



# **Organizational Code of Conduct**

Revised November 2018

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## **Purpose and Goals of the Organizational Code of Conduct**

Appalachian State University is an academic community dedicated to teaching, scholarship, research, service, inclusion, and the holistic development of students. As an academic community, the University has an interest in the safety, welfare, and education of the members of this community and in fostering an environment consistent with the educational mission, purpose, and processes of the University.

Our mission states that learning takes place within formal and informal instructional settings with dedicated faculty members, in co-curricular programs that enrich classroom experience, in interdisciplinary educational formats, and through outreach to the local community and beyond. Appalachian's strategic plan states in part that we will continue to provide students with a transformational education by creating and maintaining intellectually challenging academic programs and co-curricular experiences that involve them in civic engagement and community service.

It is through our Recognized Student Organizations that opportunities for growth and development are fostered outside the classroom. Recognized Student Organizations are an integral part of Appalachian's educational experience. When Recognized Student Organizations voluntarily associate with the University, they assume obligations of performance and behavior consistent with the University's mission, processes, and functions. These expectations of student organizations in an academic community are higher than those expected of other citizens.

The Organizational Code of Conduct, administered by the Office of Campus Activities, applies to all Appalachian State University Recognized Student Organizations. Actions by individual members of a student organization in the course of their association with that student organization may also be subject to disciplinary action under the Code of Student Conduct administered by the Office of Student Conduct. Nothing in the Organizational Code of Conduct shall preclude the University from taking action against individual students under the Code of Student Conduct.

The University acknowledges that student organizations have rights and responsibilities as members of the Appalachian State University community and that the University has expectations regarding the behavior of its members which extend beyond the classroom into all aspects of life. Included in the responsibilities of the Office of Campus Activities and University Recreation (UREC) is the responsibility to educate Recognized Student Organizations and their members about community standards and prohibited conduct, promote student learning and accountability, and facilitate the development of thoughtful, responsible, and engaged members of the community. Through the Organizational Code of Conduct, the Office of Campus Activities and UREC strive to reduce and prevent behavior that undermines academic success and that negatively detracts from the educational mission of the University; to ensure the health and safety of students and the community; to provide timely support and resources for students; and to prevent violence in and around the University community.

The process by which Appalachian State University educates Recognized Student Organizations who violate the community standards of the Organization Code of Conduct is through disciplinary review and imposition of sanctions. Decisions made using the Organizational Code of Conduct take into consideration both the rights of these groups and the needs of the University in accomplishing its educational goals and mission. In exercising its disciplinary authority, the University is committed to the principle of fundamental fairness for Recognized Student Organizations. The Organizational Code of Conduct is administered without regard to race, color, national origin, religion, sex, gender identity and expression, political affiliation, age, disability, veteran status, genetic information, or sexual orientation.

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

- 1) to facilitate an understanding of the University's community standards;
- 2) to help the Recognized Student Organization determine level of responsibility for their behavior;
- 3) to determine with the Recognized Student Organization reasons for their misconduct;
- 4) to help bring the Recognized Student Organization's behavior into compliance with the community standards;
- 5) to aid the Recognized Student Organization in clarifying their values and how the values relate to the behavior in question;
- 6) to assist the Recognized Student Organization in making decisions that will be consistent with expectations of student organizations.
- 7) to help the Recognized Student Organization better understand the consequences of their behavior; and
- 8) to protect the safety and welfare of the University community.

## **ARTICLE I - DEFINITIONS**

- 1.1 **"Advocate"** is an attorney or non-attorney advocate who may represent a Respondent Organization, at any point in the disciplinary proceedings except for a Formal Resolution involving the Organizational Student Conduct Board. The Advocate may fully participate only to the extent and in the same manner afforded to the Recognized Student Organization(s) they represent, except that the Advocate may not provide testimony. The Advocate may not, in the sole discretion of the individual facilitating the meeting, delay, disrupt, or otherwise interfere with the proceeding. The Advocate may not participate should the Recognized Student Organizations select to seek a Formal Resolution using the Organizational Student Conduct Board.
- 1.2 **"Appellate Officer"** is the University official with the authority to review and make decisions on appeals. The Appellate Officer shall be the Associate Vice Chancellor for Student Affairs or another University official designated by the Associate Vice Chancellor.
- 1.3 **"Associate Vice Chancellor"** is an administrative position within the Division of Student Affairs who has been charged with responsibility for serving as the appeal officer for the Organizational Code of Conduct process. The Associate Vice Chancellor may delegate the authority to perform any of the duties assigned to that official in this Code. All references to the Associate Vice Chancellor include any such designee.
- 1.4 **"Board"** is the Organizational Conduct Board. The "Board" shall be composed of Appalachian State University students who are selected from the student body with representation sought from the various type of Recognized Student Organizations at Appalachian. Additional information about the makeup of the Board can be found in Section 6 of this code.
- 1.5 **"Chancellor"** is the Chancellor of Appalachian State University. The Chancellor may delegate the authority to perform any of the duties assigned to that official in this Code. All references to the Chancellor include any such designee.
- 1.6 **"Clery Act"** is the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. § 1092(f)) and its implementing regulations (34 CFR Part 668), as amended.

- 1.7 **“Club Council”** is a recognized governing body composed of representative from all Recognized Student Organizations and is responsible for providing governance of and advocacy for its member organizations.
- 1.8 **“Clubs Sports Council”** is a recognized governing body composed of representatives from all Club Sports recognized by University Recreation (UREC) and is responsible for providing governance of and advocacy for its member organizations.
- 1.9 **“Code”** is the Appalachian State University Organizational Code of Conduct, unless the context specifically indicates otherwise.
- 1.10 **“Complainant”** is any individual or entity that submits a report regarding an alleged violation(s) of this Code.
- 1.11 **“Consent”** is clear, knowing, voluntary, and sober permission, through words or actions, for another individual to do something that affects the individual giving consent. Consent is based on choice and must be informed, freely and actively given, and mutually understandable, indicating a willingness to participate in mutually agreed upon activity.
- 1.12 **“Crime of Violence”** is an act(s) that would constitute any of the following offenses or attempts to commit the following offenses: arson, assault, burglary, criminal homicide – manslaughter by negligence, criminal homicide - murder and non-negligent manslaughter, destruction/damage/vandalism of property, kidnapping/abduction, robbery, and forcible sex offenses, as defined by FERPA.
- 1.13 **“Day”** is a business day on which the University is open.
- 1.14 **“Director”** is the Director of Student Engagement and Leadership at Appalachian State University. The Director may delegate the authority to perform any of the duties assigned to that official in this Code. All references to the Director include any such designee. The Director is subject to the authority of the Vice Chancellor for Student Affairs and the Chancellor. The Director of Student Engagement and Leadership shall administer the provisions of this Code, perform the responsibilities given the position by this Code, advise the Vice Chancellor for Student Affairs on changes that should be considered in this Code and train the Boards.
- 1.15 **“Disciplinary Action”** is the imposition of a sanction authorized by this Code.
- 1.16 **“Faculty Member” or “University Faculty”** is any individual hired by the University to teach in any capacity as defined by the University’s Faculty Handbook.
- 1.17 **“FERPA”** is the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. § 1232g) and its implementing regulations (34 CFR Part 99), as amended.
- 1.18 **“Firearm”** is a gun, rifle, pistol, or similar device.
- 1.19 **“Force”** is the use of physical violence or physically imposing on someone to gain sexual access. Force also includes threats, intimidation (e.g., implied threats), and coercion (e.g., unreasonable pressure for sexual activity) that overcome resistance or produce consent.
- 1.20 **“Formal Charge”** is the point at which (a) the Respondent Organization accepts an Informal Resolution as set forth in Section 6 of this Code or (b) the written notice of a hearing is provided to the Respondent Organization as set forth in Section 6 of this Code.

