

The Appalachian State University Code of Student Conduct

GOVERNANCE OF THE UNIVERSITY

Appalachian State University in Boone, North Carolina, is chartered by the State of North Carolina as a constituent institution of The University of North Carolina. Under Section 502D 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 delegate to the Chancellor of Appalachian State University "...full authority in the regulation of student affairs and in matters of student discipline..." at Appalachian State University. The Chancellor is afforded the prerogative of delegating authority to act in student disciplinary matters to faculty committees, administrative officers, and to agencies of the student government. The Vice Chancellor for Student Development has been charged by the Chancellor with the authority to act in student disciplinary matters subject to the control of the Chancellor. Faculty and student judicial boards have been created to assist in the administration of the disciplinary system. Judicial boards and administrative officers are charged with authority to act on disciplinary matters as defined in this Code of Student Conduct.

As an academic community, Appalachian State University has an interest in the safety, welfare, and education of the members of this community and in the perpetuation of an environment consistent with the educational mission, purpose, and process of the University. For this purpose, the Chancellor of Appalachian State University has established this Code of Student Conduct. It sets forth the minimum level of conduct expected of every student at the University. The policies and procedures given herein are those approved by the Chancellor and are based on recommendations from students, faculty, and administrators at this University. They are designed to further the educational aims of the University and to assist all students in the pursuit of their educational and personal development.

STATEMENT OF POLICY

Attendance at Appalachian State University is a voluntary entrance into an academic community dedicated to teaching, scholarship, research, service, character development, and the personal growth of students. When students voluntarily enter the University, they assume obligations of performance and behavior relevant to the University's lawful mission, processes, and functions. These expectations of students in an academic community are higher than those expected of other citizens.

The process by which the University community educates students who violate the community standards of this Code of Student Conduct is through disciplinary counseling and the imposition of sanctions, including possible separation from the University. The goals of this educational process are as follows:

1. to educate the student by explaining the reasons for the community standard;
2. to determine with the student the reason(s) for the misconduct;
3. to bring the student's behavior into compliance with the community standard;
4. to have the student maturely accept accountability for his or her behavior;
5. to help the student clarify his or her values as they relate to the behavior in question;
6. to assist the student in making future choices that will enable him or her to be successful;
7. to help the student consider in advance the consequences of his or her behavior;
8. to protect the safety and welfare of the University community;

All decisions concerning the disciplining of students are based on educational criteria. Even in the case of expulsion for misconduct, the process is not intended to be punitive. Such a decision is a determination by the University community that the student is unqualified to continue as a member of Appalachian State University.

The procedures and processes given in this Code of Student Conduct are not intended to be equivalent to the process of federal or state criminal law. Criminal procedures and processes are designed for circumstances unrelated to the academic mission of the University. Adherence to federal or state criminal law process would frustrate the teaching and educational mission of the University and render the control of student discipline ineffective.

In exercising its disciplinary authority, the University is committed to the principle of fundamental fairness for students. Regulations affecting the conduct of students and sanctions for misconduct by students are based on the general principle of equal treatment, including a like sanction for a like violation, without regard to race, color, religion, sex, national origin, age, handicap, marital status, veteran status, or sexual orientation.

It is the prerogative of the University, through the Vice Chancellor for Student Development and the Chancellor,

to make decisions on the correct application of general policy statements and procedures to specific students under specific sets of circumstances and to interpret and apply the provisions of this Code of Student Conduct. In making decisions, the rights of the student and the needs of the University in accomplishing its educational goals and mission will be considered.

The provisions of the Code of Student Conduct are not contractual covenants between the University and the student. The University reserves the right to change procedures herein at any time within a student's term of enrollment. Such changes will be communicated to members of the University community through appropriate publications. Each student is responsible for maintaining current knowledge of disciplinary rules and regulations at all times. The Code of Student Conduct can be accessed at www.judicialaffairs.appstate.edu. Copies are also available at the Office of Student Judicial Affairs.

ARTICLE I—BILL OF STUDENTS' RIGHTS

It shall be the duty of the Chancellor and the Vice Chancellor for Student Development to secure to every student alleged to have violated provisions of this Code of Student Conduct a fundamentally fair review of the allegation(s) and the protection of these rights:

- 1.01 Rights of a Student Charged with a Violation of the Code of Student Conduct are the following:
 - a. the right of due process
 - b. the right to a fair hearing
 - c. the right to be presumed not responsible until proven otherwise
 - d. the right to know the evidence to be presented in any hearing
 - e. the right to know the identity of witnesses testifying at a hearing and to face witnesses and ask reasonable questions of them
 - f. the right to secure advice and assistance in preparing a defense of any alleged misconduct under this Code
 - g. the right to be given notice in writing of any charge(s) of misconduct
 - h. the right to appeal a decision by a judicial board or a conduct review officer within the limits of the time specified in this Code

- 1.02 Rights of a Person Bringing Allegations Under the Code of Student Conduct are the following:
 - a. the right to file criminal charges or seek civil action in a court in addition to any action taken under the Code
 - b. the right to be informed of any final results of a disciplinary proceeding in cases of violent crimes or non-forcible sex offenses
 - c. the right, in cases of sexual offense, forcible or non-forcible (Article 4.01g and 4.02t) to file an appeal of any disciplinary decision with the Vice Chancellor for Student Development within four working days of the date notified of the decision
 - d. the right to have the same opportunity as the student charged with the offense to have others present at the hearing
 - e. the right to appear alone or with any one other person of their choice to advise and assist them. The person chosen to advise or assist students may be a relative, a fellow student, a friend, a teacher, or any other person other than an attorney. In addition to an advisor, a person may be accompanied by no more than two other people
 - f. the right to request that a member of the Judicial Board be excluded from a hearing
 - g. the right to present evidence on his or her behalf
 - h. in the case of an alleged victim of a crime of violence, including sexual assault, the right to be present during the period in which evidence is submitted and the right to ask reasonable questions of any witness appearing at a hearing

ARTICLE II—DEFINITIONS

- 2.01 The term "Academic Dishonesty" includes, but is not limited to, (1) use of unauthorized assistance in taking quizzes, tests, or examinations; (2) dependence upon the aid of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments; (3) the acquisition, without permission, of tests or other academic materials belonging to a member of the University faculty or staff; (4) and plagiarism, which includes, but is not limited to, the use of paraphrases or direct quotations without acknowledging the source of the published or unpublished work and giving full acknowledgment thereto. Allegations of academic dishonesty are governed by the Academic Integrity Code.

- 2.02 The term "Academic Integrity Code" refers to the set of policies and procedures used by the University to

