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Student Conduct Process

REG11.30.01 Version 4

Authority: Chancellor

History: Version 1: revised August 17, 2010 to be effective August 23, 2010; Version 2: revised and effective August 21, 2012; Version 3: revised December 2012 to be effective February 1, 2013.

Related Policies: UNC Policy Manual 700.4.1 - Policy on Minimum Substantive and Procedural Standards for Student Disciplinary Proceedings
UNC Policy Manual 700.4.2 - Policy on Student Conduct
UNC Policy Manual 700.4.3[G] - Guidelines on Student Disciplinary Proceedings: Meaning and Effect of Expulsion
ECU Policies Regarding the Possession and Consumption of Alcoholic Beverages on the Campus of East Carolina University
ECU Policy on Drug Abuse
ECU University Policy and Procedures Concerning Weapons on Campus
ECU University Student and Employee Computer Use Policy
ECU Hazing Policy
ECU Racial and Ethnic Harassment Policy
ECU Policy on Sexual Harassment, Discrimination, and Conflicts of Interest

Additional Resources: Student Conduct Process Outline

Contact Information: Contact for Info: Director of the Office of Student Rights and Responsibilities, 252-328-6824

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, the Board and the President of the University of North Carolina 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 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.

1.2. Office of Student Rights and Responsibilities
The Office of Student Rights and Responsibilities (OSRR) administers the Student Conduct Process (Student Code of Conduct or 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. 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 Office of Student Rights and Responsibilities. The relevant policies and procedures may be found in the Undergraduate Catalog, the Graduate Catalog, the Student Handbook, the University Policy Manual, and other manuals. 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 Office of Student Rights and Responsibilities.

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. This policy pertains to anyone enrolled in 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 individuals not currently enrolled who are continually seeking a degree from the University.

1.3.3. In addition to Student Conduct Process regulation consequences, students who represent units within the University community, such as medical students, graduate students, student athletes, and residential students might be subject to additional behavioral consequences under the standards set by those units. The Student Conduct Process regulation also applies to student behavior, which 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 might be a consequence.

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 are expected to 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, operating a vehicle while under the influence of alcohol or drugs, and engaging in non-consensual sexual contact.

2.3.1. Non-consensual sexual contact occurs when a person subjects another person to sexual contact without having first obtained explicit consent or when s/he knows or should have known that the person was incapable of giving consent because of mental incapacitation, mental disorder, or physical helplessness. Sexual contact includes, but is not limited to, kissing, touching of the genitalia, anus, buttocks or breast of a person. Sexual penetration includes any insertion, however slight, of the penis, finger(s) or any object into the vagina or anus, or the insertion of the penis into someone's mouth.

2.3.2. Consent requires an affirmative verbal response and/or unmistakable conduct indicating a freely given agreement. Silence and/or lack of protest do not constitute consent. Previous consent does not necessarily apply to future situations. Consent cannot be given when a person's physical or mental control is markedly diminished. Physical or mental control may be diminished by injury, illness, duress, social pressure, and/or the ingestion of alcohol or other drugs.

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, so severe, pervasive, or objectively offensive that it undermines and/or detracts from the target's academic pursuits, participation in University-sponsored activities, or employment effectively denying equal access to University resources and opportunities.

2.4.1. Engaging in conduct 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 Policy 700.4.2, which states:

2.4.2.1.No student shall threaten, coerce, harass or intimidate another person or identifiable group of persons, in a manner that is unlawful or in violation of a constitutionally valid University policy, while on University premises or at University-sponsored activities based upon the person's race, color, religion, national origin, gender, sexual orientation, gender-identity, creed, disability, or veteran status.

2.4.2.2.No student shall engage in unlawful harassment leading to a hostile environment. Unlawful harassment includes conduct that creates a hostile environment by meeting the following criteria: It is directed toward a particular person or persons; based upon the person's race, color, religion, national origin, gender, sexual orientation, gender-identity, creed, disability, or veteran status; unwelcome; severe or pervasive; objectively offensive; and 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.

2.5. Hazing

2.5.1. 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 membership, into any organized University group, including any society, 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. Examples of hazing activities include, but are not limited to, forced consumption of any solids or liquids, acts of humiliation or disgrace, paddling, damaging/destroying private or public property, or being forced or coerced to violate laws or University policies.