- 1.21 **“Formal Resolution”** is the process whereby the Respondent Organization selects to have the allegations filed against them and the consideration of formal charges conducted by the Organizational Student Conduct Board which is composed exclusively by students. A Respondent Organization that elects this option may not be represented by an Advocate in proceedings before the Board.
- 1.22 **“Fraternity”** is a local or national organization sharing common personal or professional interests. The organization may use the designation of “fraternity” in its name or title. The term fraternity includes both single sex and coed organizations.
- 1.23 **“Gender Expression”** is the outward manifestation of one’s gender through socially defined behaviors and characteristics such as dress, grooming, mannerisms, and speech patterns.
- 1.24 **“Gender Identity”** is the outward manifestation of one’s gender identity, usually expressed through appearance, behavior, or mannerisms. A person’s gender expression may or may not be the same as the gender identity or assigned sex at birth.
- 1.25 **“Good Organizational Standing”** is a Recognized Student Organization’s status when there are no pending sanctions with Campus Activities or UREC.
- 1.26 **“Hostile Environment”** is unwelcome conduct based on protected status that is so severe, persistent, or pervasive that it alters the conditions of education, employment, or participation in a university program or activity, thereby creating an environment that a reasonable person in similar circumstances and with similar identities would find hostile, intimidating, or abusive. An isolated incident, unless sufficiently severe, does not constitute hostile environment.
- 1.27 **“Impact Statement”** is an oral or written statement submitted by an alleged victim of a crime of violence, act of sexual misconduct, or act of sex/gender-based harassment, describing how an incident affected the individual’s life and the disciplinary action the alleged victim would like to see taken.
- 1.28 **“Informal Resolution”** is the process whereby the Respondent Organization elects to have an Organizational Conduct Review Officer make the determination of responsibility for an alleged violation. A Respondent Organization that elects this option may be represented by an Advocate in the informal process.
- 1.29 **“Intellectual Disability” or “Intellectual Development Disorder”** is a disability when an individual has both intellectual and adaptive functions deficits in conceptual, social, and practical domains. Deficits may include, but are not limited to: reasoning, judgement, communicating, self-care, and social skills. The diagnostic criteria for “Intellectual Disability” shall be as defined in the most current version of the Diagnostic and Statistical Manual of Mental Disorders.
- 1.30 **“Interfraternity Council (IFC)”** is a governing body composed of representatives from the University’s fraternities and is responsible for providing governance of and advocacy for its member organizations.
- 1.31 **“Investigator”** is a University official assigned by the Director to impartially investigate and gather information as it relates to an allegation. In cases involving Title IX allegations (e.g. allegations of sexual harassment, sexual misconduct, or other sex/gender-based discrimination), the Title IX Coordinator will identify and appoint the Investigator.
- 1.32 **“May”** is used in the permissive sense.

- 1.33 **“Member of the University Community”** is any individual who is a student, faculty member, staff member, or other individual employed by or volunteering for the University.
- 1.34 **“National PanHellenic Council (NPHC)”** is a governing body composed of representatives from the University’s fraternities and sororities affiliated with the National PanHellenic Conference and is responsible for providing governance of and advocacy for its member organizations.
- 1.35 **“Organizational Conduct Counselor”** is a University official designated by the Director to (a) assist the Respondent Organization and any of the Respondent Organization’s witnesses in regard to a Formal Resolution or (b) present the University’s case and assist the Complainant and University witnesses in regard to a Formal Resolution.
- 1.36 **“Organizational Conduct Review Officer”** is a University official appointed by the Director of Student Engagement and Leadership who has the authority to facilitate an Informal Resolution or refer a case to a Board for Formal Resolution.
- 1.37 **“Panhellenic Council (NPC)”** is a university funded organization comprised of sororities and responsible for providing governance of and advocacy for its member organizations.
- 1.38 **“Possession” or “Possessing”** is physically holding or controlling the subject item or owning or controlling a room, car, or other area where the subject item is present. The presence of the subject item in a room, car, or other area creates a presumption that the person owning or controlling the room, car, or other area possessed the subject item.
- 1.39 **“Quid Pro Quo Harassment”** is unwelcome conduct based on protected status where submission to or rejection of such conduct is used, explicitly or implicitly, as the basis for decisions adversely affecting an individual’s education, or participation in a University program or activity. Examples of quid pro quo harassment may include, but are not limited to: promising a promotion or higher grade if an individual acquiesces to sexual advances; denying an employee a pay raise after the employee has declined a request for sexual favors from a supervisor; or action to deny membership in an organization to an individual who has declined a request for sexual favors from a leader or member of that organization
- 1.40 **“Reasonable Individual”** is a reasonable individual under similar circumstances and with similar identities to the individual who is the subject of the behavior in question.
- 1.41 **“Recognition”** as it relates to Recognized Student Organizations is the process whereby Appalachian State University formally acknowledges a student group and affords it specific privileges associated with that recognition, including but are not limited to the use of the University name, access to facilities for activities consistent with the Recognized Student Organization’s purpose, inclusion in university sponsored activities, eligibility to apply for funding, and participation in related programs or activities.
- 1.42 **“Recognized Student Organization”** is any group of students that has received approval through established University recognition processes which may include, but is not limited to, approval by the Office of Campus Activities or University Recreation.
- 1.43 **“Respondent Organization”** is any Recognized Student Organization who is alleged to have

committed a violation(s) of this Code. The representative for the Recognized Student Organization shall be the President or another member holding a similar position.