- adjudicate allegations of academic dishonesty.
- 2.03 The term “Chancellor” refers to the Chancellor of Appalachian State University. The Chancellor may delegate the authority to perform any of the duties assigned to him or her as prescribed in this Code.
 - 2.04 The term “Code” refers to the Appalachian State University Code of Student Conduct unless the context specifically indicates otherwise.
 - 2.05 The term “Committee on Student Conduct” refers to that body appointed by the Chancellor authorized to periodically review provisions of the Code of Student Conduct and to make recommendations to the Chancellor when changes are deemed in the best interest of the University.
 - 2.06 The term “Director of Student Judicial Affairs” refers to that person employed by the University designated by the Vice Chancellor for Student Development to perform duties commensurate with this Code and related matters.
 - 2.07 The term “Faculty Member” means any person hired by the University to teach in any capacity as defined by the University’s Faculty Handbook.
 - 2.08 The term “Interim Suspension” refers to a temporary period of separation of a student from the University supported by the Vice Chancellor for Student Development before a full disciplinary hearing (see Article IX).
 - 2.09 The term “Conduct Review Officer” means an official of the University authorized by the Vice Chancellor for Student Development to review alleged violations of the Code of Student Conduct, to impose sanctions upon students who have violated this Code, and to perform other assigned duties (see Article 3.08).
 - 2.10 The term “Judicial Personnel Committee” refers to that body authorized under this Code to select student judicial board members.
 - 2.11 The term “May” is used in the permissive sense.
 - 2.12 The term “Member of the University Community” includes any person who is a student, faculty member, University official, staff employee, or other employee of the University.
 - 2.13 The term “Misconduct” is any action by a student that endangers or threatens to endanger the health or safety of the University community or the educational mission of the University, or any behavior which violates the standards of conduct specified in Article IV of this Code.
 - 2.14 The term “Organization” means any group of students who have received recognition by the University, or are in some other direct fashion recognized by the University by virtue of budgetary support or publication of information regarding that organization in official University publication.
 - 2.15 The term “Policy” is defined as the written regulation, rule, or statement of Appalachian State University as found in any official publication of the University including, but not limited to, Appalachian State University catalogs, the Code of Student Conduct, the Housing and Residence Life License & Contract and the Student Handbook.
 - 2.16 The term “Precedent” refers to an action taken under the Code of Student Conduct that serves as an example or guideline for subsequent actions in similar or analogous situations.
 - 2.17 The term “Regular Semester” refers to either the fall or the spring semester. The summer term is not considered a regular semester and shall be referred to as “Summer Term.”
 - 2.18 The term “Residence Life Intervention System” refers to the Office of Residence Life staff intervention system used to modify the behavior of students in lieu of referral under the Code of Student Conduct, for infractions of simple group living regulations.
 - 2.19 The term “Sanction” refers to a disciplinary outcome for a violation of the Code of Student Conduct used as a means of providing education about University rules, regulations, and policies.
 - 2.20 The term “Shall” is used in the imperative sense.

- 2.21 The term “Student” also includes persons pre-enrolled at Appalachian State University for any number of credit hours either on or off campus. The University reserves the right to dismiss any student prior to her or his enrollment by rescinding that student’s admission upon a finding of cause to do so. Such a finding shall be an administrative decision rendered by the Vice Chancellor for Student Development or his or her designee.
- 2.22 The term “Student Judicial Board” refers to that judicial body authorized by the Vice Chancellor for Student Development to adjudicate alleged misconduct of students and to recommend the imposition of sanctions when appropriate, as prescribed by this Code.
- 2.23 The term “Student Judicial Counselor” refers to a full-time student appointed by the Director of Student Judicial Affairs to assist students when they are charged with violating the Code of Student Conduct.
- 2.24 The term “University” refers to Appalachian State University, a constituent institution of The University of North Carolina, located in Boone, North Carolina or any officially designated location.
- 2.25 The term “University Judicial Board” refers to that judicial body composed of faculty, staff, and students authorized by the Vice Chancellor for Student Development to adjudicate allegations of alleged misconduct by students and to recommend the imposition of disciplinary sanctions when appropriate, as prescribed by this Code.
- 2.26 The term “University Official” refers to an employee of the University acting in the performance of his or her assigned duties, capacity, or authority.
- 2.27 The term “University Property” includes but is not limited to all land, buildings, facilities, and other property owned, controlled, or used by the University, including adjacent streets and sidewalks and facilities not immediately adjacent to the main campus. In context, it may also include stationary items or movables (e.g., light fixtures, computers, automobiles).
- 2.28 The term “Vice Chancellor for Student Development” refers to the Vice Chancellor for Student Development at Appalachian State University. The Vice Chancellor for Student Development may delegate the authority to perform any of the duties assigned to him or her as prescribed in this Code.
- 2.29 Terms not specifically defined in the Code of Student Conduct shall be defined by the Webster’s Unabridged Dictionary.

ARTICLE III—JUDICIAL AUTHORITY

- 3.01 Jurisdiction of the University
The University has jurisdiction over all behavioral infractions that occur in University facilities on property owned, controlled, or used by the University. It reserves the right to consider the behavior of students off campus when it is determined that the off-campus behavior interferes with the University and its educational mission. The Vice Chancellor for Student Development shall make this judgment on a case-by-case basis. He or she will determine when the University’s educational interests are adversely affected. Generally, a student will be charged with a violation of this Code and subject to sanctions when, as a result of his or her behavior:
- the student is convicted of a felony in a criminal court;
 - the student is formally charged by authorities with committing a felony of such a nature that the student’s continued presence at the University is potentially dangerous to the health and safety of the University community;
 - there exists clear and convincing evidence that the student has committed a felony of such a nature that his or her continued presence at the University is potentially dangerous to the health and safety of the University, but where authorities have not brought charges or imposed penalties;
 - where the University’s interests are clearly an issue as a result of activities by a student or group of students.
- 3.02 Precedence of the Code of Student Conduct
The Code of Student Conduct is the University’s basic policy statement governing student conduct and student discipline. Operating units of the University, (e.g., academic colleges, academic departments, the Department of Residence Life, the Athletic Department) may also establish conduct standards for the student/departmental relationship, so long as these standards are not inconsistent with the provisions of this Code. Under circumstances in which there is an allegation of misconduct that would violate both the conduct standards of

operating units and the Code of Student Conduct, the determination of violation shall be made using the process established by this Code. A determination that the student violated the Code and the application of a sanction specified in this Code does not preclude the application of sanctions under departmental regulations. Sanctions applied under departmental regulations may not exceed those specified in this Code. Under no circumstances may departmental sanctions be imposed in lieu of sanctions applied in proceedings under this Code.

Consistent with the principle of fundamental fairness, no University disciplinary sanction shall be imposed on a student except in accordance with the provisions of this Code or the Academic Integrity Code.

3.03 Violation of Law and University Disciplinary Policies

University disciplinary proceedings may be instituted against a student charged with a violation of law that is also a violation of the Code of Student Conduct. The University reserves the right to proceed under the Code of Student Conduct with a hearing and the possible imposition of a sanction, prior to, concurrent with, or subsequent to, civil litigation, criminal arrest, and/or criminal prosecution. The University cooperates fully with outside law enforcement agencies to the extent permitted by law.

3.04 Judicial Boards

Two judicial boards are established to adjudicate alleged violations of this Code. One of these judicial boards is called the "Student Judicial Board." The other is called the "University Judicial Board."

- a. The Student Judicial Board is established subject to the authority of this Code and the Vice Chancellor for Student Development. The Student Judicial Board shall be composed of twelve board members and a chairperson. All members of the board shall be full-time students with a grade point average of 2.25 or above. Members of the Student Judicial Board shall be selected by the Judicial Personnel Committee. The Chairperson of the Judicial Personnel Committee shall inform the Student Government Association Student Senate of the students selected and their qualifications. All members of the judicial board shall be undergraduates and shall serve one-year terms. The chairperson shall be a full-time student who is at least a junior and maintains a 2.5 cumulative GPA.
- b. The University Judicial Board is established subject to the authority of this Code and the Vice Chancellor for Student Development. This judicial board is composed of nine persons, who shall be selected on a case-by-case basis by the Director of Student Judicial Affairs from a pool of students, faculty, academic deans, and student development educators. The composition of a University Judicial Board shall be as follows:
 1. Three faculty members from a pool composed of all members of the Appalachian State University faculty.
 2. Three students from a pool consisting of all members and officers of the Student Judicial Board, all members of the Graduate Student Association Senate, all student members of the Academic Integrity Board, and all full-time, enrolled former members of the Student Judicial Board who are in good standing.
 3. Two student development professionals from a pool consisting of all directors, associate directors, and assistant directors in the Division of Student Development by title or duty within the Division.
 4. The dean of the college in which the accused student is enrolled (the dean may send a representative who may be an associate dean, an assistant dean, or a faculty member designated by the dean; or, in the absence of a dean, the Vice Chancellor for Academic Affairs shall appoint a person to serve on the committee in this capacity).
- c. One member of the University Board will be appointed chairperson.
- d. A quorum shall consist of any five members of the Judicial Board excluding the chairperson.
- e. The authority of the Judicial Board is to:
 1. Adjudicate cases of alleged violations of this Code of Student Conduct referred to it by the Director of Student Judicial Affairs;
 2. Recommend to the Dean of Students through the Director of Student Judicial Affairs a finding of "in violation" or "not in violation," and, when appropriate, to recommend the imposition of disciplinary sanctions consistent with the Code of Student Conduct.
 3. In the case of a Student Judicial Board, to arbitrate disputes within the student community in cases that do not involve the Code of Student Conduct, when all parties agree to arbitration and to be bound by the decision of the Student Judicial Board with no right of appeal of this decision.
- f. The hearing procedures used by a Judicial Board to adjudicate alleged violations of this Code are not formally part of this Code except as provided in Article VII. Copies of the hearing procedures are available from the Director of Student Judicial Affairs.