2.5.2. Any recognized student organization wishing to implement a new member intake process must submit its plan to the respective University department responsible for the organization, such as, Greek Life, Campus Recreation and Wellness, or Student Activities and Organizations. Once the plan is approved by the department, the organization cannot deviate from it without prior authorization from the department. A deviation from the approved plan may constitute a violation of the Code. Conducting a new member intake process without an approved plan is a violation of the Code.

2.6. Weapons: Possessing, distributing, using, manufacturing, assembling, storing, transporting, selling, purchasing, or acquiring any weapons as defined in this policy on property owned or controlled by the University, including ECU vehicles, or any illegal weapons, including nuclear/biological/chemical weapons, or home-made weapons on- or off-campus. 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, guns, rifles, pistols, bb guns, air rifles, air pistols, paintball guns, crossbows, arrows, fireworks, dynamite, bombs, grenades, mines, powerful explosives, bullets or ammunition cartridges, nun chucks, 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. 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.

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 or withholding information from the University which has been appropriately requested.

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 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. Failing to discourage, prevent, or report a violation of the Code.

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. Failing to meet with University representatives conducting case evaluations. Failing to abide by sanctions, including bans.

2.15. Violation of University Policies: Violating University policies including, but not limited to, University Student and Employee Computer Use Policy; Residence Hall Policies and Guidelines; University Policy and Procedures Concerning Weapons on Campus; Racial and Ethnic Harassment Policy; Policy on Sexual Harassment, Discrimination, and Conflicts of Interest; and Canvassing, Peddling, and Solicitation Policy. 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 Violations of the Code 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 as they pertain to her/his case.

3.1. 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.

3.1.2. If the circumstances permit, an OSRR administrator will meet with the student to be placed on administrative suspension to explain the allegation and to give the student an opportunity to respond. A student on administrative suspension has a right to appeal this administrative action within five business days to the Dean of Students. While the Dean of Students is reviewing the appeal, the student shall remain on suspension.

3.1.3. In order for this action to be modified the student must show that either the action was arbitrary or capricious 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.

3.2. Guidelines for Sanctioning When determining sanctions, conduct administrators and members of the 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. 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, other actions that create a substantial risk to others or the University, or accumulation of multiple violations of the Code might 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 victim's real or perceived gender, gender identity, ethnicity, national origin, race, color, culture, sexual orientation, age, religion, creed, class, disability, or veteran status. 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. A student on disciplinary probation shall be ineligible to hold any office or participate in any activity in which the student represents the University or a University-recognized student organization either within or outside the University community. These activities and organizations may include, but are not limited to, leadership of a student organization as well as in the Student Government Association, varsity athletics, and club or intramural sports. For example, a student on disciplinary probation may remain a member but may not accept or continue to hold a leadership post in a student organization; may remain on a team and practice, but may not participate in an official varsity athletics or intramural game/contest; may remain a member of a musical group, but may not perform in a public concert; may not run for office and, if already elected, is suspended from service as an officer in the Student Government Association. Probation shall be served during the student's active terms of enrollment at the University.

3.3.2.1. Students placed on disciplinary probation shall be required to notify the department or entity governing the University or University-recognized activity, function, or position of their probation

and their ineligibility to participate. University employees who have duties related to any University or University-related function, activity or organization in which the student is prohibited from participating are considered University officials to whom the student,s ineligibility may be disclosed if and as necessary for the employee to fulfill his or her duty.

3.3.2.2. In enforcing this provision, OSRR will periodically review rosters of University and University-recognized student organizations to identify any students on probation who may be violating this provision.

3.3.2.3. A student found in violation of the terms of his or her probation may be subject to additional disciplinary action as noted above.

3.3.3. Service: Service hours completed at an approved service site. A student might 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.

3.3.4. 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.

3.3.5. 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 might be referred for off-campus counseling/treatment. The student will assume all responsibility for off-campus counseling fees.

3.3.6. No Contact Ban: A ban requiring the student to have no contact with a designated individual. Verbal, written, and physical contact or third party contact is prohibited.

3.3.7. 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 might be structured to allow a student to attend class, participate in a job or internship, or use the library. A student with

restricted privileges might 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. Restitution: Reimbursement to the person or entity harmed by the violation.