- 1.44 **“Sex”** is the biological and physical characteristics that define men and women.
- 1.45 **“Sexual Orientation”** is an enduring emotional, romantic, sexual, or affectional attraction to another individual.
- 1.46 **“Shall” or “Will”** is used in the imperative sense
- 1.47 **“Sorority”** is a local or national organization sharing common personal or professional interests. The organization may use the designation of “fraternity” in its name or title. A sorority is generally, but not always, an organization comprised of female students.
- 1.48 **“Student”** is any individual who, at the time of the incident, has accepted an offer of admission to the University; is taking courses at the University, either full-time or part-time, pursuing undergraduate, graduate, or professional studies; or has any other continuing relationship with the University. This includes, but is not limited to, new students at Orientation, individuals not currently enrolled but who are still seeking a degree from the University, non-degree seeking student, individuals who have completed coursework but are awaiting conferral of a degree, and any other individual enrolled in a credit earning course offered by the University. For the purposes of this Code, an individual who allegedly provided false information or omitted information on an application and has participated in courses at the University shall be considered a student.
- 1.49 **“They”** and any of its inflected forms (e.g., them, their, themselves) is used in a generic sense, referring to either a singular or plural entity.
- 1.50 **“Title IX Coordinator”** is the University official responsible for overseeing all Title IX compliance and identifying and addressing any patterns or systemic problems found during review of complaints alleging the occurrence of dating/domestic violence, sexual misconduct or other sex discrimination. The Title IX Coordinator may delegate the authority to perform any of the duties assigned to that official in this Code.
- 1.51 **“University”** is Appalachian State University, a constituent institution of The University of North Carolina, with its main campus located in Boone, North Carolina. This includes any officially designated location.
- 1.52 **“University Official”** is an employee of the University acting in the performance of their assigned duties, capacity, or authority. This includes any individual who is a student employee, faculty member, staff member, or other individual employed by or volunteering for the University.
- 1.53 **“University Premises”** are buildings or grounds owned, leased, operated, controlled, or supervised by the University.
- 1.54 **“University-Sponsored Activity”** is any activity on- or off-campus which is initiated, aided, authorized, or supervised by the University or a University organization.
- 1.55 **“Vice Chancellor for Student Affairs”** is the Vice Chancellor for Student Affairs of Appalachian State University. The Vice Chancellor for Student Affairs may delegate the authority to perform any of the duties assigned to that official in this Code. All references to the



Vice Chancellor for Student Affairs include any such designee.

- 1.56 **“Weapon”** is a BB gun, stun gun, paintball gun, air rifle, air pistol, bowie knife, dirk, dagger, slingshot, taser, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razors blades (except for personal shaving), firework, any sharp pointed or edged instrument (except instructional supplies; unaltered nail files and clips; and tools used solely for preparing food, instruction, and maintenance), or similar devices.

**Terms not specifically defined in this Code shall be defined by the Merriam-Webster’s Dictionary. Terms not defined in the Merriam-Webster’s Dictionary shall be defined according to their plain and ordinary usage.**

## **ARTICLE II - AUTHORITY AND JURISDICTION**

### **2.1 Authority of the University**

Appalachian State University through its policies, procedures and practices has the authority to review the conduct, behavior, or actions of Recognized Student Organizations or the individual members who act on behalf of these Recognized Student Organizations.

### **2.2 Authority of the Code**

This Code is the University’s primary policy governing Recognized Student Organization behavior. The provisions of this Code are not contractual covenants between the University and the Recognized Student Organization. The University reserves the right to change this Code at any time during a Recognized Student Organization’s period of recognition. Such changes will be communicated to members of the University community through various publications. Each Recognized Student Organization is responsible for maintaining current knowledge of this Code. An operating unit of the University (e.g., academic colleges or departments, University Housing, Campus Activities, UREC, Athletics, International Education and Development) may also establish conduct standards for the student organization/departamental relationship, so long as those standards are consistent with the provisions of this Code. Disciplinary action pursuant to this Code does not preclude additional action by the operating unit. Sanctions applied under this Code cannot be waived or modified by the operating unit. Sanctions may be imposed by the operating unit in lieu of sanctions applied in proceedings under this Code only when done in consultation with the Director.

### **2.3 Jurisdiction of the Code**

Violations of University policies, rules, or regulations or federal, state, or local laws may constitute a violation of this Code and result in disciplinary action. The University has authority over all conduct violations that occur on University premises and reserves the right to consider the behavior of a Recognized Student Organization off-campus when it is determined that the off- campus behavior is detrimental to the University and its educational mission. The Director shall determine whether an incident off campus affects University interests and thus falls within the scope of the Code.

#### **a. Violation of Law and University Disciplinary Proceedings**

The procedures provided in this Code are not intended to be equivalent to the process of federal, state, or local laws and do not determine whether criminal conduct has occurred. Criminal procedures do not address the educational mission of the University. University disciplinary proceedings may be initiated against a student and/or Recognized Student Organization charged with a violation of law that is also a violation of this Code. The University reserves the right to proceed under this Code prior to, concurrent with, or subsequent to civil litigation, criminal arrest,

or criminal prosecution. The University cooperates fully with law enforcement agencies to the extent permitted by law.

**b. Off-Campus Violations and University Disciplinary Proceedings**

The primary types of off-campus violations addressed include, but are not limited to, the following:

- i. felony charges;
- ii. act of harm charges, including, but not limited to, assault, harassment, hazing or threats;
- iii. driving while impaired (DWI) charges or charges of driving by individuals less than twenty-one (21) years old after consuming alcohol or drugs;
- iv. repeated or high risk alcohol misdemeanor charges;
- v. repeated or high risk drug misdemeanor charges;
- vi. activities of a Recognized Student Organization or members of a Recognized Student Organization that clearly conflict with the University's interests and mission, including, but not limited to, patterns of behavior that put the health and safety of others at risk or show disregard for the policies of the University

**c. Violation of Governing Organization Policies and Procedures**

Failure to meet administrative or governing body (e.g. IFC, PHC, NPHC, Club Council, Club Sports Council, etc.) administrative requirements which include, but are not limited to deadline to submit forms or lists, deadlines for signing up for participation in activities or programs, failure to submit required reports, etc. will be clearly defined and understood by the Recognized Student Organization through their respective governing bodies and/or through the Office of Campus Activities or UREC. In such cases where patterns of misconduct or issues involving rules and policies persist, the governing body may recommend that the Recognized Student Organization be sent through the Organizational Code of Conduct process for violation of this Code, including but not limited to Failure to Comply.

**2.4 Freedom of Expression**

The University embraces and strives to uphold the freedoms of expression and speech guaranteed by the First Amendment of the United States Constitution and the North Carolina Constitution. The University has the right under appropriate circumstances to regulate the time, place, and manner of exercising these and other constitutionally protected rights. In administering this Code, due care will be exercised in order to preserve freedoms of speech and expression, as articulated in current legal standards.

## **ARTICLE III - RIGHTS OF RESPONDENT ORGANIZATIONS AND INDIVIDUALS**

**3.1 Rights of the Respondent Organization**

The Respondent Organization has the following rights:

- a) to be provided a fundamentally fair process;
- b) to be presumed not responsible for a violation of this Code until determined otherwise;
- c) to be given written notice of any allegation(s) or formal charge(s) of prohibited conduct;
- d) to review the information that will be presented in any resolution, provided that the information may be given to the Respondent Organization in a redacted format;
- e) to present relevant information on their behalf;
- f) to obtain support, advice, or assistance from support individuals, an Organizational Conduct

- Counselor, or an Advocate if Informal Resolution is sought or upon appeal;
- g) to have sanction(s) imposed on the basis of the guidelines set forth in this Code;
- h) to be informed of the final decision and results of a disciplinary proceeding;
- i) to request, on behalf of its member(s), reasonable accommodations under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act through the Appalachian State University Office of Disability Services;
- j) to confront, in some manner, the allegations and information presented relevant to the formal charge(s) against them, which in all cases will be brought forward by the University;
- k) to request, that a member of a Board be excluded from the hearing on the basis of a conflict of interest;
- l) to not speak or answer any question(s), if such testimony or answers would tend to establish against them a violation of this Code. When an organizational representative refuses to speak, therefore avoiding questioning, they relinquish the right to make a written or verbal statement at the end of the findings stage of the hearing; however, a summation of the relevant facts of the matter under adjudication may be made by the student's officers on behalf of the Respondent Organization or its Advocate if an informal resolution is sought, provided that the summation is not a substitute for the statement the Respondent Organization declined to provide;
- m) to pose reasonable questions to any witness appearing at a hearing in a manner determined by the Chair;
- n) to appeal any decision of a Board, pursuant to this Code and;
- o) to have supervised access to a recording of the hearing proceedings.