3.05 Committee on Student Conduct

The Committee on Student Conduct is established subject to the authority of the Vice Chancellor for Student Development and the Chancellor.

- a. The Committee on Student Conduct shall be composed of two members of the Council of Deans appointed by the Vice Chancellor for Academic Affairs, two members of the teaching faculty appointed by the Chancellor, two members of the Division of Student Development appointed by the Vice Chancellor for Student Development, the Director of Student Judicial Affairs, the President of the Student Government Association, the President of the Graduate Student Association Senate, the Vice President of the Student Government Association, the Chairperson of the Student Judicial Board and the President of the Resident Student Association. Each member of the Committee on Student Conduct shall serve a one-year term and may be reappointed. The Vice Chancellor for Student Development shall serve as Chairperson of this committee.
- b. A quorum shall consist of a simple majority of the appointed members. No proxies may serve on this committee.
- c. The authority of the Committee on Student Conduct is to periodically review the Code of Student Conduct and to make recommendations through the Vice Chancellor for Student Development to the Chancellor for changes in the Code of Student Conduct which are in the best interest of the University.
- d. The Chancellor reserves the right to appoint other such committees or groups as he or she deems appropriate to advise him or her on changes or revisions to the Code.

3.06 Judicial Personnel Committee

The Judicial Personnel Committee is established subject to the authority of the Vice Chancellor for Student Development and the Chancellor. The Judicial Personnel Committee shall consist of one member of the Student Government Association, one member of the Campus Resident Student Association, the Director of Residence Life or a designee, the Vice President of the Student Government Association, the Student Chair of the Academic Integrity Board and a member at large appointed by the Vice Chancellor for Student Development. The Director of Student Judicial Affairs shall serve as chairperson of this committee.

- a. The authority of the Judicial Personnel Committee is to advertise, interview, and select the members of the Student Judicial Board. The Chairperson of the Judicial Personnel Committee shall inform the Student Government Association Student Senate of the students selected and their qualifications.
- b. The Judicial Personnel Committee shall select the chairperson of the Student Judicial Board.

3.07 Student Judicial Counselors

At least two full-time students shall be appointed by the Director of Student Judicial Affairs.

- a. The Student Judicial Counselor shall be trained to assist students who are charged with violating the Code of Student Conduct.
- b. The Student Conduct Advocate shall be trained to assist individuals who are bringing allegations to the Judicial Board, as well as to assist the University in preparing and presenting cases for a Judicial Board.

3.08 Conduct Review Officer

The Vice Chancellor for Student Development shall appoint one or more persons to serve as Conduct Review Officers.

- a. The authority of a Conduct Review Officer shall be as follows:
 1. to properly identify allegations against a student pursuant to the Code of Student Conduct based on evidence of a violation;
 2. to review the evidence supporting any alleged violation of this Code and determine if there is sufficient evidence to pursue allegations or formal charges under the Code;
 3. to discuss any allegation or charge of misconduct with any accused student;
 4. to inform a student in writing that the University is bringing formal charges under the Code;
 5. to inform a student of his or her rights under the Code;
 6. to render administrative decisions and recommend the imposition of sanctions under the provisions of Article VII.

3.09 Director of Student Judicial Affairs

The Vice Chancellor for Student Development shall appoint, as an employee of the University in the Division of Student Development, the Director of Student Judicial Affairs. The disciplinary authority of this person is subject to the supervision of the Vice Chancellor for Student Development and the Chancellor.

- a. The duties of the Director of Student Judicial Affairs shall include the following:
 1. administer the provisions of the Code of Student Conduct and perform the responsibilities given this position by the Code;
 2. act on behalf of the Vice Chancellor for Student Development as authorized by directive;
 3. serve as a conduct review officer;
 4. maintain all official University disciplinary records;

5. advise the Vice Chancellor for Student Development on changes in the Code that need to be considered by the Committee on Student Conduct;
 6. advise the Judicial Board;
 7. train and advise judicial board members and officers.
- b. Nothing in this Code shall prevent the Director of Student Judicial Affairs from serving in the capacity of a conduct review officer and as an advisor to either or both the Student Judicial Board and/or the University Judicial Board.
 - c. The Vice Chancellor for Student Development reserves the right to alter the duties of the Director of Student Judicial Affairs or to temporarily reassign some or all of these duties to others.

3.10 Assistant Director of Student Judicial Affairs

The Vice Chancellor for Student Development shall appoint, as an employee of the University in the Division of Student Development, the Assistant Director of Student Judicial Affairs. The disciplinary authority of this person is subject to the supervision of the Director of Student Judicial Affairs.

- a. The Assistant Director of Student Judicial Affairs may carry out any of the duties of the Director of Student Judicial Affairs listed in Section 3.09(a), above, as delegated by the Director of Student Judicial Affairs.
- b. Nothing in this Code shall prevent the Assistant Director of Student Judicial Affairs from serving in the capacity of a conduct review officer and as an advisor to either or both the Student Judicial Board and/or the University Judicial Board.

ARTICLE IV—CONDUCT PROHIBITED BY THE UNIVERSITY

4.01 Misconduct Requiring Expulsion or Suspension:

Certain conduct presents a clear and present danger to all members of the University community. By statute or policy, the State of North Carolina, the University of North Carolina, or Appalachian State University prohibits this conduct and the University has determined that this conduct by a student shall result in suspension or expulsion. Article VI of this Code provides guidelines regarding the range of sanctions that may be imposed for each type of misconduct:

- a. [Recodified as Section 4.02-am.]
- b. Falsely reporting the presence of an unlawful explosive or incendiary device with the intent to mislead, deceive, or disrupt the operation of the University or a scheduled event sponsored or co-sponsored by the University.
- c. Falsely reporting a fire or other emergency; falsely setting off a fire alarm.
- d. For the illegal manufacture, sale or delivery, or possession with the intent to manufacture, sell, or deliver, any controlled substance identified in Schedule I, North Carolina General Statutes 90-89, or Schedule II, N.C. General Statutes 90-90 (including, but not limited to, heroin, mescaline, lysergic acid diethylamide, opium, cocaine, amphetamines, methaqualone), or similar relevant provisions of federal or foreign law.
- e. For the first offense involving the illegal manufacture, sale or delivery, or possession with intent to manufacture, sell or deliver, any controlled substance identified in Schedules III through VI, General Statutes 90-91 through 90-94, (including, but not limited to, marijuana, pentobarbital, codeine) or similar relevant provisions of federal or foreign law.
- f. For a first offense involving the possession or use of any controlled substance identified in Schedule I, N.C. General Statutes 90-89, or Schedule II, N.C. General Statutes 90-90, (including, but not limited to, heroin, mescaline, lysergic acid diethylamide, opium, cocaine, amphetamines, methaqualone) or similar relevant provisions of federal or foreign law.
- g. Sex offenses, forcible or non-forcible—defined as any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent. Non-forcible sex offenses are acts of unlawful non-forcible sexual intercourse; a determination that an individual has committed this Code violation shall be dependent on pursuit of charges of a similar criminal offense in a court of law.
- h. Felonies—the commission of an act that is classified under North Carolina General Statutes as a felony.
 - i. Threats of violence directed toward groups on campus that disrupt University activities, whether communicated to one or more individuals.
 - j. Unauthorized entry into an elevator shaft and/or riding on top of an elevator car is prohibited.
- k. Possession on educational property of a gun, rifle, pistol, or other firearm, dynamite cartridge, bomb (homemade or otherwise), grenade, mine or powerful explosive.
 - l. Battery on a University employee.
- m. Defacing public property (e.g., graffiti, gluing, posting, or similarly affixing signs or posters to campus buildings or structures or property in unauthorized locations).

4.02 Misconduct: That may be Sanctioned by a Range of Educational Outcomes:

To provide for the safety and well-being of all members of the University community and to insure that the University is able to fulfill its mission, purposes, functions, and processes, the University prohibits students from engaging in the following conduct:

- a. Academic dishonesty—includes but is not limited to: cheating, willfully plagiarizing, engaging in dishonest practices in scholastic study examinations or in any other academic area (see Article II, Definitions, and the University Academic Integrity Code).
- b. Unauthorized setting of fires.
- c. Assault and/or battery—defined as the intentional infliction of injury to another by force, or force lawfully directed towards the person of another, under such circumstances as to create a well-founded fear of imminent peril, coupled with apparent ability to execute the attempt, if not prevented.
- d. Intentional disruption of, obstruction of, or interference with teaching, research, co-curricular or other University activities or other University-sponsored or University co-sponsored activities, programs, or events.
- e. The unauthorized possession or use of any controlled substance identified in Schedules III through VI, North Carolina General Statutes 90-91 through 90-94 (including but not limited to, cannabis, marijuana, codeine, pentobarbital), or similar relevant provisions of federal or foreign law, or the abuse of medically prescribed drugs, or the misuse of inhalants.
- f. Tampering with, or removing from its proper location, any fire extinguisher, hose, or other fire or emergency equipment, except when done with a reasonable belief of real need for such equipment.
- g. Intentionally delaying, obstructing, or resisting a person who identifies himself or herself as a member of the faculty, University administrator, University police officer, or other law enforcement officer, fire person, or other University employee in the performance of his or her duty.
- h. The unlawful or unwarranted entrance to any University building or any University property or premise.
- i. Rioting, inciting to riot, assembling to riot, raiding, inciting to raid, and assembling to raid University units.
- j. Possession on University property of a BB gun, paintball gun, air rifle, air pistol, bowie knife, dirk, dagger, slingshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except for personal shaving), any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparing food, instruction, and maintenance.
- k. Vandalism, malicious destruction, damage, misuse or abuse of public or private property, including library materials.
- l. Forgery, alteration, or misuse of University documents, records, or identification cards; furnishing false information to the University with intent to deceive and/or mislead; possession or use of forged identification cards of any kind.
- m. Failure to comply with the official regulation or order of a duly designated authority, agency, or agent of the University.
- n. Theft, larceny, shoplifting, embezzlement, or the unauthorized possession of the property of another.
- o. Knowingly furnishing false information to a judicial board or to a conduct review officer, or to any other University official.
- p. Knowingly making in public a false oral statement with the intent to deceive and/or mislead or knowingly publishing and/or distributing a false written or printed statement with the intent to deceive and/or mislead.
- q. Lewd, indecent, or obscene conduct.
- r. Disorderly conduct—defined as the intentional creation of a public disturbance on University property or at University sponsored or supervised events 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 person to violent retaliation; disrupting, disturbing, or interfering with the academic atmosphere of a living or learning environment.
- s. Hostile communication—defined as threatening another individual physically, verbally or by any other means in a manner to make that individual reasonably believe that the threat or threats are likely to be carried out; intimidation; or coercion.
- t. Sexual misconduct—non-consensual, intentional physical conduct of a sexual nature, such as unwelcome physical contact with a person's genitals, buttocks or breasts. Lack of consent may be inferred from the use of force, threat, physical intimidation, or advantage gained by the victim's mental or physical incapacity or impairment of which the perpetrator was aware or should have been aware.
- u. Excessive or disruptive noise, or the public use of unapproved amplified sound, or the amplification of sound in a manner that disrupts or disturbs the normal functioning of the University.
- v. Unauthorized use of University property or facilities.
- w. Unauthorized solicitation or unauthorized fund raising of any type.
- x. Possession or use of alcoholic beverages by any student under the age of 21; or the abuse of alcohol

- privileges; or providing alcoholic beverages to any student under the age of 21; or possession of kegs, beer balls, party balls, beer funnels or similar alcohol containers.
- y. Unattended or unleashed pets on property owned or controlled by the University, except as specified in Article 4.03e.
 - z. Commission of an act, or an attempt to commit an act, at the University that would be in violation of the General Statutes of the State of North Carolina or of any federal law.
 - aa. Violating general probation or specific probation, e.g. not completing required sanctions or a positive result on a drug screen.
 - ab. Attempting to commit, or being an accessory to the commission of, any misconduct specified in this Code.
 - ac. Sexual harassment—unwelcome sexual advances, requests for sexual favors, or conduct that has the effect of emphasizing sexuality, sexual identity, or sexual orientation in a manner offensive to a reasonable person, or that has the effect of creating an intimidating, hostile, or offensive environment inside or outside the classroom.
 - ad. Racial harassment—a threat of personal injury or property damage that is racially based, or other conduct (whether or not accompanied by verbal communication) that has the effect of emphasizing race, color, or national origin in a manner deemed offensive by a reasonable person, or that has the effect of creating an intimidating, hostile, or offensive environment inside or outside the classroom.
 - ae. Misuse or abuse of computers, computer systems, computer networks, programs, computer resources and data or violation of any state or federal law or University policy on the use of computers, computer systems, or computer networks. Misuse or abuse of computers includes but is not limited to:
 1. Any attempt to breach or the actual breach of network or computer security;
 2. Unauthorized entry into a file, to use, read, delete, or change the contents, or for any other purpose;
 3. Unauthorized copying or distribution of copyrighted computer software or other materials;
 4. Unauthorized transfer of a file;
 5. Use, or attempted use, of another person's identification and/or password or assisting another to misuse any identification or password;
 6. Use of computing facilities to interfere with the work of another student, faculty member, university official, or any other member of the University community;
 7. Use of computing facilities to send obscene or abusive messages;
 8. Use of computing facilities to send unauthorized mass e-mailings or chain mail;
 9. Use of web cams or any computer video recording devices without the verbal consent or knowledge of those being recorded;
 10. Use of computer facilities to interfere with normal operation of any University computing system network.
 - af. Public intoxication - defined as substantial impaired behavior evidenced by poor motor skill coordination, slurred speech, or similar observable signs; or by a blood alcohol level of .20 or higher; that is attributable in part or in whole to the ingestion of alcohol or drugs.
 - ag. Unauthorized disclosure of confidential records, tapes, information, or documents provided ancillary to any part of the student judicial process.
 - ah. Use of skateboards, in-line skates, or similar devices on University property.
 - ai. Possession of drug paraphernalia (included but not limited to pipe, scales, bong, blow tube, and roach holder).
 - aj. Gambling.
 - ak. Throwing of snowballs on University premises, throwing objects out of residence hall or other university windows, or throwing of any object at any unwilling participant.
 - al. Behavior or activities that endanger the safety of oneself or others.
 - am. Participating in hazing—defined as the intentional commission of an act, by an individual or a group, of physically abusing or harassing another person or creating a situation which produces physical harm or discomfort, severe emotional distress, embarrassment, or ridicule of another person.