3.3.9. 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 might 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 Office of Student Rights and Responsibilities for readmission. The final decision to clear suspended students for readmission rests with a committee led by the Vice Chancellor for Student Affairs.

3.3.10. Expulsion: Permanent separation from enrollment at the University and at any other member institution of the University of North Carolina. Expelled students are banned from University premises. 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 Office of Student Rights and Responsibilities 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, unless and until the sanction of expulsion has been rescinded by the University.

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

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

3.3.13. Sanctions for Student Organizations: Student organizations registered with the Student Organization Center, the Office of Greek Life, an academic department, the Campus Recreation and Wellness Department, or another unit of the University might be sanctioned under the Student Code of Conduct. At the discretion of the Director of the Office of Student Rights and Responsibilities, any allegations of misconduct will be co-investigated by OSRR and the unit administratively associated with the student organization.

3.3.13.1. Any of the sanctions available for individual students might be imposed on an organization except for revocation of a degree. Organizational privileges might be restricted for a stated period of time. Organizations could lose privileges including, but not limited to, access to reserving rooms, use of campus facilities and services, representation at an event, or revocation of student fee funding. Organizational privileges might also be suspended for a stated period of time including, but not limited to, recruiting of new members, participating in intramural sports, and holding events or meetings in campus facilities. The organization might be required to complete specified sanctions prior to having privileges reinstated. Organizations might also have their University recognition revoked as a consequence of a Code violation.

4. Respondent and Complainant Rights and Responsibilities

4.1. Respondent Rights and Responsibilities: A student whose conduct is under review has the following rights and responsibilities. The respondent might forfeit any of these rights if, after being given appropriate notice and opportunity to exercise these rights, s/he 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 or during the Conduct Board hearing.

4.1.1.3. The right to reasonable access to all information gathered throughout the evaluation 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.

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

4.1.1.8. The right to review the outcome of the case.

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: An ECU student, faculty, or staff member who has been negatively influenced by the alleged behavior of a student, has filed a complaint against that student, and is designated by the Office of Student Rights and Responsibilities as a complainant has 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, s/he 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 to review the outcome of a case if permitted under ECU 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.

4.2.2. 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.

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 and any other applicable campus policies and procedures, such as those enforced by the Division of Research and Graduate Studies. 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, 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. Alleged violations of a minor nature occurring in a residence hall may be reviewed under the Code by Campus Living staff as designated by the Executive Director of Campus Living. Campus Living staff will not address cases involving drugs, weapons, sexual assaults, serious bodily harm or property damage without prior approval from the Director of OSRR. OSRR will address all incidents which might result in suspension or expulsion.

5.1.2. The ECU conduct process functions independent of the criminal justice system. Attorneys are not permitted to participate in the conduct process unless the respondent is facing concurrent criminal charges stemming from the incident in question. In such situations, the attorney may only advise her/his client. During a hearing, the attorney is not permitted to ask questions or present information. The student will assume all responsibility for attorney fees.

5.1.3. The standard used throughout the conduct process to reach case resolution is preponderance of the evidence. Formal rules of evidence do not apply to student conduct cases.

5.1.4. The respondent has a right to have a non-participating support person present with her/him 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 an attorney present, if permitted, the attorney will be identified as the support person. In such a situation, the respondent will not be permitted to have an additional non-participating support person present.

5.2. Initial Intake

5.2.1. All complaints will be reviewed by the OSRR Director or designee to determine whether or not the reported behavior is governed by the Code. Anonymous complaints will only be pursued if they contain

sufficient information to independently establish a violation of the Code. Each complaint must be presented in writing and include facts supporting the allegation.

5.2.2. The University does not tolerate retaliation against individuals who honestly file a complaint. 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 initiate a conduct case will be made within five business days of receipt of a complaint. If it is believed that the behavior is governed by the Code, the student will be notified in writing of the charge and will be supplied with a brief summary of the allegation, possible sanctions, and the meeting date and time. In allegations that might result in expulsion, the student will be informed that expulsion precludes matriculation at any UNC constituent institution.