### **3.2 Rights of the Complainant**

The Complainant has the following rights:

- a) to be provided a fundamentally fair process;
- b) to file a complaint within one hundred eighty (180) days following the date on which an alleged violation of this Code occurred;
- c) to file criminal charges or pursue civil action in addition to any action taken under this Code;
- d) to have prior disciplinary history excluded from information presented during a Board's deliberation of findings for any charge(s);
- e) to have sanction(s) imposed on the basis of the guidelines set forth in this Code;
- f) to request reasonable accommodations under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act through the Appalachian State University Office of Disability Services;
- g) to review the information that will be presented in any resolution, provided that the information may be given to the student in a redacted format;
- h) to present relevant information on their behalf;
- i) to obtain support, advice, or assistance from support individual or an Organizational Conduct Advocate if an Informal Resolution is sought or appeal is filed, pursuant to relevant sections

in Article VI of this Code;

- j) to know the identity of individuals speaking or providing written information for consideration at any hearing;
- k) to be provided the same opportunities as the Respondent Organization to address any University official involved with the resolution of the complaint, including being present during the findings stage of the hearing;
- l) to request that a member of a Board be excluded from the hearing on the basis of a conflict of interest;
- m) to not speak or answer any question(s), if such testimony or answers would tend to establish against them a violation of this Code. When a student refuses to speak, therefore avoiding questioning, they relinquish the right to make a written or verbal statement at the end of the findings stage of the hearing; however, a summation of the relevant facts of the matter under adjudication may be made by the Respondent Organization or Advocate if an Informal Resolution or appeal is sought, provided that the summation is not a substitute for the statement the student declined to provide;
- n) to pose reasonable questions to any witness appearing at a hearing in a manner determined by the Chair;
- o) to appeal a decision of a Board panel, as permitted under section 7.01 of this Code

## **ARTICLE IV - PROHIBITED CONDUCT**

All Recognized Student Organization 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. Recognized Student Organization act through their members and officers and any misconduct on the part of these individuals may be attributed to the Recognized Student Organization.

In determining whether a Recognized Student Organization is responsible for the alleged violation, the Board or University official may consider, but are not limited to considering a) whether the alleged involved the leadership or membership of the organization in either an official or unofficial capacity; 2) that the alleged violation occurred as a result of the organizational affiliation of the alleged individuals involved; 3) that the leadership or membership of the organization did have or should have had knowledge of such actions or activities; 3) organization funds were used to finance the function; 4) it occurred in the context of an Organization-sponsored function; 5) it occurred in the context of an Organization-sponsored activity that was advertised via Organization-controlled mediums (e.g., social media); and/or other thresholds that a reasonable person or body might consider when an organizational affiliation is a factor in an allegation. Recognized Student Organization must also abide by the Code of Student Conduct as it relates to individual or group actions. Prohibited conduct includes, but not limited to the following:

### **4.1 Acts of Harm**

- a. *Physical Violence* - Engaging in any form of violence against another person, including but not limited to, pushing, shoving, kicking, hitting, or other physical actions.
- b. *Threats* – Threatening another individual or group, whether communicated to one or more individuals, physically, verbally, or by any other means such that the individual or group reasonably believes that the threat is likely to be carried out. Examples include, but are not limited to, intimidation, and coercion.
- c. *Reckless Behavior* – Intentionally or recklessly causing any act that creates a substantial risk of

bodily harm to another.

- d. *Acts Against University or Emergency Personnel* – Placing a University Official or Emergency Personnel (e.g. Police Officer, Firefighters, EMT, etc.) in fear or at risk of physical harm or danger or inflicting physical harm upon a University employee.
- e. *Threats Towards a University-Sponsored Activity* – Directing threats of violence in order to disrupt a University-sponsored activity.
- f. *Bullying/Cyberbullying* – Engaging in repeated or severe aggressive behaviors that intimidates, intentionally harms, controls, or seeks to control another individual physically, mentally, or emotionally. Examples include, but are not limited to, spreading rumors, teasing, taunting, and intentionally embarrassing another individual.

#### **4.2 Alcohol**

- a. *Underage Possession/Use* – Possessing or using alcohol while under the age of twenty-one (21).
- b. *Improper Possession/Use* – Possessing or using alcohol where it is not permissible to do so, regardless of age.
- c. *Providing to Minors* – Providing alcohol to any individual under the age of twenty-one (21).
- d. *Public Intoxication* – Being intoxicated in public attributable in part or in whole to the use of alcohol.

#### **4.3 Disorderly Conduct**

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

#### **4.4 Drugs**

- a. *Schedule I-II Manufacturing/Selling/Delivering* – Manufacturing, selling, delivering, or possessing with the intent to manufacture, sell, or deliver, any substance identified as a Schedule I-II controlled substance by North Carolina General Statutes, Chapter 90, Article 5 (North Carolina Controlled

Substances Act), or similar relevant provisions of federal or foreign law, including, but not limited to, heroin, cocaine, ecstasy, LSD/acid, mushrooms, opium, amphetamines (e.g., Adderall), and methamphetamines.

- b. *Schedule I-II Possession/Use* – Possessing or using any unauthorized substance identified as a Schedule I-II controlled substance by North Carolina General Statutes, Chapter 90, Article 5 (North Carolina Controlled Substances Act), or similar relevant provisions of federal or foreign law, including, but not limited to, heroin, cocaine, ecstasy, LSD/acid, mushrooms, opium, amphetamines (e.g., Adderall), and methamphetamines.
- c. *Schedule III-VI Manufacturing/Selling/Delivering* – Manufacturing, selling, delivering, or possessing with the intent to manufacture, sell, or deliver, any substance identified as a Schedule III-VI controlled substance by North Carolina General Statutes, Chapter 90, Article 5 (North Carolina Controlled Substances Act), or similar relevant provisions of federal or foreign law, including, but not limited to, marijuana and synthetic cannabis (K2, spice, etc.).
- d. *Schedule III-VI Possession/Use* – Possessing or using any unauthorized substance identified as a Schedule III-VI controlled substance by North Carolina General Statutes, Chapter 90, Article 5 (North Carolina Controlled Substances Act), or similar relevant provisions of federal or foreign law, including, but not limited to, marijuana and synthetic cannabis (K2, spice, etc.).
- e. *Prescription Medication* – Misusing medically prescribed drugs.
- f. *Over-the-Counter Drugs* – Misusing over-the-counter drugs.
- g. *Huffing/Sniffing* – Huffing or sniffing any substance not intended for such use.
- h. *Paraphernalia* – Possessing drug paraphernalia, including, but not limited to, pipes, scales, bongs, blow tubes, and roach holders.