4.03 Misconduct for Group Living

To insure that the on-campus living facilities of the University are educational, safe, and conducive to the academic and personal enrichment of all students, the University prohibits the following conduct:

- a. Violation of rules and regulations established by the Office of Residence Life and/or the Residence Hall License and Contract Agreement including but not limited to: disruption of a residence hall through vandalism, excessive noise and/or practical jokes.
- b. Violating residence hall visitation policies by a member of the opposite sex remaining in a residence hall room after visitation, or unauthorized occupancy of a residence hall room by a member of the opposite sex or a member of the same sex without authorization, or to be present in unauthorized areas within residence halls.

- c. The use of open flames or combustible materials in a residence hall.
- d. Possession and use of appliances or items prohibited in the residence halls in violation of University and/or North Carolina state fire code regulations.
- e. Possession of pets of any kind in any University hall with the exception of animals biologically classified as osteichthyes that are maintained in a ten-gallon or less fish tank.
- f. Failure to control the conduct of one's non-(Appalachian State University) student guest(s) whose behavior violates provisions of the Code.
- g. Preventing fire doors from properly closing.
- h. Failure to use designated entrances/exits after residence hall closing hours.
- i. Unauthorized propping of any secured door.

ARTICLE V—SANCTIONS

A Conduct Review Officer may implement any of the following sanctions, pursuant to the guidelines set forth in this Code. A Student Judicial Board, or University Judicial Board may recommend to the Dean of Students that any of the following sanctions be imposed:

- 5.01 **Reprimand**—is an official notification by the University that a student's behavior is unacceptable by University standards, and that the student needs to change this behavior.
- 5.02 **General Probation**—is an official disciplinary action by the University that removes the student from the presumption of good conduct into a period during which his or her conduct is under review by the University. This period of probation is intended to convey to the student that his or her behavior was unacceptable to the University and that any further violation of the Code shall result in the University taking more severe disciplinary action to bring the student's behavior into compliance with this Code.
 - a. In no case shall General Probation or a combination of probationary periods be for less than sixty academic days.
 - b. General Probation is recorded in the Office of Student Judicial Affairs.
 - c. If a student is found in violation of this Code while currently on General Probation, he or she must be placed on Specific Probation, Suspended from the University, or Expelled. General Probation may not be extended to a student who is currently on General Probation.
 - d. Refusal or failure to comply with the terms of General Probation, including but not limited to failure to attend any special program or pay an assigned fee, shall result in a student being placed on Specific Probation.
- 5.03 **Specific Probation**—is a period of close scrutiny of a student by the University to determine if that student should remain at the University. Such a period of probation is intended to convey to the student that his or her conduct is unacceptable by University standards and that any further violation of the Code shall result in a period of separation from the University or permanent Expulsion.
 - a. Specific Probation shall be imposed for a stated period of time but in no case will it be for less than sixty academic days.
 - b. Notice of Specific Probation shall be recorded in the student's official disciplinary record in the Office of Student Judicial Affairs.
 - c. A student who has been placed on Specific Probation may continue to participate in student activities but shall be ineligible to represent the University in any official function or leadership position (e.g., varsity athletics, teaching assistant, student leadership position, cheerleader, standing committee chairperson, senator or officer in SGA, elected office in any recognized student organization). The Director of Student Judicial Affairs may remove this restriction after at least one regular semester.
 - d. A student found to have violated the Code of Student Conduct while he or she is currently on Specific Probation shall be suspended from the University unless there is a compelling reason not to take such action. Consideration will be given to the type of violation, the severity of the offense, and other factors that might be relevant to such special consideration. In such cases, the burden of proof shifts to the student who violated the Code to offer compelling reasons for him or her to remain.
 - e. Refusal or failure to comply with the terms of Specific Probation, including but not limited to failure to comply with drug testing, complete community service, attend any special program, or pay an assigned fee, shall result in suspension.
 - f. A student who has previously been on specific probation, but who is not currently on specific probation, who violates the Code of Student Conduct shall, generally, return to specific probation as a minimum sanction.

- 5.04 **Suspension**—is a disciplinary action by the University that severs the student’s relationship with the University for a period of time. This action may be either immediate or delayed. During the period of suspension the student is denied the right to register for classes, attend classes, or to visit the University. The student is subject to arrest for trespassing should he or she be found on University property. Should the suspended student wish to return to the University, a letter requesting reinstatement must be submitted to the Director of Student Judicial Affairs.
- No credit earned by the student at another institution during the suspension period shall be transferred to Appalachian State University.
 - Notice of suspension shall be recorded in the student’s official University transcript maintained by the University Registrar’s Office, and a record of this suspension shall be kept by the college dean’s office of the student’s enrollment and in the Office of Student Judicial Affairs.
 - Suspension may be from a minimum of the remainder of the semester or summer term to any increment of time in semesters beyond that time; or suspension may be delayed until the end of a semester or summer term.
 - Suspension may be indefinite with no date established for the student to return. A date at which time the student may request reinstatement can be established or may be contingent on a student fulfilling one or more stipulations (e.g. resolution of criminal matters pending in the courts).
 - The notation of suspension shall be removed from a student’s transcript after the suspension has been completed, provided that the student has completed all requirements of the probation. In the case of suspension for an indefinite period of time, the notation of suspension shall be removed upon approval of the Director of Student Judicial Affairs.
- 5.05 **Expulsion**—is a statement to the student that he or she is unqualified to continue as a student at the University. This action severs the student’s relationship with the University immediately and makes the student ineligible to be considered for reinstatement. The student is subject to arrest for trespassing should he or she be found on University property. Notice of this action is recorded in the Office of Student Judicial Affairs and is permanently recorded on the student’s official academic transcript maintained by the University Registrar. Expulsion is a permanent dismissal from the University, unless at a later date the Chancellor concludes on the basis of the former student’s petition and any supporting documentation that he or she should be given a new opportunity to pursue higher education. A student expelled from Appalachian State University who applies for admission to any other University of North Carolina System institution will not be eligible for admission at that institution until such time as he or she has had the disciplinary action of expulsion removed at Appalachian State University. Notice of this action is recorded in the Office of Student Judicial Affairs and is recorded on the student’s official academic transcript maintained by the University Registrar. This notation can be removed only if the Chancellor of the University directs that said notation be removed subsequent to a decision by the Chancellor to reinstate the student.
- 5.06 **Community Service**— A student may be required as a condition of probation (either general or specific) to perform in any one semester not more than 25 nor less than 10 community service hours, participate in a special program, and to perform other reasonable duties or assignments. This sanction is subject to review by the Director of Student Judicial Affairs and shall be under his or her supervision. If community service hours are specified by a judicial board or a conduct review officer as part of probation, the assignment of duties and supervision shall be under the direction of the Director of Student Judicial Affairs.
- 5.07 **Restitution**—As a condition of disciplinary action, a student may be required to make restitution. This is considered to be the appropriate monetary reimbursement for misconduct which resulted in loss, damage, or actual expenses incurred by the University or an individual.
- 5.08 **Service Fees**—A service fee may be assessed for educational counseling. Any student found in violation of University alcohol or drug regulations shall be assessed for a first offense \$50.00, plus any additional sanctions; for a second and any subsequent offense \$100.00, plus any additional sanctions.
- 5.09 **Residential Relocation**—As a condition of disciplinary action, a student may be removed from a specific residence hall room. The Director of Residence Life may evict any student whose behavior violates the provisions of the residence hall room license agreement.
- 5.10 **Low Residence Hall Room Request Priority**—the Director of Residence Life may assign a low priority to a residence hall room request from any student who has received two or more referrals for misconduct when it has been determined that the student committed the misconduct in question. These referrals may be either under the Residence Life Intervention Program, adjudicated under the Code, or a combination thereof.

