and Procedural Standards adopted by the Board of Governors) have been violated may file a notice of appeal from the decision of the Appellate Officer to the Board of Trustees by providing such appeal to the Director.

The notice of appeal must be in writing and must specify the rights alleged to have been violated and the reasons for such allegation. No such notice is effective unless received by the Board of Trustees within five (5) Days after delivery of the decision of the Appellate Officer. Appeals not meeting the grounds described in Section XIV.1 will not be considered.

The Board of Trustees shall decide appeals based upon the Appellant's written appeal and the Record on Appeal. The decision may:

- Affirm the determinations on responsibility and the sanction(s) (if applicable);
- Affirm the determination on responsibility and reduce but not eliminate the sanction(s); or

- Remand the case to the same or a new Administrative Hearing Officer.

The Respondent and the Complainant shall be notified within a reasonable time in writing of the decision on appeal. If the case is remanded to an Administrative Hearing Officer, this Procedure shall apply.

No appeal to the Board of Governors or the President of the University of North Carolina is permitted.

#### XV. **Recordkeeping**

The University will maintain pertinent records related to each case processed under this Procedure in accordance with the UNC System Records Retention Schedule. Access to these records will be governed by applicable state and federal laws, including but not limited to FERPA.

#### **History:**

- Initially enacted July 26, 2022
- Revised August 18, 2022
- Corrected August 20, 2024