#### **4.5 Failure to Comply**

- a. *Obstruction of Personnel* – Intentionally delaying, obstructing, resisting, or failing to comply with the reasonable request of an individual who, in the performance of their duties, identifies themselves as an employee of the University or emergency personnel.
- b. *Sanctions* – Failing to comply with sanctions imposed under this Code.
- c. *Unapproved Events* – Failing to comply with the rules and regulations of holding sanctioned and approved events as outlined by the Office of Campus Activities and UREC.
- d. *Failing to Adhere* – failing to adhere to or comply with any policies, procedures, actions of a governing or advocacy body to which the Recognized Student Organization is a member and/or subject to the policies or decisions. This includes, but is not limited to Appalachian State University, nationally affiliated organizations, IFC, PHC, NPHC, Club Council, and Club Sports Council.

#### **4.6 False Information**

- a. *Misleading* – Furnishing false information to the University or emergency personnel with the intent to deceive or mislead, including, but not limited to, filing a false complaint alleging misconduct by another individual. Providing information in good faith, which later is determined to be without merit, shall not be considered a violation of this Code.
- b. *False Statements* – Knowingly making in public a false oral statement or knowingly publishing/distributing a false written or printed statement with the intent to deceive or mislead.

- c. *Misuse of University Documents* – Forging, altering, or misusing University documents or records.

#### **4.7 Gambling**

- a. Operating, playing, or betting on any game of chance at which any money, property, or other thing of value is bet, except as permitted by law. Examples of gambling include, but are not limited to, betting on, wagering on, or selling pools on any University athletic event; possessing any card, book, or other device for registering bets; offering, soliciting, or accepting a bribe to influence the outcome of any athletic event; and card games that result in individual profit or loss.

#### **4.8 Harassment**

- a. Engaging in verbal, physical, electronic, or other conduct based upon an individual's protected status (as defined in [Policy 110 Discrimination, Harassment and Retaliation](#)) that creates a hostile environment or involves a quid pro quo exchange. Harassment occurs when this type of conduct unreasonably interferes with an individual's: Educational environment (e.g., admission, academic standing, grades, assignment, etc.); Work environment (e.g., hiring, advancement, assignment, etc.); Participation in a University program or activity (e.g., campus housing, extra-curricular activities, etc.); or Receipt of legitimately requested services (e.g., disability or religious accommodations, etc.)

#### **4.9 Hazing**

- a. Causing or permitting an individual, as part of an initiation or as a criterion or perceived criterion of membership in a society, club, athletic team, or similar group or organization, to participate in any activity that subjects or is likely to subject that individual or others to risk of physical, mental, or emotional harm, or destroys or removes property, whether or not that individual has consented to participation in the activity. Silent participation or being in the presence of hazing is not a neutral act; they are considered a violation of this provision.

#### **4.10 Projectiles**

- a. Throwing or launching any object or substance, which has potential for damaging or defacing property or causing physical harm or disruption.

#### **4.11 Retaliation**

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

#### **4.12 Sexual Misconduct**

- a. *Sexual Harassment* – Engaging in unwelcome conduct of a sexual nature that is sufficiently severe, persistent, or pervasive that it interferes with, denies, or limits an individual's ability to participate in or benefit from the University's educational program or activities, and is based on circumstances involving quid pro quo sexual harassment, the creation of a hostile environment, or retaliation. Examples include, but are not limited to, unwelcome sexual advances; requests for sexual favors; sexually-based stalking or bullying; and other verbal, nonverbal, or physical conduct of a sexual nature (e.g., any act of sexual misconduct as defined in this Code).
- b. *Non-Consensual Sexual Contact* – Engaging in intentional sexual touching, clothed or unclothed, of any part, however slight, with any object, upon another individual, without consent or by force.

Examples of sexual touching include, but are not limited to, contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts, or making an individual touch another or themselves with or on any of these body parts; and any bodily contact of a sexual nature, though not involving contact with/of/by the breasts, buttocks, groin, genitals, mouth, or other orifice.

- c. *Non-Consensual Sexual Intercourse* – Engaging in any sexual intercourse (anal, oral, or vaginal), however slight, with any object, upon another individual, without consent or by force. Examples of sexual intercourse include, but are not limited to, vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact).
- d. *Sexual Exploitation* – Taking non-consensual or abusive sexual advantage of another for an individual's own advantage or benefit, or to advantage or benefit anyone other than the individual being exploited. Examples include, but are not limited to, invading sexual privacy; creating, using, or sharing a photograph, video, or audio recording of a sexual nature without consent; viewing or downloading child pornography; prostituting another individual; allowing a third party to observe sexual activity without consent of the partner(s) (e.g., letting individuals hide in closet to watch consensual sexual activity); engaging in voyeurism, peeping, or indecent exposure; knowingly transmitting sexually transmitted infections or other communicable diseases without the knowledge of the partner(s); and exposing one's breasts, buttocks, groin, or genitals in non-consensual circumstances or inducing another to expose their breasts, buttocks, groin, or genitals.

#### **4.13 Stalking**

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

#### **4.14 Theft or Unauthorized Possession**

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

#### **4.15 Unauthorized Entry or Access**

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

#### **4.16 Vandalism**

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

#### **4.17 Violation of Law**

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



#### **4.18 Violation of University Policies, Regulations, or Rules**

- a. Violating any written policies, regulations, or rules of the University, as adopted by the University and as may be amended from time to time. This includes violation of national and local organizational rules and regulations.

#### **4.19 Weapons**

- a. *Explosives* – Possessing a dynamite cartridge, bomb (homemade or otherwise), grenade, mine, powerful explosive, or any other similar device.
- b. *Firearms/Weapons* – Possessing any firearm or weapon on University premises without authorization, except as otherwise explicitly allowed by law.
- c. *Displaying/Brandishing* – Displaying or brandishing a firearm or weapon of any kind, or any item that may be used or perceived as a firearm or weapon, in a manner that would reasonably create a fear of harm to others.

### **ARTICLE V - EDUCATIONAL SANCTIONS**

Sanctions are intended to educate organizations on the effects of their behavior and invoke change in future decision making. An Organization Conduct Review Officer or Board may implement or add to any of the sanctions listed in this Article, pursuant to the guidelines set forth in this Code.

#### **5.1 Sanctioning Options**

Sanctions that may be issued include the following:

- a. *Organizational Warning* – official disciplinary action conveying to the organization that their behavior was unacceptable and that any future violation of this Code may result in more severe disciplinary action, including Organizational Probation, Organizational Suspension, or Revocation of University recognition. Notification will also be sent to any national or regional organization with whom the group is affiliated.
- b. *Organizational Probation* – pre-suspension period in which the organization's behavior is under University review, conveying that the behavior was unacceptable and that any future violation of this Code may result in more severe disciplinary action, including Organizational Suspension or Revocation of University recognition. Notification will also be sent to any national or regional organization with whom the Recognized Student Organization is affiliated.
  - i. Organizational Probation shall be imposed for a period no less than the remainder of the current semester.
  - ii. A Recognized Student Organization that has violated this Code while currently on Organizational Probation shall be suspended as a minimum sanction.
  - iii. A Recognized Student Organization that has violated this Code and has previously been on Organizational Probation, but is not currently on Organizational Probation, may be placed on Organizational Probation as a minimum sanction.
- c. *Organizational Suspension* – The purpose of organizational suspension is to create separation between the Recognized Student Organization and the University and to provide the organization with an opportunity to address any issues. Organizational suspension of official University recognition will be a period of no less than two years. Notification will also be sent to any national or regional organization with whom the Recognized Student Organization is affiliated.