- 5.11 Special Programs—as a condition of probation (either general or specific) a student may be required to participate in a special educational program(s) (e.g., alcohol education program); be required to write a reflection or research paper.
- 5.12 Drug Testing—as a condition of probation, a student may be required to submit to drug testing.

ARTICLE VI—GUIDELINES FOR DETERMINING APPROPRIATE SANCTIONS

The University has established guidelines to aid judicial boards and conduct review officers in assigning like sanctions for like violations. These guidelines are intended to provide a range of possible sanctions for first-time violations unless indicated otherwise. The range is defined by “minimum” and “maximum” sanctions. Judicial boards and conduct review officers are not to be held strictly to these guidelines, but should try to stay within the range. When there is justification, a judicial board may recommend to the Dean of Students that a sanction less than the minimum or greater than the maximum be imposed on a student who has violated this Code. A conduct review officer, in consultation with the Director of Student Judicial Affairs, when there is justification, may impose a sanction less than the minimum or greater than the maximum on a student who has violated this Code.

- 6.01 Offenses against persons and/or offenses that directly place persons in jeopardy or harm or fear of harm (e.g., battery, assault with a weapon, hostile communication, sexual misconduct):
Minimum sanction: Specific Probation
Maximum sanction: Expulsion
- 6.02 Offenses that involve theft or damage to University property or property of other members of the University community:
Minimum sanction: Specific Probation
Maximum sanction: Expulsion
- 6.03 Offenses that involve disruption of the University, its programs, or the University’s efforts to accomplish its objectives:
Minimum sanction: Specific Probation
Maximum sanction: Expulsion
- 6.04 Sexual offenses, forcible or non-forcible, rape, molestation:
Minimum sanction: Suspension (eight semesters)
Maximum sanction: Expulsion
- 6.05 Violation of policies governing group living (Article 4.03):
Minimum sanction: General Probation
Maximum sanction: Suspension
- 6.06 Unauthorized lighting of fires:
Minimum sanction: Specific Probation
Maximum sanction: Expulsion
- 6.07 Falsely reporting a bomb or other explosive device:
Sanction: Expulsion
- 6.08 Violation of the University Alcohol Policy—possession and consumption of alcohol (a complete listing of alcohol sanctions can be referenced on page 37 of the Code of Student Conduct):
First violation:
Minimum sanction: General Probation
Maximum sanction: Specific Probation
Second violation:
Minimum sanction: Specific Probation
Maximum sanction: Suspension
Third violation:
Minimum sanction: Suspension
Maximum sanction: Expulsion
- 6.09 Falsely reporting a fire or other emergency, including falsely setting off a fire alarm:
Minimum sanction: Suspension

Maximum sanction: Expulsion

- 6.10 Violation of the University Drug Policy—the illegal manufacture, sale, possession, or use of narcotics, barbiturates, central nervous system stimulants, marijuana, sedatives, tranquilizers, hallucinogens, and/or any other similarly known drug or controlled substance (see Article 4.01d, e, & f and 4.02e). A complete listing of drug sanctions can be referenced on page 36 of the Code of Student Conduct:
- First violation of Section 4.01d: Expulsion
 - First violation of Sections 4.01e and f:
 - Minimum sanction: Suspension
 - Maximum sanction: Expulsion
 - First violation of Section 4.02e:
 - Minimum sanction: Specific Probation
 - Maximum sanction: Expulsion
 - Second Violation of Section 4.02e:
 - Minimum sanction: Suspension
 - Maximum sanction: Expulsion
- 6.11 Violation of the Code of Student Conduct while on General Probation:
 - Minimum sanction: Specific Probation
 - Maximum sanction: Expulsion
- 6.12 Violation of the Code of Student Conduct while on Specific Probation:
 - Minimum sanction: Suspension
 - Maximum sanction: Expulsion
- 6.13 Violation of the Code of Student Conduct anytime subsequent to having been suspended from the University for violation of the Code of Student Conduct:
 - Minimum sanction: Two years suspension
 - Maximum sanction: Expulsion
- 6.14 Hazing:
 - Minimum sanction: Specific probation.
 - Maximum sanction: Expulsion
- 6.15 Unauthorized entry into an elevator shaft:
 - Minimum sanction: Suspension
 - Maximum sanction: Expulsion
- 6.16 All other violations of the Code of Student Conduct:
 - Minimum sanction: Reprimand
 - Maximum sanction: Expulsion
- 6.17 Possession of weapons (as described in Section 4.01k) on educational property:
 - Minimum sanction: Suspension
 - Maximum sanction: Expulsion
- 6.18 Throwing objects out of residence hall or other University windows or throwing snowballs:
 - Minimum sanction: Reprimand
 - Maximum sanction: Suspension
- 6.19 Use of skateboards, in-line skates, or similar devices on University property:
 - Minimum sanction: General Probation, forfeiture of the skateboard, in-line skates, or similar device, and restitution for damage
 - Maximum sanction: Suspension, forfeiture of the skateboard, in-line skates, or similar device, and restitution for damage
- 6.20 Misuse or abuse of computers with the attempt to breach or the actual breach of network or computer security:
 - Minimum sanction: Suspension
 - Maximum sanction: Expulsion

ARTICLE VII—JUDICIAL POLICIES

AND PROCEDURES

7.01 General Process for Addressing Allegations and Charges of Misconduct:

- a. Any member of the University may make an allegation of misconduct against a student. To be considered by the Office of Student Judicial Affairs, an allegation must be in writing, must include factual information supporting the allegation, and must be signed by the individual making the allegation. Official charges of misconduct under the Code of Student Conduct are brought only by the University.
- b. The Director of Student Judicial Affairs may choose not to proceed with an allegation or charge when, in his or her judgment, there is not sufficient information with which to proceed.
- c. All allegations of charges of misconduct will be presented to students in writing. Students will be informed of a time, date, and place of an administrative review meeting or a judicial board hearing, within a reasonable time, provided that notice of a hearing before a judicial board shall be in compliance with the timeframes set forth in Section 7.04. Official notice of charges may be either verbal or written, provided that written charges also are given within the required timeframes prior to a judicial board hearing regarding the charges.
- d. A student accused of violating the Code of Student Conduct shall have the option of either an administrative review and decision by a conduct review officer, or a hearing before a judicial board (see 7.03 and 7.04).

7.02 Residence Life Intervention System

The University has established the "Residence Life Intervention System." The purpose of this system is to allow residence hall staff to work with students to modify their behavior before formal disciplinary action by the University becomes necessary. The Residence Life Intervention System is used with residential students who have simple infractions of this Code, the Residence Hall License and Contract Agreement, or other group living policies. Guidelines used for the administration of this system are available through the Office of Residence Life. Counseling contacts made under this system can be made part of a referral under the Code of Student Conduct when deemed relevant by the Office of Residence Life.