5.2.4. Students have the responsibility to update personal contact information on their OneStop 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 OneStop system or to the permanent address if attempted contact with the student through other means is unsuccessful.
5.2.5. The meeting with the conduct administrator will take place within thirty business days, but no earlier than five business days, after the meeting notice is sent to the student via letter or e-mail, unless the student requests an earlier meeting date. If the alleged violation might result in suspension or expulsion, the meeting with the respondent will take place within thirty business days, but no earlier than ten business days, after the meeting notice is sent to the student via letter or e-mail, unless the student requests an earlier meeting date. If the respondent fails to meet with the conduct administrator after being properly notified, the case will be decided on the basis of information gathered by the conduct administrator.

5.2.6. The respondent may request a reasonable postponement of the meeting by contacting the conduct administrator in writing no less than two business days before the meeting. The respondent will need to

explain why s/he 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 in the student's absence.

5.3. Meeting with a Conduct Administrator

5.3.1. The respondent will meet with a conduct administrator to discuss the reported behavior. In this hearing the administrator will review all available, relevant information and will determine whether or not a violation of the Code had occurred. If further information is needed, the determination will not be reached during this meeting, but at a time when all relevant information has been reviewed.
5.3.2. If the administrator believes that there was no violation or there is insufficient information to make a determination, the conduct case will be closed. If the administrator believes that the respondent violated the Code, s/he will assign appropriate sanctions within 45 calendar days of the initial hearing. The final administrative decision will be shared with the respondent in writing within ten 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.

5.3.3. If the student does not agree with the determination of the administrator, s/he will have the opportunity to challenge that decision by appealing to a Review Committee. In cases where suspension or expulsion have been assigned as a sanction and the student challenges that decision, a Conduct Board Hearing will be scheduled to independently evaluate the case.

5.4. Scope of Review of Appeals

5.4.1. During an appeal, the respondent has the burden of showing that the conduct decision either (1) materially violates the procedures outlined in this policy, (2) the assigned sanctions are unduly harsh and/or (3) there is a lack of information supporting the decision. The third ground does not imply that information can be reargued on appeal; rather, the respondent needs to show that based on the information

present at the time of the decision, no reasonable person could have reached the same conclusion as the decision-maker.

5.4.2. The respondent must specify in writing which grounds form the basis for her/his appeal. The student must provide factual information to support her/his claim and explain what outcome s/he is seeking. The student has a right to be assisted in preparing her/his written challenge by a Student Advisor (a trained student Conduct Board member) or by any other student enrolled at ECU. The Student Advisor's responsibility is to guide the student through the conduct process, to answer any conduct process-related questions, and to assist with the securing of information. This individual may continue to assist the responded throughout the appeal process.

5.4.3. 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. The respondent has one calendar year after the final imposition of sanctions by the University to present new information.

5.5. Appeal to the Review Committee

5.5.1. The appeal letter must be dated, signed by the respondent, and received by OSRR within five business 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 or 364 Wright Building. Failure to deliver the written notice of appeal within this time limit will render the decision of the conduct administrator final and conclusive. An extension of time may be requested within the five day limit, but it is within the discretion of the Review Committee to grant or deny such requests.

5.5.2. OSRR will submit the appeal to the Review Committee within ten business days of receipt. Appeals to the Review Committee will be limited to information presented during the meeting with the conduct administrator and supporting documents provided by the respondent and the conduct administrator. If new information, which was reasonably not available at the time of the original decision, is presented, the Review Committee may send the case back to the conduct administrator for further evaluation.

5.5.3. The Review Committee is composed of three students, one faculty member, and one staff member of the Conduct Board. The Committee will review the written challenge and, based on a preponderance of the evidence standard, determine whether or not the student should be granted a Conduct Board hearing. If Committee determines that a Conduct Board hearing is not granted, the decision of the conduct administrator will go into effect and the student will have no further appeal opportunities. The Review Committee's decision not to grant a hearing is final.

5.5.4. If the Committee determines that a Conduct Board hearing should take place, the case will be forwarded for a Conduct Board hearing in accordance with the procedures below. Prior to the Conduct Board hearing, the respondent may make an appointment in OSRR to review the information and witness lists to be presented at the hearing.