- i. Suspension may be effective immediately or deferred until the end of the current semester.
  - ii. Suspension will include any on and off campus behavior and activities conducted by the organization that violates this Code.
  - iii. During the period of Suspension, the Recognized Student Organization will have all benefits of University recognition suspended. A suspended Recognized Student Organization may not participate in University Sponsored Activities, participate in events and activities as an organization on or off campus, use or schedule University facilities and cannot use Appalachian's name or marks in any manner for any purpose.
  - iv. The suspension and all associated documentation shall be maintained in the Recognized Student Organization official University records maintained by the Office of Campus Activities.
  - v. A date at which time the Recognized Student Organization may request to petition to return to campus is contingent upon fulfillment of all requirements as outlined in section 5.2 of this Code.
  - vi. A Recognized Student Organization that has violated this Code and has previously been suspended shall be suspended as a minimum sanction
- d. *Revocation of University Recognition* – permanent revocation of University recognition subject to the right to petition for reinstatement as described in this section. Removal of University recognition will be for a period of no less than four years. Notification will also be sent to any national or regional organization with whom the University Recognized Student Organization was affiliated.
- i. Shall be effective immediately.
  - ii. Removal of University Recognition will include any on and off campus behavior and activities conducted by the organization that violates this code.
  - iii. All benefits given to a Recognized Student Organization shall be permanently removed.
  - iv. A notation of removal and all associated documentation shall be maintained in the former student organization's official University record maintained by the Office of Campus Activities.
  - v. The former Recognized Student Organization may petition the Associate Vice Chancellor for Student Affairs to rescind the removal no earlier than four (4) years after the effective date of the removal. The Associate Vice Chancellor's determination regarding reinstatement shall be based on the former Recognized Student Organization petition and relevant documentation supporting or opposing the rescindment as outlined in section 5.2 of this Code.
  - vi. If the Revocation of University Recognition is rescinded, the organization will be required to follow the New Club Chartering Process as outlined in the Student Organization Policy Manual. If the organization is a social fraternity or sorority, it must follow the process as outlined in the Fraternity and Sorority Life Expansion and Recolonization Policy.

- e. *Additional Sanctions* – sanctions that may be given in addition to Sections 5.01a-d of this Code include, but are not limited to, the following:
- a. exclusion from intramural competition;
  - b. loss of all privileges granted as a part of recognition for Recognized Student Organization;
  - c. restitution for loss, damage, or actual expenses incurred as a result of the Recognized Student Organization behavior;
  - d. suspension of rushing, recruiting, or intake processes;
  - e. loss of social privileges where the Respondent Organization may not sponsor any activity, party, or function that is social in nature during the established period of time;
  - f. requirements for additional training or advisement from Student Engagement and Leadership staff, advisory boards, or other appropriate parties
  - g. participation of Recognized Student Organization (its officers, other members or full membership) in educational programming, including but not limited to alcohol and other drugs counseling or reflection activities;
  - h. ban for a definite or indefinite period of time from all or a portion of any University premises or University-sponsored activities;
  - i. any other sanction determined appropriate as a result of an Informal or Formal Resolution.

## **5.2 Petition to Return after Suspension or Revocation**

At the conclusion of the suspension or revocation period, the organization may petition to return to campus. In order to petition, the organization must clearly meet all suspension requirements as outlined in the suspension letter. The organization must effectively disband for the duration of the suspension period including, but not limited to:

- a. Ceasing all operations, activities, and functioning on and off campus as a University Recognized Student Organization.
- b. If the organization is associated with an inter/national or regional organization, the local organization must close and desist any and all internal and external operations.
- c. Organization name, letters, and/or images should not be used in any advertising or promotional materials. This includes, but is not limited to, using the organization's names or letters on social media platforms, flyers, websites, listservs, etc.
- d. The return of the organization is not automatic. Failure to meet these requirements could result in the denial of the organization's petition to return. If the petition is accepted, the organization must follow the New Club Chartering Process as outlined in the Student Organization Policy Manual. If the organization is a social fraternity or sorority, it must follow the process as outlined in the Fraternity and Sorority Life Expansion and Recolonization Policy.

## **5.3 Compelling Factors**

To maintain fairness and consistency, absent any compelling factors, the minimum sanction will be

imposed. Where a sanction less than the minimum is being considered, the responsibility shifts to the Respondent Organization to offer reasons for a lesser sanction to be imposed. Compelling factors, which may warrant a sanction less than or greater than the minimum may include, but are not, limited to:

- a. prior disciplinary history;
- b. the nature of the behavior/violation, as well as the degree of any damage, injury, or harm resulting from the behavior/violation;
- c. composition of organization's current membership. This includes, but is not limited to, the class standing of current members (i.e. graduating seniors through first year students), number of members, etc.
- d. assistance and support from the organization's inter/national or regional office, if applicable;
- e. information provided in an impact statement; and
- f. the professional judgment of an Organization Conduct Review Officer or Board.

## **ARTICLE VI - PROCESS FOR ADDRESSING PROHIBITED CONDUCT**

### **6.1 Allegations of Sexual Misconduct**

Complaints of alleged dating/domestic violence, sexual misconduct or sex/gender based harassment will be referred directly to the Office of Equity, Diversity and Compliance. Allegations of sexual misconduct will be investigated, heard and decided in a deliberate manner within reasonable time frames as outlined in the Code of Student Conduct. In such cases where the Recognized Student Organization creates an environment or culture conducive for sexual misconduct, the Recognized Student Organization may be considered in violation of this Code.

### **6.2 Notification and Written Communication**

Pursuant to University Policy 915 – (E-Mail as Official Means of Communication), all forms of written communication shall be delivered via the official Appalachian e-mail to the listed officers (President and/or other officers) on behalf of the Recognized Student Organization and this communication shall be considered notification to the Recognized Student Organization. Special circumstances may require that written communication be through personal delivery or U.S. mail. Written communication shall be considered delivered on the date e-mailed, hand-delivered, or three days after the communication is mailed.

### **6.3 Reporting Allegations**

Accusation or reports of suspected violations by a Recognized Student Organization must be delivered to the Office of Campus Activities in accordance with the below procedures:

- a) Any members of the University community or other individuals/groups with knowledge of an alleged violation may submit a complaint of misconduct against a Recognized Student Organization to the Office of Campus Activities. The complaint should be submitted as promptly as feasible after the occurrence. A delay in reporting may be reasonable under some circumstances, as determined on a case-by-case basis. An unreasonable delay in reporting,

however, is an appropriate consideration in evaluating the merits of a complaint. In any event, a complaint must be made within one hundred eighty (180) days following the date on which an alleged violation of this Code occurred. In extenuating circumstances, the timeline for filing a complaint may be extended.