7.03 Administrative Decision

- a. After being informed of the allegations and/or charges and his or her rights under the Code, including the right to a hearing, a student may voluntarily waive the right to a hearing and request an administrative decision by a conduct review officer.
- b. The Director of Student Judicial Affairs may decline the student's request for an administrative decision. If the student's request is declined, the student shall be referred to a judicial board.
- c. For an administrative decision to be made, the student shall do the following:
 1. waive his or her right to have the charge considered by a judicial board;
 2. accept responsibility for violations of the Code;
 3. agree to accept the sanction to be imposed.
- d. The Conduct Review Officer may recommend any sanction specified in the Code of Student Conduct. The sanction will be governed by the principal of "like sanction for like violation." The Conduct Review Officer will be guided by established precedents and minimum and maximum sanctions given in Article VI.

7.04 Referral to a Judicial Board

- a. After informing a student of the charge(s) and his or her rights under the Code, the Director of Student Judicial Affairs shall refer the student to a judicial board unless the student requests that the charge(s) be considered administratively pursuant to Section 7.03. The Director of Student Judicial Affairs may also refer any case directly to a judicial board without the option of an administrative review and decision.
- b. Based on the type of charge(s), an interview with the student, and other factors, the Director of Student Judicial Affairs will determine which of the two judicial boards, either the Student Judicial Board or the University Judicial Board, will consider the charge(s).
- c. Written notice of a hearing before a judicial board shall be provided no more than thirty calendar days after initiation of a charge, with reasonable extensions of time permitted. The hearing notice shall be provided to the student at least five calendar days prior to the hearing date in cases where the possible sanction is less than suspension or expulsion, and at least ten calendar days before the hearing in cases where the possible sanctions include suspension or expulsion.

7.05 Judicial Board Hearing Procedures

- a. In all cases where a judicial board considers if a student's conduct has violated the Code, a quorum of five (5) members must be present. To find a student in violation of the Code, a vote will be taken in a closed

- executive session of the members of the judicial board present. A vote of “in violation” by two-thirds of the members present, excluding the chairperson, shall be required to find a student in violation of this Code.
- b. The chairperson of a judicial board is delegated the authority, and is charged with the responsibility, to conduct the hearing in a manner that will protect:
 - 1. the rights of the charged student(s) to a fundamentally fair process;
 - 2. the rights of the person bringing the allegation(s);
 - 3. the rights of all witnesses;
 - 4. the rights of all judicial board members;
 - 5. and the rights and prerogatives of the University.
 - c. Prior to considering the charges against the student, the chairperson of the judicial board shall:
 - 1. outline the procedures that the board will follow;
 - 2. announce that the judicial board is closed to the public;
 - 3. stress the importance of confidentiality of the proceedings;
 - 4. formally announce that the University is committed to the principle of fundamental fairness;
 - 5. announce that each student is presumed to be innocent of any charge until proven otherwise;
 - 6. request that any board members with knowledge of the student or the situation recuse themselves.
 - d. A decision by the judicial board to find the student in violation of this Code shall be based solely on the evidence presented at the hearing. Evidence of any past violation(s) may not be introduced as evidence not considered in the deliberations. If the student is found in violation of the charge(s), records of past violations will be introduced by the Director of Student Judicial Affairs or the Judicial Board Chairperson and will be considered by the judicial board in recommending a sanction.
 - e. All hearings will be tape-recorded. A written summary of the proceeding may also be made. The University retains the sole right to record hearings. No other recordings may be made of the hearings. Recordings of hearings may be destroyed subsequent to a final resolution of the case.
 - f. All judicial board decisions are recommendations through the Director of Student Judicial Affairs to the Dean of Students.
 - g. All judicial board hearings are closed to the public. An accused student may invite up to three persons to be present as provided for in Article 7.07.
 - h. A final administrative decision must be made within 45 days after the date of the hearing and must be transmitted to the student in writing within ten days of being made. The written decision shall include a brief summary of the evidence upon which the decision is based and shall specify the student’s appeal rights.

7.06 Proof

- a. The burden of proof in a judicial board hearing rests with the University to provide sufficient witnesses and documentary evidence to establish the violation.
- b. The standard of proof used in a judicial board hearing for alleged violations under this Code is “a preponderance of evidence.” This standard is defined as the weight of the evidence that leads the judicial board to believe that the alleged misconduct is more probable to have been committed than not.

7.07 Rights of a Student During a Hearing

Students charged with misconduct who appear before a judicial board shall have the following rights:

- a. Students have the right to appear alone or with any one other person of their choice to advise and assist them. The person chosen to advise or assist a student may be a relative, a fellow student, a friend, a teacher, or any other person other than an attorney. In addition to an advisor, a student may be accompanied by not more than two other persons. One of these persons may be an attorney; however, these persons shall have no official status before the judicial board, are merely observers of the proceedings, and may not address the judicial board nor conduct examination or cross-examination of any witnesses.
- b. A student may request that a member of a judicial board be excluded from the hearing. Such challenges shall be made immediately after the introduction of members of the judicial board and shall require justification. These requests shall be made to the chairperson of the judicial board privately by asking for a conference for this purpose. The chairperson’s decision is final, and cannot be appealed.
- c. Accused students are entitled to present evidence on their behalf.
- d. Accused students are to be afforded the right not to testify or to answer any questions if such testimony or answers would tend to establish against them a violation of this Code, University departmental regulations, or a state or federal law. When a student refuses to testify, therefore avoiding questioning; he or she relinquishes the right to make a written or verbal statement at the end of the hearing. However, a summation of the relevant facts of the matter under adjudication may be provided by the student’s advisor or representative providing that the summation is not a substitute for the testimony the student declined to provide.

- e. Accused students are entitled to be confronted by the person or persons alleging the charge or charges against them.
- f. Accused students shall have the opportunity to ask reasonable questions of any witnesses appearing at a hearing and giving testimony against them. 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 evidence may be introduced at a hearing even though the writer is not present for questioning. Members of the judicial board shall attach whatever weight or significance to these documents or statements they deem appropriate.
- g. Accused students are entitled to have the evidence of a prior formal charge or record of violating the Code of Student Conduct excluded as evidence during the judicial board's deliberation concerning the determination of violating or not violating the Code.
- h. Accused students who have a disability on file with the Appalachian State University Office of Disability Services are entitled to have all requirements of Section 504 of the Rehabilitation Act and the Americans with Disabilities Act met.

7.08 Rights of a Student Found in Violation of the Code of Student Conduct:

- a. To have a sanction imposed that is commensurate with the violation charged;
- b. To have supervised access to a copy of the tape recording of the hearing proceedings, (except for executive sessions) for the sole purpose of preparing an appeal;
- c. To have the outcome of an administrative review or judicial board decision kept confidential; however, the Vice Chancellor for Student Development or his or her designee may (1) disclose to the complainant any information contained in records concerning a disciplinary proceeding to the extent such information is directly related to the complainant and (2) disclose disciplinary action taken against a student to teachers and other University officials on a need-to-know basis. Disclosure of information to complainants pursuant to Section 7.08c(1) shall be made on the condition that the recipient of such information shall maintain such information as confidential. Failure to maintain the confidentiality of such information shall constitute a violation of Section 4.02ag of the Code of Student Conduct.

7.09 In Absentia Consideration of Charges

- a. A student who is notified in writing of charges of misconduct under the Code at his or her ASU Post Office box or by special delivery and who fails to respond within seven (7) working days shall have waived his or her right to a hearing and will be considered to have entered a plea of being in violation of the charge(s) specified. The Director of Student Judicial Affairs shall recommend a sanction consistent with established precedent for similar violations. The Director of Student Judicial Affairs shall withhold the student's future registration at the University until such time as the Director of Student Judicial Affairs has had an opportunity to interview and counsel the student. The Director of Student Judicial Affairs may elect to alter the sanction, either greater or lesser, pending this interview.
- b. If the Director of Student Judicial Affairs determines that the student's failure to appear was not for the purpose of defeating the process of this Code, the Director of Student Judicial Affairs may rescind the disciplinary action and alter the sanction imposed, or refer a student to a judicial board to have the allegation heard on its merits.
- c. A student who fails to attend his or her scheduled hearing with the University Judicial Board or the Student Judicial Board shall have the case adjudicated by the board in the student's absence.