5.5.5. The Review Committee meetings are closed to the public.

5.6. Conduct Board Hearing

5.6.1. As indicated above, Conduct Board hearings will be convened when (a) the respondent requests a hearing and her/his case involves possible sanctions of suspension or expulsion or (b) the Review Committee grants the student a hearing. The student will be notified by the Office of Student Rights and Responsibilities in writing of the charge, a brief summary of the allegation, possible sanctions, and the Conduct Board hearing date and time. The hearing will take place at least five business days after the student is notified via letter or e-mail, unless the student agrees to an earlier hearing date. If the alleged violation might result in suspension or expulsion, the hearing will not take place for at least ten business days after the notice is sent, unless the student agrees to an earlier hearing date.

5.6.2. The respondent or the complainant may request a reasonable postponement of the hearing by delivering a request to OSRR in writing no less than two business days before the hearing. The person requesting the postponement will need to explain why s/he 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. The respondent and the complainant have a right to be assisted by a Student Advisor or by any other student enrolled at ECU.

5.6.3. Hearing Panel Composition

5.6.3.1. The hearing panel is composed of three students, one faculty member, and one staff member of the Conduct Board. One of the student members will be the Chair, who will direct the hearing process and 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 her/his discretion, interferes with the work of the panel. The Chair will facilitate the panel's discussion regarding the case and will vote only in the event of a tie. It is the Chair's responsibility to write a summary of the panel's decision.

5.6.3.2. The respondent or the complainant may challenge the participation of any panel member due to her/his previous knowledge, experience, belief, or emotion that would unduly influence 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 panel member should be removed from the case. If the removal of a panel member results in less than five panel members being able to serve, the respondent will be given an option to continue with the existing panel or to reschedule the hearing in order for the case to be reviewed by a full five-member panel.

5.6.4. Hearing Outline: A hearing will be divided into two parts: (1) the presentation of the facts and, if the panel finds the student responsible, (2) a discussion of sanctions. During the hearing, the panel will review all available, relevant information and determine whether or not a violation of the Code had occurred. A Student Case Presenter (a trained student Conduct Board member) will outline the basic facts of the case gathered by the University. The respondent and complainant will be afforded an opportunity to speak to the panel. The panel will also have an opportunity to ask questions of all involved. If the student is found responsible, s/he may invite two character witnesses to give information during the sanctioning part of the hearing and may submit letters

attesting to her/his character. The hearing will be audio recorded; however, recording quality problems and/or malfunctions will not invalidate or nullify the decision of the panel.

5.6.5. Hearing Outcome

5.6.5.1. Once all relevant information has been presented, the panel along with the hearing advisor will remain in the hearing room and all other participants will be dismissed. Based on information gathered throughout the hearing, the panel will determine whether or not the respondent had violated the Code. The panel will reconvene the meeting and announce its decision. If the student is found responsible, the student may present character witnesses and testimonials, as stated above, and then the panel will recess the hearing and deliberate on appropriate sanctions. The decision will be announced at the close of the hearing.

5.6.5.2. The decision of the Conduct Board is a recommendation to the Vice Chancellor for Student Affairs, who will make the final determination in the case unless one of the sanctions includes expulsion. The Vice Chancellor will communicate the final decision to the student within 30 business days. 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 below described process.

5.6.5.3. The Conduct Board hearings are closed to the public.

5.7. Appeal of Expulsion

5.7.1. Should the Vice Chancellor for Student Affairs determine that a student should be expelled; 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 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 University Attorney. If the appeal is received in a timely manner, the Board will establish a schedule for its review. If the

respondent fails to comply with the schedule, the Board may dismiss the appeal.

5.7.2. Should the Board of Trustees uphold the decision of the Vice Chancellor to expel a student, the student has a right to appeal the decision to the University of North Carolina Board of Governors. The written appeal should be sent by certified or registered mail, return receipt requested, or by another means that provides proof of delivery, to the President of the University of North Carolina within ten calendar days after the notice of the University Board of Trustee's final decision is sent to the respondent. The correspondence should be mailed to Office of the President, University of North Carolina, c/o Vice President and General Counsel, P.O. Box 2688, Chapel Hill, NC 27515-2688. A copy should also be provided to the Office of Student Rights and Responsibilities and the University Attorney. The decision of the Board of Governors 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 indentifies 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 Office of Student Rights and Responsibilities 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 permanently marked on the student's transcript.

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 Office of Student Rights and Responsibilities 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 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.