- b) To be considered, a complaint must include factual information supporting the allegation(s). Anonymous complaints cannot be the sole basis of a referral under this Code. Information provided through public electronic sources or public records (e.g., criminal citations, etc.) may be used as a complaint of misconduct.
- c) The Director will, in their professional judgment on the basis of the provided information or in consultation with appropriate University Officials, determine (a) if a complaint shall be pursued or dismissed, (b) the most appropriate means for addressing the complaint (e.g., investigation, informal resolution, formal resolution). This determination should be made within five (5) days after the complaint is submitted; however, a reasonable extension of this time limit is permissible.
- d) If it is determined that the information reported does not warrant an allegation, a notification letter may be issued to involved parties to clarify the policy in question.
- e) Allegations of misconduct will be presented to the Respondent Organization in writing and will include the alleged violation(s) and details about next steps relevant to this Code. The representative for the Respondent Organization will be the President or another member holding a similar position. All communication will be transmitted through the President or another member holding a similar position of the Respondent Organization with a copy to the Associate Vice Chancellor and/or the National Organization if applicable.
- f) Allegations of sexual misconduct involving either Recognized Student Organizations or members of a Recognized Student Organization will follow University Policy as outlined in the Code of Student Conduct.

#### **6.4 Standard of Proof**

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

#### **6.5 Presence of Support Individuals and Advocates**

- a) The Respondent Organization and the Complainant have the right to be accompanied by up to two support individuals. These individuals are present to provide emotional support to the student(s). The support individuals may not participate in the proceedings, address any participants, or, in the sole discretion of the individual facilitating the meeting (e.g., Organizational Conduct Review Officer, Chair), delay, disrupt, or otherwise interfere with the proceeding.

- b) At any point except for a Formal Resolution involving the Organizational Conduct Board, the Respondent Organization and the Complainant may be represented by one Advocate. Notification of the Advocate's planned participation, as well as other required documents related to their participation must be submitted at least two days prior to the meeting. This documentation must be requested from the Director in advance by the Respondent Organization or Complainant. Failure to submit the required documents may, in the discretion of the Director, result in the Advocate not being permitted to participate in the meeting.
- c) Reasonable effort will be made to accommodate the availability of support individuals or an Advocate, when permitted under this policy; however, the availability of involved parties (Respondent Organization and Complainant), witnesses, the Organizational Conduct Review Officer, Board members, and other necessary participants as well as the expectation to promptly complete the proceeding may, in the discretion of the Director, take priority when determining the meeting date and time.

## **6.6 Interim Suspension**

In appropriate circumstances, the Director, in consultation with appropriate University officials, may impose an Interim Suspension on a Recognized Student Organization who has allegedly violated this Code. During a period of Interim Suspension, the student organization shall be banned from all University premises and University-sponsored activities, and is subject to loss of University recognition if found on any University premises or at a University-sponsored activity. A notice of Interim Suspension shall be provided in writing to the Respondent Organization

### *a) Circumstances Where Interim Suspension May Apply*

Interim Suspension shall be exercised only when the Director reasonably believes that the Recognized Student Organization's alleged misconduct is of such a serious nature that their continued status as a Recognized Student Organization at the University is (a) potentially threatening, harmful, or dangerous to others or the University community; (b) posing a threat of significant property damage; (c) impacting the stability and continuance of normal University functions; (d) directly and substantially impeding the lawful activities of others; or (e) is in the best interest of the University and/or its community.

## **6.7 Investigations**

- a) In some instances, the Director or designee may assign an Investigator to investigate an alleged violation(s) of the Code. If so, a written notice of investigation will be delivered to the Respondent Organization.
- b) The role of the Investigator is to gather information and impartially review the alleged incident by interviewing involved parties and witnesses in order to be able to provide a comprehensive review of the incident. The investigation may include review of written statements, audio recordings, pictures, social media information, text messages, class schedules, police investigation reports, and other relevant information.
- c) During an investigation, the Respondent Organization will have the opportunity to present relevant information and identify relevant witnesses.
- d) If the representative for the Respondent Organization does not schedule a meeting by the date specified or fails to appear for a scheduled meeting, the Investigator may complete the investigation on the basis of other information obtained.

- e) At the conclusion of an investigation, the Investigator shall prepare a written report that includes a synopsis of all available relevant information, a statement regarding information that is not disputed, and a statement regarding information that is still in question. Prior to the report being presented to the Director for review, the Investigator shall provide an opportunity for the involved parties and witnesses to review their own statements for accuracy.
- f) After the investigation report is received by the Director, they shall meet with the Respondent Organization.
- g) Once all parties have been afforded an opportunity to review the investigation report, an electronic copy shall be provided to the Respondent Organization
- h) Investigations are normally concluded, including submission of the written report, within twenty-five (25) days of referral to the Investigator. If additional time is needed, all parties will be notified of the reason for delay and a projected timeline for completion.

## **6.8 Informal Resolution**

- a) During an Informal Resolution, the Organizational Conduct Review Officer will, in their professional judgment on the basis of the provided information or in consultation with appropriate University officials (e.g., Title IX Coordinator; the Dean of Students, etc.), propose findings regarding any alleged violation(s) and may specify any sanction(s) described in this Code. The Director may also refer any case directly to a hearing without the option of an Informal Resolution.
- b) If the representative for the Respondent Organization accepts the Informal Resolution, they waive their right to a Formal Resolution and, if applicable, accept responsibility for the violation(s) and the sanction(s) imposed.
- c) If the representative for the Respondent Organization declines the Informal Resolution, the case will be referred to the Organizational Conduct Board for formal resolution.
- d) The Respondent Organization may be given up to three (3) days to review the informal resolution and decide if they would like to accept or decline the proposed findings and sanctions.
- e) The resolution must be delivered in writing to the Respondent Organization within five days.
- f) An Informal Resolution may not be appealed.

## **6.9 Formal Resolution**

- a) Unless an Informal Resolution is accepted, the Organizational Conduct Review Officer shall refer the case to a hearing for Formal Resolution with the Organizational Conduct Board.
- b) The Organizational Conduct Board shall be composed of students selected by an application and interview process overseen by the Office of Campus Activities. Recruitment of students to serve on the Board will be campus-wide with efforts to include membership from organizations represented by the various student governing and/or advocacy boards including but not limited to Club Council, Club Sports Council, IFC, NPHC, and PHC.
- c) The chair of the Board will be a student. All members, including the Chair, shall be full-time students in good disciplinary standing with a cumulative grade point average of 2.5 or above; the Chair must be classified as a junior or above with a cumulative grade point average of at

least 2.75 and must have served on the Organizational Conduct Board for at least one semester. All members shall serve one-year terms, which may be renewed.