7.10 Records

- a. Pertinent records, exhibits, and written statements may be accepted as evidence for consideration by a judicial board or in an administrative decision at the discretion of the judicial board or conduct review officer, and shall be considered the property of the University upon such submission.
- b. There shall be made at every judicial board hearing a tape recording of all hearings. The tape recording shall be the property of the University.
- c. All disciplinary records of the University are confidential and shall not be released without the student's consent; except the University may disclose (1) to the complainant, any information contained in records concerning a disciplinary proceeding to the extent such information is directly related to the complainant, (2) to such persons functioning in their official University capacity on a need-to-know basis and (3) to an alleged victim of misconduct that constitutes a crime of violence the final results of any disciplinary proceeding conducted against the person accused of misconduct. Disclosures of information to complainants or victims pursuant to Section 7.10C (1) or (3) shall be made on the condition that the recipient of such information shall maintain such information as confidential. Failure to maintain the confidentiality of such information shall constitute a violation of Section 4.02ag of the Code of Student Conduct.
- d. All disciplinary records are the property of the University. They are maintained by the Director of Student Judicial Affairs in the Division of Student Development. Disciplinary records include both file copies and

computer records. Both are maintained for at least seven years. The University reserves the right to maintain disciplinary records for any length of time in excess of seven years, or to destroy all or some of these records after seven years.

- e. The Vice Chancellor for Student Development or designee will notify the parents or legal guardian of students under the age of 21 of any violation of the Code of Student Conduct regarding the use, possession, sale, or distribution of drugs.
- f. The Vice Chancellor for Student Development or designee will notify the parents or legal guardian of students under the age of 21 of any second and subsequent violation of the Code of Student Conduct concerning the possession and consumption of alcohol and may, at his or her discretion, notify the parents of first-time violations of this behavior.

ARTICLE VIII—APPELLATE PROCEDURE

8.01 Purpose of an Appeal

The purpose of the appeal procedure is to provide the opportunity for questioning the appropriateness of actions or recommendations growing out of a judicial board hearing. Appeals are not available to the complainant unless the alleged violation concerns a sex offense (see 4.01 g. and 4.02 t.). It is not the purpose of the appeal procedure to provide for a new hearing at a higher administrative level.

8.02 Guidelines for Making an Appeal

The following guidelines for making an appeal are established:

- a. Appeals are delivered to the Director of Student Judicial Affairs for processing in the form of a memorandum addressed to the Vice Chancellor for Student Development.
- b. The memorandum shall clearly state the specific actions or recommendations that are being appealed, (e.g., the findings of a judicial board, the recommended sanctions recommended by the judicial board, and both the findings and the recommendations of a judicial board).
- c. The memorandum should clearly present specific reasons, grounds, or justifications to support the appeal.
- d. The memorandum shall be prepared and signed by the person (student) who is seeking a change in the decision. No appeals will be accepted by a person acting as the agent of the student or in some other capacity on behalf of the student.

8.03 Appellate Process

- a. Written appeals are to be delivered to the Office of the Director of Student Judicial Affairs within five (5) business days after written notice of the judicial board decision has been transmitted to the student. In unusual circumstances, an extension of time may be granted by the Director of Student Judicial Affairs. Such a request should be made in writing and approved by the Director of Student Judicial Affairs.
- b. Appeals of actions by a Conduct Review Officer shall be limited to those based on an assertion of failure to follow the provisions established in Article 7.03 or other procedural errors.
- c. The Director of Student Judicial Affairs shall deliver all appeals to the Vice Chancellor for Student Development.
- d. The Vice Chancellor for Student Development may rule on the appeal upon receipt, or he or she may appoint a committee to recommend to him or her what action to take on the appeal.
- e. There is no provision for the person bringing the charge (complainant) to file an appeal, except in the case of an allegation that a student violated Articles 4.01g or 4.02t. In these circumstances, the person bringing the allegation may file an appeal with the Vice Chancellor for Student Development when there is clear and convincing new evidence or a gross procedural error.

8.04 Guidelines for Ruling on Appeals

- a. Normally, an appeal concerning a decision of “in violation” or “not in violation” by a judicial board will be successful only if clear and convincing new evidence is presented in the appeal. A successful appeal based on new evidence may result in the case being referred to a judicial board for a re-hearing. The Vice Chancellor for Student Development also may accept the appeal and dismiss the charge.
- b. An appeal seeking to modify a sanction recommended by a judicial board will be successful only if clear and convincing evidence is advanced to show that the sanction does not meet the test of reasonableness and fairness, it is demonstrated that there was a gross procedural error that prevented a fair hearing, or there is new information concerning the alleged misconduct. A successful appeal will normally result in the Vice Chancellor for Student Development modifying or rescinding the sanction. In modifying sanctions, the Vice Chancellor for Student Development will be guided by the principle of “like sanction for like violation” and precedents growing out of sanctions imposed in the past under similar circumstances; however, he or she may modify the sanction in any form, including increasing the sanction, or dismissing the charge altogether.
- c. A successful appeal of a case that was considered administratively by a conduct review officer will usually result in the case being referred to a judicial board to be considered on its merits.

- d. Subsequent to a decision by the Vice Chancellor for Student Development, any further appellate opportunities shall be governed by the Code of the University of North Carolina.

ARTICLE IX—INTERIM SUSPENSION

9.01 Interim Suspension

In special circumstances, the Director of Student Judicial Affairs in consultation with the Vice Chancellor for Student Development may suspend a student charged with violating this Code for an interim period prior to the outcome of a full disciplinary hearing based on the merits of the charge.

9.02 Circumstances Where Interim Suspension May Apply

Interim suspension shall be exercised only in those situations in which there is reasonable cause to believe that the student's alleged act of misconduct is of such a serious nature that his or her continued presence at the University is potentially dangerous to the health and safety of the University community, its property, or its educational mission. Such acts of misconduct include, but are not limited to, all acts of assault and/or battery with any type of weapon or instrument; gross sexual misconduct; rape; armed robbery; arson; the manufacture, distribution, and/or possession of any incendiary or explosive device; manufacture or sale of controlled substances; and other acts which might endanger persons or property.

9.03 Procedures for Interim Suspension

a. To invoke interim suspension, the Director of Student Judicial Affairs, in consultation with the Vice Chancellor for Student Development, will conduct a preliminary investigation. If appropriate and feasible, the investigation will include an interview with the accused student. The student will be informed of the alleged violation(s) and the name of the person(s) bringing the allegation(s). The accused student will be given an opportunity to explain the circumstances of the behavior that has become the source of the alleged misconduct.

b. The Director of Student Judicial Affairs shall determine from the preliminary investigation if the accused student shall be suspended: if so, suspension shall be invoked immediately. This decision can be appealed to the Vice Chancellor for Student Development.

c. A judicial board hearing or administrative decision as provided under this Code shall be initiated at the request of the accused student within a reasonable time after the date of the interim suspension. The accused student must request that a hearing be conducted, and the student shall be ineligible to attend classes or to be present on property owned or controlled by the University until such time as the request has been received and a hearing can be arranged. The student's interim suspension shall not be used as evidence in any hearing.

9.04 Terms of Interim Suspension

Interim suspension is to begin immediately after the preliminary investigation. The student is to physically remove himself or herself from the property of the university until initiation of an administrative decision or judicial board hearing and shall be informed that he/she may not trespass. Presence on the campus by the student during the interim suspension shall be considered a violation of this Code, and the student may also be charged with criminal trespass under state law.