- d) The Director shall appoint a panel consisting of five (5) members from the Board for each case. There will also be a chair appointed by the Director for each case in addition to the five (5) Board members.
- e) The Board through its Chair is delegated the authority to conduct hearings in a manner designed to effectively and efficiently elicit information needed for the Board to make its decisions. This includes the authority to review the admissibility of any information, to question witnesses, to limit the length of testimony of any participant if the testimony appears to be repetitious or irrelevant, and to remove any participant who is unruly or disruptive. The Board Chair is charged with the responsibility to conduct the hearing in a manner that will do the following:
  - i. ensure a fundamentally fair process;
  - ii. protect the rights of the Respondent Organization and Complainant; and
  - iii. ensure that participants are treated with respect.
- f) Prior to considering the charges, the Chair shall address the following:
  - i. the procedures that the Board will follow;
  - ii. the hearing being closed to the public;
  - iii. the importance of confidentiality of the proceedings;
  - iv. the University's commitment to the principle of fundamental fairness;
  - v. the presumption that a Respondent Organization is not responsible for a violation of this Code until determined otherwise; and
  - vi. whether any Board member wishes to recuse themselves due to a conflict with, bias about, or interest in the case.
- g) Special accommodations may be provided for testimony by alternate methods (e.g., room divider, teleconference, video conference). Such accommodations are at the discretion of the Chair in consultation with the Director.
- h) All hearings will be recorded, and the recordings will serve as the verbatim record. The University retains the sole right to record hearings. No other recordings may be made of the hearings.
- i) All hearings are closed to the public.
- j) The Respondent Organization may request that a board member be excluded due to bias. This request must be made immediately after the introduction of the Board and requires justification. Additionally, a Board member may recuse themselves if they believe there is a conflict with, bias about, or interest in the case. The Chair shall make the final decision whether to exclude any Board member; this decision cannot be appealed.
- k) The Board and/or Respondent Organization, may ask reasonable questions of any witnesses appearing at the hearing, including, but not limited to, the Investigator. This is not intended to preclude the introduction of written statements, previously written memoranda, letters, or other written material. When practical, the opportunity for questioning should be afforded; however, other information may be introduced at a hearing even though the writer is not present for



questioning. Members of the Board shall attach whatever weight or significance to these documents or statements they deem appropriate.

- l) To determine findings for any alleged violation(s), a vote by the Board will be taken in a closed executive session and will be based solely on the information presented during the hearing. The Board shall base its determination on information that it finds to be reliable, including any assessment of the credibility of information. A vote of “responsible” by a simple majority of the members present, excluding the Chair, shall be required to find the Respondent Organization responsible for any violation(s).
- m) Information regarding any prior disciplinary history may not be introduced or considered in deliberations regarding findings of responsibility.
- n) If the Respondent Organization is found responsible, any information related to the Recognized Student Organization prior disciplinary history, may be introduced and considered by the Board in determining a sanction. A Complainant involved in an alleged crime of violence may provide an impact statement. This statement is not binding on the Board, but will be given such weight as the Board deems appropriate.
- o) Decisions of the Board are final and may not be appealed, except for Organizational Suspension or Revocation of University Recognition, which may be appealed as set forth in section 7.1 of this Code.
- p) A final decision must be made within ten (10) days of the date of the hearing. Notice of the decision must be delivered in writing to the Respondent Organization within five (5) days of the decision. The notice will include a brief summary of the information upon which the decision is based and shall specify any appeal rights.

## **ARTICLE VII - APPEALS**

### **7.1 Purpose and Grounds for Appeal**

- a) The purpose of the appeal process is to provide the opportunity for questioning the appropriateness of actions resulting in an Organizational Suspension or Revocation of University Recognition. It is not the purpose of the appeal process to provide for a new hearing at a higher administrative level.
- b) The Respondent Organization may appeal a decision for Organizational Suspension or Revocation of University Recognition based on the following grounds: (a) a violation of due process or (b) a substantial deviation from the policies and procedures set forth in this document.

### **7.2 Filing an Appeal**

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

- c) The Appellate Officer shall either be the Associate Vice Chancellor or the Associate Vice Chancellor's designee. The Appellate Office shall resolve the appeal in accordance with section 7.03 below.

### **7.3 Resolving an Appeal**

- a) The Appellate Officer may rule on the appeal upon receipt, or appoint a committee to recommend action on the appeal.
- b) The Appellate Officer may issue one of the following decisions:
- i. uphold the finding(s) of responsibility and sanction(s);
  - ii. uphold the finding(s) of responsibility and reduce, but not eliminate, the sanction(s); or
  - iii. remand the case to the same or a new Board.
- c) A decision must be made within fifteen (15) days after the appeal is received by the Appellate Officer. Notice of the decision must be delivered in writing to the Respondent Organization within five (5) days of the decision
- d) The final results of an appeal decision made with respect to an alleged crime of violence or sex/gender-based harassment shall be reported to the alleged victim in accordance with FERPA and the Clery Act.
- e) The decision of the Appeals Board or Officer is final and cannot be appealed further except as otherwise provided in The Code of the Board of Governors of the University of North Carolina Section 502 D(3) – Chancellors of Constituent Institutions. An Advocate for the Respondent Organization may be present at the appeal if the Respondent Organization so desires.

### **7.4 Deferral of Sanctions**

At the discretion of the Associate Vice Chancellor, the imposition of a sanction(s) will normally be deferred during the resolution of an appeal. The sanction(s) may be imposed immediately following a decision if the Respondent Organization's behavior was of such a serious nature that it (a) was threatening, harmful, or dangerous to others or the University community; (b) caused significant property damage; (c) impacted the stability and continuance of normal University functions; or (d) directly and substantially impeded the lawful activities of others.

## **ARTICLE VIII – DISCIPLINARY RECORDS**

All Recognized Student Organization disciplinary records are the property of the University and are maintained by the Office of Campus Activities with copies related to club sports organizations maintained in UREC. Disciplinary records may include, but are not limited to, complaints, police reports, correspondence, case summaries, written information, and audio recordings. Disciplinary records include both electronic and paper records.

## **ARTICLE IX – REVIEW AND REVISION**

### **9.1 Annual Review**

- a) Subject to the authority of the Vice Chancellor for Student Affairs and the Chancellor, this

Code shall be reviewed annually by a committee composed of staff, faculty, and students to determine appropriate revisions that are in the best interest of the University and aligned with the Student Code of Conduct. These revisions shall be considered recommendations to the Chancellor.

- b) The Chancellor reserves the right to appoint other such committees or groups as they deem appropriate to advise them on changes or revisions to this Code.

## **9.2 Changes Beyond the Annual Review**

The Chancellor reserves the right to review and amend this Code at any time.

## **RELEVANT POLICIES**

### **The Code of the Board of Governors of the University of North Carolina**

- a) UNC Policy Manual 700.4.1.1[R] – Regulation Applicable to Student Disciplinary or Conduct Procedures: Right to an Attorney or Non-Attorney Advocate for Students and Student Organizations
- b) UNC Policy Manual 700.9.1-Recognition of Student Organizations

### **Appalachian State University Policy Manual**

- a) Policy 105.3 – Policy Statement on the Family Educational Rights and Privacy Act of 1974, as Amended
- b) Policy 106 – Drugs and Alcohol
- c) Policy 401.2 – Harassment and Discrimination
- d) Policy 915 – E-Mail as Official Means of Communication

### **Applicable Federal Laws and State General Statutes**

- a) U.S. Department of Education Information about the Family Educational Rights and Privacy Act of 1974
- b) Department of Education Information about the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
- c) North Carolina Controlled Substances Act – North Carolina General Statutes, Chapter 90, Article

### **Applicable University Student Governing and Advisory Bodies**

- a) Student Organization Policy Manual
- b) Club Sports Council Constitution, By-laws, and Policies
- c) Interfraternity Council Constitution, By-laws, and Policies
- d) National Pan-Hellenic Council Constitution, By-laws, and Policies
- e) Panhellenic Council Constitution, By-laws, and Policies
- f) Fraternity and Sorority Life Expansion and Re-Colonization Policy